



PLANNING COMMISSION MEETING CITY HALL COUNCIL CHAMBERS MAY 28, 2019

MINUTES

The regular meeting of the Arnold Planning Commission was called to order by Chairman Andrew Sutton at 7:00 p.m. The Pledge of Allegiance was recited by those in attendance.

ROLL CALL OF COMMISSIONERS: Del Williams, John Tucker, Brian McArthur (excused), Alan Bess, Frank Kutilek, Jeff Campbell, Andrew Sutton, Chris Ford (excused), Justin Lurk, David Bookless, Sarah Turner (excused), Christie Hull-Bettale and Bob Sweeney (excused). 7 voting members present, 2 excused.

REVIEW AND APPROVAL OF AGENDA: Motion by Jeff Campbell to approve the agenda as presented. Second by Justin Lurk. Voice Vote – *Unanimously Approved.*

APPROVAL OF MINUTES: Motion by Jeff Campbell to approve the minutes from the April 9, 2019 meeting as presented. Second by Del Williams. Voice Vote - *Unanimously Approved.*

PUBLIC COMMENT: Bill Fogarty, 1000 Millstone Crossing, House Springs, MO, introduced himself. His business, Fogarty Services, Inc., is moving to 1101 Intagliata Dr. They are a full service production company and look forward to moving to the area.

Tim Spencer, Spencer Contracting, 3073 Arnold Tenbrook, is the applicant for the appeal from the fencing standards and is there to answer any questions.

PUBLIC HEARINGS:

- **2019-14: CITY INITIATED ORDINANCE AMENDING CHAPTER 405, ZONING, OF THE CODE OF ORDINANCES, CREATING DEFINITIONS BY ESTABLISHING DEFINITIONS AND REGULATIONS RELATED TO MEDICAL MARIJUANA-RELATED ENTITIES, AS DEFINED BY THE STATE OF MISSOURI, ELECTRONIC CIGARETTE SHOPS, AND TOBACCO SHOPS:** David Bookless referred to Amendment 2 and commented that the State spells out what cities can and cannot do with respect to regulating medical marijuana entities:

- Local governments can impose a maximum proximity distance of 1,000 feet from churches, elementary schools, secondary schools and other dispensaries.
- Local governments can enact further regulations as long as they are not unduly burdensome.

David then referred to the draft ordinance stating that all the definitions were word for word from what the state provided except two.

- Staff decided to split the medical marijuana cultivation facility to indoor and outdoor.
- Staff created a definition for tobacco, nicotine, and other legal substance establishment to define that these establishments are not “head” shops.

Staff's Recommendations:

- Since dispensaries are expected to serve the broader regional marketplace, Staff recommends permitting dispensaries only in the “C-3 and “C-4” Commercial Zoning Districts by Conditional Use Permit.
- Staff recommends the proximity requirement be dropped from 1,000 feet to 250 feet; however, we would include parks and residential districts as “protected uses.”

- Staff recommends maintaining a 1,000 foot separation between dispensaries to avoid clustering of such uses that might alter the character of the neighborhood or corridor.
- Staff recommends 15 parking spaces per 1,000 square feet gross floor area.
- Staff recommends including a proximity requirement for outdoor cultivation facilities which could possibly have an odor associated with it.
- Staff recommends that electronic cigarette shops/tobacco shops be located no closer than 250 feet to primary and secondary schools, residential districts, and public parks. Staff also recommends establishing a 1,000 foot separation between these shops as a way to prevent clustering.

Jeff Campbell referred to the parking space issue and suggested adding plus one additional space for each employee on the maximum shift and one space for each vehicle utilized in the day-to-day operation of the facility.

Frank Kutilek asked what the traffic study indicated. Mr. Bookless stated that Colorado being the first state to legalize marijuana, everyone ascended there so the numbers might be a little inflated. However, he believes the demand will be greater.

John Tucker referred to the maps and questioned one of the possible locations being right across from Fox School. Mr. Bookless stated that since a Conditional Use Permit would be required, they may not meet all the criteria.

Justin Lurk questioned how large these dispensaries usually are. Mr. Bookless stated they could be 1,000 to 5,000 square feet or less if they're in a strip center.

