

PLANNING COMMISSION MINUTES OF MEETING

Wednesday, March 13, 2024

7:00 p.m.

A quorum being present at City Hall, 250 North Main Street, Centerville, Utah, the meeting of the Centerville City Planning Commission was called to order at 7:00 p.m.

MEMBERS PRESENT

Shawn Hoth
Mason Kjar, Chair
Amanda Jorgensen
LaRae Patterson, Vice Chair

MEMBER ABSENT

Layne Jenkins
Tyler Moss
Matt Larsen

STAFF PRESENT

Mike Eggett, Community Development Director
Lisa Romney, City Attorney
Whittney Black, Assistant Planner

VISITORS

Kathleen (Kathy) Moore, Kathy’s Kitchen LLC
Bill Richter, Richter Landscape
Clair Asay
Blaine Holbrook
Stephanie Frampton
J.D. Lauritzen, Wholesome Goods LLC
Alex Orch, Wholesome Goods LLC
Spencer Summerhays

LEGISLATIVE THOUGHT/PRAYER Commissioner Patterson

PLEDGE OF ALLEGIANCE

Chair Kjar called the meeting to order at 7:22 p.m. The meeting was late getting started due to lack of a quorum.

PUBLIC HEARING – CONDITIONAL USE PERMIT – KATHY’S KITCHEN LOCATED AT 688 W 1700 N

Assistant Planner Whittney Black explained the applicant applied for a Conditional Use Permit seeking approval for a home occupation business, specifically for a microenterprise kitchen. Ms. Black said staff believed the request met approval standards and recommended the Planning Commission approve the request for Conditional Use Permit. She suggested the Planning Commission strike the suggested condition for approval regarding fire inspection since the Fire Inspector reviewed the application and location and determined that due to the occupancy load and operation of the business an inspection is not required.

Kathy Moore, applicant, described her food preparation business. She said she would not receive deliveries at her home and would deliver most of the food to clients herself. Ms. Moore said she did not object to the suggested conditions.

1 Chair Kjar opened a public hearing and closed the public hearing seeing no one come
2 forward. Commissioner Patterson **moved** for the Planning Commission to approve the request
3 for a Conditional Use Permit for a home occupation microenterprise kitchen for Kathy's Kitchen
4 located at 688 W 1700 N for Kathleen (Kathy) Moore, with the following conditions and for the
5 following reasons for action with the recommendation of Staff to strike previous suggested
6 condition #2 regarding the fire inspection. Commissioner Jorgensen seconded the motion.
7

8 Chair Kjar suggested changing Condition #1 to read "...shall not be transferred to any
9 other user..." instead of "...transferred to another similar user...". City Attorney Lisa Romney
10 said she agreed with the suggested change. Chair Kjar made a **motion to amend** Condition #1,
11 striking the phrase "another similar" and replacing with "any other". Commissioner Patterson
12 seconded the motion to amend. The **amended motion passed** by unanimous vote (4-0).
13

14 Conditions:

- 15
- 16 1. This Conditional Use Permit approval shall not be transferred to any other user,
17 unless approved by the City.
 - 18 2. The business operator shall obey all applicable local, state, and federal rules and
19 regulations concerning Conditional Use Permits and microenterprise kitchens.
20

21 Reasons for action:

- 22
- 23 A. The Planning Commission finds that the application complies with the approval
24 standards for a Conditional Use Permit as listed under CZC 12.21.100(e).
 - 25 B. The Planning Commission finds that the application complies with the development
26 standards for a home occupation listed under CZC 12.62.050 and the development
27 standards for a conditional use home occupation listed under CZC 12.62.070.
 - 28 C. Therefore, the Planning Commission finds that with the implementation of the
29 conditions listed in the staff report, this application will have little to no impact on the
30 health, safety, and general welfare of the community and should be approved.
31

32 **PUBLIC HEARING – ZONE TEXT AMENDMENT – CZC 12.55.110 FENCES AND**
33 **WALLS – BILL RICHTER, APPLICANT**
34

35 Ms. Black said the petitioner desired to amend the Zoning Ordinance regarding fences
36 and walls to accommodate decorative fencing in his client's front yard. The applicant proposed
37 an amendment to allow fences and/or walls in the front yard to have a maximum height of 10
38 feet. The amendment request was applied for following a code enforcement case opened on the
39 property due to a fence/wall and other zoning issues on December 5, 2023. The subject
40 property had decorative columns exceeding the allowed two-foot height within the established
41 sight triangle.
42

