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BEFORE THE HEARING EXAMINER  
FOR THE CITY OF REDMOND

In the Matter of the Appeal of  
**Andorra Ventures LLC**  
Of Building Permit BLDG-2020-01804

NO. BLDG-2020-01804  
**PLAUSIBLE PRODUCTS, LLC,  
D/B/A HASHTAG CANNABIS'S  
MOTION FOR SUMMARY  
JUDGMENT**

**I. INTRODUCTION AND RELIEF REQUESTED**

Andorra Ventures LLC (“Andorra”) has appealed the City of Redmond’s issuance to Plausible Products, LLC, d/b/a Hashtag Cannabis (“Hashtag”) of a building permit for minor interior tenant-improvement work. The City determined that the permit should issue because Hashtag had met all pertinent requirements set forth in the Redmond Building Code. Andorra does not dispute that Hashtag met these requirements. It simply contends that Hashtag failed to meet other unrelated standards concerning parking and zoning. But no legal authority supports Andorra’s attempt to use these irrelevant standards to shut Hashtag down. Because Andorra has not identified any error that the City made in applying or interpreting the Building Code, the Hearing Examiner should grant Hashtag’s motion for summary judgment and dismiss Andorra’s administrative appeal.

1 **II. STATEMENT OF FACTS**

2 Hashtag is a marijuana retailer licensed by the State of Washington. (Declaration of  
3 Logan Bowers in Support of Hashtag’s Motion for Summary Judgment [“Bowers Decl.”] ¶ 2.)  
4 Hashtag first opened for business in the City of Redmond in March 2017 at a location on  
5 Avondale Way near the east terminus of State Route 520. (*Id.*) After losing its lease at that  
6 location, Hashtag entered into a lease for the commercial building (“Building”) and parking lot  
7 (“Parking Lot”) at 7829 Leary Way, N.E. (“Property”). (*Id.*)

8 The Building was constructed in 1910. (Declaration of Duncan E. Manville in Support  
9 of Hashtag’s Motion for Summary Judgment [“Manville Decl.”], Ex. A.) It lies within  
10 Redmond’s Old Town district. (*Id.*, Ex. B.) Its land use classification under the Redmond  
11 Zoning Code is General Sales and Services. (*Id.*, Ex. C.) *See* RMC Table 21.10.040C. For  
12 many years, the Property housed a retail shop called Work & Western Wear. (Bowers Decl. ¶  
13 2.) Hashtag opened a retail marijuana shop (the “Store”) in the Building on May 15, 2020.  
14 (*Id.*)

15 Because Hashtag was changing locations in Redmond, it had to obtain a new business  
16 license under RMC 5.04.040(A) and (B). Hashtag applied for a business license on March 30,  
17 2020. (Bowers Decl. ¶ 4, Ex. A.) In order for the City to approve the application, Hashtag’s  
18 proposed use of the Property had to be in compliance with all “city building, safety, fire, health  
19 [and] land use regulations as determined by the city department charged with the enforcement  
20 of said regulations.” RMC 5.04.060(A)(4). These included the following regulations  
21 (regarding parking and location relative to other uses) that Andorra referenced in the Appeal  
22 Application Form it submitted on April 24, 2020:

- 23
- 24 • RMC 20D.130.10-030(6) and RMC 21.40.010(E)(6), providing that  
25 “[p]arking facilities shall be designed so exiting vehicles are not required to  
26 back into streets, except for residential uses of less than four dwellings per lot  
27 on local access streets”;
  - Table 21.10.030C(8), requiring Hashtag to have at least three parking spaces  
and no more than eight parking spaces for its business operation;

- RMC 20D.130.10-010(4), providing that “[w]hen a preexisting building, which does not have sufficient parking, is remodeled or rehabilitated but not enlarged, the existing use of the building may continue without providing additional parking,” and that “[i]n such event that the land use is changed, the minimum level of parking required consistent with the new land use effected by the change must be met, or an approved TMP must be implemented for the site”; and
- RMC 21.41.040(C), prohibiting marijuana retailers from locating within one thousand feet of playgrounds.

