

THURSDAY, NOVEMBER 4, 2021

CITY HALL COUNCIL CHAMBERS

CITY OF ROGUE RIVER, JACKSON COUNTY, OREGON

CALL TO ORDER The Special Council meeting was called to order by Mayor Wayne Stuart at 10:04 a.m.

QUORUM **COUNCIL MEMBERS PRESENT:**

Mayor Wayne Stuart
City Councilor Jack Bird
City Councilor Pam VanArsdale
City Councilor Rick Kempa
City Councilor Barb Hilty
City Councilor Don Daugherty
City Councilor Barb Gregory

ALSO PRESENT:

Mark Reagles, City Administrator
Carol Weir, City Recorder
Jim Williams, Chief of Police
Ryan Nolan, City Planner

ATTORNEYS PRESENT:

Michael Franell, Attorney at Law

A quorum was present and due notice had been published.

OLD BUSINESS:

AGENDA ITEM 1 Continue deliberations from October 28, 2021 for an appeal filed by the applicant regarding CUP 2021-03, a Revocation of a Conditional Use Permit CUP 2016-03 for property at 499 East Main Street, Rogue River, Oregon. Applicant: Hurst/HRP, LLC, Dale Hurst, Owner. Represented by: Ben Freudenberg, Attorney at Law.

City Planner Ryan Nolan said typically in Rogue River when a land use hearing by the Planning Commission or the City Council level a vote is taken and then staff would review that motion and findings and the Planning Commissioner or the Mayor sign those findings within the next few days. Because of the contentious this particular issue he and the City Attorney had provided draft Findings of Fact for them to review prior to the conclusion or ultimate decision so they have findings that the whole City Council supports. Previous findings had been review but the purpose of this meeting was for the City Council to provide him and the City Attorney with any direction to either alter the findings and ultimately there needed to be a motion and a vote made by the City Council of the choice of the City Council whether or not to uphold the Planning Commission's decision to revoke the 2016 Conditional Use Permit or whether to overturn their revocation as requested by the applicant. With

that there were two items to discuss, what was the choice of the City Council and then were the Findings of Fact satisfactory findings. He suggested to get a consensus of what direction the City Council was looking to go regarding the decision and then if changes were needed to the findings. He said the City Attorney may have additional comments before and discussion and they were both available for any questions as they moved forward with deliberations.

City Councilor Pam VanArsdale asked if they wanted to go forward with a motion and a second and then discuss or were they still in the deliberation part of the process.

City Recorder Carol Weir said they would continue with deliberations.

City Planner Ryan Nolan said it would be appropriate at some point to have a motion to and a decision regarding the appeal of the revocation. It could then go into discussion of the findings if that was the preference of the City Council. In many jurisdictions the motion and the findings are brought back at a second meeting to move forward with findings like they were doing today.

Mayor Wayne Stuart asked if there was a motion.

City Councilor Barb Gregory said she would like to read a statement into the record that she had prepared before making a motion if that was acceptable. Her statement is as follows:

The City Council had been presented with copious amounts of information, paperwork and testimony. I believe this is the City's first experience with an Ice Plant and Food Distribution Center. The Planning Commission was presented with paperwork for a much small operation. For example, the size of trucks intimated to be bob tail, the number of deliveries of one to two a day, from 7:00 a.m. to 3:00 p.m. The original plan was for a smaller building. Delivery bays and corresponding maneuvering spaces not constructed for semi's, and the corresponding dirt, noise, vibration and increasing frequency not taken into consideration. Instead of presenting a modified plan for consideration by the Planning Commission and the modifying the CUP. Mr. Hurst just moved ahead without preplanning and now asks for forgiveness and approval. I believe the City Council has enough information to vote.

MOVED (GREGORY), SECONDED (KEMPA) TO DENY THE APPEAL AND REVOKE CUP 2016-03 AS MODIFIED BY CUP 2018-02 FOR FAILURE TO COMPLY WITH CONDITIONS 1, 3, 4, 6, 7, 8, 9, 12,13 AND 14.

City Councilor Barb Gregory commented to both the City Planner and the Attorney for their response. She was very glad to see that car wash and grease trap violations had been taken out and handled in a different way. She had seen that

there were a couple of additions to the original number of items that were in contention, feeling they were correct and that they were added.