43 Ms. Black said staff believed the proposed amendment posed significant life and safety
44 concerns, with potential to impede a clear line of sight. Staff was concerned that fences and
45 walls exceeding 4 feet in front yards created visual and traffic safety issues and could be
46 intrusive. A fence height limitation of 4 feet in front yards was common among cities in Davis
47 County and around the State of Utah. Ms. Black said staff recommended the Planning
48 Commission recommend denial of the request to the City Council. The Planning Commission
49 and staff discussed sight triangles, and fence and mail box heights.
50

51 Bill Richter, applicant, said his company created landscapes that were unique, different,
52 and beautiful. He said the completed landscaping enhanced the value of the client property and
53 surrounding properties. Mr. Richter said the framing columns were within the four-foot City
54 height standards, and said he had personally ensured no sight hazard was created. He said he

1 drove through Centerville and found many other properties with entry columns. Mr. Richter
2 suggested the Commissioners drive through the community, including past the subject property,
3 and ask themselves why such columns would not be allowed.
4

5 Chair Kjar expressed concern that the application for Zoning Text Amendment would
6 amend Code for the entire City rather than just the subject property. Mr. Richter said that had
7 not been his intention. Chair Kjar suggested the broad application of a 10-foot fence allowance
8 in front yards would not be desired. Mr. Richter said he agreed, and asked if language of
9 approval could be modified to prevent broad application and abuse.
10

11 Chair Kjar opened a public hearing, reminding those in attendance that the subject
12 before the Planning Commission was whether fences/walls up to 10-feet tall should be allowed
13 in front yards throughout the City.
14

15 Clair Asay, Bountiful resident, said the subject property owner was his sister. He said the
16 subject home was beautiful and brought value to the neighborhood, and said the lighting on the
17 columns added to safety at night.
18

19 Blaine Holbrook, Centerville resident, said he lived across the street from the subject
20 property. He said a fence had recently been constructed down the street near a stop light that
21 obstructed his line of sight, and said he was surprised the columns on the subject property were
22 the topic of discussion. He expressed the opinion that the fence on the subject property did not
23 impede his view.
24

25 Stephanie Frampton, Centerville resident, said she lived across the street from the
26 subject property. She said what had been done on the subject property was absolutely beautiful,
27 and commented that the columns in question were not a fence. Ms. Frampton suggested a new
28 term should be added to code for such structures.
29

30 Chair Kjar closed the public hearing. Mr. Richter suggested the City separate definitions
31 and requirements for entrance columns and fences/walls in Code, and commented that
32 entrance columns had a different purpose from fences.
33

34 Chair Kjar asked staff why the entrance columns were categorized under fences/walls.
35 Ms. Black responded that fence was defined as a "structure serving as an enclosure, barrier, or
36 boundary which defines an outdoor space" in City Code. She said language defining a
37 monument or such structure was not part of Code, and was not part of the application.
38 Commissioner Hoth said he agreed having better terminology may work better.
39

40 Commissioner Patterson made a **motion** for the Planning Commission to recommend to
41 the City Council denial of the request from Bill Richter for a Zoning Code Text Amendment
42 regarding CZC 12.55.110 Fences and Walls, for the following reasons for action. Chair Kjar
43 seconded the motion.
44

45 Commissioner Patterson said she believed the application as written would open a
46 floodgate of problems. She suggested Code needed a greater definition or separation of
47 fence/wall and structure. Chair Kjar said the applicant had identified a problem, and it was
48 unfortunate the Planning Commission did not have authority or an application before them to
49 remedy the problem that evening. He suggested the Commission discuss including
50 reconsideration of the definition of fence/wall in front yards on the list of Planning Commission
51 goals. Commissioner Jorgensen said she agreed.
52

53 The **motion to recommend denial passed** by unanimous vote (4-0).
54

**PUBLIC HEARING – ZONE TEXT AMENDMENT – CZC 12.69.020 CANNABIS
PRODUCTION ESTABLISHMENT STANDARDS – J.D. LAURITZEN, APPLICANT**

Ms. Black said the applicant, representing Wholesome Ag, LLC and Wholesome Goods, LLC, applied for a Zoning Code text amendment to CZC 12.69.020 regarding the emission of dust, vapors, odors, or waste into the environment from any cannabis production establishment or facility where growing, processing, or testing of cannabis occurred. The amendment request was submitted in response to a code enforcement case and ongoing complaints regarding odors emanating from the medical cannabis cultivation and processing operation located at 1041 North 950 West.

