

The City of Lee's Summit

Action Letter

Planning Commission

Thursday, June 27, 2019

5:00 PM

City Council Chambers

City Hall

220 SE Green Street

Lee's Summit, MO 64063

Call to Order

Roll Call

Present: 6 - Board Member Carla Dial
Board Member Jason Norbury
Board Member Don Gustafson
Board Member Donnie Funk
Board Member Jeff Sims
Board Member Mark Kitchens

Absent: 3 - Board Member Dana Arth
Board Member Jake Loveless
Board Member John Lovell

Approval of Agenda

A motion was made by Board Member Funk, seconded by Board Member Dial, that this agenda be approved. The motion carried unanimously.

Public Comments

Ms. Monica Meeks stated that she was the prevention coordinator for Lee's Summit CARES, as well as a member of the Lee's Summit Health and Education advisory board. She thanked the Planning Commission and City staff for taking a deliberative approach to zoning marijuana businesses. The Commission had responded to youth data and community concerns when the Board had asked them to work with City staff on regulations.

As the Commission considered tonight's suggestions please keep Lee's Summit youth in mind. Thoughtful zoning helped restrict youth access. The City had the authority to ensure that the zoning put public safety and public health first. She had research that she hoped the Commission would consider in decisions about zoning regulations. Ninety percent of Americans who were addicted to various substances started using them before the age of 18. States with legal medical and recreational marijuana had higher marijuana use by youth. Missouri law now permitted 18 year olds with medical marijuana cards to purchase it. Some of these 18 year olds were in high school and that made it more likely that younger teens would have access. Youth living in states with legal medical or recreational marijuana use were likely to have tried new and more potent versions including vaping devices. Research also indicated that youth who viewed medical or recreational marijuana advertising were more likely to use it. The impact had already hit locally, as in the past year marijuana possession was the leading reason for school suspensions and was the primary drug used by local teens who were in substance use treatment. Zoning that limited exposure was a key strategy. The Health and Education advisory board chairperson was unable to attend; however, the Board had issued a

statement that supported minimizing the impact of medical use dispensaries by both limiting hours of operation and establishing physical buffers protecting churches, schools and day cares.

Lee's Summit CARES supported zoning ordinances that restricted retail marijuana sales, as well as restricting hours of operation and maintaining a 1000-foot buffer. These were strategies permitted by the State. The buffer as presented to the CEDC would be measured using the "walking path" method. At a minimum, the group encouraged City staff to articulate their concerns via the Missouri Municipal League and the Mid-America Regional Council (MARC).

Approval of Consent Agenda

[TMP-1283](#)

An ordinance accepting final plat entitled Goppert Acres, Lots 1A-1F & Tract A, as a subdivision to the City of Lee's Summit, Missouri.

Proposed City Council Motion:

I move for a second reading of an ordinance accepting final plat entitled Goppert Acres, Lots 1A-1F & Tract A, as a subdivision to the City of Lee's Summit, Missouri.

A motion was made by Board Member Funk, seconded by Board Member Gustafson, that this application be recommended for approval to the City Council - Regular Session, due back on 7/9/2019. The motion carried unanimously.

[2019-2865](#)

Minutes of the June 13, 2019, Planning Commission meeting

A motion was made by Board Member Funk, seconded by Board Member Gustafson, that the minutes be approved. The motion carried unanimously.

Public Hearings

[2019-2539](#)

Continued Application #PL2018-222 - Rezoning from CP-2 to PI and Preliminary Development Plan - Storage Mart 156, 3924 and 3930 SW Raintree Drive; New TKG-KC, LLC, applicant (continued to a date certain of July 11, 2019, at the applicant's request)

Chairperson Norbury opened the hearing at 5:12 p.m. and announced that the applicant had requested Application PL2018-222 to be continued to a date certain of July 11, 2019. He asked for a motion to continue.

Mr. Funk made a motion to continue Application PL2018-222 to a date certain of July 11, 2019. Mr. Sims seconded.

