

**RECORD OF PROCEEDINGS
FORT LUPTON PLANNING COMMISSION
May 13, 2021**

The Planning Commission of the City of Fort Lupton met in session virtually via GoToMeeting, on Thursday, May 13, 2021.

Chair Mike Simone called the meeting to order at 6:01 pm and gave the following advisement:

Tonight's meeting shall be held virtually so as to ensure the health and safety of the general public and the City of Fort Lupton Planning Commission and staff.

The intent and purpose of the virtual appearance options is to allow the City to be innovative in providing the general public the most meaningful access possible in light of the current challenges present as a result of the Covid-19 pandemic. Therefore, subject to social distancing and public health orders, members of the general public will be offered the opportunity to be electronically present for meetings at the City, subject to existing health conditions.

An electronic link has been made available for tonight's meeting on the City's website and social media platforms and as posted at City Hall, so that the general public, Planning Commission and staff may participate electronically via the internet or on the phone.

ROLL CALL

Roll was taken and those present were Chair Mike Simone, Vice-Chair Bush White and Commission Members Carlos Barron, Kathy Kvasnicka and Thomas Meyers. Also in attendance were Planning Director Todd Hodges, City Planner II Alyssa Knutson, City Planner I Maria Lancto, City Clerk Mari Peña and Planning Administrative Assistant Magaly Morales-Tejada.

APPROVAL OF AGENDA

Chair Simone called for a motion to approve the agenda. It was moved by Vice-Chair Bush White and seconded by Kathy Kvasnicka

CONSENT AGENDA

Chair Simone called for a motion to approve the consent agenda. It was moved by Vice-Chair Bush White and seconded by Kathy Kvasnicka.

PUBLIC COMMENT

Chair Simone asked if there was anyone who would like to comment on an item not on the agenda tonight. Hearing none, he closed Public Comment

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ACTION ITEMS

Chair Simone addressed the applicant, Leonard Toews.

He asked if Mr. Toews understood that Members of the Planning Commission may be appearing tonight via virtual connection and may not be appearing in-person.

Mr. Toews stated yes.

Chair Simone asked if he consented to the applicable members voting on his submittal, even though said members are not present in person.

Mr. Toews stated yes.

Chair Simone asked if he understood that he had the right to continue this public hearing to such a date to allow a full in-person public hearing.

Mr. Toews stated yes.

Chair Simone asked if he voluntarily signed and submitted the written waiver and consent to proceed electronically tonight.

Mr. Toews stated yes.

Chair Simone asked if he waived his right to proceed in an in-person public hearing and has consented to proceed forward voluntarily tonight in this virtual planning commission meeting.

Mr. Toews stated yes.

P2021-012: Brandywine Farms Minor Subdivision

Planner Maria Lancto presented this item. Ms. Lancto stated that this property is located at the northwest corner of the intersection of Highway 52 and County Road 23 and is zoned Agriculture. She stated that this minor subdivision will result in three separate lots; Lot 1 being 1 acre, Lot 2 approximately 4.3 acres and lot 3 25.26 acres. She stated that the applicants have also submitted for a change of zone for Lot 1, which is being reviewed at the public hearing following this. Ms. Lancto stated that the use of the property is not being changed at this time. Ms. Lancto stated that all notification requirements had been met, including publishing in the newspaper, posting at the property and mailing to neighbors. Ms. Lancto stated that the applicants, Leonard and Sherri Toews, are available to speak further about the proposal and answer any questions.

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Chair Simone addressed the applicant, Leonard Toews. He asked if he had anything to add or present on behalf of his application.

Mr. Toews stated that the properties west and adjacent to his property are both commercially zoned. He stated that his property has been on the City's comprehensive plan for quite some time. Mr. Toews stated that they see themselves as a gateway to Fort Lupton and see their property as a key point in furthering the development in the area.

Chair Simone asked Mr. Toews if he felt he had a full opportunity to participate in the public hearing.

Mr. Toews stated yes.

Chair Simone asked Mr. Toews if there was anything he would have liked to present in support of his presentation that he felt he was prevented from doing.

Mr. Toews stated no.

Chair Simone opened up the public comment portion of the Hearing for the action item. Hearing no one from the public wishing to speak, Chair Simone closed the Public Hearing.

Chair Simone opened up the hearing to Planning Commissioners' comments and questions. With no questions from Planning Commissioners, Chair Simone called for a motion to approve P2021-0012.

It was moved by Kathy Kvasnicka and seconded by Bush White. Motion passed unanimously.

P2021-013 Brandywine Farms Change of Zone

Planner Maria Lancto presented this item. She stated that this application is for Lot 1 of the Brandywine Farms Minor Subdivision, located at the northwest corner of Highway 52 and County Road 23. Ms. Lancto stated that the applicants are requesting this lot be rezoned from Agriculture to "C-2" Heavy Commercial. She stated that this location is designated for commercial transition land uses in the City's Comprehensive Plan, therefore this request is appropriate for the future of this area. Ms. Lancto stated that there is no proposed development with this application and any land use proposals would be brought back to the City for review. She stated that all notification requirements had been met, including publishing in the newspaper, posting at the property and mailing to neighbors.