Ms. Black said the applicant proposed three options to amend Subsection (c) of CZC 12.69.020:

Option #1: Add “excessive” to list of emissions;

(c) *There shall be no emission of excessive dust, fumes, vapors, odors, or waste into the environment from any cannabis production establishment or facility where growing, processing, or testing of cannabis occurs.*

Option #2: Delete Subsection (c) entirely; or

Option #3: Delete Subsection (c) and replace with alternative language

(c) *~~There shall be no emission of dust, fumes, vapors, odors, or waste into the environment from any cannabis production establishment or facility where growing, processing, or testing of cannabis occurs.~~ The cannabis production establishment or facility where growing, processing, or testing of cannabis occurs shall be designed to the extent possible in such a way as to filter inside air exchanges to the outside through air filter systems that reasonably limit excessive dust, fumes, vapors, odors, or waste from air that exits the building into the environment.*

Ms. Black said staff reviewed the proposed Zoning Code text amendment and believed the potential emissions of odors, dust, fumes, vapors, and waste into the environment from cannabis production establishments in the area could have a detrimental effect on adjacent businesses and residential areas of the City. Such detrimental effects would be inconsistent with the goals, objectives, and policies of the General Plan. She said businesses in the area had complained to the City that emissions of odors had affected their products, employees, and ability to run their businesses.

Ms. Black said staff believed the proposed Zoning Code text amendment was not consistent with other applicable Zoning Code standards regarding industrial and manufacturing zones and/or uses. The City classified cannabis production establishments as a “Manufacturing, Limited” use with the following definition:

Manufacturing, Limited: An establishment engaged in the limited processing, fabrication, assembly and/or packaging of products utilizing processes that:

- a) Have no noise, odor, vibration, or other impacts discernible outside a building; and*
- b) Do not violate any applicable noise ordinance.*

1 Ms. Black reviewed purposes of the Zoning Code with the Planning Commission, and
2 said staff found the proposed Zoning Code text amendment to be inconsistent with the stated
3 purposes of the Zoning Code. She said staff recommended the Planning Commission
4 recommend denial of the request to the City Council. Chair Kjar commented that the proposed
5 amendment would apply to I-M, I-H, and I-VH Zones. The Council and staff discussed
6 Manufacturing, Limited use.

7
8 J.D. Lauritzen, representing Wholesome Goods, LLC, spoke of the many individuals in
9 Utah serviced by Wholesome Goods products. Mr. Lauritzen stated cannabis production
10 produces some odor, and by nature is not a Manufacturing, Limited practice, but lends itself
11 better to the general manufacturing definition set forth in City Code. Mr. Lauritzen said the
12 company had made significant efforts and spent \$200,000 as part of the code enforcement
13 action to limit the impact. He said he was not aware of any businesses outside the two
14 immediately adjoining the cannabis facility that had lodged any complaints, and said he
15 continued to work with the two businesses, who had admitted to him that the odor level had
16 improved. Mr. Lauritzen stated that unfortunately the production of cannabis, especially the
17 cultivation of cannabis, does produce an odor. He said they just want to be treated fairly with
18 other businesses. Mr. Lauritzen expressed a desire to come to a reasonable resolution of the
19 issue. He said cannabis businesses wanted to be treated fairly in relation to other general
20 manufacturing businesses. Mr. Lauritzen said some odor was occasionally discernable outside
21 the building, particularly when harvesting occurred. He said the company remained committed
22 to mitigating the odor as much as possible. In response to a question from the Planning
23 Commission regarding the odor regulation, Ms. Romney commented that the odor prohibition is
24 set forth in the City cannabis ordinance.

25
26 After a discussion of the limited odors emanating from the building, Chair Kjar asked Mr.
27 Lauritzen if the text amendment was even necessary. Mr. Lauritzen said the text amendment is
28 necessary since the smell is still somewhat discernible outside the building so there could
29 continue to be complaints and code enforcement issues regarding the odors.