Chairperson Norbury asked if there was any discussion of the motion. Hearing none, he called for a vote.

A motion was made by Board Member Funk, seconded by Board Member Sims, that this application be continued to the Planning Commission, due back on 7/11/2019. The motion carried unanimously.

[2019-2540](#)

Continued Application #PL2018-220 - Special Use Permit for an indoor/outdoor mini-warehouse storage facility - Storage Mart, 3924 and 3930 SW Raintree Drive; New TKG-KC, LLC, applicant (continued to a date certain of July 11, 2019, at the applicant's request)

Chairperson Norbury opened the hearing at 5:13 p.m. and announced that the applicant had requested Application PL2018-220 to be continued to a date certain of July 11, 2019. He asked for a motion to continue.

Mr. Funk made a motion to continue Application PL2018-220 to a date certain of July 11, 2019. Mr. Sims seconded.

Chairperson Norbury asked if there was any discussion of the motion. Hearing none, he called for a vote.

A motion was made by Board Member Funk, seconded by Board Member Sims, that this application be continued to the Planning Commission, due back on 7/11/2019. The motion carried unanimously.

[2019-2883](#)

Appl. #PL2019-020 - REZONING from PI and RP-2 to RP-3 and PRELIMINARY DEVELOPMENT PLAN - Burton Townhomes, 408 & 500 NW Olive St; Cherokee Flight, LLC, applicant (continued to a date certain of July 11, 2019, to allow for proper notification)

Chairperson Norbury opened the hearing at 5:14 p.m. and announced that the applicant had requested Application PL2018-020 to be continued to a date certain of July 11, 2019, to allow for proper notification. He asked for a motion to continue.

Mr. Funk made a motion to continue Application PL2018-020 to a date certain of July 11, 2019. Mr. Sims seconded.

Chairperson Norbury asked if there was any discussion of the motion. Hearing none, he called for a vote.

A motion was made by Board Member Funk, seconded by Board Member Gustafson, that this application be continued to the Planning Commission, due back on 7/11/2019. The motion carried unanimously.

[2019-2869](#)

Appl. #PL2019-147 - SPECIAL USE PERMIT renewal for a telecommunications tower - 111 SW Hook Rd; American Tower Asset Sub II, LLC, applicant

Chairperson Norbury opened the hearing at 5:15 p.m. and asked those wishing to speak, or provide testimony, to stand and be sworn in.

Mr. Dave Tracy of American Tower, gave his business address as 10 Presidential Way, in Woburn, MA. He stated that the cell tower pertaining to this SUP renewal application was located at 111 SW Hook Road in Lee's Summit. It was a foot, guide style tower that held AT&T at multiple levels, and was originally constructed in 1989. Since that time, the Special Use Permit had been renewed twice, and the tower was currently in good condition and was maintained regularly by qualified technicians. It had received a structural analysis as recently as February 2019 and had also received a positive TIA report last November. Tonight's application was for a third SUP renewal.

Mr. Funk noted in staff's report that the SUP would be for an indefinite time period with no expiration date, and asked if the Commission had ever granted this kind of SUP before. Mr. McGuire confirmed that this would be the City's first Special Use Permit with an indefinite term. He added that State law prohibited local jurisdictions from establishing any specific time limits for this specific use.

Mr. Funk asked Mr. Tracy what was the schedule for inspections. Mr. Tracy replied that a structural analysis was done at least once a year. That was usually the occasion for any type of work being done on the tower. In-person TIA inspections were required for guide style towers only once every three years. He added that the most recent one was done last October.

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As there were no other questions for the applicant or staff, Chairperson Norbury closed the public hearing at 5:25 p.m. and asked for discussion among the Commission members, or for a motion.

Mr. Funk made a motion to recommend approval of Application PL2019-147, Special Use Permit renewal for a telecommunications tower: 111 SW Hook Road, American Tower Asset Sub II, LLC, applicant. Mr. Gustafson seconded.

