



City of Santa Barbara
PLANNING COMMISSION
MINUTES
APRIL 5, 2018

1:00 P.M.
 City Hall, Council Chambers
 735 Anacapa Street
SantaBarbaraCA.gov

COMMISSION MEMBERS:

Lesley Wiscomb, *Chair*
 Sheila Lodge, *Vice Chair*
 John P. Campanella
 Jay D. Higgins
 Mike Jordan
 Deborah L. Schwartz
 Addison Thompson

STAFF:

N. Scott Vincent, Assistant City Attorney
 Beatriz Gularte, Senior Planner
 Krystal M. Vaughn, Commission Secretary

CALL TO ORDER

Vice Chair Lodge called the meeting to order at 1:01 p.m.

I. ROLL CALL

Vice Chair Sheila Lodge, Commissioners John P. Campanella, Jay D. Higgins, Mike Jordan, Deborah L. Schwartz, and Addison Thompson

Absent: Chair Lesley Wiscomb

STAFF PRESENT

N. Scott Vincent, Assistant City Attorney
 John Doimas, Assistant City Attorney
 Susan Reardon, Senior Planner
 Beatriz Gularte, Senior Planner
 Tony Boughman, Assistant Planner
 Krystal M. Vaughn, Commission Secretary

II. PRELIMINARY MATTERS

- A. Requests for continuances, withdrawals, postponements, or addition of ex-agenda items:
 No requests.
- B. Announcements and appeals:

Ms. Gularte announced the following:

1. The April 12 and April 19, 2018 Planning Commission meetings are cancelled.

2. There will be a City Council/Planning Commission joint meeting with a focus on the Planning Division workload held in the David Gebhard Public Meeting Room on April 13, 2018 from 9 a.m. to 11:30 a.m.
- C. Review, consideration, and action on the following draft Planning Commission minutes and resolutions:

1. March 1, 2018 Minutes

MOTION: Schwartz/Higgins

Approve the minutes as presented.

The motion carried by the following vote:

Ayes: 6 Noes: 0 Abstain: 0 Absent: 1 (Wiscomb)

2. PC Resolution No. 005-18
Citywide Annual Allocation of Unused or Expired Nonresidential Small Addition Square Footage

MOTION: Campanella/Schwartz

Approve the resolution as presented.

The motion carried by the following vote:

Ayes: 6 Noes: 0 Abstain: 0 Absent: 1 (Wiscomb)

3. PC Resolution No. 006-18
Recommendations to City Council for General Plan Map Amendment and Local Coastal Program Amendment

MOTION: Higgins/Campanella

Approve the resolution as presented.

The motion carried by the following vote:

Ayes: 6 Noes: 0 Abstain: 0 Absent: 1 (Wiscomb)

4. March 8, 2018 Minutes

MOTION: Thompson/Higgins

Approve the minutes as presented.

The motion carried by the following vote:

Ayes: 4 Noes: 0 Abstain: 2 (Campanella, Jordan) Absent: 1 (Wiscomb)

5. PC Resolution No. 007-18
536 Bath Street

MOTION: Thompson/Higgins

Approve the resolution as presented.

The motion carried by the following vote:

Ayes: 4 Noes: 0 Abstain: 2 (Campanella, Jordan) Absent: 1 (Wiscomb)

- D. Comments from members of the public pertaining to items not on this agenda:

No public comment.

III. APPEAL ITEM

ACTUAL TIME: 1:06 P.M.

APPEAL OF THE DECISION OF THE STAFF HEARING OFFICER TO NOT REVOKE THE STOREFRONT COLLECTIVE DISPENSARY PERMIT ISSUED TO THE CANOPY, 118 NORTH MILPAS STREET, APN 017-091-016, c-g COMMERCIAL GENERAL ZONE, GENERAL PLAN DESIGNATION: COMMERCIAL / HIGH RESIDENTIAL (MST2015-00319)

On December 20, 2017, the City's Staff Hearing Officer held a revocation hearing and decided not to revoke the Medical Marijuana Storefront Collective Dispensary Permit at 118 North Milpas Street. On January 25, 2018, Pete Dal Bello filed an appeal of the Staff Hearing Officer's decision to not revoke the permit. A public hearing will be held for the Planning Commission to hear the appeal. The project includes interior and exterior tenant improvements to the existing commercial building. The project has an active building permit; however, construction is not completed, nor has the dispensary begun operating.

The discretionary application approved for this project is a Storefront Collective Dispensary Permit (SBMC § 28.80.030).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15301(a), Existing Facilities.

