

ASHLAND PLANNING DIVISION

FINDINGS & ORDERS

PLANNING ACTION: PA-2018-00294
SUBJECT PROPERTY: 485 Applegate Way
APPLICANT/OWNER: Applegate Way LLC
DESCRIPTION: A request for Site Design Review for the conversion of 1,814 square feet of existing warehouse space into a marijuana processing and packaging facility at 485 Applegate Way.
COMPREHENSIVE PLAN DESIGNATION: Employment; **ZONING:** E-1;
ASSESSOR'S MAP: 39 1E 13BB; **TAX LOTS:** 900

SUBMITTAL DATE:	February 9, 2018
DEEMED COMPLETE DATE:	February 26, 2018
STAFF APPROVAL DATE:	April 9, 2018
APPEAL DEADLINE (4:30 P.M.)	April 23, 2018
FINAL DECISION DATE:	April 24, 2018
APPROVAL EXPIRATION DATE:	October 24, 2019

DECISION

The proposal is a request for a Commercial Site Design Review to convert the existing warehouse space at 485 Applegate Way into a marijuana processing facility. A Site Design Review is triggered because of a change in occupancy from a warehouse to a processing facility.

The subject property is located on the northeast side of the cul-de-sac on Applegate Way. The cul-de-sac has a mix of commercial uses and is situated between the airport to the north, county land to the east, and residential areas to the south. The subject property is zoned Employment (E-1), as is the area immediately surrounding the site. Because the site is located near the airport, it is in the Airport overlay. There are no proposed changes in height to the structure, so the overlay requirements are met.

The lot is roughly rectangular, with a 70-foot frontage on Applegate Way. The total area is approximately 15,250 square feet. The structure is identified as 3,472 square feet in size. Per the applicant, 1,814 square feet is currently being used as warehouse space. The remainder of the building is occupied by the Madrone Cannabis Club, a recreational marijuana dispensary. The Madrone Club was approved by Planning Action #2015-01090 in 2015.

The layout of the site is commercial in character. It is relatively flat and has landscaping installed per its commercial site review approval in 2007 (Planning Action #2007-01549). Access to the site is provided via Applegate Way. Applegate Way is an improved Neighborhood Commercial Street with a continuous sidewalk on one side of the street.

The proposed use, marijuana processing, is permitted in the E-1 zone if the applicant meets the special use standards. The business is located in an existing permanent building and will not be engaging in outdoor storage, cultivation, or production. The applicant has proposed one exterior change. They wish to remove

and fill in a rollup door on the rear of the building. This is consistent with Site Design Review standards.

Per the applicant, all disposal will be conducted off site in an approved location and no waste will be stored in refuse containers outside. The applicant has indicated they will meet all building and safety codes required of a marijuana processing facility. Detailed plans will be submitted before installation and no processing will be allowed to occur until such permits have been applied for and finalized.

Per the methodology in AMC 18.2.3.190.B.1.f, there are no other processing facilities within 1,000 feet of the facility at 485 Applegate Way. Additionally, there is no residential zone within 200 feet of the site. The applicant has also agreed to record a declaration that shall waive any claim to hold the City liable for damages suffered from enforcement actions by state or federal entities.

The proposal is subject to the site development and design standards for non-residential development, including the Site Review Standards, in AMC 18.4.2.040. Because the applicant is in a building that has already undergone Site Design Review and the exterior changes are minimal the site has already met most criteria.

The site has nine existing parking spaces. One of the spaces is handicap accessible. The marijuana retail portion of the building, per its previous approval, requires four parking spaces. Marijuana production requires one parking space per 1,000 square feet, plus one space for a company vehicle. The total required parking is thus seven spaces. The already provided spaces are satisfactory to meet the parking requirement. Two covered bicycle parking spaces have also been provided.

The orientation of the building is already set and the landscaping is mature. The landscaping was required in the original approval of the building's construction. Per the application, approximately 19% of the site is landscaped, exceeding the zone minimums.

