

**AGENDA REPORT  
PLANNING AND ZONING COMMISSION MEETING  
October 10, 2019**

**SUMMARY**

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 Drive and improved with the former Ruby Tuesday. **(Case 190-2019)**

**DISCUSSION**

The applicant is seeking a major amendment to the existing Ruby Tuesday C-P (now PD) Development Plan at Centerstate Crossing, to permit a medical marijuana dispensary to be included in the Statement of Intent (SOI) governing the uses allowed on the property. The subject site was rezoned as part of the larger Centerstate Crossing development in 2004, to C-P. Pursuant to the 2004 rezoning and SOI, the subject site was permitted to be improved with all uses within the former C-3 district (now M-C) with the exception of halfway houses, farm machinery sales and services, drive-in theaters and machine shops. The excepted uses are now conditional uses within M-C zoning district. Additionally, given that medical marijuana uses were not part of the zoning code in 2004 a major amendment to the planned district is necessary to permit the desired use.

The proposed dispensary would be located in the existing building on the site and all other site design aspects (parking, landscaping, and setbacks) are to remain unchanged and governed by the approved PD plan for Lot 1 of Plat 6. The requested amendment proposes to create a site specific SOI for the subject property that seeks approval of all M-C uses, inclusive of medical marijuana dispensaries, on the site. The proposed SOI also includes all previously approved site design parameters such as parking, landscaping, and setbacks. Approval of the revised SOI will not impact any other lot within Centerstate Crossing or that is subject to the existing SOI.

Upon public advertising of this request, staff has received correspondence from the legal representation of Menard, Inc., indicating that all Centerstate Crossings property owners had entered into private covenants and restrictions that limited uses on the property which expressly forbids “head shops” or “other businesses selling drug paraphernalia”. Pursuant to Section 29-1.7 of the Unified Development Code enforcement of private covenants and restrictions are a civil matter and the City is not obligated to enforce the provisions therein.

While staff acknowledges that the overall Centerstate Crossing has the aforementioned use restrictions, it does not find that proposed addition of a medical marijuana dispensary is either a “head shop” or a “business selling drug paraphernalia”. The proposed use is licensed by the State of Missouri for distribution of medically prescribed marijuana products.

Staff considers dispensaries to be 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. As stated, it is staff’s belief that the adopted use-specific standards provide opportunities to mitigate the potential impacts this use may create and that the use is considered consistent with the other retail business permitted within the overall Centerstate Crossing development.

The proposal has been reviewed by staff, and meets all applicable City zoning standards.

## **RECOMMENDATION**

Approve the revised statement of intent applicable to only Centerstate Plat 6, Lot 1, so as allow a permit a medical marijuana dispensary facility on the subject property.

## **ATTACHMENTS**

- Locator maps
- Revised Statement of Intent
- Approved “Ruby Tuesday C-P Development Plan at Centerstate Crossing”
- Public Correspondence

## **HISTORY**

<b>Annexation date</b>	1966
<b>Zoning District</b>	PD (Planned District)
<b>Land Use Plan designation</b>	Commercial District
<b>Previous Subdivision/Legal Lot Status</b>	Lot 1, Centerstate Plat 6

## **SITE CHARACTERISTICS**

<b>Area (acres)</b>	1.5 acres
<b>Topography</b>	Generally flat
<b>Vegetation/Landscaping</b>	Developed, installed landscaping
<b>Watershed/Drainage</b>	Perche Creek, Hinkson Secondary
<b>Existing structures</b>	Ruby Tuesday building, now vacant

## **UTILITIES & SERVICES**

<b>Sanitary Sewer</b>	City of Columbia
<b>Water</b>	
<b>Fire Protection</b>	
<b>Electric</b>	

## ACCESS

Vandiver Road	
Location	Approximately 600' northwest of the property, via private streets
Major Roadway Plan	Major Arterial (Improved & City-maintained) 53 ft ½ width ROW
CIP projects	N/A
Sidewalk	Installed

## PARKS & RECREATION

Neighborhood Parks	N/A
Trails Plan	N/A
Bicycle/Pedestrian Plan	N/A

## PUBLIC NOTIFICATION

All property owners within 200 feet and City-recognized neighborhood associations within 1,000 feet of the boundaries of the subject property were notified of a public information meeting, which was held on August 27, 2019.

Public information meeting recap	Number of attendees: 0 Comments/concerns: N/A
Notified neighborhood association(s)	Mexico Gravel Neighborhood Association
Correspondence received	Letter from Menard, Inc. (attached)

Report prepared by Rusty Palmer

Approved by Patrick Zenner