The City granted Hashtag’s business-license application, and issued a business license to Hashtag on May 1, 2020 (“Business License”). (Bowers Decl. ¶ 5, Ex. B.) Hashtag understands that in issuing the Business License, the City decided not to change the Property’s land use classification under the Redmond Zoning Code. (Manville Decl. ¶ 6.) Thus, the Property’s land use classification remains General Sales and Services. (*Id.*, Ex. C) Andorra did not appeal the City’s decision to issue the Business License to Hashtag.

Meanwhile, in order to perform certain tenant-improvement (“T.I.”) work inside the Building, Hashtag applied to the City for a building permit, submitting construction drawings on March 9, 2020. (Bowers Decl. ¶ 6.) The City reviewed the drawings and, with minor corrections, approved them and issued a building permit to Hashtag (“Building Permit”) effective April 10, 2020. (*Id.* at ¶ 6, Exs. C, D.) The City’s decision to issue the Building Permit is the only decision that Andorra has appealed.

Hashtag did not apply for a land use permit, because it did not have to. RMC 21.76.020(D)(2) states that “[l]and use permit approval is not required for ... [t]enant improvements not associated with a historic landmark and not encompassing or triggering modification to the exterior of an existing building or site.” Hashtag’s T.I. work was interior only, was not on a historic landmark, was not new construction, and did not add any square footage to the Building. (Bowers Decl. ¶ 6.)

The entrance to the Parking Lot is on the south side of Cleveland Street. (Bowers Decl., Ex. C, Sheets TS1.01, A1.01.) The Parking Lot contains eight stalls. (*Id.*, Sheet A1.01.) Six

1 stalls about the west edge of the Property, and are angled at about sixty degrees relative to the  
2 property line. (*Id.*) The remaining two stalls about the south edge of the Property, and are  
3 perpendicular to that property line. (*Id.*) The aisle—as measured from the west edge of the  
4 concrete ramp adjacent to the Building to the east ends of the parking-stall stripes—is 31 feet  
5 wide. (*Id.*) Hashtag’s customers frequently park nose-in. (*Id.*) When they leave, they  
6 typically back out, turn their cars around, and drive forward out of the Parking Lot. (*Id.* at ¶ 7,  
7 Ex. E.) The Parking Lot provides ample room for this straightforward maneuver. (*Id.*)

### 8 III. STATEMENT OF ISSUES

9 Should the Hearing Examiner dismiss Andorra’s administrative appeal where Andorra  
10 has not identified any error that the City made in applying or interpreting the Redmond  
11 Building Code in connection with the City’s issuance of the Building Permit?

### 12 IV. EVIDENCE RELIED UPON

13 Hashtag relies upon the Declaration of Logan Bowers in Support of Plausible Products,  
14 LLC, d/b/a Hashtag Cannabis’s Motion for Summary Judgment, and the attached exhibits;  
15 upon the Declaration of Duncan E. Manville in Support of Plausible Products, LLC, d/b/a  
16 Hashtag Cannabis’s Motion for Summary Judgment, and the attached exhibits; and upon the  
17 records and files herein.

### 18 V. ARGUMENT AND AUTHORITY

#### 19 A. The Summary Judgment Standard.

20 Summary judgment is appropriate when “there is no genuine issue as to any material  
21 fact and ... the moving party is entitled to a judgment as a matter of law.” CR 56(c); *Drinkwitz*  
22 *v. Alliant Techsystems, Inc.*, 140 Wn.2d 291, 295 (2000). The purpose of summary judgment is  
23 “to examine the sufficiency of the evidence behind the plaintiff’s formal allegations in the hope  
24 of avoiding unnecessary trials where no genuine issue as to a material fact exists.” *Young v.*  
25 *Key Pharmaceuticals, Inc.*, 112 Wn.2d 216, 226 (1989) (citations and internal quotation marks  
26 omitted).

