

EXCERPTS
PLANNING AND ZONING COMMISSION MEETING
COLUMBIA CITY HALL COUNCIL CHAMBER
701 EAST BROADWAY, COLUMBIA, MO
AUGUST 20, 2020

Case Number 149-2020

A request by Crockett Engineering (agent), on behalf of Boone Development, Inc. (owner), for a major amendment to the Schapira Clinic Final O-P Development Plan's Statement of Intent to include "Medical Marijuana Testing Facility" and "Personal Services-General" as permissible on-site uses. The Schapira Clinic Final O-P Development Plan was approved in 1987, permitting office uses and revised August 2019 to permit "Medical Marijuana Dispensary," as permitted uses on the site. The 0.37-acre property is zoned PD (Planned Development), located at the southwest corner of College Avenue and Rogers Street, and addressed 411 N. College Avenue.

MR. TOOHEY: Before we continue, again, I'd like to ask any Commissioner who has had ex parte communication prior to this meeting related to this to please disclose that so all Commissioners have the same information. Seeing none, can we please have a staff report.

Staff report was given by Mr. Rusty Palmer of the Planning and Development Department. Staff recommends approval of the revised statement of intent to add "Medical Marijuana Testing Facility" and "Personal Services - General" to the permitted list of uses allowed on the site.

MR. TOOHEY: Any questions for staff? Mr. MacMann?

MR. MACMANN: Thank you, Mr. Chair. Refresh my memory. Council approved this and this is not indicative of the way I'm going to vote, but we voted this down, did we not?

MR. PALMER: I believe it was a tie vote, so no recommendation.

MR. MACMANN: Was that what happened? I couldn't recall exactly how that played out. Mr. Zenner's – I could see Mr. Zenner's mind working over there. It doesn't really matter. I was just trying to refresh my memory. Thank you very much.

MR. TOOHEY: Ms. Geuea Jones?

MS. GEUEA JONES: So they're replacing the approved dispensary use with a custom facility use; is that what's happening?

MR. PALMER: No. They're adding the testing facility.

MS. GEUEA JONES: They're adding the testing facility use. And there's enough square footage there to do that? That -- you don't know. Okay.

MR. PALMER: Yeah. I think they have a perspective user and it apparently would meet their

needs. I think the property owner is here and maybe he could expand on that.

MR. ZENNER: The property owner is here for that.

MS. GEUEA JONES: And that's my other question. Are -- are they already possessing a license as they're coming to us with this, or do they need us to approve it to get the license?

MR. ZENNER: The user that is -- that precipitated the request to expand -- to expand the statement of intent's use list has nothing to do with medical marijuana. It is a personal service user that had sought a business license. We determined that the business license could not be issued due to the nature of the business that was a personal service business not being permitted. The advice provided to the applicant at the time when they inquired as to what the procedure would be was to ask to have the statement of intent expanded to ensure it captures all potential future uses given this is the second request to come back and amend this statement of intent in less than a 12-month period of time. So while a medical marijuana facility's testing and if -- if this approved, testing would be added in the medical marijuana dispensary facility has permitted or has been approved for use on this site. The statutory requirements and the opening for licensure of either facilities has come and gone. So the maximum number of permits within the congressional district for medical marijuana facilities has been exceeded, so additional medical marijuana dispensary facilities would not be likely. And given the State's desire to have a restricted number of testing facilities, which there were only two, if I recall correctly, in the legislation. One has been permitted and I'm not sure if the other one is at this point. But, as well, there is licensure -- there was a licensure window for that, and both have closed.

MS. GEUEA JONES: That's why I'm asking, because it -- it seems to me that it was a moot question.

MR. ZENNER: It is to the extent that there's an immediate likelihood of something. However, given the nature of the site and its prominent location, the possibility for the State to revise the maximum number of licensures to be issued within the congressional districts is unknown, and they just want to be able to have an opportunity should that -- should an opening occur to be able to apply for either a dispensary licensure or possibly a testing facility licensure, both of which are subject to a whole series and litany of requirements at the State level.

