



Department Source: Community Development - Planning

To: City Council

From: City Manager & Staff

Council Meeting Date: November 4, 2019

Re: Lot 1 of Centerstate Plat 6 – Major Plan Amendment (Case 190-2019)

Executive Summary

Approval of this request would result in the adoption of a new Statement of Intent (SOI) for Lot 1 of Centerstate Plat 6 that would add a medical marijuana dispensary as an allowed use on the subject property in addition to all M-C (Mixed-use Corridor) uses. The subject property is improved with the former Ruby Tuesday restaurant as shown on the 2004 "Ruby Tuesday C-P Development Plan."

Discussion

The applicant, Agape Total Health Care of Missouri, LLC, seeks a major amendment to the existing Planned District plan for Lot 1 of Centerstate Plat 6 ("Centerstate Crossings Ruby Tuesday C-P Development Plan") to add a medical marijuana dispensary as a permissible use to the existing 1999 Statement of Intent (SOI) governing the site. The amendment does not propose to adjust any other site features such as parking, landscaping, and setbacks. If approved, the existing building would be used for a medical marijuana dispensary subject to State and local licensure.

The existing SOI authorizes development consistent with the former C-3 zoning district (now M-C) with the exception of halfway houses, farm machinery sales and services, drive-in theaters, and machine shops on approximately 25 acres of the Centerstate development. The amendment would apply to only the 1.5 acre subject site and would update the permitted use list by specifically permitting all M-C uses allowed under the current UDC. Furthermore, the amended SOI includes all previously approved site design parameters.

Following advertising of this request, staff received correspondence from the legal representation of Menard, Inc., indicating that all Centerstate Crossings properties were subject to private covenants and restrictions expressly prohibiting any property from being improved with "head shops" or "other businesses selling drug paraphernalia." Staff does not find that the proposed SOI revision falls within restricted uses given that proposed dispensary use is a licensed business by the State for the purposes of distributing a medically prescribed product. Furthermore, pursuant to Section 29-1.7 of the Unified Development Code enforcement of private covenants and restrictions are a civil matter.

Staff considers dispensaries similar in function to a pharmacy or a retail operation which would otherwise be permitted uses within the existing PD pursuant to the uses allowed by the SOI. It should be further noted that upon approval of Columbia's local medical marijuana regulations, dispensaries were permitted in the M-C, M-DT, and I-G districts subject to the use-specific standards found in Section 29-3.3(qq) of the UDC. The adopted use-specific



standards provide opportunities to protect and mitigate any impacts that such a business may create on surrounding land uses.

The necessity to amend the SOI for the subject site is borne out of the distinction made between the proposed use and other "general retail" uses that operate in a similar manner. Since medical marijuana dispensaries are identified in the Permitted Use Table as a unique use it must be added to the list of permitted uses within the SOI.

The Planning and Zoning Commission considered this case at its October 10, 2019 meeting. Commissioners asked for clarification on the City becoming a party to legal action taken by Menard, Inc. Staff responded that the restrictions were a private contract and that the City was not obligated to enforce them unless enjoined by a court to do so. The applicant introduced themselves and responded to questions. Following limited discussion, the Commission voted to approve the SOI amendment (6-0).

The Planning and Zoning Commission staff report, locator maps, proposed Statement of Intent, approved C-P development plan, public correspondence, and meeting excerpts are attached for review.

Fiscal Impact

Short-Term Impact: None anticipated within the next two years.

Long-Term Impact: None anticipated.

Strategic & Comprehensive Plan Impacts

Strategic Plan Impacts:

Primary Impact: Not Applicable, Secondary Impact: Not Applicable, Tertiary Impact: Not Applicable

Comprehensive Plan Impacts:

Primary Impact: Economic Development, Secondary Impact: Land Use & Growth Management, Tertiary Impact: Not Applicable

Legislative History

Date	Action
12/7/2004	Approved: "Ruby Tuesday C-P Development Plan" (Ord. 018326)
3/15/1999	O-P to C-P Rezoning (Ord. 015916)

Suggested Council Action

Approve the revised statement of intent for Lot 1 of Centerstate Lot 1, Plat 6 ("Ruby Tuesday PD Plan") as recommended by the Planning and Zoning Commission.