1 **B. Andorra’s Appeal Fails as a Matter of Law Because Hashtag Was Not Obligated**  
2 **to Demonstrate Compliance with Parking or Zoning Requirements in Order to**  
3 **Obtain the Building Permit.**

4 Hashtag agrees with the City’s argument that Andorra’s appeal is outside the subject-  
5 matter jurisdiction of the Hearing Examiner, and joins in the City’s request that the Hearing  
6 Examiner dismiss this appeal for lack of subject-matter jurisdiction.

7 This fundamental deficiency in Andorra’s appeal can also be viewed from a related but  
8 somewhat different perspective. Under RMC 15.08.070, “[d]etermination of whether a  
9 building permit application is complete for purposes of administering Redmond Zoning Code  
10 Chapter 21.76, Review Procedures, shall be made by the Building Official and shall be based  
11 upon the adopted building codes.” The only relevant adopted building code is the International  
12 Building Code, 2015 Edition (“IBC”), with certain additions, deletions and exceptions. *See*  
13 RMC 15.08.020. The IBC does not contain the parking or zoning provisions referenced in  
14 Andorra’s Appeal Form,. *Id.* Thus, the Redmond Municipal Code did not require the Building  
15 Official, in reviewing Hashtag’s application for a building permit for minor interior T.I. work,  
16 to determine whether Hashtag would meet parking requirements or whether the Property was at  
17 least 1,000 feet from the nearest playground.

18 As the City notes in its motion to dismiss, RMC 15.08.050(6) limits the scope of  
19 “[a]ppeals of orders, decisions or determinations made by the Building Official” to those  
20 “related to the application or interpretation of this code.” Andorra does not contend that the  
21 City made any errors in its application or interpretation of the Redmond Building Code—the  
22 only code that Hashtag needed to satisfy. Therefore, Andorra raises no cognizable challenge to  
23 the Building Permit. *See Abbey Road Grp, LLC v. City of Bonney Lake*, 167 Wn.2d 242, 267  
24 (2009) (“[A] building permit issues by right if it is [1] complete and [2] complies with the  
25 relevant ordinances in place at the time of the application.”), *abrogated on other grounds by*  
26 *Yim v. City of Seattle*, 194 Wn.2d 682 (2019). To prevail in this appeal, Andorra must prove  
27 that the City’s issuance of the Building Permit was “not supported by a preponderance of the  
evidence or was clearly erroneous.” RMC 21.76.060(I)(4). As a matter of law and basic

1 common sense, Andorra cannot meet this burden by merely alleging that the City erroneously  
2 decided issues irrelevant to Hashtag’s entitlement to the Building Permit.

3 **C. Even If the City Reviewed Hashtag’s Building-Permit Application for Compliance**  
4 **with Parking Requirements and Its Review Brought Those Requirements Into**  
5 **Play, the City Properly Issued the Building Permit.**

6 Andorra might attempt to argue that Hashtag must establish compliance with relevant  
7 provisions of the Redmond Municipal Code relating to parking because the construction  
8 drawings that the City approved indicate that the City’s Planning Department reviewed the  
9 drawings for compliance with parking requirements. Such an argument would be misplaced for  
10 the reasons stated above and in the City’s motion to dismiss. And in any event, as a matter of  
11 law Hashtag is complying with all parking requirements that might arguably apply to its retail  
12 marijuana business.

13 **1. The Property’s land use classification is unchanged.**

14 RMC 21.40.010(C)(1)(c) provides that “[w]hen a preexisting building with  
15 nonconforming parking is remodeled or rehabilitated but not enlarged, the existing use of the  
16 building may continue without providing additional parking.” The Building is a preexisting  
17 structure, and Hashtag has not enlarged it. (Bowers Decl. ¶ 6.) Hashtag understands that the  
18 City has not changed the Property’s land use classification. (Manville Decl. ¶ 6.) Hashtag  
19 disputes that the Property ever had nonconforming parking, but even if it did, as a matter of law  
20 RMC 21.40.010(C)(1)(c) would allow any such nonconforming parking to remain in place.

21 **2. Even if the Property’s land use classification had been changed, Hashtag is**  
22 **providing the minimum level of parking required.**

23 Andorra might argue that the Property’s land use classification was somehow changed  
24 as of April 10, 2020, and that RMC 21.40.010(C)(1)(c) accordingly mandated that “the  
25 minimum level of parking required, including bicycle parking required by this chapter,  
26 consistent with the new or increased land use affected by the change must be provided, or an  
27 approved Transportation Management Program ... must be implemented for the site that  
effectively reduces parking demand.”

