

MINUTES
CITY PLANNING COMMISSION

Minutes of the City Planning Commission meeting held August 12, 2021 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 Vice Chairman John Jones.

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

MEMBERS ABSENT: David Denham
 Shelli Fox (excused)

ALSO PRESENT: Richard Rogalski, Deputy City Manager
 Cindy Augustine, Planning and Subdivision Administrator
 Greg Gibson, Assistant City Attorney
 Ashlynn Foy, Recording Secretary

CONSIDER APPROVING THE MINUTES OF THE MAY 13, 2021 MEETING.

MOTION by Jarvis, SECOND by D. Jones, to approve the minutes of the May 13, 2021 meeting.

AYES: Davison, J. Jones, Bowen, Medders, Springborn, Jarvis, D. Jones.

NAYS: None. MOTION CARRIED 7 - 0.

CONSIDER APPROVING THE MINUTES OF THE MAY 27, 2021 MEETING.

MOTION by Jarvis, SECOND by D. Jones, to approve the minutes of the May 27, 2021 meeting.

AYES: Davison, J. Jones, Bowen, Medders, Springborn, Jarvis, D. Jones

NAYS: None. MOTION CARRIED 7 - 0.

CONSIDER APPROVING THE MINUTES OF THE JUNE 10, 2021 MEETING.

MOTION by Jarvis, SECOND by Medders, to approve the minutes of the June 10, 2021 meeting.

AYES: Davison, J. Jones, Bowen, D. Jones, Springborn, Jarvis, Medders.

NAYS: None. MOTION CARRIED 7 - 0.

CONSIDER APPROVING THE MINUTES OF THE JUNE 24, 2021 MEETING.

MOTION by Springborn, SECOND by Jarvis, to approve the minutes of the June 24, 2021 meeting.

AYES: Davison, J. Jones, Bowen, D. Jones, Medders, Springborn, Jarvis.

NAYS: None. MOTION CARRIED 7 - 0.

CONSIDER APPROVING THE MINUTES OF THE JUNE 24, 2021 MEETING.

MOTION by Davison, SECOND by Jarvis, to approve the minutes of the July 15, 2021 meeting.

AYES: Springborn, J. Jones, Bowen, D. Jones, Medders, Davison, Jarvis.

NAYS: None. MOTION CARRIED 7 - 0.

HOLD A PUBLIC HEARING AND CONSIDER A CHANGE OF ZONING FROM THE C-1 LOCAL COMMERCIAL DISTRICT TO THE C-5 GENERAL COMMERCIAL DISTRICT ZONING CLASSIFICATION AND A USE PERMITTED ON REVIEW TO MAINTAIN ALL C-1 USES AND ADD MEDICAL MARIJUANA PROCESSING (NON-CHEMICAL) IN CONJUNCTION WITH A DISPENSARY ON PROPERTY LOCATED AT 1925 WEST GORE BLVD SUITE A, LAWTON, OK 73505.

1. This request is for Lots 15-21, Block 5, Lee Addition, located at 1925 West Gore Blvd Suite A. The proposed use is all C-1 uses and medical marijuana processing (non-chemical) in conjunction with a dispensary. The property owner is Thomas Curt Francias.
2. The zoning of the surrounding area is:
 - North - R-1
 - South - C-1
 - East - C-1
 - West - C-1
3. The land use of the surrounding area is:
 - North - single-family residential
 - South - commercial
 - East - commercial
 - West - commercial
4. As shown on the site plan submitted with the application, the applicant proposes to open a medical marijuana processing facility (non-chemical) in conjunction with a dispensary.
5. Notice of public hearing was mailed to 49 owners of property within 300 feet of

the requested area on July 23, 2021 and proper notice was published in *The Lawton Constitution* on July 28, 2021. No calls for or against have been received. However, the planning department did receive a letter opposing the rezoning, from Mr. Raymond Duncan of 1914 NW Arlington Ave.

6. Staff has reviewed the request and recommends approval. The analysis is attached.

The purpose of the application is to allow processing of medical marijuana. This analysis is based upon criteria set out in Title 11, Sections 43-102 and 43-103, Oklahoma Statutes.