Chairperson Norbury asked if there was any discussion of the motion. Hearing none, he called for a vote.

A motion was made by Board Member Funk, seconded by Board Member Sims, that this application be recommended for approval to the City Council - Regular Session, due back on 7/23/2019. The motion carried unanimously.

[2019-2871](#)

Appl. #PL2019-187 - Unified Development Ordinance (UDO) Amendment #7 - Article 1 - General Provisions and Article 2 - Applications and Procedures to improve public engagement and the role of the Planning Commission; City of Lee's Summit, applicant.

Chairperson Norbury opened the hearing at 5:28 p.m. and asked those wishing to speak, or provide testimony, to stand and be sworn in.

Mr. Johnson entered Exhibit (A), list of exhibits 1-6 into the record. He related that staff had started discussing the proposed amendments last November, the same month as the joint City Council-Planning Commission meeting. They were designed to increase the importance of the Planning Commission and also to generally improve public outreach in respect to development applications.

At present some language in the UDO minimized the importance of the Comprehensive Plan, to the extent that the City could not deny an application based exclusively on the plan, including a project's not conforming to it. This part was being deleted. It would increase the importance of both the Planning Commission and the City's long-range planning documents.

The next item concerned notification. Staff proposed to increase the required distance for sending mailed noticed of an application from 185 to 300 feet. However, notifications of protest petitions would remain at 185 feet, per the State constitution. The next amended section required applicants to hold a neighborhood meeting before a re-submittal of an application. If the City had one round of review and with this requirement, the applicant could provide neighbors with a more finalized version of the project. The City often requested applicants to hold neighborhood meetings, especially when there was controversy over the project.

Another Article 2 change concerned the role of the Commission's vote. Previously, no majority vote on a motion resulted in an application being forward to the Council with a "failure to recommend" designation. The amendment would require the Commission to issue a denial if an application did not get an affirmative vote after a recommendation for approval. If a motion either to approval or deny did not get a majority vote, the Commission would have to vote on a new motion. If the vote was tied, it would be deemed a denial.

Mr. Johnson noted that other measures were discussed at the joint meeting, such as increasing the size of signs required to be posted for a public hearing, up to a 24 by 36 inch size. Another measure, which had already been done, concerned availability of information on the City's website.

Following Mr. Johnson's comments, Chairperson Norbury asked if there was anyone present wishing to give testimony, either in support for or opposition to the application. Seeing none,

he asked if the Commission had questions for the applicant or staff.

Chairperson Norbury remarked that these amendments reflected what had been discussed in the last joint meeting. Mr. Johnson clarified that the only proposed amendment that been debated and discussed was the one pertaining to the Comprehensive Plan. He did not know of anyone who had expressed actual opposition. Chairperson Norbury commended the change to the website that he had seen.

Chairperson Norbury asked if there were further questions for the applicant or staff. Hearing none, he closed the public hearing at 5:35 p.m. and asked for discussion among the Commission members or for a motion.

Mr. Funk made a motion to recommend approval of Application PL2019-187, Unified Development Ordinance (UDO) Amendment #7: Article 1, General Provisions and Article 2, Applications and Procedures to improve public engagement and the role of the Planning Commission; City of Lee's Summit, applicant. Mr. Sims seconded.

Chairperson Norbury asked if there was any discussion of the motion. Hearing none, he called for a vote.

A motion was made by Board Member Funk, seconded by Board Member Dial, that this application be recommended for approval to the City Council - Regular Session, due back on 7/23/2019. The motion carried unanimously.

[2019-2881](#)

Appl. #PL2019-194 - Unified Development Ordinance (UDO) Amendment #8 - Medical Marijuana affecting the following ordinance sections - Article 6 Use Standards - Division I General Provisions and Division II Uses Permitted with Conditions, Article 8 Site Standards - Division I Design Standards- Subdivision 6 Crime Prevention Through Environmental Design, Article 15 Rules of Interpretation and Definitions- Division II Definitions ; City of Lee's Summit, applicant

Chairperson Norbury opened the hearing at 5:40 p.m. and asked those wishing to speak, or provide testimony, to stand and be sworn in.

