1. CALL TO ORDER:

Vice-Chair Ruder called the meeting to order at 7:00 p.m.
Planning Commission Present: Sebastian B. Lawler, Dale Smith, Phil Ruder and Hugo Rojas.
Planning Commission Excused: Tom Beck, Carolyn Hymes, Lisa Nakajima
Staff Present: Jon Holan, Community Development Director; James Reitz, Senior Planner; Marcia Phillips, Planning Commission Coordinator

2. PUBLIC MEETING:

2.1 PUBLIC COMMENT PERIOD FOR NON-AGENDA ITEMS: None.

2.2 PUBLIC HEARING:

A. Legislative amendment to Forest Grove Development Code §10.8.130 Widths and Locations of Driveways and Curb Cuts. The purpose of the amendment would be to provide flexibility for driveway widths in residential zones. The current maximum driveway width is 24 feet; the amendment, if approved, would allow some driveways to have a maximum width of 30 feet.

Vice Chair Ruder opened the public hearing at 7:01, and called for the staff report.

Mr. Reitz explained that Forest Grove's regulations pertaining to driveway width have changed several times over the past few decades. He said the current standards were put in place in 2009 with the adoption of the Development Code. Reitz said the Zoning Ordinance was in effect from 1980 to 2009 and allowed residential driveway widths of up to 30 feet. He said the Zoning Ordinance in effect from 1971-1980 apparently did not specify a maximum width, but instead the curb cut width was determined by the City Engineer. However, this code did have an additional provision that driveways on the same lot had to be separated by at least 30 feet. Reitz gave a PowerPoint presentation showing examples of 30 foot driveways. One slide showed a "field decision" to have two drive approaches to the same house each in compliance to circumnavigate a catch basin that was not noted on the building plans.

Mr. Reitz explained that the applicant is currently building homes in both the Pacific Crossing and Silverstone subdivisions Since Pacific Crossing was approved when 30 foot driveways were permitted before the 2009 Development Code took effect, the City has continued to allow wider driveways in that project. Reitz explained that Silverstone was approved in 2014, and driveway widths are subject to current Development Code requirements (24 feet).

Mr. Reitz said the applicant has stated there is a demand for homes with 3-car garages, and has requested an amendment to the Development Code to allow 30 foot driveways. He said the applicant is suggesting 24 foot driveway widths for lots with less than 60 foot street frontage, and 30 foot driveway widths on lots with greater that 60 foot street frontage. Reitz said staff is proposing an additional condition to give the City Engineer the authority to restrict the width and location of any driveway to ensure that driveways do not conflict with public infrastructure.

APPLICANT:

Mimi Doukos, AKS Engineering, 12965 SW Herman #100, Tualatin, OR 97062.
Ms. Doukos explained that the Silverstone subdivision offers four different housing types, with some larger lots and bigger garages (3 bay). She explained that the 30 foot driveways would only be applicable to lots with over 60 feet of street frontage. Doukos said staff is making sure this does not take up too much on-street parking, and this amendment does allow for at least one (likely more) additional off-street parking spaces, which would balance or make up for any loss to on-street parking. Ms. Doukos said the applicant is in agreement with the staff report.

PROPONENTS: None.

OPPONENTS: None.

OTHER: None.

Vice Chair Ruder closed the public hearing at 7:21 p.m.

COMMISSION DISCUSSION:

Vice Chair Ruder stated that the amendment seems reasonable.

Commissioner Lawler agreed with the amendment, and stated that right now there is a market for homes with 3-car garages. He asked if there is any regulation on the driveway "wings".

Mr. Reitz stated that the "wings" have never been an issue, and the Engineering Department has a standard. He explained that the "wings" serve a purpose as cars can park too close to the driveway entrance to allow the homeowner ample room to maneuver into the driveway.

Commissioner Rojas made a motion to approve the legislative amendment to the Forest Grove Development Code §10.8.130 Widths and Locations of Driveways and Curb Cuts to provide flexibility for driveway widths in residential zones and allow some driveways to have a maximum width of 30 feet. Commissioner Lawler seconded. Motion passed 4-0.

B. Appeal of Community development Director's interpretation of DC§10.12.210(M8) Marijuana Processor at 1714 Pacific Avenue (Tax Lot 1S401AA00300).