Frank Kutilek confirmed that they will not be able to sell from the manufacturing facility. Mr. Bookless stated they can sell only from the dispensaries.

John Tucker asked about CBD oil. Mr. Bookless stated that CBD oil is not covered in this ordinance. Since the oil does not have the THC in it which is the ingredient that gets you high, there are no regulations.

Andrew Sutton asked if the gross floor space was just the retail space or the entire space. Mr. Bookless stated the gross floor space is the entire space.

Andrew Sutton questioned if the distance from a school was figured from the building or the campus. Mr. Bookless stated from the building. The way it is measured is the same as for liquor stores which is door to door. Andrew suggested making it from the school campus and took a poll.

Andrew Sutton asked the rationale for lowering the distance from 1,000 feet to 250 feet. Mr. Bookless stated as measured by the requirements of the state, it made little difference going door to door.

Andrew stated he would like to add the condition that it cannot be within 1,000 feet of a liquor store.

Andrew Sutton asked if we will prohibit deliveries. Mr. Bookless stated we cannot prohibit deliveries but it can only be delivered to residents of Arnold.

John Tucker asked if it would be possible for a liquor store to sell medical marijuana as well as liquor. Mr. Bookless stated they potentially could. The way licenses will be issued for dispensaries at least this year, will be based on congressional district. So in our area you will probably see two dispensaries but it could be more in the future. The state issues the license all the city can do is help direct where they are located.

Del Williams commented that this is all new and being too restrictive may be foolish at a later date.

There being no further questions or comments, the public hearing adjourned at 8:40 p.m.

OLD BUSINESS: None

NEW BUSINESS:

- a. **2019-14: CITY INITIATED ORDINANCE AMENDING CHAPTER 405, ZONING, OF THE CODE OF ORDINANCES, CREATING DEFINITIONS BY ESTABLISHING DEFINITIONS AND REGULATIONS RELATED TO MEDICAL MARIJUANA-RELATED ENTITIES, AS DEFINED BY THE STATE OF MISSOURI, ELECTRONIC CIGARETTE SHOPS, AND TOBACCO SHOPS:** Motion by Andrew Sutton to table 2019-14 for further review. Second by Jeff CAMPBELL. Roll call vote: Justin Lurk, yes; Alan Bess, yes; John Tucker, yes; Frank Kutilek, yes; Jeff Campbell, yes; Del Williams, no; Andrew Sutton, yes. 6 yeas, 1 nay – *Motion Approved.*
- b. **2019-20: COMMERCIAL SITE PLAN FOR 1101 INTAGLIATA RD.:** Christie Hull-Bettale presented the application which is seeking approval of a proposed Commercial Site Plan. The proposed warehouse for event and production services is within the “M-2” Industrial Zoning District. The JK Miller Industrial Subdivision was approved in 2005 consisting of 7 Lots. This owner recently consolidated JK Miller Lots 2 and 3 into what is now known as Lot 2A. The Zoning District is mostly “M-2” Industrial, with a small portion at the northeast corner zoned “FP” Floodplain. The proposal is for property zoned “M-2” Industrial and the use, warehouse building, is a use by right which is allowed within this district, conditioned that zoning and other requirements are met.

Proposed is a 25,600 SF tilt-up concrete, painted building that will be used for office and warehousing of equipment used. The building colors are indicated as dark green-border along the roof, white—the cast aluminum lettering for the “FOGARTY”, light gray—the wall, and the appearance of dark gray (due to shadowing effect)—the joints of the tilt up panels.

This plan indicates the customer and employee parking area to be paved, having a total of 12 spaces exceeding the requirement of 8. The loading spaces are not described within these plans; however, 7 spaces @ 10’ X 60’ are required. As shown on the plan, the 70’ X 83’ concrete pad is sufficient to fulfill the loading needed.

The lighting plan was not included within this submittal. Should there be a plan for exterior lighting either via pole or wall mounted; approval by staff will be required.

As noted on plan sheet C1, mechanical equipment will be located on the rooftop and its visibility is a concern. The applicants engineer or architect should address this concern, as it is not clear if the equipment will be screened behind a parapet wall.

