

MINUTES
CITY PLANNING COMMISSION

Minutes of the City Planning Commission meeting held August 26, 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
 Shelli Fox
 Darren Medders
 John Jones

MEMBERS ABSENT: David Denham (excused)
 Deborah Jones (excused)
 Neil Springborn (excused)
 Paula Bowen (excused)

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

CONSIDER APPROVING THE MINUTES OF THE AUGUST 12, 2021 MEETING.

MOTION by Medders, SECOND by Jarvis, to approve the minutes of the August 12, 2021 meeting.

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

NAYS: None. MOTION CARRIED 5 - 0.

CONSIDER CHANGING THE ORDER IN WHICH THE ITEMS ON THE AGENDA ARE HEARD – ITEM #4 TO ITEM #3.

MOTION by Jarvis, SECOND by Fox, to approve changing the order in which the items on the agenda are heard.

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

NAYS: None. MOTION CARRIED 5 - 0.

**DISCUSS AND PROVIDE DIRECTION TO STAFF REGARDING A
POTENTIAL CHANGE TO CHAPTER 18 OF LAWTON CITY CODE
REGARDING THE ZONING REQUIREMENTS FOR MEDICAL MARIJUANA
PROCESSING.**

Kameron Good stated that this is an idea to discuss and ask you all to provide us direction in regard to our code and medical marijuana processing. Our code is very limited and behind times and we have done lots of research and compared ours to Norman and Tulsa's code. This new proposed code will break medical marijuana processing down into 4 tiers based on intensity.

“Medical marijuana processor” means a business licensed by the State of Oklahoma to purchase marijuana from a licensed commercial grower to subsequently prepare, manufacture, package, sell and deliver medical marijuana products to a licensed dispensary or other licensed processor; and who may also process marijuana received from a qualified patient into a medical marijuana concentrate, for a fee; nothing in this code alters state license category requirements for medical marijuana establishments. Applicants may be required to seek multiple state licenses in order to comply with state law.

(a) Tier I Processor: means a facility defined and regulated by Oklahoma state law as a medical marijuana processor, and which engages in only the following activity(ies): the preparation (from medical marijuana grown in compliance with state law) by mechanical means of “prerolled” marijuana cigarettes, “joints” or “blunts” and the use of medical marijuana concentrate(s) (produced off-site in compliance with state law) or medical marijuana plant pieces (produced in compliance with state law) as an additive to products by means that do not include cooking and/or baking. Tier I medical marijuana processor does not include extraction processes of any kind.

(b) Tier II Processor: means a facility defined and regulated by Oklahoma state law as a medical marijuana processor, and which includes processing activities described in Tier I medical marijuana processor and/or: the use of medical marijuana concentrate(s) (created off-site in compliance with state law), as an additive to product by means of cooking and/or baking. Tier II medical marijuana processor does not include extraction processes of any kind.

(c) Tier III Processor: means a facility defined and regulated by Oklahoma state law as a medical marijuana processor, and which includes processing activities described in Tier II and Tier I medical marijuana processor and/or: medical marijuana concentrate extraction processes that use only non-flammable substances.

(d) Tier IV Processor: means a facility defined and regulated by Oklahoma state law as a medical marijuana processor, and which engages in the following activities: any type(s)

of medical marijuana processing, consisting of all extraction processes including flammable chemicals such as butane, alcohol, propane, and ethanol.

Good provided a physical matrix to the commissioners and explained all categories in the matrix. He stated what types of processing would be permitted in each zone and what will need Use Permitted on Review. He then asked are there any more questions? I know it is a lot of information to process, but we are basically just trying to simplify this and update it to fit today's needs.

Rogalski stated what we tried to do is in the commercial zone, we say the dispensary is the key. There is a level of mechanical processing, which most of us probably wouldn't even consider processing, but it is in the eyes of the state. If all they are doing is grinding it up and putting it into something, and they already have a dispensary, then they are selling it on site, and therefore it is a commercial use. Let's take a bakery for example, if a bakery is cooking something and then selling it on site, then that is a commercial use. If they are baking goods to ship across the state to sell, then that is an industrial use. So, we tried to think of it along the same lines as far as this processing is concerned. What we really tried to do is take out the requirement to rezone to C-5 just so they can mechanically process pre-rolls.

Vice Chairman Jones asked so if there is a facility now that is growing and has a dispensary, they can not go in C-1 is that right?

Good responded growing was never allowed in C-1 before the proposed change.

