

The Independence City

INDEPENDENT

Marijuana Production Plan Brings Pot to Public Boil

By Anne Scheck

A parcel of land near the curve of Stryker Road in Independence looks nothing like a battleground. But that's just what it's becoming, as neighbors fight the city over approval of the site for a marijuana operation that will grow the plants in greenhouses and manufacture cannabis products there, too. So far, the residents and city agree on only one point: proposed changes on the land use may affect their property values.

However, it isn't just the possibility of declining home prices that's worrying residents, who generally live across the street in the airpark. It's the way they say the city staff and some elected officials have treated them.

Last week, at a City Council hearing on the issue, more than 60 people showed up. Some airpark homeowners – who have filed appeals about the site plan– repeatedly expressed disappointment over what they see as deference to developers. “So far, residents have worked to establish a level of compatibility between fundamentally incompatible zones which would allow peaceful co-existence,” said Gary Van Horn,

president of the Independence Airpark Homeowners Association. “That has not happened and citizen concerns have been, essentially, ignored with the stated philosophy that ‘we need to show some effort and still advocate for the applicant’ on the part of the City of Independence – or so it appears,” he asserted.

Final deliberations by the City Council on the matter are slated to occur early this month. Till then, all conversation on the topic is off-limits for councilors and city staff -- even discussing it with the media is prohibited, stated Mayor John McArdle, before ending the City Council meeting last week.

But the mayor did weigh in on the issue a few weeks ago, at his annual address on the State of the City. He noted then that, when it comes to marijuana, “we, like other communities, are managing new realities,” including trying to find the “right fit for our community.”

“There is disagreement, there is discussion,” he said, adding that “we are struggling to work through it --

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and we are going to work through it.”

Alluding to the residents at the airpark, the mayor acknowledged that “the airpark folks have some very legitimate concerns living close to an industrial area.” However, “the industrial folks, they want to do business and move forward,” he said, so “we are taking the bull by the horns and, together, trying to get solutions.”

One of those solutions appears to be proposed land-use code changes, which will go before both the Independence Planning Commission and the City Council this month. In a notice sent last week by the city about a public hearing on these changes, some homeowners were advised that the proposed city action “may change the value of your property.” That’s what many in the airpark community have said they feared all along, once the field across from them becomes a marijuana grow-and-processing facility.

In appealing the city’s favorable decision for the site design, the airpark homeowners have cited procedural issues that bear some similarity to those raised during an appeal a decade ago, when nearby homeowners protested permission given by the city for a mortuary to have a crematorium (see CIVICS LESSON: “*How Residents Threw Cold Water on Hot Air*”).

The city’s site-design approval for the marijuana business may be harder for neighbors to battle – even if that battle is limited to environmental quality concerns -- since the facility is

on land in a heavy industrial zone.

Some of the turns taken by the city seem to suggest retaliation against citizens, at least in the view of the attorney representing airpark homeowners. The city appeared to institute a fee for appeal that included not only the filing expense but the cost to the city for “hourly rates for planning, public works, engineering, city administration, legal and other consultants.”

The increase was enacted the same day the city okayed the site-design review. “It would appear that the fee increase was meant to punish those that appealed this application,” said J. Michael Keane, in the appeal he filed on behalf of the airpark homeowners. It was only after homeowners lodged objections to this newly-imposed fee that the city dropped it, he added.

Many of those who have shown up at hearings on the issue feel the city didn’t provide documents in a timely way. For example, the initial proposal for the marijuana grow-and-processing site was processed as a Type 1 Application, where decisions are made by city personnel without a public hearing. So it wasn’t processed in a way that allowed the “full record to be developed,” Mr. Keane stated in the appeal letter.

This led some residents to conclude that the city is more interested in approving new industry than “hearing its residents’ concerns,” he stated.

The city’s attorneys haven’t

objected to the process being labeled as a Type 1, but lawyers for the city have pointed out that, once the appeal was filed, hearings did begin, so the criticism that the issue was not open and public is incorrect – the Type 2 standard was met.

However, the most strident objections involved the noise, odor and light regulations set forth in the city code, and the residents allege “the city is taking at face value the applicant’s representations” that it will comply with the requirements, according to the appeal.

