

March 28, 2019
MINUTES OF THE PLANNING AND ZONING COMMISSION
Springfield, Missouri

The Planning and Zoning Commission met in regular session March 28, 2019 in the City Council Chambers. Chairman Randall Doennig called the meeting to order.

Roll Call - Present: Randall Doennig (Chairman), King Coltrin (Vice-Chairman), Melissa Cox, Dee Ogilvy, Britton Jobe, Natalie Broekhoven, Joel Thomas, David Shuler, and Cameron Rose. Absent: None. Staff in attendance: Bob Hosmer, Principal Planner and Thomas Rykowski, Assistant City Attorney, Mary Lilly Smith, Planning Director and Alana Owen, Senior Planer.

MINUTES: The minutes of March 14, 2019 were approved.

COMMUNICATIONS: Bob Hosmer reported on City Council meeting actions.

CONSENT ITEMS:

UNFINISHED BUSINESS:

PUBLIC HEARINGS:

Z-9-2019

Bounded by Grand Street on north, National Avenue on the east, Bennett/Brookside Street on the south and Jefferson Avenue on the west. (Phelps Grove UCD)

Applicant: City of Springfield

Melissa Cox recused herself.

Alana Owen stated that this is a request to establish a 40-foot minimum lot width for development of non-conforming (grandfathered) lots. Applies only to existing non-conforming lots of record and there is no minimum lot width requirement for development of non-conforming lots. The Colonial Place subdivision platted in 1909 with 25-foot wide lots and the area has developed almost exclusively on a multiple-lot basis.

Development of narrowly platted lots results in density of 12 du/acre (single-family – 7 du/acre) and the 40-foot minimum lot width will not render anyone unable to develop or redevelop existing non-conforming property. Existing homes completely on individual 25-foot wide lot can be replaced and there is significant neighborhood support for recommendation based on feedback at open house – 88% of respondents support. Staff and committee will draft additional UCD amendments and staff recommends approval.

Mr. Jobe asked about the properties on the 25-foot lots.

Ms. Owen stated that language was written into the ordinance that they will be allowed remain as 25-foot lots if they are rebuilt, etc.

Mr. Doennig opened the public hearing.

Mr. Steve Hargis, 1160 S. Clay Avenue, is on the Phelps Grove Neighborhood board and gave a brief overview of history and believes this plan will preserve the nature of the neighborhood.

COMMISSION ACTION:

Mr. Jobe motioned to **approve** Z-9-2019 (Bounded by Grand Street on north, National Avenue on the east, Bennett/Brookside Street on the south and Jefferson Avenue on the west - Phelps Grove UCD). Ms. Broekhoven seconded the motion. Ayes: Doennig, Ogilvy, Coltrin, Rose, Broekhoven, Thomas, Shuler, and Jobe. Nays: None. Abstain: None. Absent: None. Melissa Cox recused herself.

OTHER BUSINESS:

Phelps Grove Neighborhood Plan

Bounded by Grand Street on north, National Avenue on the east, Bennett/Brookside Street on the south and Campbell Avenue on the west.

Applicant: City of Springfield

Alana Owen stated that the Phelps Grove Neighborhood Plan was originally adopted in 1997 and a neighborhood plan is an extension of the City's Comprehensive Plan, so it is a guide for making land use decisions. Neighborhood plans are not regulatory documents, however one of the tools to implement recommendations from a neighborhood plan is an Urban Conservation District.

The Phelps Grove Urban Conservation District (or UCD) was designated in 1997 alongside the neighborhood plan and has been amended one time in 2001. An Urban Conservation District is an overlay district designed to protect the neighborhood. The primary emphasis for both the Neighborhood Plan and UCD when they were adopted was the expansion of MSU into the neighborhood, deteriorated housing, conflicts between renters and permanent residents, and enforcement of existing ordinances. The Neighborhood Plan and UCD were the driving forces to begin to stabilize the neighborhood and discourage activities that were leading to the negative impacts the neighborhood was experiencing over 20 years ago.

Phelps Grove is one of four neighborhoods within the city with an adopted neighborhood plan and it is the 2nd oldest plan. Rountree's was the oldest and as you know, we just approved a new Plan for that neighborhood in November of last year.

The Phelps Grove UCD is one of 5 UCDs that have been designated in the city. In January 2017 City Council directed staff to work with neighborhoods with existing neighborhood plans to update them starting with the neighborhood with the oldest plan. Staff worked with the Rountree Neighborhood and their updated neighborhood plan was approved November 2018 and Phelps Grove had the 2nd oldest plan. In June 2018, city staff met with the Phelps Grove neighborhood association board and then in October held a neighborhood wide planning workshop to begin the planning process.

In November, City Council approved an administrative delay on the processing of permits for demolition and new construction as well as applications for rezoning and re-platting of property. The delay was in response to recent developments within the neighborhood and was given to allow time for City staff to seek input from the neighborhood on the applicability of the current Phelps Grove UCD to address concerns regarding density, design and other development standards. The Administrative delay expires May 4, 2019.