Mr. Johnson entered Exhibit (A), list of exhibits 1-6 into the record. He remarked that some questions had shown up via email, and Lee's Summit CARES had provided some research on hours of operation. Since the State had passed Amendment 2 in November, the City had put together a team representing most of the departments to look at what ordinances needed to be changed. They had finalized the rules as of June 3rd. Some changes to business license language, clarifying that these facilities would need business licenses, would be looked at by the CEDC next month. Similarly, the Police Department was looking at changes to the criminal code. The State constitution did not suggest that a transportation facility would need a buffer; however, the State had made rules to that effect.

Mr. Bushek remarked that most of the needed discussion on the UDO amendment that we need to make revolved around the legal aspects. He could not think of any specific use the City had dealt with that had occupied as much staff time other than 'adult' entertainment uses. A number of meetings had been held involving all the City departments. Other types of changes to the code were needed including aspects such as criminal law, signage, business and medical licensing, operational and medical regulations, safety issues, cultivation rules and patient registries. Zoning and changes to the UDO were the subjects of discussion for tonight's meeting.

The State constitutional amendment was a unique situation legally, as the constitution usually had broad authorizations to the State legislature and local governments. The legislature

would adopt a state law, with regulations going into further detail. But in this case the constitutional amendment was an entirely new article (#14) and was as long as many other constitutional articles. It read like a body of laws that would otherwise be in the statute. There had been a jump from the constitutional amendment straight to regulations. On June 3rd, the Department of Health and Senior Services issued some emergency regulations.

There were now five different medical marijuana ("MM") facilities: cultivation, medical use dispensaries, manufacturing, testing and transportation facilities. Mr. Johnson added that state law adjustments were an odd contrast to federal law, as marijuana was still a controlled substance and subject to federal criminal law. Proposed changes to the State criminal laws would be introduced next year.

The State constitutional amendment required that "unless allowed by the local government, no [MM Facility] shall be initially sited within 1,000 feet of any then-existing elementary or secondary school, child day-care center or church." No local government would be allowed to actually prohibit these facilities, "either expressly or through the enactment of ordinances or regulations that make their operation unduly burdensome in the jurisdiction." Local governments could pass ordinances and regulations concerning aspects such as operating hours and location. Local governments were allowed to establish and enforce civil penalties for ordinance violations.

Mr. Bushek remarked that he had done some research on how burdensome a regulation could be before it became "unduly" burdensome. He did not find much specific guidance. A large body of law existed about the Commerce clause impacting interstate commerce; however, he did not find much information applicable to legal marijuana commerce. It essentially referred to 'regulating' a business out of existence. Moreover, a municipality could neither prohibit nor was a State constitution or regulation allowed; nor could it do the opposite in allowing something that a State constitution or regulation prohibited. If the City did either via the UDO, that revision would be unconstitutional. In the case, staff was assuming that the City Council wanted to impose the most stringent "maximum restrictions", supplementing them with "items missing from State regulations" such as hours of operation. This could also mean, among other restrictions, imposing the maximum 1,000-foot buffer.

The next slide showed how buffer zones would be measured. There were points of demarcation from a school, daycare or church. A medical marijuana [MM] establishment could be in a separate building or be a tenant in a building with other tenants. For a freestanding MM establishment, State regulations required a measurement from the external wall to the day care's property line (freestanding) or door (multi-tenant). A multi-tenant MM establishment would measure it from the door to the daycare's property line or door in both cases. The "walking path" method, measuring along the shortest path between the two demarcation points "that can lawfully be traveled by foot", would be used. The State constitution simply referred to a 1,000-foot buffer; however, State regulations mandated using the walking path method.

