

MINUTES
CITY PLANNING COMMISSION

Minutes of the City Planning Commission meeting held July 16, 2020 in the City Council Auditorium, City Hall, 212 SW 9th Street, Lawton, Oklahoma.

The agenda for the meeting was posted on the bulletin board in City Hall in compliance with the Oklahoma Open Meeting Act.

The meeting was called to order at 1:30 p.m. by Chairman David Denham.

MEMBERS PRESENT: David Denham
 Ron Jarvis
 Paula Bowen
 Neil Springborn
 Darren Medders
 Deborah Jones
 Dave Davison

MEMBERS ABSENT: John Jones (excused)

ALSO PRESENT: Richard Rogalski, Secretary
 Greg Gibson, Assistant City Attorney
 Tammy Anderson, Recording Secretary
 John Mackey, Legal Counsel
 Charlotte Brown, Planning and Subdivision Administrator

CONSIDER APPROVING THE MINUTES OF THE JUNE 4 AND JUNE 11, 2020, MEETINGS.

MOTION by Davison, SECOND by Springborn, to approve the minutes of the June 4 and June 11, 2020 meetings. AYES: Jarvis, Medders, D. Jones, Davison, Denham, Bowen, Springborn. NAYS: None. MOTION CARRIED 7 - 0.

HOLD A PUBLIC HEARING AND CONSIDER A REQUEST FOR A USE PERMITTED ON REVIEW FOR THE OPERATION OF A MEDICAL MARIJUANA PROCESSING FACILITY IN CONJUNCTION WITH A MEDICAL MARIJUANA DISPENSARY IN C-5 GENERAL COMMERCIAL DISTRICT ON PROPERTY LOCATED AT 1011 SW C AVENUE, SUITE 1.

1. This request is for Lots 9-11, Block 33, Lawton Original Townsite, which are located at the northeast corner of SW 11th Street and C Avenue. The property is zoned C-5 General Commercial District, and the applicant proposes to operate a

- medical marijuana processing facility in conjunction with a medical marijuana dispensary in the existing building.
2. The zoning of the surrounding area is:
 - North - C-5
 - South - C-5
 - East - C-5
 - West - C-5
 3. The land use of the surrounding area is:
 - North - vacant lot
 - South - automotive repair center
 - East - funeral home
 - West - business offices
 4. Notice of public hearing was mailed on June 23, 2020, to 23 property owners within 300 feet of the requested area, and proper notice was published in *The Lawton Constitution* on June 26, 2020. No calls or letters either for or against the request have been received.
 5. The current use of this property is a commercial center. This suite is currently vacant. Other uses within this center are a pet grooming facility and a mortgage office. The applicant proposes to use one suite of the existing building on the south side. There is ample parking available for the proposed business. The proposed use is consistent with approvals of other medical marijuana facilities.

Brown said she received a phone call just before the meeting from Matt Setters. Mr. Setters owns property at 1008 SW C Avenue. Mr. Setters said he's spoken with some of the adjacent property owners and they are all opposed to the medical marijuana processing facility. Brown said this is the only phone call staff has received with regards to this UPOR.

Commissioner Davison inquired about the opposition for this UPOR.

Brown said Mr. Setters is a real estate agent and co-owner of Cummins-Setters Commercial Partners. Mr. Setters said he is opposed to the marijuana processing facility because it's an industrial use and he believes this is not a good location for the facility.

Commissioner D. Jones asked if Mr. Setters is opposed to the dispensary.

Brown said Mr. Setters is not opposed to the dispensary, just the processing portion of it. Brown said Mr. Setters could not make it to the meeting today, but he does plan on attending the City Council meeting.

Chairman Denham said it's his understanding that a dispensary must come before a processing facility. He said the City may be open to liability if they were to, without good reason, block a processing facility that already has an established dispensary.

Mackey said he holds the same position as Mr. Setters.

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Chairman Denham said he understands the reason for opposition. However, the Commission's hands might be tied when it comes to denying the UPOR.

Commissioner D. Jones said it's the Planning Commission's duty to ask questions of the applicant to provide information to people in the surrounding area. She said the Commission should not be rubber stamping these sorts of applications.

Chairman Denham asked if the OMMA should attend meetings because they're the authoritative body for medical marijuana facilities.

Brown said the OMMA issues licenses for medical marijuana facilities.

Rogalski said generally the City is protected legally if they have reasons for what they do. He said if the City were to exclude all medicinal marijuana processing facilities then the City could be held liable. However, Rogalski said the City has made it easy to open medical marijuana facilities. Rogalski said he agrees with Commissioner D. Jones. He said the purpose of the UPOR process is to review the application and then decide as to whether the proposed use is appropriate for the location.