MR. TOOHEY: Ms. Carroll?

MS. CARROLL: Okay. Reviewing -- Mr. MacMann, you're referring to tie vote back in 2019 on the dispensary addition; is that correct?

MR. MACMANN: That's the question I was asking.

MS. CARROLL: Okay. And do we remember from -- I guess, from the current review or from back then, is this a two-story?

MR. PALMER: Yes.

MS. CARROLL: Okay. Do we have the square footage?

MR. PALMER: Not in front of me, no.

MS. CARROLL: Okay. That's the extent of my questions. Thank you.

MR. ZENNER: The PD plan as it exists today, however, does have a maximum square footage limitation. When the addition was added, there was an addition that was put on. That's the Plan 2 that was referred to in the report. That is to the southwest of the property, which was for some parking. And I believe there's an existing residence on the property at this point. The square footage, however, is pretty well established. The building is not being proposed to be modified in any form or fashion. It's just trying to expand that use list to accommodate the personal services.

MS. CARROLL: I'm just trying to get a perspective of the property and the future of the property. What is -- do you know what that max square footage is?

MR. ZENNER: Unfortunately, I do not. I just know there is one established, and anything beyond that maximum square footage would require another major amendment to the PD coming back before this body and through a full public process.

MS. CARROLL: Okay. Thanks.

MR. TOOHEY: Ms. Burns?

MS. BURNS: Circling back, Mr. Palmer, you said that the use would be similar to Walt's Bike Shop or the design studio that's in the area, law offices, but maybe I misunderstood. Mr. Zenner, did you say that they needed to add this revised statement because the use is not included in those uses?

MR. ZENNER: No. The use is not included in the current statement of intent. It is restricted generally to office uses pursuant to the O-P zoning district of 1987 in O1 uses, which do not have any personal service -- barber shop, beauty salon --

MS. BURNS: Okay.

MR. ZENNER: -- or anything included within that grouping of uses. So the ability to be able to have those personal services that have maybe the minor retail, it -- that's really the more -- the bigger thrust of this request than it is to have the medical marijuana given other regulatory requirements.

MS. BURNS: Thank you. I was just concerned about the use and why we were adding maybe a use that wasn't permitted, but I understand now. Thank you.

MR. TOOHEY: Mr. MacMann, do you have a follow up?

MR. MACMANN: Yes. Real quickly, for Ms. Carroll. If you'll notice that the site is quite small, and the building couldn't get much bigger given an office use, just, you know, the parking and things like that and driveways.

MS. CARROLL: I was going -- (inaudible).

MR. TOOHEY: Ms. Carroll, can you speak in the microphone?

MS. CARROLL: I'm sorry. Thank you, Mr. MacMann. I was going to take the max square footage of the ballpark approximate of what it's likely currently at.

MR. MACMANN: Okay. That's --

MR. TOOHEY: Any other questions for Mr. Palmer or Mr. Zenner? All right. Seeing none, we'll go ahead and open the public hearing.

PUBLIC HEARING OPENED.

MR. TOOHEY: If anyone from the public would like to come up and provide us more information in this case, please do so. Please know that you -- if you're speaking on behalf of yourself, you have three minutes. If you're speaking for a group, you have six, and please state your name and your address before speaking clearly into the microphone.

MR. BECKETT: I'm Dan Beckett, and I'm an attorney with Smith Lewis, with offices in Columbia, and I represent the applicant, Boone Development, Inc. And I just wanted to expand on what Mr. Zenner shared with you. We agree everything -- with everything that was in Mr. Palmer's report. And I'd just like to state that what spurred this request is we have a prospective tenant that wants to operate an esthetician business on the second floor. Currently, the building is occupied by a real estate brokerage firm, and this esthetician business we thought was permitted under office use. It's not, so we needed to expand the use to include personal services - general. At the time the application was submitted, we thought we would go ahead at the time because we had already been previously approved for a medical marijuana dispensary business, that we would see what we could do about expanding the use to including a medical marijuana testing facility. I understand that that's expanding the use to include testing facilities is a little bit more contentious than personal services - general, so we would ask the -- the Commission to consider both separately, if you would, if you're hesitant or reluctant to agree to both expanded uses, to consider them separately because we're more concerned with getting this Commission's approval with respect to the personal services - general. And I'm here with Tyler Simpleton, who is a representative of the applicant, as well, should you have any questions for either of us.