1           However, as a matter of law, Hashtag is providing more than the “minimum level of  
2 parking” required by Table 21.10.030C(8). The Store has 1,408 square feet of retail space.  
3 (Bowers Decl., Ex. C, Sheet TS1.01.) Table 21.10.030C(8) requires at least two parking stalls  
4 for every 1,000 square feet of retail space. The Parking Lot on the Property has eight stalls—  
5 five more than the three that are needed. (Bowers Decl., Ex. C, Sheet TS1.01.) Contrary to the  
6 implied contention in Andorra’s Appeal Form, nothing in RMC 21.40.010(C)(1)(c) suggests  
7 that the mere change of use of a preexisting building (which did not happen in any event)  
8 requires the redesigning of parking facilities not only to provide the minimum level of parking,  
9 but also to ensure that exiting vehicles not be required to back into streets.

10           **3. Hashtag is meeting all the parking requirements identified in Andorra’s**  
11           **Appeal Form.**

12           Not only is Hashtag providing far more than the minimum level of parking required by  
13 Table 21.10.030C(8), as a matter of law Hashtag’s Parking Lot complies with RMC  
14 20D.130.10-030(6) and RMC 21.40.010(E)(6), which state in relevant part that “[p]arking  
15 facilities shall be designed so exiting vehicles are not required to back into streets.”

16           Municipal ordinances are interpreted the same way as statutes. *Seattle Housing Auth. v.*  
17 *City of Seattle*, 3 Wn. App.2d 532, 538 (2018). “Where an ordinance is unambiguous,  
18 construction is not necessary, because the plain meaning controls.” *Morawek v. City of Bonney*  
19 *Lake*, 184 Wn. App. 487, 492 (2014). RMC 20D.130.10-030(6) and RMC 21.40.010(E)(6) are  
20 plain on their face. They mandate that parking lots be “designed so exiting vehicles are not  
21 *required* to back into streets” (emphasis added). If a parking lot is designed such that exiting  
22 vehicles may on occasion back into streets but are not *required* to do so, the lot satisfies these  
23 code provisions.

24           The aisle of Hashtag’s Parking Lot is 31 feet wide. (Bowers Decl. ¶ 7.) When  
25 Hashtag’s customers leave the Parking Lot, they have ample room to turn their cars around and  
26 drive forward onto Cleveland Street. (*Id.* at ¶ 7, Ex. D.) In fact, this is what they typically do.  
27

1 (*Id.*) As a matter of law, since the design of the Parking Lot does not require cars to back into  
2 traffic, the Parking Lot complies with RMC 20D.130.10-030(6) and RMC 21.40.010(E)(6).

3 **VI. CONCLUSION**

4 To obtain the Building Permit, Hashtag needed only to submit a complete application  
5 complying with the Redmond Building Code. Andorra does not allege that Hashtag's  
6 application was incomplete, and does not identify, much less establish, any violation of the  
7 Building Code by Hashtag. Andorra also does not identify or establish any error that the City  
8 committed when it applied and interpreted the Building Code in connection with Hashtag's  
9 application. Since there is no evidence of any failure by Hashtag to comply with the Building  
10 Code, the City was bound to issue the Building Permit to Hashtag. As a matter of law, the  
11 City's issuance of the Building Permit was proper.

12 For the reasons set forth above and by the City in its motion to dismiss, the Hearing  
13 Examiner should dismiss Andorra's administrative appeal.

14 DATED: June 22, 2020.

15 **SAVITT BRUCE & WILLEY LLP**

16  
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1 **CERTIFICATE OF SERVICE**

2 I hereby declare under penalty of perjury under the laws of the State of Washington that  
3 on this date, I caused a true and correct copy of the foregoing document to be served on the  
4 following in the manner(s) indicated:

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DATED this 22nd day of June, 2020 at Seattle, Washington.



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