Vice-chair Ruder opened the public hearing at 7:30 pm, read the hearing procedures, and asked for disclosure of any conflicts of interest, ex-parte contacts, bias, or abstentions. There were none, and no challenges from the audience. Ruder called for the staff report.

Mr. Holan stated that the appellant is interested in leasing a tenant space at 1714 Pacific Avenue in the Community Commercial (CC) zone for the purpose of opening "a small scale Marijuana Product Manufacturing Company." Holan said the facility would process marijuana into cannabinoid products, and he said the appellant described the business as a "Marijuana Product Manufacturing Company", which would fall within the common definition of processing or compounding. He said staff learned that the product line would include three types of edible bars,

a CBD-infused soap bar, and a CBD-infused lotion. The appellant proposed to use the site at 1714 Pacific Avenue based on the theory that the use described above would comply with the definition of Light Industrial as described in Section §10.12.140(B) Manufacturing and Production. Holan explained that because the Development Code specifically lists marijuana processing as an allowed use only in the General Industrial zone district and not the Community Commercial zone district it is not allowed in the Community Commercial district.

APPELLANT:

Jason Parkinson, 1944 NW Johnson St. #104, Portland, OR 97209. Mr. Parkinson gave Handout # 1 to staff and to the Commission. He said under Article # 12 *Specific Words and Terms* the definition for a Marijuana Processor is a facility licensed by the Oregon Liquor Control Commission or registered by the Oregon Health Authority to process, compound or convert marijuana into cannabinoid products, cannabinoid concentrates or cannabinoid extract. Marijuana processors are classified as industrial, manufacturing and production. Parkinson said classifying Marijuana Processors as industrial is not exclusively General Industrial, and that is where he is building his case under Article # 12 Section B that industrial is inclusive of both Light Industrial and General Industrial. Parkinson said from that definition his case is built that industrial includes Light Industrial. He said a Marijuana Processor may only process and sell cannabinoid products, concentrates or extracts if the processor has received an endorsement from the Commission for that type of processing activity.

Mr. Parkinson said a cannabinoid product means a cannabinoid edible and any other product intended for human consumption or use, including a product intended to be applied to the skin or hair that contains cannabinoids or dried marijuana leaves or flowers. He said a cannabinoid product does not include usable marijuana itself, a cannabinoid extract by itself, or a cannabinoid concentrate by itself. He explained that a cannabinoid edible means food or potable liquid into which a cannabinoid concentrate, cannabinoid extract or dried marijuana leaves or flowers have been incorporated, so in this sense the concentrate, extract or dried leaves would be previously processed materials. He said a cannabinoid extract means a substance obtained by separating cannabinoids from marijuana by a chemical extraction process, or any other process identified by the Commission in consultation with the authority by rule. Parkinson said these definitions were taken directly from Division 25 of the State's statutes on marijuana.

General Industrial is defined as manufacturing, processing and assembling of "semi-finished" or finished products from raw materials. He explained that in this case "extracts and concentrates" are considered semi-finished goods produced from raw materials (marijuana). Parkinson said Light Industrial is defined as production, processing, assembling, packaging or treatment of finished products from previously prepared materials or components. He explained that in this case edibles or topicals are finished goods prepared from previously prepared materials (concentrates or extracts), so concentrates and extracts are classified as semi-finished goods due to the additional processing required to produce a cannabinoid product. This distinction of goods between concentrate and extract endorsements, and topical and edible endorsements clearly shows the need to reclassify topical and edible endorsements to Light Industrial use.

Mr. Parkinson stated that this processing is very compatible with the Light Industrial zone. He said the issues seem to be with safety and odor, and the State statutes have rules in place for that.

Parkinson said the greatest concern, given the industry, is private security. He said measures will be taken to ensure a maximum level of security. He said the small amount of odor that is produced can be easily maintained with a carbon filter and proper ventilation system.

In response to a question from Vice Chair Ruder, Mr. Parkinson stated that he would not necessarily have a retail storefront if that prevents him from doing this. He suggested the processing area may not necessarily be closed off to view but the doors and windows could be closed off.

In response to a question from Vice Chair Ruden, Mr. Holan stated that the location is within 1,000 feet of Tom McCall School, so retail is not allowed.