The property is already served by city facilities. As noted, a sidewalk and street trees are in place in front of the building.

The City did receive several comments from neighbors regarding the project. Most expressed concern about potential odors from the site. The applicant has proposed installing an air filtration system to address this concern. The installation will be required as part of the approval. The site will still be subject to the nuisance standards regarding odors under AMC 9.08.060, as is every lot in the city.

Several comments expressed concern about increased traffic and drivers being under the influence of marijuana products. While the facility may see an increase in traffic above the existing warehouse space, it is expected to be limited in impact. No new direct retail sales will occur in the processing site. The City has received no complaints regarding the conduct of the existing dispensary on the other half of the property.

The special use standards for Marijuana Related Businesses are in AMC 18.2.3.190 as follows:

A. Marijuana-Related Businesses

1. Marijuana-related businesses may require Site Design Review under chapter 18.5.2 or a Conditional Use Permit under chapter 18.5.4. See Table 18.2.2.030 – Uses Allowed by Zone for zones where marijuana-related businesses are allowed. See definition of marijuana-related

businesses in part 18.6. Marijuana-related businesses shall meet all of the following requirements.

- a. The business must be located in a permanent building and may not locate in a trailer, cargo container, or motor vehicle. Outdoor marijuana production, cultivation, and storage of merchandise, raw materials, or other material associated with the business are prohibited.
- b. Any modifications to the subject site or exterior of a building housing the business must be consistent with the Site Design Use Standards, and obtain Site Design Review approval if required by section 18.5.2.020. Security bars or grates on windows and doors are prohibited.
- c. The business must provide for secure disposal of marijuana remnants or by-products; such remnants or by-products shall not be placed within the business' exterior refuse containers.
- d. Light and Glare. Shield lighting systems and use window coverings to confine light and glare from light systems associated with indoor cultivation so as to confine light and glare to the interior of the structure. Grow light systems within a greenhouse are prohibited.
- e. Building Code. Any structure, accessory structure, electrical service, plumbing, or mechanical equipment (e.g., lighting, fans, heating and cooling systems) associated with a business shall satisfy the Building Code requirements and obtain all required building permits prior to installation.
- f. Methodology for Measuring Separation Requirements. The following methodology shall be used for marijuana related- businesses that are required to be separated by a specific distance (i.e., marijuana production facility, marijuana wholesale facility, marijuana retail outlet). For the purposes of determining the distance between a marijuana related-business and another marijuana-related business, "within 1,000 feet" means a straight line measurement in a radius extending for 1,000 feet or less in every direction from the closest point anywhere on the premises of an approved marijuana related- business to the closest point anywhere on the premises of a proposed marijuana-related business of the same type. If any portion of the premises of a proposed marijuana related-business is within 1,000 feet of an approved marijuana related business of the same type, it may not be approved. For the purpose of this section, premises is all public and private enclosed areas within a building at the location that are used in the business operation, including offices, kitchens, rest rooms, and storerooms.
- g. The property owner shall record a declaration which waives any claim or right to hold the City liable for damages they or a tenant may suffer from state or federal enforcement actions for activities the City permits as a result of its approval of the proposed use or development once such approval is granted. Furthermore, the owner and tenant agrees not to unreasonably disobey the City's order to halt or suspend business if state or federal authorities order or otherwise subject the City to enforcement to comply with laws in contradiction to the continued operations of the business as permitted under section 18.2.3.190.
- h. A marijuana-related business must obtain an approved license or registration from the State of Oregon and meet all applicable Oregon Revised Statutes and Oregon Administrative Rules.

Marijuana Laboratories, Processing, Production, and Wholesale. In addition to the standards described in subsection 18.2.3.190.B.1, above, marijuana laboratories, processing, production,

and wholesale shall meet the following requirements as applicable. See definition of marijuana processing and production in part 18.6.

