

**EXCERPTS**

**PLANNING AND ZONING COMMISSION MEETING**

**COLUMBIA CITY HALL COUNCIL CHAMBER**

**701 EAST BROADWAY, COLUMBIA, MO**

**OCTOBER 10, 2019**

**Case Number 190-2019**

**A request by Agape Total Healthcare of Missouri, LLC (applicant) to revise the existing Statement of Intent for Centerstate Plat 6, Lot 1, to permit a medical marijuana dispensary. The subject 1.5-acre site is located at 3310 Vandiver Driver and improved with the former Ruby Tuesday.**

MS. LOE: May we have a staff report, please.

Staff report was given by Mr. Rusty Palmer of the Planning and Development Department. Staff recommends approval of the revised statement of intent applicable to only Centerstate Plat 6, Lot 1, so as to allow a permit for a medical marijuana dispensary facility on the subject property.

MS. LOE: Thank you, Mr. Palmer. Are there any questions of Mr. Palmer? Mr. MacMann?

MR. MACMANN: I have a question for Attorney Caldera, if that's possible. Mr. Caldera, I'm going to ask you to speculate a little bit here, if possible. What are our chances in getting entangled in this Menard's versus Centerstate thing?

MR. CALDERA: I assume you're talking about some form of litigation?

MR. MACMANN: Correct.

MR. CALDERA: Don't know, and I don't want to speculate. I will say that Rusty did point out that there's a private covenant and, at this point, there has not been, that I'm aware of, any court action that's enjoined us from acting tonight. So like in other situations where there's a private agreement between the entities, it's between them to fight out unless they get a court to enjoin us from acting, and so far, no one has done that.

MR. MACMANN: All right. I just wanted to know where the chips might fall. Thank you very much.

MS. LOE: Any additional questions of staff? Seeing none, we will open up the floor to public comment on this case.

**PUBLIC HEARING OPENED**

MS. LOE: If anyone would like to offer comment on this case, you're welcome to do so. Please come forward and give your name and address for the record. You're limited to three minutes. If you're speaking for a group, you will be given six minutes. Oh, sorry. Thank you, Ms. Burns. I have been remiss in asking Commissioners if they have had any ex parte related to this case, to please disclose that before we proceed any further so all Commissioners may have the benefit of the same information. I see none. Thank you. Please.

MR. NATIONS: Thank you very much, Madam Chair. Good evening, members of the Commission. My name is John Nations; I'm a lawyer with the firm of Evans & Dixon. We have offices here in Columbia, and I represent the petitioner. I am joined here this evening by Mr. Jay Perez of Agape Total Healthcare. Mr. Perez is here in the second row. And I really can't present the case any better than Mr. Palmer did. It's just simply an amended statement of intent. I would say with regard to the Menard's issue, that is a private matter. It is a private contract and the ability of the City to use its powers to enforce a private contract is generally a place where the City would not and should not go. I have extensive experience particularly in that matter. I have been a Planning Commissioner, a City Councilman, and a Mayor, and I've dealt with a lot of development issues and a lot of private contracts over the year, but that would -- we frankly don't agree with Menard's position, just for the record, and with everything that's gone on, we are prepared to comply with all of the requirements of the City of Columbia and we just are asking simply for an amended statement -- for a statement of intent to add the use as is previously approved by the City of Columbia under the mixed-use category, to simply add a medical marijuana dispensary facility, and we would ask for your recommendation of approval.

MS. LOE: Thank you. Are there any questions for this speaker? I see none at this time. Thank you.

MR. NATIONS: Thank you.

MS. LOE: Are there any additional speakers who would like to comment on this case? Seeing none, we will close public comment.

#### **PUBLIC HEARING CLOSED**

MS. LOE: Commissioner discussion? Mr. MacMann?

MR. MACMANN: The only reason I brought up the Menard's letter is there have been various -- and I agree, by the way, before I go on. I agree with this gentleman who just spoke and I agree with our esteemed counsel. I do find it troublesome when people toss lawsuit threats around or intimate that, and I think it very problematic because I think we're just doing the people's business here, and we have no desire to be entangled in private matters either.

MS. LOE: Any additional -- Mr. Stanton?

MR. STANTON: I would like to entertain a motion.

MS. LOE: I'm sure we'll join you in that. Would you like to make that motion for us to entertain?

MR. STANTON: I would.

MS. LOE: Thank you.

MR. STANTON: As it relates to Case 190-2019, Centerstate Ruby Tuesday PD Plan major amendment, I move to approve the amended statement of intent for Centerstate Crossing Ruby Tuesday PD Plan.

MR. MACMANN: Second.

MS. LOE: Second by Mr. MacMann. We have a motion on the floor. Any discussion on that motion? I see none. Ms. Burns, may we have roll call, please.

MS. BURNS: Yes.

**Roll Call Vote (Voting "yes" is to recommend approval.) Voting Yes: Ms. Carroll, Ms. Loe, Mr. MacMann, Mr. Stanton, Mr. Toohey, Ms. Burns. Motion carries 6-0.**

MS. BURNS: Six to zero, motion carries.

MS. LOE: Thank you, Ms. Burns. Recommendation for approval will be forwarded to City Council.