



MEMORANDUM

TO: Board of County Commissioners

FROM: Audrey Stuart, Associate Planner

DATE: June 24, 2024

RE: Work session to prepare for a public hearing regarding a psilocybin service center; Land use file nos. 247-23-000614-CU, 247-23-000615-SP.

The Board of County Commissioners (“Board”) will conduct a work session on July 3, 2024, in preparation for a public hearing to consider an appeal of a Hearings Officer decision denying a psilocybin service center. The public hearing is tentatively scheduled for July 17, 2024.

I. BACKGROUND

The Applicant requests a Conditional Use Permit and Site Plan Review to establish a psilocybin service center at Juniper Preserve (formerly Pronghorn) destination resort. The subject property is zoned Exclusive Farm Use and Destination Resort Combining Zone and is located in the core area of Juniper Preserve. The applicant proposes to administer psilocybin to clients within an existing structure, under licensing from the Oregon Health Authority.

A public hearing was held before the Deschutes County Hearings Officer on March 12, 2024, and a Hearings Officer decision denying the applications was mailed on April 29, 2024. The applicant appealed the Hearings Officer’s decision on May 10, 2024 (appeal file no. 247-24-000292-A).

At a work session on May 29, 2024, the Board voted two-to-one to hear this appeal. The Board also voted to hear this appeal *limited de novo*, meaning testimony and evidence must address the four criteria that were the basis for the Hearings Officer’s denial.

II. PUBLIC COMMENTS

Staff received 153 comments in advance of the March 12th hearing, and these comments included those both in support of and in opposition to the subject applications. Key issues raised by those in opposition included:

- The proposal’s compatibility with existing Resort uses and functions;
- The Resort’s existing access across BLM land;
- The proposal’s compatibility with the Resort’s Final Master Plan;
- The Resort’s distance from emergency services;
- Impact to property values.

Key issues raised in support included:

- Appropriateness of the proposed location;
- Community benefits of psilocybin treatment;
- The proposed use is permitted in the zone and does not require a modification to the Resort’s Final Master Plan.

Nine additional comments were received after the Hearings Officer decision was mailed, and these were primarily questions about process as well as several comments in opposition to the proposal.

III. HEARINGS OFFICER RECOMMENDATION

A Hearings Officer decision denying the applications was mailed on April 29, 2024. The Hearings Officer’s denial was based on the Applicant’s failure to demonstrate compliance with four criteria of Deschutes County Code, which were related to the screening of the parking lot, the service drive clear vision area, and transportation access to the proposed site.

Issue Area 1: Screening of Parking Area

The following two criteria require screening of the proposed parking spaces. The Hearings Officer found the submitted site plan did not show how the parking area would be screened from adjacent residences, located across Nicklaus Drive, and the Applicant failed to show how DCC 18.11.030(F)(1) would be met. Furthermore, the Hearings Officer found the proposed vegetative screening was not sufficient to demonstrate compliance with DCC 18.124.060(G), and that this code provision cannot be satisfied without also addressing DCC 18.116.030(F)(1).

Section 18.116.030, Off-Street Parking And Loading

- F. Development and Maintenance Standards for Off-Street Parking Areas. Every parcel of land hereafter used as a public or private parking area, including commercial parking lots, shall be developed as follows:
1. Except for parking to serve residential uses, an off-street parking area for more than five vehicles shall be effectively screened by a sight obscuring fence when adjacent to residential uses, unless effectively screened or buffered by landscaping or structures.

Section 18.124.060, Approval Criteria

- G. Areas, structures and facilities for storage, machinery and equipment, services (mail, refuse, utility wires, and the like), loading and parking and similar accessory areas and structures shall be designed, located and buffered or screened to minimize adverse impacts on the site and neighboring properties.

Issue Area 2: Clear Vision Area

The following criteria require there to be a clear vision area at the intersection of the service drive and Nicklaus Drive. The Hearings Officer found there was not sufficient information to show how this would be met, and it was not clear that the Applicant had correctly identified the service drive on the subject property. The Hearings Officer notes there may be a conflict with the visual screening required by DCC 18.116.030(F)(1), but there was not sufficient information to address this question.

Section 18.116.030, Off-Street Parking And Loading

F. Development and Maintenance Standards for Off-Street Parking Areas. Every parcel of land hereafter used as a public or private parking area, including commercial parking lots, shall be developed as follows:

...

7. Service drives shall have a minimum vision clearance area formed by the intersection of the driveway centerline, the street right of way line and a straight line joining said lines through points 30 feet from their intersection.

Issue Area 3: Transportation Access

The following criteria require the Applicant to show that the proposed site is suitable for a service center based on transportation access.

Section 18.128.015, General Standards Governing Conditional Uses

A. The site under consideration shall be determined to be suitable for the proposed use based on the following factors:

...

2. Adequacy of transportation access to the site; and

A significant number of public comments raised concerns about transportation access, and the fact the resort is accessed by a right-of-way grant over federal land. The Hearings Officer found that federal law prohibits transporting psilocybin over federal land, and transporting psilocybin to the subject property would violate the conditions of the right-of-way that the Bureau of Land Management (BLM) has granted to the resort. The Hearings Officer found that transportation access is not suitable because the existing right-of-way cannot be used for the Applicant's intended purpose.

The Applicant responded to these arguments in the Notice of Intent to Appeal, claiming that DCC 18.128.015(A) does not specify the geographic scope that is subject to review; the arguments regarding revocation of the right-of-way are speculative; and the Hearings Officer incorrectly interpreted the provisions of the BLM right-of-way.

IV. BOARD CONSIDERATION

The Board may decide to establish time limits for public testimony at the public hearing. If the Board does choose to establish time limits, staff recommends the following time limits:

- 30 minutes for the Applicant
- 10 minutes for public agency staff
- 3 minutes for general members of the public
- 10 minutes for the Applicant's rebuttal

V. NEXT STEPS

Based on the feedback received from the Board at the Work Session, Staff will prepare for the upcoming public hearing. Staff will mail a Notice of Public Hearing and include the time limits, if any, that the Board chooses to implement for the hearing.

VI. RECORD

The record for File Nos. 247-23-000614-CU, 247-23-000615-SP, 247-24-000292-A are as presented at the following Deschutes County Community Development Department website:

<https://www.deschutes.org/cd/page/247-23-000614-cu-247-23-000615-sp-psilocybin-service-center-juniper-preserve>

Attachments:

1. Hearing's Officer Decision for file nos. 247-23-00614-CU, 247-23-000615-SP