- a. Marijuana laboratories, processing, production, and wholesale shall be located 200 feet or more from residential zones.
- b. Marijuana Production.
 - i. Marijuana production shall be limited to 5,000 square feet of gross leasable floor area per lot.
 - ii. A marijuana production facility shall be located more than 1,000 feet from another marijuana production facility. See subsection 18.2.3.190.B.1.f for methodology for measuring the required distance between marijuana related-businesses.
- c. Marijuana Wholesale. A marijuana wholesale facility shall be located more than 1,000 feet from another marijuana wholesale facility. See subsection 18.2.3.190.B.1.f for methodology for measuring the required distance between marijuana related-businesses.

The approval criteria for Site Design Review are in AMC 18.5.2.050 as follows:

An application for Site Design Review shall be approved if the proposal meets the criteria in subsections A, B, C, and D below. The approval authority may, in approving the application, impose conditions of approval, consistent with the applicable criteria.

- A. Underlying Zone.** The proposal complies with all of the applicable provisions of the underlying zone (part 18.2), including but not limited to: building and yard setbacks, lot area and dimensions, density and floor area, lot coverage, building height, building orientation, architecture, and other applicable standards.
- B. Overlay Zones.** The proposal complies with applicable overlay zone requirements (part 18.3).
- C. Site Development and Design Standards.** The proposal complies with the applicable Site Development and Design Standards of part 18.4, except as provided by subsection E, below.
- D. City Facilities.** The proposal complies with the applicable standards in section 18.4.6 Public Facilities and that adequate capacity of City facilities for water, sewer, electricity, urban storm drainage, paved access to and throughout the property, and adequate transportation can and will be provided to the subject property.
- E. Exception to the Site Development and Design Standards.** The approval authority may approve exceptions to the Site Development and Design Standards of part 18.4 if the circumstances in either subsection 1 or 2, below, are found to exist.
 1. There is a demonstrable difficulty meeting the specific requirements of the Site Development and Design Standards due to a unique or unusual aspect of an existing structure or the proposed use of a site; and approval of the exception will not substantially negatively impact adjacent properties; and approval of the exception is consistent with the stated purpose of the Site Development and Design; and the exception requested is the minimum which would alleviate the difficulty.; or
 2. There is no demonstrable difficulty in meeting the specific requirements, but granting the exception will result in a design that equally or better achieves the stated purpose of the Site Development and Design Standards.

The application with the attached conditions complies with all applicable City ordinances. Planning Action #2018-00294 is approved with the following conditions. Further, if any one or more of the following conditions are found to be invalid for any reason whatsoever, then Planning Action #2018-00294 is denied. The following conditions are attached to the approval.

- 1) That all proposals of the applicant shall be conditions of approval unless otherwise modified herein.
- 2) That a building permit to modify the occupancy classification of the space shall be applied for and approved by the Building Department prior to any operation of the marijuana processing facility.
- 3) That the plans submitted for the building permit shall be in substantial conformance with those approved as part of this application and shall meet AMC 18.2.3.190.B.1.e. If the plans submitted for the building permit are not in substantial conformance with those approved as part of this application, an application to modify the approval shall be submitted and approved prior to issuance of a building permit.
- 4) That the marijuana processing facility shall comply with all requirements of AMC 18.2.3.190.B.1 and 18.2.3.190.B.2
- 5) That the marijuana processing facility shall meet or exceed the air filtration requirements of AMC 6.50.060.F.
- 6) That prior to operation of the business:
 - a. The marijuana-related business shall obtain an approved license or registration from the State of Oregon and meet all applicable Oregon Revised Statutes and Oregon Administrative Rules.
 - b. The marijuana-related business shall obtain a City of Ashland business license.
- 7) That a sign permit in accordance with AMC 18.4.7 shall be obtained prior to the installation of any signage that is visible from the public right of way.

Bill Molnar, *Community Development Director*
Department of Community Development

Date