1. *To lessen congestion in the streets.* This property is located on West Gore Blvd which is a 5-lane major arterial street. This property was previously Stork Vision. There will be no additional openings onto West Gore Blvd.
2. *To secure from fire, panic, and other dangers.* This property is not within the 100-year floodplain.
3. *To promote health and the general welfare.* All construction, i.e., drives, parking, sidewalks, landscaping, etc., to meet all City Code requirements.
4. *To provide adequate light and air.* This criterion does not apply.
5. *To prevent the overcrowding of land.* This criterion does not apply.
6. *To promote historical preservation.* This criterion does not apply.
7. *To avoid undue concentration of population.* This criterion does not apply.
8. *To facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.* This property is served by a 5-lane major arterial street in good condition. Adequate water and sewer infrastructure serve this lot.
9. *To conserve the character of the district and buildings and encourage the most appropriate land uses.* The proposed use is not a change to the land use.

Based upon these facts, it is recommended the request be approved.

Vice Chairman J. Jones asked if the Planning Commission has approved processing before or has it just been growing?

Rogalski responded yes, there has been a mix of both. Some are just growing, and some have been processing. Processing also varies there are some forms that require chemicals and are very intensive and some that are very simple. This is listed as non-chemical processing.

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Vice Chairman J. Jones asked if there was anymore input from the Commission before opening the public hearing?

Commissioner Medders stated this letter of opposition mentions the daycare in the shopping center, is it within 300 feet?

Rogalski responded the daycare is within 300 feet, but that is not a requirement through OMMA.

Brown stated OMMA's requirement is 1000 feet from any schools; daycares do not apply to that requirement. That is just for a dispensary though, they can be within 1000 feet for processing and growing.

Commissioner D. Jones stated she would like to know if the Planning Commission has ever recommended a spot zone C-5 with a limitation of use or if it was the Council that recommended a C-5 with a limitation of uses for marijuana processing?

Rogalski responded the notion of a binding site plan with limitation of uses has happened several times and not just with dispensaries. There have been other rezonings where they didn't include all the C-5 uses because some of them are much more intrusive than the other commercial zones. What I'm trying to get at is a limitation of uses has not been an issue so far with a binding site plan.

Commissioner D. Jones stated so, the zoning runs with the land?

Rogalski responded yes, it does.

Vice Chairman J. Jones stated one thing that has been mentioned before, for those of us in the real estate business, we generally look at a track of land that's zoned C-5 and we aren't typically aware of limitations or binding site plans. This could result in a lawsuit for the real estate agency that sold it, so I think that should be a consideration also.

Commissioner Davison asked is this the binding site plan, because I don't believe that's accurate. I drove by there today and they pretty much all share the same roof, there is Backporch, a store front with marijuana leaves all over it, and then there is a nursing office. Then you go down here, and it says Phase II and there is a gold shop and more businesses.

Rogalski answered you would not be approving any of the Phase II items. The binding site plan typically doesn't show where in the building the uses occur, in this case it's just the footprint of the building and it covers the uses that we are putting on there.

Commissioner D. Jones asked if any C-5 use would be permitted?

Rogalski answered stated no, they are limited to the C-1 usage and medical marijuana processing on the site plan.

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Commissioner D. Jones added unless they get another Use Permitted on Review. Would C-5 be for the entire building or just Suite A?

Rogalski responded no, the C-5 would be for the entire property and the UPOR is for the entire property for processing. However, the binding site plan limits the uses to only those uses allowed in C-1. So, it does create something of a problem to have a big, red block of C-5 zoning in the middle of C-1 zoning.

Commissioner D. Jones stated I think the concerns that Commissioner Jones has raised is a significant problem and I have a problem with the spot zoning period. I also think this is very confusing when you have a variety of tenants and some of them have expanded, some have come out and come back in.

Commissioner Medders stated I guess I'm not understanding, if he is wanting the processing in Suite A, why are we doing the whole building to C-5?

Rogalski responded that was the zoning request. Typically, they do rezone an entire property under a single ownership because they could limit the zoning request or uses that way.

Commissioner D. Jones asked is the applicant the owner? We don't have the application.

Rogalski stated Charlotte is going to get the application.

Commissioner D. Jones asked so the owner of the building is not here? Can we wait until the application is seen? I want to make sure that the owner signed the application.