Chair Simone asked the applicant, Leonard Toews, if there was anything he would like to add on behalf of his application.

Mr. Toews reiterated that his property is at a key intersection to start future development.

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Chair Simone asked Mr. Toews if the previous answers to question on his consent to an virtual question applied to this action item.

Mr. Toews stated yes.

Chair Simone opened up the public comment portion of the Hearing for the action item. Hearing no one from the public wishing to speak, Chair Simone closed the Public Hearing.

Chair Simone asked Mr. Toews if he felt he had a full opportunity to participate in tonight's public hearing.

Ms. Toews stated yes.

Chair Simone opened up the hearing to Planning Commissioners' comments and questions.

Member Carlos Barron asked if there were any future plans for this lot.

Mr. Toews stated that there is not currently, but they do see potential for the property in the future.

Vice-Chair White asked for clarification on heavy commercial zoning.

Planning Director Todd Hodges explained that along the highway, heavy commercial allows for more development than standard retail. He stated that under the current Code, any future development would come before Planning Commission.

Vice-Chair White asked for a worst case scenario use in heavy commercial zoning.

Planner Alyssa Knutson read the permitted uses and special uses listed in the Fort Lupton Municipal Code for C-2 Heavy Commercial zoning. She stated that all uses permitted in C-1 are also permitted in C-2.

Mr. Toews added that they currently operate a floral greenhouse on Lot 2 of this property and have hopes of expanding into a plant nursery.

With no further questions from Planning Commissioners, Chair Simone called for a motion to approve P2021-013.

It was moved by Vice-Chair White and seconded by Kathy Kvasnicka. Motion passed unanimously.

P2021-0014 Chapter 16 Article II Amendments

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Planner Maria Lancto presented this item. She stated that this is a review of proposed changes to Article 2 of Chapter 16 of the Fort Lupton Municipal Code. Ms. Lancto stated that during the November elections of 2020, citizens voted to allow medical and retail marijuana stores to operate within Fort Lupton. Ms. Lancto stated that since then staff has been working on a series of ordinances which, with state statutes, will regulate this use. She stated that these ordinances include a Medical Marijuana Ordinance, a Retail Marijuana Ordinance, the tax ordinance and changes to the zoning ordinance. Ms. Lancto stated that all 4 of these will be brought before City Council the following Tuesday, May 18, however the zoning ordinance must first be reviewed by Planning Commission. She stated this meeting and presentation is only for the proposed changes to the zoning chapter of the code. Ms. Lancto stated that the city will only allow a medical marijuana store to operate within a retail store, a standalone medical establishment will not be permitted as the city will only be allowing a maximum of 4 establishments at this time. Ms. Lancto stated that through discussion and research City staff has determined that Commercial and Industrial zoning works best for this use, so it will be permitted in the C-1, C-2, I-1 and I-2 zone districts. She stated that the city wants to leave open the possibility for this use in a PUD that allows for commercial and industrial uses, however this use would need to be specifically included in the PUD standards. Ms. Lancto stated that zoning is not the only way in which the location of these establishments will be regulated, she stated that they will not be permitted within or adjacent to residential properties, in downtown, within 1,000 feet from any school, childcare center, juvenile or adult halfway house, correction facility or substance abuse rehabilitation center or within 500 feet of a park with a playground and the establishments will be separated by 1,500 or 3,000 feet depending on the population - similar to how the city currently handles liquor licenses. Ms. Lancto referred to a map that depicts the buffers of where these establishments would not be allowed. Ms. Lancto stated that there will be a special tax of 3.1% to be collected by the city, in addition to the current 4.0% that is collected by the state. She stated that this rate may decrease or increase without further approval so long as it doesn't exceed 10%. Ms. Lancto stated that following this public meeting, there will be a public hearing with City Council on May 18, 2021 which will include this zoning ordinance and other ordinances related to this use. She explained that all ordinances that are approved require a second reading and publishing in the newspaper, which is a 60-day process, therefore the expected effective date of these ordinances is July 23, 2021. Ms. Lancto stated that the zoning ordinance includes changes to sections 16-40, 16-42 and 16-45. She stated that staff recommends that medical and retail marijuana stores be added as permitted uses in the C-1 and I-1 districts as well as adding to the end of section 16-45(c)(1) language that reads "medical marijuana stores and retail marijuana stores are permitted uses in PUDs, provided that they meet the qualifications and criteria set forth in Articles 7 and 8 of chapter 6 of this Code and are approved as part of the PUD approval process." She stated that the proposed resolution would need to be amended so that section 16-45(c)(1) of Exhibit A to the resolution referenced Chapter 6 and not Chapter 16. She stated that with these changes, no amendment is needed for sections for C-2 or I-2 zoning as the code currently lists all C-1 permitted uses are permitted uses in C-2 and similarly for I-1 and I-2 zoning. Ms. Lancto stated that Mari Peña, the City Clerk is also online and that staff will try to answer any questions, but that some questions may need to be passed along to City Council.