City Councilor Pam VanArsdale agreed with Councilor Gregory that they were Findings of Facts, they very thorough and pretty much covered all the problems that existed and explained why the City Council was moving in their direction.

City Councilor Barb Hilty commented that in Section I. Background, it had not included condition number fourteen nor was condition number fourteen was included Section V. Procedure (E) and asked if that was something that needed to be added because the motion included condition number fourteen.

City Planner Ryan Nolan said it was not added by the Planning Commission but it could be included by the City Council.

City Councilor Barb Gregory said that those were the two conditions that she had been referring to.

City Councilor Pam VanArsdale said that was the reason it was not showing because it wasn't considered by the Planning Commission but she felt as the City Council they could consider that one.

City Councilor Barb Gregory said that the other condition was number two.

City Administrator Mark Reagles said he would like to see other conditions added to the document addressing that the east, so that the north, south and east side of the building because there were two units on the east side of the building that the applicant was moving to the top of the building based on the impact to the neighbors. He recommended that the document show that there was equipment located also on the east, north and south side of the building added to both pages' seven and eight.

City Councilor Barb Gregory commented that the east side had been mentioned.

City Administrator Mark Reagles agreed but his concern was with the mention of equipment for two significant units on the east side of the building.

City Councilor Pam VanArsdale commented that on page eight the words being used as referred shouldn't it actually be changed to refrigeration units.

City Planner Ryan Nolan noted the change.

City Councilor Pam VanArsdale asked if they needed to add condition two in the motion because it was addressed on page eleven it stated the City Councilors response not satisfied.

City Administrator Mark Reagles commented that they could find condition 2 on page seven said the applicant shall comply with all city, state, and federal requirements so it should be included in the motion.

CITY COUNCILOR (GREGORY), SECONDED (KEMPA) AND CARRIED TO AMEND THE MOTION TO INCLUDE CONDITION 2.

City Councilor Barb Gregory asked if on page four Section VI. Background Information (E) Current Land Use that the site was developed as a Lil' Pantry and Ice House Plant shouldn't the statement include gas station.

City Planner Ryan Nolan stated that originally it was one tax lot but actually the Ice Plant was solely on it's own tax lot so the statement should be the site was developed as an Ice House Plant.

City Councilor confirmed to leave the Lil' Pantry and gas station out because they were two different sites.

City Administrator commented that originally they were a single tax lot but then the applicant requested a lot line adjustment splitting the property for a warehouse ice plant capabilities and food preparation and they should stick with that verbiage when talking about the application. He agreed to leave out the verbiage "Lil Pantry" like they did with the grease trap. He also said that they could include any impact to the residential lot next door because now it would be on same tax lot.

City Councilor Barb Hilty asked about Condition 1 where it talked about the hours of delivery was there a definition for what hours of delivery since she had seen written two different ways and what exactly did it mean.

City Administrator Mark Reagles said he thought it meant any deliveries. Since the original application was for food preparation, ice making and warehousing anything under those three items would be considered a delivery. It could be bags for the ice, it could be ice coming and going, it could have been food product which they withdrew from the original application because they did not want up the classification of the building which would have required a sprinkler system so they took out the food portion of it. He again said anything that comes and goes was a delivery.

City Councilor Pam VanArsdale said she was satisfied with everything they had in front of them and the changes they talked about making.

MOTION CARRIED WITH A UNANIMOUS VOTE TO DENY THE APPEAL.

City Administrator Mark Reagles asked how long the appeal period and when would the applicant have to make a decision.

City Planner Ryan Nolan said they had 21-days from when the decision would be final and signed and mailed to the applicant. He felt they should be able to have the findings finalized and mailed to the applicant then they had 21-days to file with the Land Use Board of Appeals.

City Administrator Mark Reagles asked at what point in time would the applicant need to cease and desist operation.

City Attorney Mike Franell replied when the decision became final meaning the findings were signed and mailed to the applicant at that point they would need to cease operation of the facility.

City Administrator confirmed that it would be prior to the 21-day appeal period being over.

City Attorney Mike Franell replied yes.

ADJOURN

There being no further business to come before the City Council and upon motion duly made (VANARSDALE), seconded (GREGORY) and carried, the meeting adjourned at 10:26 A.m.

ATTEST



Carol J. Weir, MMC
City Recorder