A question had come up as to whether the word "shall" in a regulation could be interpreted to mean "may". Mr. Bushek did not believe that it could. A statute in section 1.090 directed the use of "plain and ordinary" meanings of words. A Federal case applying to this jurisdiction stated that "'shall' is regarded as imperative or mandatory and must be given a compulsory meaning". Mr. Bushek used a slide and popular board game pieces to illustrate the two different approaches (walking path or straight line) for a buffer zone. A deviation by foot would often result in the two establishments being closer together; which had raised a question as to whether the City could map out all the potential locations for medical marijuana facilities. It could do that using the straight line method, which is what staff had done. The development center had mapped out all the potential areas, noting all the schools, daycares and churches. However, it turned out that using the walking path method made mapping

almost impossible. For every two points identified, a potential walking path distance would have to be calculated. That meant a case-by-case basis might be the most realistic approach.

At Chairperson Norbury's request, Mr. Bushek displayed the map with the straight line separations. Mr. Bushek first displayed a map showing all the schools, daycares and churches as well as various types of residential development. Potential locations were indicated in all areas not colored on the map. Many areas were primarily commercial including the Summit Woods and Summit Fair areas and much of M-291; however, even using the 1,000-foot straight line method, there were spots with no conflicts.

Mr. Bushek added that in preparing for tonight's hearing, staff had put together their own version and set of proposed regulations. When they went before the CEDC a few weeks ago. However, when the State emergency regulations were issued on June 3rd they decided not to go forward and just follow State regulations.

Mr. Johnson displayed the use table, noting that a "transportation" facility would also be a use. He intended to add that as a conditional use in the PI district, along with the rest of the table's entries. The only indicated zones outside of PI were CP-2, CS (Commercial Services) and PMIX. The CEDC asked if a dispensary could be put into an apartment complex, which it could not. The requirements for a conditional use in general included not being in the same building as a residential use. Hours of operation were among the things the City could regulate; although anything too restrictive, such as "one hour on Sundays", could be construed as unduly burdensome.

Mr. Johnson addressed some recent research done by Lee's Summit CARES. They had factored in the hours of operation for local pharmacies and had found that most had hours of 9:00-8:00, Monday through Friday, 9:00-6:00 on Saturdays and 10:00-6:00 on Sundays. Staff considered these hours of operation acceptable. He also noted the many conflicts in the 1,000-foot buffer rule. That was the reason for staff wanting to use the straight line rather than the walking path method, as it was a more objective standard and not legally vague as a 'walking path' standard would be. He added that the City would need a document from a registered land surveyor verifying the buffer differences. That would hopefully insulate staff from some of the ambiguity.

Mr. Johnson also brought up the set of uses requiring an analysis from the perspective of crime prevention through environmental design. All five of the medical marijuana uses would reference that. He added that in order to be consistent with State regulations, staff was adopting their definitions. This would include not only medical marijuana provisions, but also those pertaining to definitions of schools, day care and churches.

Chairperson Norbury then asked if anyone in the audience wanted to give testimony regarding this application.

Ms. Diane Sullivan acknowledged that the rules mandated measuring on a walking path basis rather than a straight line, and a deviation could violate the State constitution. She noted that this would have to be a legal walking route, such as a crosswalk or sidewalk, and not something that involved trespassing. Chairperson Norbury confirmed that the proposed weekday hours for medical use dispensaries would be 9:00 a.m. to 8:00 p.m., and Ms. Sullivan remarked that these hours would minimize the possibility of people stopping by on their way to work, which had been an issue in some cities. She added that security that the State required for medical use marijuana dispensaries was very high, including surveillance cameras showing every square foot of the business as well as outdoor lighting. The State also prohibited anything outside the facility including signage that said "marijuana" or "cannabis" or anything else that would tell the public what the business was. This was a stark contrast to regulations involving liquor stores; and she did have an issue with that considering that marijuana was much less dangerous than alcohol. She emphasized that this would be happening with a great deal of

attention to security and safety.