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Chair Mike Simone opened up the meeting to public comments.

Chair Simone opened up the public comment portion of the Hearing for the action item. Hearing no one from the public wishing to speak, Chair Simone closed the Public Hearing.

Chair Mike Simone opened up the meeting to Planning Commissioner's comments.

Member Thomas Meyers stated that there are a lot of DOT businesses in the area and feels as though having marijuana readily available for retail within the city would create conflict with DOT drivers.

Member Carlos Barron stated that he operates a DOT business and they require quarterly drug testing. He stated that all DOT employees should be aware of the regulations.

Member Meyers reiterated that having marijuana retail readily available near drivers who may make the choice to drive under the influence could have bigger consequences as they are driving larger vehicles than the average driver on the road.

Member Kathy Kvasnicka stated that Fort Lupton is not the first city in the area allowing for retail of marijuana, and that it already is readily available in the area. She stated that the retail of marijuana will bring in great revenue to the City.

Chair Simone stated that while good points were being made, this discussion is outside of the Planning Commissions role. He stated that he would like to recommend that staff bring to City Council's attention that many CDOT drivers are not aware that marijuana is still a federal offense and recommended that notice be required to be posted in marijuana establishments.

Planning Director Hodges stated that this can be brought to City Council although he is unsure if that would be a conflict with state regulations.

Chair Simone asked if home day cares are included in the buffers on the map.

Planning Director Hodges stated yes, all legally licensed childcares are included.

Chair Simone asked how future home day cares would be affected if there is an existing marijuana establishment in the area where a home daycare is being proposed.

City Clerk Mari Peña stated that if there is an existing marijuana facility, then a new home daycare would be allowed in the buffer area if they choose to be within that distance and it would not affect the status of the existing marijuana facility.

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Chair Simone suggested that in the amendment being made to the Code, they also amend the wording for Medical and Dental Clinics to list "Healthcare and Dental Clinics"

Planning Director Hodges stated that they could look at that as part of the overall code change.

Vice-Chair White asked if the land use process for marijuana establishments could be through Special Use Permits rather than permanent.

Planning Director Hodges stated that from a land use planning perspective, applications for these establishments will be treated the same as other retail establishments, the only benefit from a Special Use Permit is that it is non-transferable. He stated that retail and medical establishments are a mandate of the voters of the City and the City is just regulating how and where these establishments can be located.

Member Meyers asked for clarification on what the Planning Commissioners votes are needed for, if these establishments have already been mandated by the voters.

Planning Director Hodges stated that the Planning Commission is voting on this use being allowed in the specified zoning districts.

Chair Simone stated that Planning Commissioners should vote based upon compliance with the regulations.

Planner Knutson stated that Planning Commissioners are voting on the recommendation to City Council.

Planning Director Hodges stated that the Planning Commissioners have the ability to recommend changes to the section being reviewed and although this is a mandate of the citizens, that the commissioners have the purview to regulate how this works in the city.

Vice-Chair White reiterated that he would like to see it regulated as a special use permit rather than other land use types as to not allow transferability and not make it as readily available, as he has seen firsthand the effects that having marijuana readily available has on youth that he works with.

City Clerk Mari Pena stated that transferability is regulated through the state and there are many requirements in order for anybody to open or operate an establishment. Ms. Pena stated that licensing is heavily regulated through the state. She stated that the requirements are not only similar as those for liquor licenses, but there are in fact more requirements for marijuana retail.

Mr. Meyers asked for clarification of the votes and if he could vote no based on whether or not he agrees with the allowed uses in the zoning.

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Chair Simone stated yes

Planner Knutson stated yes and explained that the Planning Commission is only voting on the amendment to the zoning district uses.

With no further questions from Planning commissioners, Chair Simone asked for a motion to approve P2021-0014. It was moved by Member Kathy Kvasnicka and seconded by Member Carlos Barron.

Motion passed on a roll call vote of 4 "yes" votes and 1 "no" vote.

DISCUSSION ITEMS

Review of Meeting Discussion

A review of meeting discussions took place.

Development Code Update

A discussion of the Development Code Update took place.

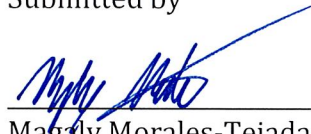
FUTURE BUSINESS

The next meeting of the Planning Commission is scheduled for June 10, 2021 at 6:00 PM.

ADJOURNMENT

Chair Mike Simone adjourned the meeting at 7:03 PM.

Submitted by



Magaly Morales-Tejada, Planning Assistant

Approved by Planning Commission



Mike Simone, Chair