Vice Chairman Jones asked do we have any zone that would allow growing and a dispensary?

Good responded yes, in C-5. As you can see in this matrix that it was permitted on review when associated with a dispensary in C-5. So, we're not changing any of the growing regulations as far as commercial zoning goes.

Commissioner Medders asked in the verbiage it says to make pre-rolls and sell them at the same location, but in item 3 they are making them to sell, but to be sold to other dispensaries as well.

Good responded, so that is allowed only in C-5 as a Use Permitted on Review when associated with a dispensary, but when you get down into the industrial zones, it is permitted.

Rogalski stated you all have seen a number of these rezonings and sometimes it seems like the dispensary was just a token and it was really an industrial facility. We are saying here that in C-1 you're only allowed to do the processing if you sell it there, so you would never have a huge processing facility and a tiny dispensary, because we're saying it has to be sold right there on site.

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Commissioner Davison asked so C-1 is just going to get a Use Permitted on Review, note 2 is when associated with a dispensary in the same building and when all of the items are sold on site. And the definition of sold on site is to individuals, but what if they're distributing it to other sites?

Rogalski responded well retail sales, means retail sales. I don't think it is legal to buy a bunch of marijuana and sell it to other sites, but if it was legal then yes, they could do that. We're saying the purpose of C-1 is to sell things, it's a commercial zone. There is a level of processing that is part of the retail process.

Good stated this is really saving us and our citizens the hassle of trying to rezone all the way up to C-5 just to do pre-rolls.

Commissioner Davison asked so, there is a difference between a dispensary and a processing plant?

Good responded, yes sir, so the dispensary we already allow across the board in commercial besides in C-1, it has the restriction of having to be located on a major street. That's not changing, we're not changing anything that deals with the dispensary, we're just allowing the dispensaries to be able to do tier I processing when associated with a dispensary and all the materials are sold on site.

Commissioner Fox asked if the verbiage is going to say specifically for pre-rolls in tier I?

Good responded yes ma'am, it states by mechanical means of pre-rolled marijuana cigarettes, joints or blunts and the use of state regulated concentrates if they were produced off site. So, for example, anyone in C-1 can't just go bake an edible and sell it, but some companies like to infuse gummies with concentrates by means of injecting or dipping, but they will not be allowed to cook. The mechanical means they have to grind it up to put it into the cigarettes, so that's why that mechanical verbiage is in there.

Commissioner Davison asked will there be any verbiage listed on the matrix provided?

Good responded no, all the verbiage is in the definitions that will be written in the code.

Commissioner Davison asked what is the 1,000 ft stipulation that I'm seeing?

Good responded that's only for the agricultural zone, that's the only place where those numbers show up and that's already in our existing code. Those 3 numbers on the matrix don't come into play with any of the commercial zones. The matrix is really trying to make it as simple as possible to see without having to read all of the definitions.

Rogalski stated the reason the 1,000 ft rule is there for the agricultural zone is because we use those zones as our most conservative ones. So, we needed to build in a protection for anything going on in the A-1 district.

Commissioner Fox asked so is injecting the gummy bears allowed in tier I?

Good responded yes, that would be allowed in tier I and tier II. The injecting would have to be a concentrate created off site, someone else would have had to make it. They can bring that in and inject it or pour it into smoothies or anything else not by means of chemically extracting the concentrate.

Rogalski stated since none of these things are producing a smell or creating any blight with the neighboring businesses, then that is why the use of concentrates remains in tier I and tier II.

Commissioner Fox stated I'm worried about grey areas down the line and people pushing the limits on what the definitions are.

Good responded I have done a lot of research into this, examining other codes and really finding out how people are using these products. That's why we were very careful with our words, Richard is very good at this and we did about 5 or 6 rough drafts to get the verbiage perfect and make sure we are covered.

Rogalski added we are not saying that this code change takes away all of our problems, but we do think it solves some problems and takes a step forward.

Commissioner Fox asked so this could always be revisited?

Good responded yes, it is going to have to come through you all again for approval before Council. We have even taken an extra step further than Norman because they only have their code divided up into three tiers, they essentially combined tier I and II, but we are saying no, these are two distinct levels of processing.

Commissioner Davison asked what are you wanting us to do?

Good responded that's really up to you all. If you want to add any suggestions you can do that, you can also decide that you like it as is and we can move forward with a public hearing on it.

