

**City of Gig Harbor Planning Commission  
Work Study Session and Public Hearing  
Council Chambers  
May 3, 2012  
5:00 pm**

**PRESENT:** Harris Atkins, Craig Baldwin, Reid Ekberg, Jim Pasin, Bill Coughlin and Rick Gagliano. Michael Fisher was absent.

**STAFF PRESENT:** Staff: Tom Dolan, Jennifer Kester and Diane McBane

**CALL TO ORDER:** at 5:00 p.m.

**APPROVAL OF MINUTES:**

MOTION: Move to approve the minutes of April 19<sup>th</sup>, 2012 as written – Gagliano/Ekberg - Motion carried.

**WORK STUDY SESSION:**

**Medical Cannabis Collective Gardens** The City of Gig Harbor Planning Commission is holding a public hearing to solicit community feedback on making permanent the City-sponsored interim regulations regarding medical cannabis collective gardens adopted by city Ordinance #1218, amended by Ordinance #1222 and extended by Ordinance #1236. The following is a summary of the proposed zoning regulations for medical marijuana/cannabis collective gardens:

1. Medical marijuana/cannabis collective gardens would be allowed as a conditional use only in the ED zoning district.
2. Collective gardens would not be permitted within 500 feet of any existing collective garden, residential zoning district, public park, community center, elementary or secondary school (public and private), commercial child care business or youth oriented facility.
3. Collective gardens would be required to be housed in a permanent structure with no productions, processing or delivery visible to the public.

Commissioner Pasin asked what the regulations were regarding individuals growing medical cannabis, and it was stated that it is legal as long as they are doing it just for themselves. Commissioner Coughlin asked if the attorney had advised us to not go forward with this and Commissioner Ekberg said that he recalled that she said we had a choice. Ms. Kester clarified that there was a question as to whether or not the jurisdiction was authorizing something that federal law prohibited. She noted that there may be other options such as requiring a conditional use permit. She distributed a map which applied a 500 foot separation and a 1000 foot separation from schools and other sensitive uses. Mr. Pasin asked if the city attorney had provided information regarding

how Toppenish had chosen not to allow collective gardens. Mr. Dolan said he had not received that information from the city attorney.

Mr. Atkins stated that he recalled that there would be some drug free zones within the city and wondered how they were authorized or defined. Ms. Kester said that it was something the police department defined. Mr. Dolan said the penalties are more severe within these zones. Mr. Atkins wondered if the new map met the requirement of drug free zones and Ms. Kester said it is 1000 feet from the property line from any school and from the boys and girls club. Ms. Kester said that she is printing a Woodinville ordinance that has prohibited collective gardens, which is something they could recommend. Ms. Kester also noted that Pierce County has not started a process; they have not taken any action. Mr. Gagliano asked if there were properties close enough to these boundaries that were not within the city that may be affected and Ms. Kester said no, this would not apply to properties within unincorporated Pierce County regardless of what we have adopted. Mr. Pasin said that he felt there were two issues; there are collective gardens and then the ability for an individual to grow on their own property so he wanted to be sure as they discuss the issue we keep it in mind. Ms. Kester said that we are only talking about collective gardens. She noted that production, process and delivery does not occur when you are just growing for your own needs. Mr. Coughlin pointed out that it is possible that marijuana becomes legal and asked are we encouraging that with this proposal. Mr. Baldwin said that he is concerned with the impact that this may have on surrounding properties and their values. Mr. Coughlin said that it does open a door.

Ms. Kester said that this area is our last piece of major industrial level two uses and one of the main reasons we haven't seen development here is because it would require a sewer lift station. She pointed out some properties that already have approved projects and noted that it has been decided that 2 million dollars a year from the hospital benefit zone will go toward building this lift station in order to encourage economic development so within 5 years we may see people starting to develop here and is a collective garden part of an industrial business center. Mr. Gagliano agreed that there is an economic issue. He wondered about the proximity of this property to the hospital and should that be a requirement if marijuana becomes legal for medical use. Mr. Atkins asked if the current ordinance addresses separation between gardens and Ms. Kester said yes there has to be a 500 foot separation. Mr. Pasin said that perhaps you could have a conditional use as long as it was attached to a medical office building or use. Mr. Gagliano wondered if it could be done through definitions. Mr. Coughlin said that this area is an edge to the city and wondered if the city council did that on purpose. Ms. Kester said that it was more about the separation requirements. Since we are so linear it became almost impossible because of the 500' separation requirements. She stated that 500' is a common separation from sensitive uses where minors could be impacted. Mr. Atkins reminded everyone about the definition of collective gardens and that it may work against trying to align it within an existing medical facility. Ms. Kester agreed that it would be financially prohibitive. Mr. Dolan also stated that the applicant would have to have a survey prepared verifying the distances. Mr. Atkins stated that if the stigma is taken away of this being a controlled substance then this becomes like a food