As part of the Planning process, in addition to the planning workshop in October, there were open houses where information was shared and feedback from the neighborhood was obtained along with a neighborhood wide survey and maintained a Phelps Grove Planning "landing page" online to share information.

It is anticipated there will be additional proposed amendments to the UCD that will be presented following acceptance of the plan to further implement the Plan recommendations in addition to the one presented tonight.

One of the fundamental tenants of the original 1997 Plan and UCD and now the proposed update is the preservation of the single-family housing and the character of the neighborhood. Respondents to the neighborhood survey identified the single-family nature and the historic architecture and character of the neighborhood as the top things they most liked about the Phelps Grove Neighborhood. Preserving the existing housing stock was a goal in the 1997 neighborhood plan and is a goal moving forward.

We are recommending an amendment to the UCD to establish a 40-foot minimum lot width for the development or redevelopment of existing non-conforming, or grandfathered, lots. We are also recommending the neighborhood pursue adoption of infill and rehabilitation regulations for residential structures. These guidelines have not been developed yet but would be drafted through a committee. The intent of the regulations would be to provide some basic guidelines that would need to be followed when a home is significantly rehabilitated, or a new home is constructed.

In 1996, during the same time as the 1997 neighborhood plan and UCD were being drafted, the City and MSU developed a Cooperative Agreement about the University's southern boundary as well as several other considerations relating to the growth and expansion of the University.

The agreement contained several improvements that MSU and/or the City were tasked with completing. Contained in the agreement was the regional detention basin at the southwest corner of Grand and National as well as the green buffer area on the south side of normal adjacent to the neighborhood. Most of the improvements in the agreement have been completed, however there are a few

that are outstanding. Given the agreement is over 20 years old, it is recommended the City and MSU review the agreement in cooperation with their Long-Range Plan and visioning guide to pursue completion of the identified actions and improvements.

During the neighborhood planning workshop conducted in October, several residents expressed support for neighborhood commercial development at various locations within the neighborhood. Staff proposed two locations along the fringes of the neighborhood and asked residents and owners if they supported this concept at the first open house. The feedback from the neighborhood was not in support of any sort of redevelopment for higher intensity uses or higher density residential along the edges of the neighborhood.

Redevelopment pressure is beginning to occur in the neighborhood, accelerated by the neighborhood's adjacency to MSU, Phelps Grove Park and other regional destinations. Both National and Grand are classified as primary arterial roadways and major transit routes.

Further study of these corridors should be undertaken before a land use recommendation can be made to support more intense land uses. The development of the City's new comprehensive Plan will study and provide more targeted recommendations on redevelopment opportunities along these corridors and the improvements needed to support them.

A few of the remaining recommendations in the Plan include neighborhood residents investigating to determine if there is interest and support for the creation of a Community Improvement District to fund some of the public improvements the neighborhood desires but would be beyond those routinely funded by the City or City Utilities. We are also recommending Phelps Grove Neighborhood Association expand its boundaries west to Campbell to match the City's Neighborhood Service Area boundaries and recommending the neighborhood pursue efforts to preserve trees in the neighborhood which is something that came up as a priority during the planning process.

Ms. Cox asked about recommendations vs. (implementing) updating the plan.

Ms. Owens stated that the recommendations are a guide, any amendment to the UCD requires action through the Planning and Zoning Commission.

Mr. Doennig opened the public hearing.

Mr. Brent Haselhorst, 433 E. Grand, is against the plan. He currently owns 39 homes in Phelps Grove and believes that this plan does not represent the maximum people of Phelps Grove and that only 40% are represented. He commented that as a landlord he does not have a say at the Phelps Grove Neighborhood Association and would like that to change and wants open communication for area landlords.

Mr. Eric Pauly, 631 E. Loren, president of the Phelps Grove Neighborhood. Noted that a lot of the residences came out in support of the 40-foot minimum lot width and wants to preserve the nature of the neighborhood.

Mr. Steve Hargis, 1160 S. Clay Avenue, is on the Phelps Grove Neighborhood board and has seen improvement in the area from MSU's stormwater runoff and approves of the rental registration that the City has implemented. He also stated his concerns from the demolition of a home as well as the 100+ year old trees that were torn down for implementation of skinny homes and said that the neighborhood is in support of the 40-foot minimum lot width plan.

COMMISSION ACTION:

Mr. Coltrin motioned to **approve the** Phelps Grove Neighborhood Plan (Bounded by Grand Street on north, National Avenue on the east, Bennett/Brookside Street on the south and Campbell Avenue on the west). Ms. Cox seconded the motion. Ayes: Doennig, Coltrin, Ogilvy, Cox, Rose, Broekhoven, Thomas, Shuler, and Jobe. Nays: None. Abstain: None. Absent: None.