The plant and grow operation, by *Organic Investments LLC*, may be only the first to arrive. Increasingly, cities across the state simply are unable to meet their financial needs from the two primary sources of municipal revenue: property taxes and franchise fees, according to the 2017 State of the Cities report by the League of Oregon Cities (LOC). “Increasing revenue is commonly from new or increased fees or marijuana dollars,” said the LOC report.

More than a decade ago – a year before the start of the recession – Independence was beginning to experience a squeeze on city coffers after approving projects that didn’t generate anticipated revenue, such as the still-unfinished Independence Station, a mixed-use building that was designed with green technology, and MINET, the city’s joint effort with Monmouth for constructing the telecommunications company.

“Increasing costs have outpaced revenue growth in the city’s general-fund services over the past few years” was the way the finance director at the time, David Gephart, described the situation in a comprehensive report prepared in 2006. Growth was seen as a solution, and it has occurred at a regular clip – there was a 5% uptick in population just last year, according to Mayor McArdle.

Even so, the Urban Renewal Projects Fund – used to finance improvements where refurbishment is needed – was found to be carrying a deficit in excess of \$1 million two years ago, as recorded in the city’s 2015 audit. Then, earlier this year, the city’s auditor noted that debt has grown, and characterized the indebtedness from both the Urban Renewal Projects Fund and MINET as a future concern, during a report delivered to the Independence City Council.

How many new dollars will flow into Independence from marijuana business? That remains to be seen. The annual growth rate of marijuana-related businesses is forecast to be 27% through 2021, according to an analysis by Arcview, a cannabis research firm based in Oakland CA.


Marijuana production constitutes a growth industry in Oregon cities. The Oregon Department of Revenue Research found that, in the first quarter of 2016, more than \$8 million in sales was collected in the Willamette Valley.




(Disclosure: author lives near planned site.)

THE CIVICS LESSON:

How Residents Threw Cold Water on Hot Air

Ten years ago this month, a small band of neighbors took on the city and shut down a crematorium near downtown. It cost them about \$14,000 and hours of angst, but what they got in return was vindication, validation and “satisfaction,” said Jay Hallowell, who recalled that it took “something out of me” to persist in the fight against the city and former city manager, who contended throughout the process that Independence had every right to issue the building permit. Mr. Hallowell and four neighbors took their petition to the Land Use Board of Appeals (LUBA), which agreed with them. In a rebuke to both the former city manager and Independence’s administrative staff, LUBA called the process “inadequately explained” and “legally incorrect.” LUBA also added language from statutes that the residents didn’t use, but that the LUBA panel apparently thought belonged in their decision. Following that, the Independence City Council unanimously denied operation of the crematorium. Today, Mr. Hallowell looks back on the litigation as having taken a personal toll that he nonetheless considers worthwhile. “I still live there, right on that same corner,” he said. However, in general such battles are very hard to win. “The deck is really stacked against it,” he said. --  AS

THE INDY HOP: Finding the Right Word Creates a New One

It had to happen. All this rain. All this time to think and ponder. So now it has! Local videographer Rod Killen, a retired builder, used his MBA recently to analytically design a whole new word: pubungle. It’s an equal-opportunity noun and verb, reflecting how people can botch their civic duties, and how the politicians who serve them can do the same. Mr. Killen got his idea by watching a TED talk, but he felt he needed help with the definition. That was supplied by Andy Scott, a former Independence planning commissioner. Several other citizens added their two cents. The result: Pubungle (*pah-bung-al*) Noun 1) Disregard of constituents' publicly stated preferences by those in elected office. example: *Funding a gravel path at the park instead of a playground was an obvious pubungle.* 2) Political decision-making that is significantly out of touch with known public sentiment. example: *Taxes were increased by lawmakers despite the pubungle of it.* Verb-- to lose sight of one's civic responsibility, either as a citizen or a public official. example: *Parents pubungled their opportunity to meet with the school board; School board members pubungled their chance to hear the views of parents.* --  AS

The Independence City INDEPENDENT
published by Trammart Inc an Oregon corporation
written & edited by Anne Scheck, owner
Scheck2Oregon@AOL.com

TRAMMART INC
3760 Market St. NE #409
Salem, OR 97301
503-409-9204