MR. TOOHEY: Any commissioners have any questions for Mr. Beckett? Mr. MacMann?

MR. MACMANN: Just real short. Previously, my concern, and it was a no vote last time, was the traffic flow -- traffic-flow business here if it was a full-service marijuana place would be the dispensary. Your testing services don't bother me at all. Just FYI.

MR. BECKETT: Thank you.

MR. TOOHEY: Any other questions? Thank you, Mr. Beckett.

MS. GEUEA JONES: I'm sorry.

MR. TOOHEY: Oh. I'm sorry. Ms. Geuea Jones?

MS. GEUEA JONES: I'm way over here in the corner. To be -- so to be clear, your -- what you actually want to do is rent the second floor to an esthetician?

MR. BECKETT: Yes, ma'am. That's our aim.

MS. GEUEA JONES: You're just also trying to expand it to anything and everything?

MR. BECKETT: Well, in the event -- because we are interested in pursuing expanding --

MR. TOOHEY: Mr. Beckett, can you speak in the microphone?

MR. BECKETT: Yes, ma'am. Because we are interested in expanding and it would entertain the likelihood of accommodating a tenant that -- that was awarded a medical marijuana testing license. If we could accommodate them, we would like it.

MR. TOOHEY: Anyone else? Are there any additional speakers who would like to come forward? If not, we'll go ahead and close the public hearing.

PUBLIC HEARING CLOSED

MR. TOOHEY: Commissioners, any discussion, additional questions for staff? Ms. Carroll?

MS. CARROLL: I'm amenable to both of the motions to clarify. I think that based on zoning, it's perfectly suitable for marijuana testing. I question the feasibility, but I don't have a problem with the zoning request for clarification.

MR. TOOHEY: Mr. Stanton?

MR. STANTON: This seems pretty cut and dry. The market will determine if the marijuana uses will be feasible or not. There's enough regulations and stipulations in place. They're either going to meet those or they're not. I simply see this as a -- as a property owner making his property as appealing to as many groups as he possibly can and that's how I see this. So the market and the current regulations will determine if marijuana dispensary or testing facilities would be housed in this area.

MR. TOOHEY: Mr. MacMann?

MR. MACMANN: If there are no other comments --

MS. GEUEA JONES: Well -- sorry.

MR. TOOHEY: Oh, we've got one. Ms. Geuea Jones?

MS. GEUEA JONES: The -- I guess I don't know why I feel compelled to say, but I feel compelled to say that I agree with Mr. Stanton that I don't -- I honestly do not think they can put a medical marijuana testing facility in that location. I don't think they've got the space to do it, and I don't think the other tenants would want them to. It is a very different proposition than a dispensary. However, that's not our role and there are hundreds of pages of regulation that will answer that question that are not before us. So, I mean, if they want to throw it in there just for funzies, I suppose that's fine.

MR. TOOHEY: Anyone else? Mr. MacMann?

MR. MACMANN: If there are no other comments or questions, in the matter of Case 149-2020 [sic], a major amendment to the PD plan for Schapira Clinic, I move to approve.

MS. RUSSELL: Second.

MR. TOOHEY: Second was Ms. Russell. Any other further discussion? If none, Ms. Burns.

MS. BURNS: Yes.

Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Burns, Ms. Carroll, Mr. MacMann, Mr. Stanton, Ms. Geuea Jones, Ms. Rushing, Ms. Russell, Mr. Toohey. Motion carries 8-0.

MS. BURNS: Eight to zero, motion carries. Recommendation will be forwarded to City Council.

MR. TOOHEY: Thank you, Ms. Burns. Now with that, we're done with those agenda items.