supplement. Mr. Atkins asked if it is true that this garden could only produce 24 oz per patient on the premises. Mr. Dolan said yes. Mr. Atkins said that Issaquah has a health and safety permit requirement and he thought that was a good idea in order to keep track of the gardens.

Mr. Pasin asked where does it state that each grow operation has to be separated by 500' feet and Ms. Kester pointed out in her staff report and in Ms. Belbeck's memo.

Mr. Atkins called a 5 minute recess before the public hearing

## **PUBLIC HEARING**

Ms. Kester gave a brief description of the interim ordinance and explained that this is to determine whether the Planning Commission would recommend to the City Council whether or not these regulations should be made permanent. She summarized the regulations.

Mr. Atkins opened the public hearing at 6:00 p.m.. There being no one wishing to testify, Mr. Atkins closed the public hearing. Ms. Kester said she has not received any other comments from the public. Mr. Atkins wondered if perhaps there was a message in that there is no public comment. He asked each of the commissioners to give their thoughts on the issue.

## **WORK STUDY SESSION**

Baldwin: Recommend we prohibit them, the state has provided a mechanism and not sure this really does much more but it could impact properties in that area. Could be doing something not sanctioned by the federal government.

Gagliano: Mostly agree to prohibit them, there is enough ways for people to get medical marijuana and don't see a need for this. We have a responsibility to respond to the state requirement so we could provide for an area within a medical facility. Concept of individuals growing their own is limited.

Ekberg: The current interim ordinance has enough burdens; I think the ban exposes us to a legal fight. In favor of recommending that the interim ordinance be made permanent.

Atkins: I am sympathetic to the need for medical marijuana; however, I can't gauge whether this is serving that need. I would also agree that we shouldn't expose the city to legal expenses and would opt to do whatever is the least risky, probably the interim ordinance while expanding the limits by 1000 feet. He suspected that the interim ordinance has been in effect for a while now so that might be a better approach.

Pasin: Asked if we had a definition about the delivery of cannabis. Mr. Dolan explained the definition. He said he would like to have a better definition of the delivery if we

adopt this interim ordinance. He said he felt uncomfortable placing this use in the ED. He has thought through how we could provide a different opportunity and didn't have an answer. He would feel a little safer in adopting in the interim ordinance with some modifications.

Coughlin: Said that he didn't quite have clarity on this issue yet. He was disappointed that they had not received testimony from people that there was a great need for this. He has concern with designating our ED as an area for this. He wondered if they could just extend the interim ordinance rather than doing this before the 2012 election. He felt that there was the least harm in adopting the interim ordinance and doubted that we would see one go in. He would probably abstain from a vote.

MOTION: Move that the Planning Commission recommend approval of the interim ordinance as written with the exception that we use the boundaries 500' from rural residential and 1000' from sensitive uses. Ekberg/Pasin seconded.

Mr. Gagliano said that he agreed that putting a use in this particular zone could be a mistake and also agreed that we shouldn't put the city at risk. He stated that the economic benefit to patients is that they can grow their own supply and work together which is less expensive. He suggested that they not do this in the ED but within medical facilities.

Mr. Atkins said that one of the conditions was that no more than 10 patients could be in a collective garden and wondered if you could have one set of 10 on one day and another set of 10 on another day. Ms. Kester said that this is directly from the RCW and she wasn't sure exactly what it said but that the intent was that you can only have 10 for each garden. Mr. Atkins wondered how we would ensure that. Ms. Kester said that if you pass the interim ordinance it will be a conditional use permit, were they comfortable with that or did they want to add that an appropriate process be developed. Mr. Ekberg said since we have not had any actual applicants we have no way to judge if the conditional use permit process is effective. Mr. Atkins said that the conditions would be subject to the hearing examiners review. Ms. Kester went over what some of the conditions could be. Mr. Dolan suggested that an appropriate licensing procedure be developed to assure compliance with state requirements be recommended to the city council.