Ms. Monica Meeks, of Lee's Summit CARES, gave her address as 4109 NE Kennesaw Ridge in Lee's Summit. She appreciated the work done by staff and the City Council liaison, who had encouraged her to use research-based strategies; and specifically the recommended hours of operation. She emphasized that she and the Health and Education advisory board. were available to answer any questions.

Chairperson Norbury opened the hearing for questions for the applicant or staff.

Mr. Funk asked if any special requirements would apply to a strip shopping center that had a medical marijuana dispensary, including notifying the City. He also wanted to know what would happen if a shopping center had an existing medical marijuana dispensary and a day care center subsequently started up close by; and if the shopping center's owner would have to notify other tenants. Mr. Bushek said he did not know of any legal requirement for such notification. Moreover, the regulations stipulated 1,000 foot buffer only when the facility first started up. If a daycare, school or church moved in next to a medical marijuana business, moving within the 1,000 foot buffer was their choice and responsibility.

Mr. Funk then asked for a definition of a "transportation" facility. Mr. Johnson explained that its purpose was to provide an appropriate place for reception and storage of a large shipment.

Referring to the definitions in Section 6.395, paragraphs B (1) through B (3), which included the language Chairperson Norbury asked if the language stating that ""may be amended from time to time in such state regulation" meant that the definitions were being amended to be consistent those in regulations for marijuana facilities. Mr. Johnson confirmed that within this section, the State definitions were being referenced. It would not impact the definitions in the UDO.

Chairperson Norbury then remarked that he had concerns about the buffer as applied, acknowledging that planning a walking path could be difficult and take a lot of calculations. However, the map showing radial buffers of that size suggested that these could be used only in a few areas in CP-2 zoning. The size of the buffer actually seemed to suggest that a residential subdivision would be a better choice if a large buffer was a priority. The requirement might be awkward in a strip shopping center, which would be the most likely place to locate that kind of business. He had doubts about the practicality of such a large buffer if unduly burdensome requirements were to be avoided. In addition to the buffer, these businesses had restrictions related to a set number of dispensary facilities available to each Congressional district. He had paid attention to the testimony in Kansas City, and knew that this was an even tighter fit than in Lee's Summit, especially when Lee's Summit still had some AG zoned property. He wanted it on the record that he was sensitive to that; and also wanted to get a sense of it before endorsing a 1,000 feet for a buffer. While he understood the principle of being maximum restrictive, it needed to be balanced against the vote last year of a 2:1 margin in favor.

Mr. Johnson related that he had talked with a number of people who were interested in these uses; and the walking path approach had made their lives easier generally. He acknowledged that imposing a 1,000-foot buffer would obliterate most of the potential for the city, though he had seen a few sites in Lee's Summit that might work with the walking path provision. He and Mr. Bushek had held a number of discussions about this and one choice was taking the straight line approach but narrowing the buffer. This would meet the intent of the walking path approach but would be a quagmire as well as possible legal exposure. The best way to meet the Council's desire for maximum restriction would be the walking path method with that 1,000 feet.

Chairperson Norbury some of the shopping centers in other areas, where this use might or

might not be allowed, had hours of operation that were required for tenants; while State law would take priority over a lease agreement. He asked about including something for that. Mr. Bushek stated that most leases also stipulated following applicable laws.

Chairperson Norbury asked when this application would go to the Council, and Mr. Johnson answered it was July 9th, with a second reading on the 16th. Chairperson Norbury asked what was the likely amount the walking path method could be shrunk. Mr. Bushek remarked that sitting through a meeting with a potential applicant had illustrated for him how difficult the walking path method was. The applicant was proposing a potential facility located in a strip shopping center, and a daycare was to the south. With the straight line method it would have been about 850 feet away, and so would have been prohibited. With the State's walking path method, the starting point was the door, which was always interior to the shopping center. Using the route to actually get from the door to the neighboring daycare totaled about 1,200 feet which was allowable. In most instances the walking path method would actually decrease the distance. He suggested that this could apply to many businesses in a strip shopping center.