In response to a question from Commissioner Lawler, Parkinson said there would be roughly five employees in the beginning with more added later as the business grows.

Commissioner Lawler asked if as a processing business it would generate lots of traffic and deliveries as far as bringing in materials.

Mr. Parkinson said not necessarily because the ingredients are in the form of concentrates (so smaller amounts), and are easy to store.

In response to a question from Commissioner Rojas, Mr. Parkinson said the description of a Marijuana Processor classifies it as industrial production and manufacturing which is in a section of Article # 12 Section B, and it is inclusive of both light industrial and general industrial rather than being exclusively general industrial. Parkinson said if this section stated it was exclusively general industrial, then he would have no case, but because it just says industrial in Section B, it is inclusive of light industrial and general industrial. He said for his case, to obtain the endorsements he needs, it is necessary to make those distinctions, because of the fact this is dealing with concentrates and extracts. He said if this were using heat and gases it should be kept in the general industrial zone, but for a topical or edible company using concentrates and extracts that have already been processed, there would be no safety concerns. He said it was more a regulatory concern, and if anything it comes down to what the actual process involves. Parkinson stated that he did not feel this is anything outside the normal for that use for that zone – it is just more regulated.

PROPONENTS: None.

OPPONENTS:

Carole Thalman, 3310 Hillside Way, Forest Grove, OR 97116. Ms. Thalman said this was very emotional for her. She explained that she was a retired therapist that started out as a school teacher, school counselor and has worked with addiction for many years. Thalman said she had to speak for the children. She explained that with the proximity of the school, she has seen children walk to Scottie's Drive-In, a favorite place for all children in town to get their treats. She said she finds it incongruent to have a marijuana manufacturer near there. Thalman said the reason she finds it incongruent is normalizing something the under developed brain cannot process yet and putting this place next to where they get their treats. Thalman said children cannot make those decisions until much later in life – whether or not they will use. She is concerned for the adjacent

businesses (Scottie's Drive-In and the Puppy Parlor). She said the appellant talked about boarding it up so people will not know it is there – people will know it is there. Thalman said there is a very large recovery program less than a block away. She said it is very difficult for these people to recover and become productive citizens, and it is a slap in the face to have a Marijuana Processor so close to where people are trying to heal.

Judy Lohrer, Scottie's Drive-In Owner, 1702 Pacific Avenue, Forest Grove, OR.
Ms. Lohrer said she has been an owner of Scottie's for 37 years, and it is a family owned business. She said security is their main concern, and there has been an influx of severe crime involving drugs in the neighborhood due to the hotel behind them. Lohrer said she understands there will not be an open storefront, but she is still concerned for the kids that constantly pass by going to Scottie's. She said marijuana processing is not going to add to the area, which is a residential area with a few scattered businesses. Lohrer said what people do in their homes has nothing to do with this – it is totally having to do with the surrounding area and what it is going to do to it. She said she is concerned about traffic and where the employees of this proposed business will park as there were problems with traffic/parking when Sugar Mama's was there. She said the security of her business is her main concern. She said she is concerned about odor, and does not want her restaurant filled with smells other than her food.

Jeanie & Steve Wright, Jeanie's Puppy Parlor, 1714 Pacific Avenue, Forest Grove, OR.
Mr. Wright stated their concern about the children nearby, and a storefront should not be allowed. He shared his concerns for the safety of their customers and their pets. He said their business is located at 1714 Pacific Avenue in Suite D at the end of the building, and they share a filtration system with Suite C, so fumes would come into their area where the animals are groomed. Wright said he is concerned about the loss of business due to the perception of a dangerous drug business in the same building with them. He said customers may feel uncomfortable entering a business under the same roof as a drug business. Wright said it does not matter if the danger is real or not – if a customer perceives it as dangerous they may not want to do business with them.

Jeff Dolan, 1908 "C" Street, Forest Grove, OR. Mr. Dolan said he lives half a block from Scottie's Drive-In where the neighborhood is filled with children that go around the neighborhood and play with each other and generally have a good time especially right after school. He said the bus stops right there and drops off high schoolers, grade schoolers, all ages. He stated that he has worked at a warehouse that was next door to a dispensary, the odor could be smelled quite clearly in front of the warehouse even with the filtration system they had there. Dolan said he does not want to live in an environment that has that smell especially with all the kids running around. Dolan said this would not be a good addition to the neighborhood.