30
31 Commissioner Hoth asked Mr. Lauritzen if he was aware of the City zoning regulations
32 in place before Wholesome Goods decided to locate their facilities in Centerville and how strict
33 the odor regulations were. Mr. Lauritzen acknowledged they understood it was a zero-tolerance
34 policy. But they were hopeful for some reasonableness around the interpretation and
35 acknowledged there were some issues with the original building construction.

36
37 Responding to a question from Commissioner Patterson, Mr. Lauritzen said Wholesome
38 Goods had researched mitigation efforts taken by other cannabis processing facilities in other
39 parts of the country and they have implemented some of the more successful measures
40 regarding filtration systems in the building. He said Wholesome Goods installed the new filter
41 systems in October 2023. He said Wholesome Goods has even offered to install additional
42 filtration units in adjacent business spaces. He stated zero odor was not an achievable goal for
43 a cannabis cultivation facility, and the applicant's desire was to establish a reasonable objective
44 that could be met. Mr. Lauritzen also said they have looked into what casinos have
45 implemented, but said that those options would cost multi-millions of dollars.

46
47 Chair Kjar commented that cannabis production facilities were given special treatment
48 by the State when approval was granted by the Legislature. They are subject to additional
49 regulation under State law, such as locational restrictions. Chair Kjar asked why the applicant
50 was requesting the same treatment as other manufacturing businesses, if the State had given
51 direction to treat cannabis facilities as unique with unique regulations. Shouldn't the City have
52 the same or similar authority? Mr. Lauritzen acknowledged the distinction and the City's
53 authority to regulate cannabis facilities, but said the State law prohibits cities from an outright
54 prohibition on cannabis facilities.

1
2 Mr. Lauritzen stated Wholesome Goods was one of eight cannabis cultivation
3 businesses in the State, and said he believed it was unlikely the State would grant additional
4 cultivation licenses. He said the applicant hoped to be in Centerville for the long-term.

5
6 Chair Kjar opened a public hearing and closed the public hearing seeing no one come
7 forward. Ms. Romney expressed the opinion that the current classification of Manufacturing,
8 Limited was consistent with current cannabis ordinance standards.

9
10 Commissioner Jorgensen made a **motion** for the Planning Commission to recommend
11 to the City Council denial of the request from J.D. Lauritzen for a Zoning Code Text Amendment
12 regarding CZC 12.69.020 (Cannabis Production Establishment Standards), with the following
13 reasons for action. Commissioner Hoth seconded the motion.

14
15 Reasons for action:

- 16
17 1. The request is not consistent with the goals, objectives, and policies of Section 12-
18 430 of the General Plan regarding the West Centerville Neighborhood Plan.
- 19 2. The potential emission of odors, dust fumes, vapors, and/or waste into the
20 environment from cannabis production establishments does not preserve and protect
21 the development of the West Centerville Neighborhood area for future businesses
22 and does not foster the establishment and viability of commercial and industrial
23 services in the area.
- 24 3. The request is not consistent with the goals, objectives, and policies of Section 12-
25 420 of the General Plan regarding Residential Development.
- 26 4. Section 12-420-2 of the General Plan provides that residential areas should be
27 afforded protection from the impact of more intensive commercial, industrial, and
28 institutional uses.
- 29 5. Noise, odors, fumes, and other emissions from cannabis production establishments
30 into nearby residential neighborhoods just east of I-15 and to the south on the west
31 of I-15 would have a detrimental impact on public health, safety, and general welfare
32 of current and future residents of the City.
- 33 6. The request is not consistent with other applicable Zoning Code standards regarding
34 industrial and/or manufacturing zones and/or uses, including CZC 12.12.040
35 (Definitions) regarding the definition of “manufacturing, limited” which prohibits such
36 uses from having any “noise, odor, vibration, or other impacts discernable outside a
37 building.”
- 38 7. By definition under CZC 12.12.040, all “manufacturing, limited” uses including
39 cannabis production establishments are treated similarly with regards to emissions.
- 40 8. The request is inconsistent with other applicable Zoning Code provisions regarding
41 the purpose of industrial zones as set forth in CZC 12.30.020 (Zone Purposes).
- 42 9. Existing provisions of the Zoning Code indicate the City’s desire to regulate noise
43 and emissions from “manufacturing, limited” uses and other businesses located in
44 the industrial zones.
- 45 10. The request is inconsistent with the intent and objectives of the Zoning Code as set
46 forth in CZC 12.10.030 (Purpose) including the intent to protect public health and
47 safety; to promote the prosperity, peace and good order, comfort, convenience, and
48 aesthetics of the City and its present and future inhabitants, and businesses; and to
49 protect property values.
- 50 11. The request is not consistent with the standards for the applicable zoning or use
51 designation for cannabis production establishments as described in CZC 12.12.040
52 (Definitions) and CZC 12.30.020 (Zone Purposes).