Rogalski stated the applicant is Lamplighter LLC.

Vice Chairman J. Jones asked if that satisfies the request before we move on? While we are waiting for the application, I will open the public hearing and invite anyone up to speak that would like to at this time.

Darrell Brewer stated he is the 50% owner of the Lamplighter Dispensary. I understand the intricacies of zoning, but essentially what we are doing is packing pre-rolls, and we just need a little bit more space in order to operate. The only thing we are doing there is non-chemical packing of pre-rolls and storing them there. This is an extension of what we are already doing, but it makes the logistics a lot better.

Commissioner Davison asked what is a pre-roll?

Brewer responded a pre-roll is the same thing as a joint, but just pre-packaged. We also white label candy bars from somewhere else and put our label on them and sell them that way, so that's also another way we process.

Commissioner Davison asked how long has the dispensary been open?

Brewer responded we were one of the first four or five to open in town, so we have been there awhile. I run an outpatient mental health facility and I got into it when my wife got sick, she started using edibles and I saw it change her life. My focus changed after that and I decided to go this route. Logistically, this space would make it a lot easier to process so we wouldn't have to do it exclusively out in the county and then transport it in like we've been doing.

Commissioner Davison asked so you bring in the product, repackage it and then send it out correct?

Brewer responded yes, we send it out to other dispensaries. We have a packing machine to pack them, and what we are looking for is to add an addendum for a little more square footage to what we've already got going on.

Commissioner Medders asked how is your product stored at the dispensary, is it lock and key?

Brewer responded yes, it must be stored for both processing and dispensaries the exact same way, according to OMMA guidelines.

Commissioner Medders asked if they have had issues with vandalism?

Brewer responded no, we have not. Other stores like the gold store down the way have had issues, but we have not. I understand the feelings that can come with this industry. I'm a conservative individual, and after my wife started using marijuana, I started doing research and I learned about all of the ways it can help people and now, this is where my energy and effort are spent.

Vice Chairman J. Jones asked are there any odors involved in the processing?

Brewer stated no, no more than the actual product itself.

Vice Chairman J. Jones asked Rogalski, if this were approved, would they be allowed to change the processing from non-chemical to chemical?

Rogalski stated no, with the non-chemical being written on the site plan, they would be limited to that usage only.

Commissioner Medders stated I know OMMA comes out and does site plans, does the city do that on renewal or do you have to have someone turn in an ordinance issue to go out and look at that site plan again?

Rogalski answered no, every year the license is renewed, and the city does go out to inspect and then we give them a certificate of compliance.

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Brown responded the fire marshal does go out with the renewals to do an inspection and make sure that they are compliant.

Commissioner Medders stated so they would make sure it's not a chemical processing then?

Brown stated yes, the fire marshal would not be happy if they were doing chemical processing there.

Brewer stated when you are processing and it's chemical, you are changing the composition of the material, it's pulling liquid out of the material so it can be injected into vape cartridges or edibles etc. It's very expensive and dangerous and we are not interested in doing that at this site.

Rogalski stated I do have the application now. The application for rezoning and the Use Permitted on Review is signed by the other owner Curt Francis.

Commissioner Springborn stated this is an encroachment in a residential neighborhood and quite frankly, I'm tired of approving these things, but there's not much we can do to avoid it.

Vice Chairman J. Jones asked if there were any other comments?

Rogalski stated it has occurred to me through all of this conversation, a new directive we might give to staff. If the processing this gentleman is wanting to do, is not considered too intense for that area, it may be better that this be allowed as a UPOR for C-1 as opposed to C-5. So that could be something you might consider directing staff to do a code change for.

Commissioner D. Jones stated well, I have a problem with that because then there could be a Use Permitted on Review for chemical processing in C-1 zoning.

Rogalski explained I was talking about writing an extreme limitation as to what is allowed for processing, and chemical would not be one of those allowed.

Commissioner D. Jones I am trying to grapple with the fact that the state is not inspecting anything and that has been testified to in these hearings. The planning department and the fire marshal have a lot to do, and they aren't normally aware of any issues until they get a complaint. Looking at this matrix, to say the Council has been generous with where they are allowing these activities, would be an understatement. I'm having problems with the spot zoning, and I'm having problems with trying to limit the uses without it being evident to prospective tenants and realtors and the whole thing is very convoluted to me. It's up to the Commissioners as to whether or not they would like to support a code change.