Mr. Holan said staff has a response to the applicant's presentation. Holan said Parkinson's testimony only stems from definitions – he ignores Development Code Article 3 that deals with use requirements. Holan said while the definition is industrial, and could be interpreted either light or general industrial, the use tables have specifically addressed marijuana processing. He said in Table 3-14 under *Industrial Zones* there can be found under general industrial medical and recreational marijuana processing which is only conditionally permitted in the general industrial zone – no such use is applicable or included in the Community Commercial zone. He explained that is the point staff is making. It is not about the definitions, it is about the use classification as it applies to the specific zones. Holan said since there was a specific identification of marijuana processors as part of the most recent marijuana related text amendments, it is staff's position the

City has to be guided by the most specific meaning in the code. In this instance there is the specific reference to processors that are allowed in the General Industrial zone. He said the issue of whether it is Light Industrial or General Industrial from a definition standpoint is immaterial because of what Article 3 provides for direction as to what is allowed.

REBUTTAL:

Mr. Parkinson said he would not advertise at the location, so the children would not know the business was there. He said the filtration system works very well. He said working with concentrates does not produce the smells that come from the actual raw marijuana, so odor would not be a problem. Parkinson said he does not want to take business away from others – he wants to enhance the area. He said he does not see his business as a turn off, because people will not know it is a marijuana processor. He suggested that the building could be subdivided and have the marketing company he plans to have there in the front where the windows are located, and the processing in the back, so anybody in the area would only see the marketing company. He said the odors will be maintained – that is the point of the filtration system. Parkinson said he will also be renting out Suite C, and it will remain open so Suite D will not have to worry because the processing will only take place in Suite A. He said some of the codes may need to be amended. Parkinson said this is an industry that, like it or not is coming, and it will do more good than bad. He said he appreciated everyone's testimony.

Vice Chair Ruder closed the public hearing at 8:02 p.m.

COMMISSION DISCUSSION:

Vice Chair Ruder said the Planning Commissioners debated for hours the amendments to the Development Code to include marijuana processing, etc. and to establish zones where it would and would not be allowed. Ruder said he saw no grounds to rule in favor of the appeal.

Commissioner Lawler said he actually found a glass container of marijuana on the ground near Scottie's Drive-In, called the police, and an officer came out and got it. Lawler said when the Commission put parameters in place; it looked at seven different processes. He said there is room for an amendment to the Development Code. He said he agreed with the appeal.

In response to a question from Commissioner Rojas, Mr. Holan said if the bakery being proposed sold goods without marijuana in them, it would be allowed in the CC zone.

Vice Chair Ruder said he could not see a case here to uphold the appeal with the central issue being what the Development Code allows and there is no issue beyond that.

Commissioner Rojas asked if this could be approved as a Conditional Use in this zone.

Mr. Holan explained that the Commission would have to ignore the specific land use listed.

Vice Chair Ruder called for a vote. He explained that a "yes" vote would be in favor of the appeal, and a "no" vote would be in agreement with staff's interpretation. He explained that there must be a majority to uphold the appeal.

Commissioner Lawler voted yes.
Commissioner Rojas voted yes.
Commissioner Ruder voted no.
Commissioner Smith voted no.

Vice Chair stated that the appeal was denied.

2.3 ACTION ITEMS: None.

2.4 WORK SESSION ITEMS: None.

3.0 BUSINESS MEETING:

3.1 APPROVAL OF MINUTES: Commissioner Smith made a motion to approve the minutes of the February 6, 2017 meeting. Commissioner Rojas seconded. Motion passed 4-0.

3.2 REPORTS FROM COMMISSIONERS/SUBCOMMITTEES: None.

3.3 DIRECTOR'S REPORT:

Mr. Holan said there would be no meeting on March 6th. Since the City Council preempted the second Commission meeting in March, Holan polled the Commissioners and it was decided to hold March 27th open instead. He added that an open house will be held around March 3rd on the Westside Planning Project.

3.4 ANNOUNCEMENT OF NEXT MEETING: Next meeting will be held on March 27, 2017.

3.5 ADJOURNMENT: The meeting was adjourned at 8:24 p.m.

Respectfully submitted by:
Marcia Phillips
Planning Commission Coordinator