Chairperson Norbury suggested that it could be helpful to have something like a diagram to show the Council, with the understanding that this would be on a case-by-case analysis. Mr. Bushek added that a starting map and a diagram of a multi-tenant center would be useful.

Mr. Funk asked if the applicant would have to provide the survey for the walking path plan. He agreed that a walking path that went out one side of a building and circled around to the other would often happen; but asked how a line would be drawn on a survey to indicate that. Mr. Johnson answered that the best approach for that kind of path would be to start with the nearest sidewalk and legal crosswalks and make that the basis of survey operations.

Regarding hours of operation, Mr. Funk noted that this application was about medical marijuana, not the recreational use stores that had opened in Colorado. In other cases, someone with a prescription could get it filled at a store like Walmart early in the morning; and he asked why would someone with a legitimate prescription for medical marijuana would have to deal with restrictive hours. Mr. Johnson responded that Lee's Summit CARES, not staff, had produced that testimony. It was an average of pharmacies' hours in the community. He acknowledged that it was not identical treatment, as the City did not dictate to pharmacies what their hours should be. The statement implied via imposing these restrictions amounted to 'you are in effect different from a pharmacy'. He added that a concern was also that the more access to these medical facilities was allowed, the more likely it was to lead to a higher rate of drug use by youth.

Mr. Funk stated that he understood these concerns but this was supposed to be a secured facility and while it was not a pharmacy, its clients would have prescriptions. He asked what would be the approach if a large retailer decided to provide this service, and in particular how the City would set permissible hours. Mr. Johnson answered that in that case it would need to be a secured area within that building and not the entire store. It would not be acceptable to allow medical marijuana to be sold everywhere like prescription medicine.

Mr. Funk asked Mr. Bushek if the City was risking legal exposure in its approach toward restricting hours of operation. Mr. Bushek acknowledged that the wording did include not being unduly burdensome. That did mean that the City was allowed to be burdensome. The best he could conclude from the research on how that term would apply was if a business was regulated out of business, the regulator was being unduly burdensome. That might also be true if these businesses were over-regulated to the extent that there were only a few of them. The hours of operation could most likely stand a legal challenge.

Ms. Meeks related that the difference between a pharmacy and a dispensary was that doctors could not prescribe medical marijuana. The procedure was that a patient would go to a doctor who would indicate that the patient had a diagnosis listed in the constitutional amendment.

The doctor would sign a document indicating that the patient could get a medical marijuana card from the State. It was not a prescription but rather a certification from a doctor that the patient had a diagnosis which made them eligible for a card. Of the 28 pharmacies in Lee's Summit, the specialty-type ones actually had shorter hours.

Mr. Kitchens noted that the Commission was looking at several different types of facilities for medical marijuana, not just dispensaries. When he looked at the hours of operation, he thought of a cultivation facility as well. He asked if State law made a distinction in allowed hours between these two types. Mr. Johnson responded that the language said "open to the public" in the case of dispensaries; but a cultivation facility was not open to the public and could operate 24/7. Mr. Kitchens then asked if a situation of a cultivation facility with a dispensary in the front; and Mr. Johnson answered that the State regulations did allow for a multi-tenant facility. However, the dispensary would have to be closed to the public.

Ms. Sullivan disclosed that the application could not go in until August 3rd. It would probably be a few years before the next application. She added that a lease could not happen for the City of Lee's Summit or any other municipality until the zoning was completed. A lease would have to be in place in order to get the security companies to give the City their bids to get the letter of intent. It would also need a market study, but a great deal of an application depended on having a location. The only alternative would be to buy the building to be used.

Mr. Bushek remarked that the emergency regulations had gone into effect three weeks ago. Some cities had started on adopting rezoning regulations before that, without the benefit of waiting for the State regulations. He estimated that the way Lee's Summit had approached this it was well ahead of many other cities.