Commissioner Bowen asked do we have to change the code?

Rogalski stated no, not at all, this was just a way to avoid these rezoning to C-5 issues in the future. Our code is legitimate as it is.

Vice Chairman J. Jones stated Richard, the zoning to me seems really complicated, and it's confusing. Mr. Brewer has explained what they do very well, and I've got no problems with that they do. I do see an issue with prospective buyers in the future and I would like to know if there is any alternative we can do in this respect.

Commissioner Medders stated if they are doing this in the dispensary already, could we not just approve it as another dispensary and have them be able to process that way since they have a processing license?

Vice Chairman J. Jones stated well, my understanding is they are in the process of getting their license, so it would be a different use.

Commissioner Medders stated my recommendation would be to make a motion for it, but I think we need to restrict it to that Suite A and that way we can get around C-5 for the whole building.

Commissioner D. Jones stated we better ask the attorney because we may have mortgages on this property, and we are starting to get into something that runs with the land. This is not my expertise. When you start to carve out parcels in a unit ownership of things, you could run into problems such as common parking versus segregated parking etcetera, it has its manifestations.

Vice Chairman J. Jones stated I'm going to close the public hearing right now. This motion is different than what we have on the agenda. Do we need to approve or deny the public hearing or how does this work?

Rogalski stated I can't quote the code exactly, but it allows you to deny, affirm, give certain conditions and more.

Commissioner Medders asked can we change the topic?

Rogalski stated no, you wouldn't change the topic you would adjust the motions based on what you want to recommend.

Vice Chairman J. Jones asked Commissioner Medders would you like to change your motion as it stands?

Commissioner Medders asked what would we change it to? It looks like we have an issue rezoning the building to C-5 so what if we just did the suite, because it looks like we could get away with that.

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Commissioner D. Jones stated we don't have the other 50% owner here, and we are talking about changing the zone. I don't mind if we table this, the whole thing is convoluted and I'm having a problem with it.

Rogalski asked should we table it for further research?

Vice Chairman J. Jones stated that would be my suggestion Richard.

Rogalski stated this body has in the past, has made recommendations, for instance the best zoning situation or make changes and limitations to things, even if it's not what the applicant asked for. Your job is to recommend what the best course is for City Council. If you want to research this more or have questions you want answered, certainly continuing the public hearing or tabling the item is an option. You have already closed the public hearing I believe. You could simply make a motion to approve or deny also.

Vice Chairman J. Jones asked since we have a motion on the floor, should we see if we can get a second?

Rogalski stated that this was not double noticed, so whatever action you take, we will send a notice of that action to the Council.

Vice Chairman J. Jones stated okay, so do we accept Commissioner Medders' motion?

Commissioner Medders stated I don't think we've got a second.

Vice Chairman J. Jones stated I haven't accepted it yet; can we get a second and see if we can clear this on the floor?

Commissioner Medders stated my motion is to approve rezoning to C-5 for Suite A only, as well as a Use Permitted on Review limited to that suite.

Vice Chairman J. Jones asked do we have a second?

Commissioner Bowen asked, just to clarify, this is a spot zoning?

Commissioner Medders stated yes.

Commissioner Bowen stated I will second that motion.

Vice Chairman J. Jones stated please call the vote.

MOTION by Medders, SECOND by Bowen, to hold a public hearing and recommend approval to the City Council, to change the zoning from the C-1 Local Commercial District to the C-5 General Commercial District zoning classification and a Use Permitted on Review to allow all C-1 uses and medical marijuana

processing (non-chemical) in Suite A of the property located at 1925 West Gore Blvd Suite A, Lawton, OK 73505.

AYES: Medders, Bowen.

NAYS: D. Jones, J. Jones, Springborn, Jarvis, Davison. MOTION FAILED 2 - 5.

Vice Chairman J. Jones stated the motion has failed with a vote of 2-5. So now, we can vote to reopen the public hearing, is there a date specified?

Rogalski responded yes, to continue the public hearing you need a specific date.