Commissioner D. Jones said the point she was trying to make is that adjacent property owners also have rights.

Commissioner Medders asked if C-5 zoning specifications cover the use of a processing facility.

Rogalski said a dispensary is permitted by right in C-5 zoning. However, a processing and/or growing facility is only allowed as a UPOR if it's associated with a dispensary.

Mackey asked if the applicant was advised to attend the meeting.

Brown said she advised the applicant it would be in his best interest to attend the meeting. Brown said the applicant was also sent a notice of public hearing.

Davison asked if this item could be tabled until the applicant can be present to answer questions.

Rogalski asked if staff has sent a notice of public hearing for City Council.

Brown said no.

Rogalski said the Commission can table the item.

Chairman Denham declared the public hearing open.

Commissioner D. Jones motioned to table this item and continue the public hearing until the next Planning Commission meeting and that Mr. Setters, the applicant and the

property owner be notified so they may attend the meeting.

Chairman Denham asked if another notice of public hearing would have to be advertised if the item were tabled until the next meeting.

Rogalski said no.

MOTION by D. Jones, SECOND by Davison, to table this item and continue the public hearing until July 30th. AYES: Jarvis, Medders, D. Jones, Davison, Denham, Bowen, Springborn. NAYS: None. MOTION CARRIED 7 - 0.

COMMISSIONERS' REPORTS OR COMMENTS

Chairman Denham noted that the City Council voted to change their meeting time to 2:00 p.m.

Commissioner D. Jones said the OML is involved in constant controversy. She said the OML has stopped enforcing the 1,000-foot rule on schools and the out of state ownership rule for fear of ending up in court.

Chairman Denham said it's his understanding that those regulations were incorporated during the most recent legislative session. Chairman Denham said there were multiple medical marijuana businesses that obtained their license prior to the passage of the new regulations. He said this may be the reason for the delay in enforcement of the 1,000-foot rule and the out of state ownership rule.

Chairman Denham noted the competitive nature of this business. Because there are so many dispensaries in town, Chairman Denham said some dispensary owners are looking to make additional money by opening a medical marijuana processing facility.

Mackey noted there are two or three dispensaries located just a couple blocks south from 1011 SW C Avenue.

Commissioner Medders asked how many processing facilities are in Lawton.

Brown said she's not sure, but she can obtain this information and provide it at the next meeting.

Rogalski said several applicants for medical marijuana facilities were denied a certificate of compliance by City staff (due to a lack of adherence to building code) but granted a license for operation by the OMMA. Rogalski said some applicants open their business solely based on the issuance of a license from the OMMA. Rogalski said this has been problematic for City staff.

Commissioner Medders asked if the OMMA performs inspections of medical marijuana facilities.

Brown said they are supposed to, but she thinks they perform inspections on a complaint basis.

Chairman Denham said his concern are the UPOR applicants with dispensaries that are not open or have yet to be licensed.

Rogalski said City staff would not issue a certificate of occupancy for a processing facility that did not have a dispensary because the applicant would not be in zoning compliance. However, Rogalski said it would be appropriate to ensure proper zoning before starting the building process.

Commissioner D. Jones said she agrees with Rogalski's analysis in that many owners of medical marijuana facilities feel they do not have not comply with the City's rules and regulations.

Gibson said medical marijuana advocates won a big court case shortly after the legalization of medical marijuana and this may be boosting their confidence.

Commissioner Springborn said there's been past discussion about contractors doing work at night rather than having to block off streets to work during the day. He said Cache Road between Sheridan Road and Ft Sill Boulevard is currently being repaved, and the workers have been working during the day.

Chairman Denham said this work is being done by the City of Lawton, not contractors.

Commissioner Davison said the City should also consider doing construction work during the night hours because the heat can be hazardous for employees.

Rogalski said the street division does start working very early in the morning to avoid working during the heat of the day.

SECRETARY'S REPORT

Rogalski thanked the current Planning staff, Cindy Augustine and Charlotte Brown, for taking on additional tasks due to staffing shortage.

Rogalski said the sales tax numbers for June were not bad. He said if this positive trend continues the City can lift the hiring freeze.

Davison inquired about the status of building permits.

Rogalski said building permits have been steady for the last couple of years. He said the Housing Division is also starting to pick up.

AUDIENCE PARTICIPATION

None.

MOTION by Medders, SECOND by Davison, to table this item and continue the public hearing until July 30th. AYES: Jarvis, Medders, D. Jones, Davison, Denham, Bowen, Springborn. NAYS: None. MOTION CARRIED 7 - 0.

Meeting adjourned at 1:57 p.m.

David Denham, Chairman
City Planning Commission

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