

**PLANNING COMMISSION
OF THE CITY OF CHESTERFIELD
AT CHESTERFIELD CITY HALL
APRIL 8, 2019**

The meeting was called to order at 7:00 p.m.

I. ROLL CALL

PRESENT

Commissioner Allison Harris
Commissioner John Marino
Commissioner Debbie Midgley
Commissioner Mary Monachella
Commissioner Gene Schenberg
Commissioner Steven Wuennenberg
Chair Merrell Hansen

ABSENT

Commissioner James Rosenauer
Commissioner Guy Tilman

Councilmember Dan Hurt, Council Liaison
Mr. Mark Lee, representing City Attorney Christopher Graville
Mr. Justin Wyse, Director of Planning & Development Services
Ms. Jessica Henry, Assistant City Planner
Mr. Andrew Stanislav, Planner
Ms. Mary Ann Madden, Recording Secretary

Chair Hansen acknowledged the attendance of Councilmember Dan Hurt, Council Liaison; and Councilmember Mary Ann Mastorakos, Ward II.

II. PLEDGE OF ALLEGIANCE

III. SILENT PRAYER

IV. PUBLIC HEARINGS – None

V. APPROVAL OF MEETING SUMMARY

Commissioner Midgley made a motion to approve the Meeting Summary of the March 25, 2019 Planning Commission Meeting. The motion was seconded by Commissioner Wuennenberg and **passed** by a voice vote of 5 to 0 with 2 abstentions from Commissioners Harris and Schenberg.

VI. PUBLIC COMMENT - None

VII. SITE PLANS, BUILDING ELEVATIONS AND PLATS

- A. **MPD Investments, Lot 1 (Metro Lighting) Lighting Package:** Architectural Specialty Lighting Package for a 4.02 acre tract of land zoned "PI" Planned Industrial District located on the north side of North Outer 40 Road west of Boone's Crossing (17U520148).

Commissioner Midgley, representing the Site Plan Committee, made a motion to hold, at the Petitioner's request, the Lighting Package for **MPD Investments, Lot 1 (Metro Lighting)**. The motion was seconded by **Commissioner Wuennenberg** and **passed by a voice vote of 7 to 0.**

VIII. UNFINISHED BUSINESS

- A. **P.Z. 03-2019 Chesterfield Crossing (Chesterfield Crossing Partners, LLC)**: A request to amend Ordinance 1502 and repeal Ordinances 358 and 359 to establish new permitted uses and revise the development criteria for 6.9 acres of land within an existing "C-8" Planned Commercial District located at the northwest corner of the intersection of Clarkson Road and Lea Oak Drive (19S411286, 19S411275).

Planner Andrew Stanislav stated that the Public Hearing for this request was held on March 25, 2019, at which time no issues were raised by the Planning Commission. The Petitioner is requesting to add *veterinary clinic* as a permitted use. The proposed use will be conditioned in the Attachment A to prohibit any outdoor use and overnight boarding.

As part of this request, Staff has reviewed the existing development conditions in the Attachment A to update obsolete references and update to reflect current conditions and more recent Attachment A's. Updates and revisions made to the Attachment A relate to setbacks, parking requirements, inclusion of an open space requirement, the overall outline structure of the document, and miscellaneous areas in terms of references being brought up with current language.

Following distribution of packets, the Petitioner informed Staff that the Amended Site Development Plan shows a 8.72-foot parking setback on the north side of the development vs. the 10-foot parking setback written in the existing ordinance. The Petitioner is requesting to maintain this 8.72 foot setback, which would require a motion to approve with an amendment that the parking setback on the north property line match the existing condition of 8.72 feet.

Since there are no physical changes proposed to the size or footprint of the existing retail center, the most recently-approved Amended Site Development Plan will serve as the Preliminary Plan for this request.

Commissioner Wuennenberg made a motion to approve **P.Z. 03-2019 Chesterfield Crossing (Chesterfield Crossing Partners, LLC)** with the amended parking setback on the north property line to match the existing condition of 8.72 feet. The motion was seconded by **Commissioner Midgley**.

Upon roll call, the vote was as follows:

Aye: Commissioner Midgley, Commissioner Monachella
Commissioner Schenberg, Commissioner Wuennenberg,
Commissioner Harris, Commissioner Marino,
Chair Hansen

Nay: None

The motion passed by a vote of 7 to 0.

IX. NEW BUSINESS

A. Medical Marijuana Discussion

Ms. Jessica Henry, Assistant City Planner, stated that the purpose of this agenda item is to initiate a discussion regarding the impact of Constitutional Amendment 2, which was passed by the voters of Missouri regarding medical marijuana, and the zoning and land use impacts within the City of Chesterfield.