Hearing no further testimony, Chairperson Norbury closed the public hearing at 6:20 p.m. and asked for discussion among the Commission members. He stated that if the Commission was going to take Lee's Summit CARES' recommendation about hours, it had to either do an amendment or include the hours "as recommended by Lee's Summit CARES" in the motion, and Mr. Bushek that could be done.

Mr. Funk stated that while he was in favor of moving this forward, he still had concerns about the walking path method and finding locations for this use. He was satisfied with the proposed hours.

Mr. Kitchens said he did not want this to result in creating a 'dispensary zone'. It was a very limited use, though he was still concerned about the walking path method and the map did not show many areas that this kind of business could realistically operate in; and he wanted to see more information about that.

Chairperson Norbury remarked that unintended consequences were always a concern. The 1,000-foot requirement could overly restrict otherwise acceptable locations; however, given tonight's testimony a walking path method was likely to mitigate that. Ms. Sullivan's comment about timing was important; and while he understood Lee's Summit CARES' concern, nevertheless the measure allowing this had been approved by ballot last fall. The City was required to comply with State law and last fall Lee's Summit voters had stated by a 2:1 margin that this was something they wanted to be available. He was in favor of approving the application.

Hearing no further discussion, Chairperson Norbury called for a motion.

Mr. Funk made a motion to recommend approval of Application PL2019-194: Unified Development Ordinance (UDO) Amendment #8: Medical Marijuana affecting the following ordinance sections: Article 6 Use Standards, Division I General Provisions and Division II Uses Permitted with Conditions; Article 8, Site Standards, Division I Design Standards Subdivision 6

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Crime Prevention Through Environmental Design; Article15, Rules of Interpretation and Definitions; Division II Definitions, City of Lee's Summit, applicant. Mr. Gustafson seconded.

Chairperson Norbury noted that this motion had not included the mention of the hours. Ms. Dial moved to amend the motion by adding the hours of operation. Mr. Kitchens seconded. The Planning Commission members voted unanimously by voice vote to amend the motion to include hours of operation as recommended by Lee's Summit CARES.

Chairperson Norbury asked if there was any discussion of the amended motion. Hearing none, he called for a vote.

On the motion of Mr. Funk, seconded by Mr. Gustafson, the Planning Commission members voted unanimously by voice vote to recommend APPROVAL of Application PL2019-194, Unified Development Ordinance (UDO) Amendment #8, as amended to include the hours of operation as recommended by Lee's Summit CARES; City of Lee's Summit, applicant.

Other Agenda Items

ELECTION OF OFFICERS

Chairperson Norbury stated that the Commission had four officers: Chair, Vice Chair, Secretary (Ms. Arth) and Assistant Secretary (Ms. Dial). Mr. Funk made a motion to re-elect Mr. Norbury for Chair, and Ms. Dial seconded. The Planning Commission members voted unanimously by voice vote to retain Mr. Norbury as Chairperson.

Mr. Sims nominated Mr. Funk for Vice Chair, and Mr. Gustafson seconded. The Planning Commission members voted unanimously by voice vote to retain Mr. Funk as Vice Chair.

Mr. Sims nominated Ms. Dial for Secretary and Mr. Gustafson seconded. The Planning Commission members voted unanimously by voice vote to retain Ms. Dial as Secretary.

Mr. Funk nominated Mr. Lovell for Assistant Secretary and Mr. Gustafson seconded. The Planning Commission members voted unanimously by voice vote to elect Mr. Lovell as Assistant Secretary.

Roundtable

There were no Roundtable items at the meeting.

Adjournment

There being no further business, Chairperson Norbury adjourned the meeting at 6:35 p.m.

For your convenience, Planning Commission agendas, as well as videos of Planning Commission meetings, may be viewed on the City's Legislative Information Center website at "lsmo.legistar.com"