Commissioner D. Jones asked didn't we just dispose of this item?

Rogalski stated right, that motion failed.

Commissioner D. Jones asked so you need a positive motion to deny or approve as submitted?

Rogalski responded or to continue the public motion, that is what Commissioner Jones just stated.

MOTION by Jarvis, SECOND by Davison, to re-open the public hearing and table item #6 until the next CPC meeting on August 26, 2021.

AYES: Medders, Bowen, J. Jones, Springborn, Jarvis, Davison.

NAYS: D. Jones.

MOTION CARRIED 6 - 1.

HOLD A PUBLIC HEARING AND CONSIDER AN AMENDMENT TO THE 2030 LAND USE PLAN FROM RESIDENTIAL LOW DENSITY AND RESIDENTIAL HIGH DENSITY TO COMMERCIAL AND A CHANGE OF ZONING FROM THE R-1 SINGLE FAMILY DWELLING DISTRICT AND THE R-3 MULTIPLE FAMILY DWELLING DISTRICT TO THE C-5 GENERAL COMMERCIAL DISTRICT ZONING CLASSIFICATION AND A USE PERMITTED ON REVIEW FOR A FENCE LOCATED WITHIN THE FRONT YARD SETBACK ON PROPERTY LOCATED AT 2107 NW POLLARD AVE, LAWTON, OK 73505.

This analysis is based upon criteria set out in Title 11, Sections 43-102 and 43-103, Oklahoma Statutes.

1. *To lessen congestion in the streets.* This property is located on NW Pollard Ave which is a 2-lane local residential street. This property was previously a single-family residence. There will be no additional openings onto Pollard Ave.
2. *To secure from fire, panic, and other dangers.* This property is not within the 100-year floodplain. The owner is putting in a new fire hydrant.

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3. *To promote health and the general welfare.* All construction, i.e., drives, parking, sidewalks, landscaping, etc., to meet all City Code requirements.
4. *To provide adequate light and air.* The site plan includes the required tree screen between this tract and the residential property to the west.
5. *To prevent the overcrowding of land.* This criterion does not apply.
6. *To promote historical preservation.* This criterion does not apply.
7. *To avoid undue concentration of population.* This criterion does not apply.
8. *To facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.* This property is served by a 2-lane local residential street in good condition. Adequate water and sewer infrastructure serve this lot.
9. *To conserve the character of the district and buildings and encourage the most appropriate land uses.* The proposed use is commercial and would be a change the land use plan.

Rogalski stated the applicant intends to provide a six-foot opaque fence around the entire property, including the front yard. This fence will necessitate a Use Permitted on Review. The applicant will also be required to put a tree screening on the west side of the property line, which is adjacent to a single-family residential zone. Based upon these facts, the staff recommended the request be approved.

Commissioner D. Jones asked does he intend to install these stereotypes in the auxiliary building?

Rogalski responded yes, he is working out of the parking lot currently. They will sell in the front building and install in the back building.

Vice Chairman J. Jones asked if there are any questions or comments from the Commissioners?

Vice Chairman J. Jones stated I would like to declare the public hearing open.

Vice Chairman J. Jones stated since no one came forward, I will close the public hearing.

Commissioner Medders stated I would like to make a motion to approve based on the recommendation of the staff.

Commissioner Davison stated he will second that motion.

MOTION by Medders, SECOND by Davison, to hold a public hearing and recommend approval to the City Council, of an amendment to the 2030 Land Use Plan from Residential Low Density and Residential High Density to Commercial and a change of zoning from the R-1 Single Family Dwelling District and the R-3 Multiple Family Dwelling District to the C-5 General Commercial District zoning classification and a Use Permitted on Review for a fence located within the front yard setback on property located at 2107 NW Pollard Ave, Lawton, OK 73505.

AYES: Medders, Bowen, J. Jones, Springborn, Jarvis, Davison, D. Jones.

NAYS: None.

MOTION CARRIED 7 - 0.

COMMISSIONERS' REPORTS OR COMMENTS

None.

SECRETARY'S REPORT

None.

AUDIENCE PARTICIPATION

None.

ADJOURNMENT

Meeting adjourned at 2:24 p.m.

David Denham, Chairman
City Planning Commission