Landscape plan is provided and the proposal includes well above the minimum requirements for the Industrial Zoning District.

Want to mention that the Engineer submitted an official response to the staff Recommendation.

Staff recommends the Planning Commission approve the commercial site plan with the following conditions:

1. The exterior lighting plan, if any, requires staff review for compliance.
2. The mechanical equipment should be screened, located behind parapet wall or as described further by Planning Commission.
3. The wall sign or other related sign is subject to staff review and permitting.
4. Should there be a future need for an exterior trash receptacle; it shall be located on-site, out of the path of vehicular and pedestrian circulation, and screened by a sight-proof enclosure that is complimentary to the material of the primary building.

Written response from the Engineer to Planning Commission's Recommendation:

1. There are no proposed parking lot poles for site lighting; exterior walls will have LED wall packs for site security lighting. Christie suggested rewording condition number one to include no bare bulbs, the need to be shielded or down casted.
2. All HVAC mechanical equipment is to be place on roof at least 20 feet from perimeter edge of roof. Christie stated that our concern is we don't want to see the equipment from the right of way and the further you go away from the building the higher chance you'll have of seeing it. Christie recommends retaining condition number two.
3. They understand wall signage requires a separate permit.
4. The trash receptacle is going to be inside but if they decide to bring it outside, it will need to be screened.

Jeff Campbell agrees with Christie's suggestion regarding the lighting.

Justin Lurk concerned if down casted lighting will light the parking lot. With regard to the rooftop unit, Justin asked if the base line is a parapet wall.

Robert Hediger, 7113 Carverview, Oakville, MO, stated that it is very minor parapet.

Justin Lurk asked that they make sure there is enough room for trucks to back up and turn around.

David Bookless commented that the applicant has been happy to accommodate all of our requests.

Motion by Jeff Campbell to approve 2019-20, Commercial Site Plan for 1101 Intagliata with the following four (4) amended conditions:

1. The exterior lighting plan, if any, requires staff review for compliance. For any wall lighting there should be no bare bulbs. They need to be shielded or down casted.
2. The mechanical equipment should be screened, located behind parapet wall or as described further by Planning Commission.
3. The wall sign or other related sign is subject to staff review and permitting.
4. Should there be a future need for an exterior trash receptacle; it shall be located on-site, out of the path of vehicular and pedestrian circulation, and screened by a sight-proof enclosure that is complimentary to the material of the primary building.

Second by Frank Kutilek. Roll call vote: Justin Lurk, yes; Alan Bess, yes; John Tucker, yes; Frank Kutilek, yes; Jeff Campbell, yes; Del Williams, yes; Andrew Sutton, yes. 7 yeas, 0 nays – *Motion Approved.*

- c. **2019-21: VARIANCE REQUEST, APPEAL TO THE FENCING STANDARDS WITH REGARD TO THE HEIGHT, 1101 INTAGLIATA:** Christie Hull-Bettale presented the variance request.

The 2.21 acre parcel is located south of the intersection of Intagliata Dr and Arnold Tenbrook Rd. The property is developed with a building, parking lot and space for outside storage.

In 2014 Spencer Contracting made a previous variance request, which was approved. The variance permitted relief from the required fence setback on both frontages along Arnold Tenbrook Rd and Intagliata Dr.

The property is zoned "M-2" Industrial which permits the contracting company and its outside storage. The property has multiple frontages along its boundaries, including Intagliata Dr. to the north and Arnold Tenbrook to

the east allowing the outdoor storage to be very visible. The Applicant, has been asked by neighboring owners, to improve the appearance of the storage yard fence in order to mitigate the visual impact associated with its contents. The Industrial District's screening is not a zoning requirement unless specifically adjacent to residential. However, Mr. Spencer wants to be a good neighbor and business owner in fulfilling the request, leading to this appeal.

The appeal is to the height requirements for fencing on a multiple frontages on this lot in the "M-2" Industrial District. The request is to construct a new 8 foot fence in the same location as the current 6 foot chain link fence which location was approved by a previous variance in 2014. Additionally, fabric will be attached for screening.