Mr. Coughlin wondered if we are adding work for our police department. Mr. Dolan said he has discussed this with Chief Davis and he does not view this as a significant issue for his department.

Mr. Atkins made a friendly amendment to the motion that we recommend to the council that they consider the creation of a licensing process to assure compliance with state requirements and that the conditions are met. Ekberg/Pasin accepted the friendly amendment.

The motion failed with Pasin and Ekberg voting in favor and Coughlin, Gagliano and Baldwin voting against.

Mr. Gagliano asked about the state initiative. Ms. Kester said that they had just received the update and it was about legalizing marijuana. Ms. Kester said she could investigate whether the interim could be extended for another six months. Ms. Kester asked if they would like to have collective gardens as a work study session at the next meeting and everyone agreed.

Mr. Ekberg pointed out that they have spent enough time on this and in the eight months this ordinance has been in place no one has applied.

MOTION: Move to recommend prohibiting collective gardens. Baldwin/Pasin –

Baldwin asked if that undoes any kind of restrictions. Ms. Kester then said that lapsing the interim ordinance means our code is silent prohibiting means we prohibit.

The motion failed with Baldwin voting in favor and Coughlin, Ekberg and Gagliano opposed. Pasin abstained.

Mr. Dolan said that perhaps they would like to communicate to the city council that they were divided on this issue and perhaps the commission could move on to other items. He stated that it might be better to deal with this after the initiative election in November.

Mr. Atkins asked that staff put together a recommendation statement for adoption at the next meeting regarding what Mr. Dolan has just stated. Mr. Gagliano asked if they could come up with language for allowing them as medical facilities. Mr. Dolan cautioned the commission on this and creating a huge enforcement problem. Mr. Gagliano said that we should craft language that eliminates that problem. Mr. Gagliano said that he didn't feel like only allowing them on industrial vacant land was the answer.

Mr. Pasin asked for a definition of delivery.

Mr. Atkins also asked that their concerns be communicated to the council.

**Zoning Code Text Amendments** – Discussion on text amendment process and potential code changes.

Ms. Kester said that she is working on language regarding the zoning code text amendment process. She asked about frequency of review of zoning code text amendments. State law requires once a year. She suggested that there be a docket schedule perhaps quarterly or bi annually. Mr. Pasin asked if it was reasonable to do it on a quarterly basis and Mr. Dolan said that it may reduce our work load. Mr. Ekberg asked in a typical year how many text amendments are received and Ms. Kester estimated 10. The planning and building committee meets every other month. Mr. Atkins stated that he didn't want to lose the flexibility in changing the zoning code. Ms.

Kester stated that this schedule would allow for planning workloads rather than just reacting to applications whenever they are received. Mr. Coughlin asked if we could provide a mechanism for an emergency and Mr. Dolan said that yes if they can convince the city council to sponsor the amendment then they can bypass the docketing process. Everyone agreed that a docketing process was the best approach.

Ms. Kester stated that within the comprehensive plan map amendment we ask that applicants hold community meetings. She wondered if for area wide rezones the Planning Commission would like to create a similar process. She stated that perhaps two meetings was too many as it is a lot of money for an applicant to put out without even having gone through the docketing process. You could require that after the council accepted it then they do a community meeting. Mr. Pasin said that he agreed that after their application is accepted is when they hold a community meeting. He stated that for the most part the community does not show up at these meetings. Mr. Dolan said that we have a public hearing so what is the need for a community meeting. Ms. Kester went over the history and why the council had adopted the requirement for two meetings for comp plan amendments. She gave examples of recent area wide rezones. Mr. Atkins agreed that it should be after the application is accepted but he didn't see the need for it as we hold several meetings.

Ms. Kester said that she would write language reflecting that the Planning Commission may hold several public meetings.

Mr. Dolan said that staff's intent is to have criteria for the commission to review at your next meeting.

Ms. Kester said the downtown planning and visioning committee has had two meetings and should have the characterization report in front of you in June. The committee is looking at having an open house on June 27<sup>th</sup> to present that report to the committee and to solicit comments on a vision statement. She stated that an intern will be helping to manage that open house.

Mr. Gagliano stated that the view basin model project is under way and they have 38 student volunteers.

## **ADJOURNMENT**

Move to adjourn at 7:20 p.m. Ekberg/Gagliano – Motion carried.