Contact: Tony Boughman, Assistant Planner
Email: TBoughman@SantaBarbaraCA.gov

Phone: (805) 564-5470, ext. 4539

Susan Reardon, Staff Hearing Officer, and John Doimas, Assistant City Attorney, were present to answer questions.

Scott Vincent, Assistant City Attorney, addressed the Commission, framing the scope and nature of the hearing and explaining the role of the Commission:

- The appeal is not a de novo hearing.
- The PC is not free to conduct its own investigation of the circumstances regarding the action at the Staff Hearing Officer (SHO) level.

- In this case the permittee has already received its permit and that permit has become a property right of the permittee, and the due process right afforded to property owners is different than those afforded to applicants who have yet to obtain a permit.
- The PC is limited to considering the material in the administrative record that was created before the SHO's decision on December 20, 2017.
- Mr. Candy, attorney for the permittee (Canopy Club) and Ryan Howe, submitted a letter to the PC dated April 4, 2018, and attached to the letter are two affidavits. The two affidavits are beyond the scope of the administrative record as they were not available to the SHO at the time of the SHO hearing on December 20, 2017; the letter and affidavits will be lodged as filed with the PC.
- The PC's role in this appeal is limited to the single issue presented to and decided by the SHO: whether there was a transfer of control of the permittee or an attempt to transfer control of the permittee.
- It is not the role of the PC to initiate an investigation or find other grounds on which to act regarding this permit.
- The PC has a specific and limited role in today's hearing determining whether or not, based on the administrative record presented at the December 20, 2017 SHO hearing, there was a transfer of the permittee or an attempt for transfer of control of the permittee.
- The Staff Report specifies the standard of review as the abuse of discretion standard. This standard of review means that the decision of the SHO will not be reversed unless there is plain error by the decision-maker. Under this standard or view, there is no abuse of discretion if there exists a reasonable or fairly debatable justification for the decision.

Pete Dal Bello gave the Appellant presentation.

Peter L. Candy, Attorney for Ryan Howe, Owner, gave the permittee's presentation.

Public comment opened at 1:34 p.m.

The following person spoke in support of the appeal:

1. Sebastian Aldana Jr. expressed that he supports the letter that was sent to the Planning Commission by Mr. Dal Bello and asks that the Commission uphold the appeal of the Staff Hearing Officer's decision. Mary Robles ceded her time to Mr. Aldana.

The following people spoke in opposition or with concerns of the appeal:

1. Aaron Schalman spoke positively regarding Mr. Howe's character and asked that the Staff Hearing Officer's decision be upheld.
2. Leo Federman explained that the dispensary in question will be an asset to the community, that there was no intention or attempt of ownership change by the permittee, that the permittee did hire a new secretary, and he asked that the Staff Hearing Officer's decision be upheld.
3. Steven Branston, property owner of 118 N. Milpas Street, is in support of upholding the decision of the Staff Hearing Officer and spoke positively regarding Mr. Howe's character.

Public comment closed at 1:42 p.m.

Commission comments:

All Commissioners agreed that based on the record and testimony provided, there is no evidence of abuse of discretion by the Staff Hearing Officer.

MOTION: Thompson/Jordan

Assigned Resolution No. 008-18

Deny the appeal and uphold the Staff Hearing Officer's decision to not revoke the Storefront Collective Dispensary Permit, finding that based on the record and the testimony heard, there is no evidence of abuse of discretion on the part of the Staff Hearing Officer.

The motion carried by the following vote:

Ayes: 6 Noes: 0 Abstain: 0 Absent: 1 (Wiscomb)

The ten calendar day appeal period was announced.

IV. ADMINISTRATIVE AGENDA

ACTUAL TIME: 3:09 P.M.

A. Committee and Liaison Reports:

1. Staff Hearing Officer Liaison Report

Commissioner Higgins reported on the SHO meeting of March 14, 2018.

2. Other Committee and Liaison Reports

- a. Commissioner Jordan reported on the Water Commission meeting of March 15, 2018.
- b. Commissioner Thompson reported on the Single Family Design Board meeting of April 2, 2018.
- c. Commissioner Schwartz reported updates regarding the Highway 101 High-Occupancy Vehicle Lane (HOV) project.
- d. Commissioner Campanella reported on the Architectural Board of Review meeting of March 12, 2018.
- e. Commissioner Lodge reported on the Historic Landmarks Commission meetings of March 21 and April 4, 2018.

V. ADJOURNMENT

Vice Chair Lodge adjourned the meeting at 3:17 p.m.

Submitted by,

Krystal M. Vaughn, Commission Secretary