The proposed variance would allow replacement of a fence of inadequate height. The replacement is for the enhancement of the property, to screen the taller storage more completely and added fabric will conceal the contents which the existing plain chain-link does not. This new fence and screening will improve the look; therefore, mitigating the negative visual impact of the storage yard. Satisfying the comprehensive **ECONOMIC DEVELOPMENT POLICY 3.0** STRENGTHEN AND REINVEST IN THE COMMERCIAL AND INDUSTRIAL AREAS IN ORDER TO CREATE GREATER VITALITY.

CONDITIONS:

1. The chain-link fence cannot exceed 8 foot in height with fabric attached for screening purposes.
2. The fence and fabric must be maintained in a rust and tear free manner.
3. Two street trees along Intagliata Drive that are dead must be replaced.

Staff recommends the Commission approve the variance with above conditions.

Motion by Jeff Campbell to approve 2019-21, variance request, appeal to the fencing standards with regard to the height at 1101 Intagliata with the following three (3) conditions:

1. The chain-link fence cannot exceed 8 foot in height with fabric attached for screening purposes.
2. The fence and fabric must be maintained in a rust and tear free manner.
3. Two street trees along Intagliata Drive that are dead must be replaced.

Second by Frank Kutilek. Roll call vote: Justin Lurk, yes; Alan Bess, yes; John Tucker, yes; Frank Kutilek, yes; Jeff Campbell, yes; Del Williams, yes; Andrew Sutton, yes. 7 yeas, 0 nays – ***Motion Approved.***

STAFF UPDATE: Christie Hull-Bettale – no report

David Bookless – gave an update of what will be on the next agenda:

- Medical Marijuana Ordinance
- Proposed amendments to the site plan review requirements and procedures.
- A zoning request to amend and replace the "C-4" Planned Commercial District at 3405 Robinson Rd. to allow for a Plumber's Supply Company.
- A Conditional Use Permit for the construction of a single-family house in a "FP" Floodplain District.

David also gave an update of the International Council of Shopping Centers annual National Conference he just attended.

COMMISSIONERS UPDATE: Frank Kutilek – happy to see Mod Pizza put in the crosswalk; noticed the furniture store on Church Rd. didn't last long.

John Tucker – still no arrows by Dierbergs – Christie will follow up again.

Alan Bess – no report

Jeff CAMPBELL – no report

Justin Lurk – asked if there has been any interest in the old Ruby Tuesdays building. David stated there are problems with that property. Great location but there are some lease issues.

Del Williams – complimented the new aluminum fence going around St. John's Lutheran Church.

Frank Kutilek – commented that the flower planters at Old Lemay Ferry and Missouri State Rd. look beautiful but the light standards have tape hanging from the signs people continue to put up. He suggested that when a sign goes up and there is a phone number on it, track the number and send them a ticket.

NEXT SCHEDULED MEETING: June 25, 2019

ADJOURNMENT: Meeting adjourned at 8:13 p.m.

Respectfully Submitted,



Alan Bess
Planning Commission Secretary

**PLANNING COMMISSION
ROLL CALL SHEET**

DATE: 5/28/2019							
CALLED TO ORDER: 7:00 P.M.							
ADJOURNMENT: 8:13 P.M.							
	ROLL CALL	2019-14 - TABLE	2019-20 - APPROVED	2019-21 - APPROVED			
CHRIS FORD	EXCUSED						
JUSTIN LURK	P	Y	Y	Y			
BRIAN MCARTHUR	EXCUSED						
ALAN BESS	P	Y	Y	Y			
JOHN TUCKER	P	Y	Y	Y			
FRANK KUTILEK	P	Y	Y	Y			
JEFF CAMPBELL	P	Y	Y	Y			
DEL WILLIAMS	P	N	Y	Y			
ANDREW SUTTON	P	Y	Y	Y			
DAVID BOOKLESS	P	NO VOTE					
SARAH TURNER	EXCUSED	NO VOTE					
CHRISTIE HULL-BETTALE	P	NO VOTE					
CITY ATTORNEY ROBERT SWEENEY	EXCUSED	NO VOTE					