- 1 12. The request does not comply with the approval standards outlined in CZC
2 12.21.080(e), specifically regarding consistency with the goals, objectives, and
3 policies of the General Plan.
- 4 13. The City is authorized under Utah Code § 10-8-84 to pass ordinances as are
5 necessary and proper to provide for the safety, preserve the health, and promote the
6 comfort and convenience of the City and its inhabitants, and for the protection of
7 property in the City.
- 8 14. The regulation of the emission of dust, fumes, vapors, odors, and waste into the
9 environment from a cannabis production establishment is necessary and proper to
10 provide for the safety, preserve the health, and promote the comfort and
11 convenience of the City and its inhabitants, and for the protection of property in the
12 City in accordance with Utah Code § 10-8-84.
- 13 15. The City is authorized under Utah Code § 10-9a-528 (Cannabis Production
14 Establishments...) to enact land use regulations regarding cannabis production
15 establishments so long as such regulations are not in conflict with the Cannabis
16 Production and Pharmacies Act and the Utah Land Use, Development, and
17 Management Act.
- 18 16. The regulations set forth in Section 12.69.020 of the Centerville Zoning Code
19 prohibiting the emission of dust, fumes, vapors, odors, or waste into the environment
20 from any cannabis production establishment or facility are not in conflict with
21 provisions of State law and are lawful land use regulations regarding such uses in
22 accordance with Utah Code § 10-9a-528.
- 23 17. The City is authorized under Utah Code § 4-41a-406 (Local Control) to enact land
24 use regulations regarding cannabis production establishments and requires
25 applicants for land use permits to operate cannabis production establishments to
26 comply with the land use requirements and application processes of the City in
27 accordance with the Utah Land Use, Development, and Management Act.
- 28 18. The request to allow certain emission, however limited, of dust, fumes, odors, or
29 waste into the environment from any cannabis production establishment does not
30 reasonably promote the public interest or conserve the values of properties within the
31 City including adjacent commercial uses and nearby residential uses.
- 32 19. It is in the City's best interest and in the best interest for the general welfare of its
33 citizens and businesses to regulate and restrict the emission of dust, fumes, odors,
34 or waste into the environment from cannabis production establishments.

35
36 Commissioner Patterson said her concern related to the proposed term "excessive."
37 which is open to interpretation. She said "excessive" is too subjective and leaves the
38 interpretation open to personal opinion rather than fact. Commissioner Hoth said he agreed the
39 term was subjective. Chair Kjar said it was inevitable that problems in the Zoning Code would
40 be identified through specific situations or problems, but it was the role of the Planning
41 Commission to evaluate the effects of possible changes to Code on all possible applicable uses.
42 He clarified that the issue before the Planning Commission that evening was to examine the
43 effect of a proposed change to CZC 12.69.020 regarding cannabis production.

44
45 The **motion to recommend denial passed** by unanimous vote (4-0).

46
47 **COMMUNITY DEVELOPMENT DIRECTOR'S REPORT**

48
49 New Community Development Director Mike Eggett shared his professional background,
50 and said he was excited to work in Centerville. The Planning Commission was scheduled to
51 meet next on March 27, 2024. Chair Kjar expressed a desire to include a goal-setting discussion
52 on a future agenda. The Planning Commission and staff discussed a planned update of the
53 General Plan.

54

1 **MINUTES REVIEW AND APPROVAL**

2
3 Minutes of the January 24, 2024 Planning Commission Meeting were reviewed.
4 Commissioner Patterson **moved** to approve the minutes. Commissioner Jorgensen seconded
5 the motion, which passed by unanimous vote (4-0).

6
7 **ADJOURNMENT**

8
9 At 9:37 p.m., Commissioner Patterson **moved** to adjourn the meeting. Commissioner
10 Jorgensen seconded the motion, which passed by unanimous vote (4-0).

11
12 DocuSigned by:

13 *Jennifer Robison*

14 744B22DE1D2445C...

15 Jennifer Robison, City Recorder

3/28/2024 | 3:14 PM MDT

Date Approved

DS