Background

On November 6, 2018, Missouri voters approved Constitutional Amendment 2 authorizing patient access to medical marijuana. State law provides local governments the ability to regulate land use aspects of medical marijuana within the framework of “time, place, and manner” restrictions, and to establish separation requirements between the medical marijuana facilities and any existing elementary and secondary schools, child day care centers, and churches.

Statutory Requirements for Local Regulation

The specific language contained in Amendment 2 regarding separation requirements states:

Unless allowed by the local government, no new facility shall be initially sited within 1,000 feet of an existing elementary or secondary school, child-day care, or church.

Ms. Henry stated that municipalities have the option to impose a less restrictive separation than 1,000 feet, but it cannot be more restrictive than 1,000 feet.

State law also mandates that no local government shall prohibit medical marijuana facilities either expressly or by enacting regulations that make their operation unduly burdensome.

Medical Marijuana Uses as Defined by State Statute

Medical Marijuana Cultivation Facility – a facility licensed by the State of Missouri to acquire, cultivate, process, store, transport, and sell marijuana to a Medical Marijuana Dispensary Facility, Medical Marijuana Testing Facility, or to a Medical-Infused Products Facility.

Medical Marijuana Dispensary Facility – a facility licensed by the State of Missouri to acquire, store, sell, transport, and deliver marijuana in accordance with applicable law and regulations.

Medical Marijuana-Infused Products Manufacturing Facility – a facility licensed by the State of Missouri to acquire, store, manufacture, transport, and sell marijuana-infused products to a Medical Marijuana Dispensary Facility, a Medical Marijuana Test Facility, or to another Medical Marijuana-Infused Projects Manufacturing Facility.

Medical Marijuana Testing Facility – a facility certified by the State of Missouri to acquire, test, certify, and transport marijuana.

It was pointed out that all of the above uses are covered within existing land use categories of the City's Unified Development Code, such as *manufacturing, manufacturing of controlled substances, dispensing of medications, research laboratories, pharmacies, drug stores*, etc. Mr. Justin Wyse, Director of Planning & Development Services, stated that a *dispensary facility* would fall under a commercial area while a *cultivation facility, manufacturing facility, and testing facility* would fall under the planned industrial areas.

Distance Separation

Ms. Henry stated that no changes to the Unified Development Code are required unless the City wishes to establish a less restrictive distance separation between medical marijuana facilities and schools, day cares, and churches. It was noted that the rules for determining how distance requirement is calculated are currently under review at the State level.

The City of Chesterfield currently requires a separation distance of 100 feet between establishments selling open containers of alcohol and schools and churches

Discussion

Ms. Henry introduced Mr. John Payne, 2008 South 8th Street, St. Louis, MO.

Mr. Payne was the Campaign Manager for New Approach Missouri, which passed Amendment 2, and he now serves on the Advisory Board for the Missouri Medical Cannabis Trade Association.

Discussion followed with information provided on the following topics.

Traffic Accidents

Commissioner Monachella inquired as to whether there are any statistics showing an increase in traffic accidents due to the use of medical marijuana. Mr. Payne reported that there has been no increase in traffic fatalities or traffic accidents in states that have legalized medical marijuana. It was also noted that State regulations do not allow for any consumption of the medical marijuana on site.

Mr. Payne added that in those states where medical marijuana has been legalized, there has been a decrease in the use of opioids up to 25%, as published in the Journal of the American Medical Association in September, 2014.

Assignment of Dispensary Licenses

While the regulations haven't been finalized, it is anticipated that one dispensary license will be granted for each State House District, which would allow 2-3 dispensaries within Chesterfield.

Commissioner Harris inquired as to how many St. Louis City and County residents qualify for the use of medical marijuana. Mr. Payne replied that approximately 5-10% of the population has a qualifying medical condition; however, in most states only about 2.5% of the population applies for a medical ID card. The Amendment lists the following medical conditions as qualifying for medical marijuana use: cancer, epilepsy, HIV/AIDs, chronic pain, muscular dystrophy, along with a number of other conditions.

Separation Distance

Since the separation distance for establishments serving alcohol is only 100 feet, Commissioner Schenberg questioned whether issues would arise by imposing a 1,000-foot separation for medical marijuana facilities. It was also noted that if a 1,000-foot separation is required, it would significantly limit the number of locations where facilities could be located.

Chair Hansen asked how the 1,000 foot requirement was decided upon. Mr. Payne explained that this setback was established in an effort to keep children separated from the facilities; but a lesser setback is allowed.

Crime Statistics

In order to respond to residents' questions, Commissioner Marino asked where accurate crime statistics data could be found in relationship to medical marijuana dispensary facilities. Mr. Payne replied that there have been a number of studies done on the effects on crime in states that have legalized medical marijuana and most of those studies find that there is a reduction in crime around facilities.