Vice Chairman Jones stated Kameron thank you so much you did a fantastic job. Are there any recommendations from the Planning Commission?

Commissioner Davison stated I would like to move to bring this to a public hearing and provide a recommendation to Council at the September 16 meeting.

Commissioner Medders stated I will second that motion.

MOTION by Davison, SECOND by Medders, to consider holding a public hearing and vote to give a recommendation to City Council on proposed Chapter 18 code change at the September 16, 2021 CPC meeting.

AYES: Davison, J. Jones, Medders, Springborn, Jarvis
NAYS: None. MOTION CARRIED 5 - 0.

CONTINUE THE 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 declared the public hearing open.

Vice Chairman Jones stated since no one came forward to speak, I'll close the public hearing. Any input from the Planning Commission?

Commissioner Davison stated I think if we are going to go with the code change proposal here, then we probably don't want to approve this rezoning to C-5 do we? We would want them to stay C-1 and be able to process from the dispensary correct?

Rogalski stated as always, you can decide what action you want to take. If you approve, we will move it forward to City Council and it would probably get there at the same time the code change would. If you table it, it will come back to you in two weeks.

Commissioner Davison asked can we approve it with the new recommendation?

Rogalski responded so you would actually be denying this application to rezone to C-5 since this would fall under the new code change.

Commissioner Davison asked should we move to approve to C-5 so that it gives them the best chances with Council to approve their endeavor?

Vice Chairman Jones stated I think we need a motion and then we can vote to approve or deny and discuss from there.

Commissioner Medders stated I'll make a motion to deny the rezoning to C-5.

Commissioner Jarvis stated I'll second that motion.

MOTION by Medders, SECOND by Jarvis, to hold a public hearing and recommend denial 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: Davison, J. Jones, Medders, Jarvis, Fox

NAYS: None. MOTION CARRIED 5 - 0.

CONSIDER RECEIVING A PRESENTATION ON THE PUBLIC SERVICE ORGANIZATIONS SCORING RESULTS FOR FFY 2021, AND PROVIDING A RECOMMENDATION TO THE CITY COUNCIL.

Vice Chairman J. Jones stated we have a graphic here to show us the way the organizations were scored. Go ahead Christy.

Christy James stated as you are all aware, City Council wanted the Planning Commission to rescore the public service organization applications. That request was sent to you via email. I only received one packet back, so I didn't have enough scores to rescore them. So, we essentially took out what was score one, which is the person who didn't show up. To make it fair across the board, we took the four remaining scores, and here is where we're at. The first score is the funding they received last year. The second column is their percentage of the total score altogether. The next column is proportional funding. One of the issues Council had with that was the dramatic difference from last year to this year's funding of some of the potential organizations. So, what we did for the last column, or what we call buffered funding, is depending on the score they got from this year, we calculated and made sure that they are not getting 20% more or less funding than what they received last year. We buffered the 7 organizations that received funding last year, and then the amount that was leftover, we allocated to the new applicant. So, before you, we have 2 options for you to recommend to Council and we're open to any questions.

Vice Chairman J. Jones asked do we have any questions from the Commission?

Rogalski stated since everyone is quiet, I will go ahead and chime in. I think Christy did a great job of distributing this money in a very fair way and it varied by how well that agency met the current needs of the community.

Commissioner Davison asked is this the first year for Creative Living getting funded?

James responded yes, this is the first year they've applied. Just to point out also, Creative Living is still receiving more than the lowest funded organization last year, so for a first-year applicant, we think this amount is pretty fair.

Vice Chairman J. Jones asked are there any recommendations from the Planning Commission?

Commissioner Davison stated I'll make a motion to approve the buffered amounts of funding.

Commissioner Jarvis stated I'll second that motion.

MOTION by Medders, SECOND by Davison, to provide a recommendation to City Council to approve the "buffered" amounts of funding to the public service organizations for FY 2021.

AYES: Medders, Fox, J. Jones, Jarvis, Davison

NAYS: None. MOTION CARRIED 5 - 0.

COMMISSIONERS' REPORTS OR COMMENTS

None.

SECRETARY'S REPORT

I am speaking to a prospective applicant for the Planning Director position, so hopefully that works out. I also want to thank Kameron for all of his hard work in getting this code written and it's a modern step in the right direction. Is it perfect? We will see, only time will tell.

AUDIENCE PARTICIPATION

None.

ADJOURNMENT

Meeting adjourned at 2:24 p.m.

David Denham, Chairman
City Planning Commission