Commissioner Harris asked if some medical marijuana facilities have morphed into recreational use, and whether there has been an increase in crime in those instances. Mr. Payne replied that most states have allowed medical marijuana use facilities to have the first option of applying for a recreational use license; but this does not mean that they are automatically granted a license. There is another licensure process specifically for the recreational use. Many states have different regulations for recreational use and medical use. Mr. Payne stated that he is not aware of any studies that show a systematic increase in crime around recreational facilities; but he is also not aware of any studies that show a decrease in crime.

Security

Details regarding security procedures will be regulated at the State level. Mr. Payne stated that most dispensary facilities employ a guard, but not all are armed. He explained that if a person does not have a patient ID card issued by the State, then they are not allowed access to the area where the medicine is dispensed. Many facilities are equipped with a panic button that immediately notifies the police. The Missouri draft rules require security at the dispensary during operating hours.

It was noted that having large amounts of cash on site makes the facility a target for robbery. The problem exists because most banks won't accept cash received from the sale of marijuana products. Mr. Payne advised that the proposed States Act would

change federal statute so that states that have legalized medical or recreational marijuana won't suffer penalties from the federal government, and that the dispensaries and cultivation facilities would be legal under federal law.

License Criteria

Mr. Payne reported that anyone can apply for a license with the required application fee. However, Amendment 2 outlines criteria that will be reviewed to determine which applicants best meet them. For a dispensary license, the criteria includes experience with medicine, experience in a legal cannabis market, site security plan, potential for positive economic development in the site community, and local support. For a cultivator license, criteria includes experience with agriculture or horticulture. For a license for an infused-products facility, criteria includes experience with food and beverage manufacturing.

HIPAA

Commissioner Marino expressed concern that in order to comply with HIPAA's privacy regulations, dispensaries will have blacked-out or mirrored facades, and asked how other states have addressed this issue. Mr. Payne stated that he did not have information on how HIPAA has been handled in other states, but advised that the Missouri Department of Health & Senior Services has said that HIPAA regulations will be followed in this program. As far as the appearance of the facilities, requirements dictate that one should not be able to see into the area where medical marijuana is being dispensed from outside of the facility. This does not prevent being able to see into the reception area from outside of the facility.

Prescription Authorization

Only MDs and DOs are authorized to write prescriptions for medical marijuana.

Ancillary Businesses

Some of the ancillary businesses connected with medical marijuana include testing facilities and armored car services for transportation of products and cash – both of which would need State certification for participation. Other ancillary services that do not require certification include HVAC in order to expel the odor of the product without letting it escape from the property, electricians particularly for cultivation and extraction, and security services.

Hours of Operation

In response to Chair Hansen, Mr. Payne recommended operating hours of 9 am to 9 pm, at a minimum. He added that he did not see a need to regulate the operating hours as he does not anticipate that dispensaries will want to remain open too late. Mr. Wyse reminded the Commission that the majority of the City's planned district ordinances have hours of operation established on an area by area basis.

Delivery of Medical Marijuana

Commissioner Schenberg inquired as to whether the regulations allow medical marijuana to be delivered to a patient's home. Mr. Payne replied that the Amendment allows for delivery but it would have to be coordinated by the dispensary through a secure transportation system that meets the rules and regulations promulgated by the Department. The regulations require that the transport must be connected to a tracking system which notifies the Department of Health & Senior Services as to when the

vehicle leaves the dispensary and as to when the product has been transferred to the patient.

Cultivation Centers

Commissioner Marino asked for information about the appearance of cultivation centers. Mr. Payne stated that from the outside, the public will be unable to tell that a building is being used as a cultivation facility. Cultivation can take place in greenhouses or large warehouses with a controlled environment and artificial lighting. There are regulations in place to ensure that the odors do not leave the property; with proper filtration, odors are not a problem.

The Amendment does allow for outdoor cultivation but Mr. Payne felt that a local government could prohibit it. He also noted that in the State of Missouri, outdoor cultivation is not very feasible as a grower would only be able to get one cycle out of a crop vs. a state where the weather would allow year-round outdoor cultivation.

Councilmember Hurt asked whether a cultivation center would be allowed in the flood plain. Mr. Wyse replied that it would be allowed.

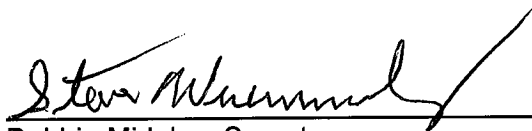
Separation Requirement for Chesterfield

After further discussion, the Commission agreed to follow the State guideline of having a 1,000-foot separation between medical marijuana facilities and schools, daycare centers, and churches.

X. COMMITTEE REPORTS - None

XI. ADJOURNMENT

The meeting adjourned at 8:00 p.m.



Debbie Midgley, Secretary