Medical Marijuana Amendments

Citywide

Applicant: City of Springfield

Mary Lilly Smith stated that Article XIV, of the Missouri Constitution that no new medical marijuana facility, unless allowed by the local government, "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 shall prohibit medical marijuana facilities or entities with a transportation certification “either expressly or through the enactment of ordinances or regulations that make their operation unduly burdensome.” Local governments “may enact ordinances or regulations not in conflict with this section, or with regulations enacted pursuant to this section, governing the time, place and manner of operation of such facilities in the locality.”

Facility types include, medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana-infused manufacturing facility, and medical marijuana dispensary facility.

The proposed amendment establishes specific definitions for marijuana, medical marijuana and medical marijuana facilities. Clarifies that similar uses defined in the Zoning Ordinance do not include medical marijuana facilities, starts general standards for medical marijuana facilities, creates which districts permit uses by right and which require conditional use permits, and determines separation standards.

The general standards are that an annual business license is required and a State medical marijuana license displayed in open and conspicuous place. No medical marijuana business shall be in a building that contains a residence and all medical marijuana businesses shall be closed to the public between the hours of 10 p.m. and 6:00 a.m. (no persons not employed by the business shall be on the premises and no sales or distribution of marijuana shall occur upon the premises during that time).

Further regulations state that no marijuana may be smoked, ingested or otherwise consumed on the premises of a medical marijuana establishment, and facilities must develop, implement and maintain an odor control plan which shall address odor mitigation practices including, but not limited to, engineering controls, such as system design and operational processes, which shall be reviewed and certified by a professional engineer or a certified industrial hygienist as sufficient to effectively mitigate odors for all odor sources. No use shall emit an odor that creates a nuisance in violation of City Code as well as no outdoor operations or storage. And if multiple licenses are issued for one location, then restrictions for the highest intensity shall apply. All other City Codes apply.

General standards for separation are Elementary and secondary schools – public and private; Child day care centers – licensed by the City or State. Churches – Ordinance modifies the definition of Church (a building or structure, or groups of buildings or structures, ~~which by design and construction are~~ primarily intended for the conducting of organized religious services and accessory uses associated therewith). Measurements made along shortest path between the demarcation points that can be traveled by foot by public right-of-way.

Certain medical marijuana uses will require a Conditional Use Permit if adjacent to or across street from residential zoning districts and the twenty-one (21) Conditions in Zoning Ordinance apply to all CUP's. Additional CUP conditions such as uses shall not be operated to dominate immediate vicinity or to interfere with development and use of neighboring property.

Considerations for determining if proposed use will dominate the immediate neighborhood:

- Functional street classification.
- Surrounding residential districts and uses.
- Location, nature and height of buildings, structures, walls and fences on site.
- Amount of needed parking and amount provided.
- Nature and extent of landscaping and screening.
- Number of visitor trips anticipated each day to the site.

Medical Marijuana Cultivation Facility is defined as:

- A facility licensed by the State to acquire, cultivate, process, store, transport and sell marijuana to a Medical Marijuana Dispensary Facility, Medical Marijuana Testing Facility, or to a Medical Marijuana-Infused Products Manufacturing Facility.
- Similar to greenhouse operation.

Permitted Districts:

- Highway Commercial, Commercial Services, Restricted Industrial, Light Industrial, General Manufacturing, Heavy Manufacturing and Industrial Commercial.
- 1,000-foot separation from elementary and secondary schools, child day care centers and churches.
- Conditional Use Permit required if adjacent to or across street from residential zoning district.

Medical Marijuana Testing Facility is defined as:

- A facility certified by the State to acquire, test, certify and transport marijuana.

- Similar to medical testing labs permitted as part of Office Use Group, however, Missouri Medical Cannabis Trade Association recommends they be permitted in “light industrial zoning or its equivalent.”

Permitted Districts:

- Restricted Industrial, Light Industrial, General Manufacturing, Heavy Manufacturing and Industrial Commercial.
- 1,000-foot separation from elementary and secondary schools, child daycare centers and churches.

Medical Marijuana-Infused Products Manufacturing Facility is defined as:

- A facility licensed by the State to acquire, store, manufacture, transport, and sell marijuana-infused products to a Medical Marijuana Dispensary Facility, a Medical Marijuana Testing Facility, or to another Medical Marijuana-Infused Products Manufacturing Facility.
- Medical Marijuana-Infused Products are infused with marijuana or an extract thereof and are intended for use or consumption other than by smoking, including, but not limited to, edible products, ointments, tinctures and concentrates.
- Includes both the extraction process and production of edibles, ointments, etc.

Type 1 Extraction Facility include:

- A facility which uses combustible gases, CO₂ or other hazardous substances in the marijuana extraction process.

Permitted Districts:

- General Manufacturing and Heavy Manufacturing.
- 1,000-foot separation from elementary and secondary schools, child day care centers and churches.
- Conditional Use Permit required if adjacent to or across street from residential zoning district.

Type 2 Post-Extraction Facility include:

- A facility which uses marijuana extractions to incorporate into edibles, ointments, etc., and does not use combustible gases, CO₂ or other hazardous substances. Permitted as either a retail sales use or manufacturing use depending upon its scope and volume of production, facility capacity and the primary customer (retail or wholesale).
- Bakeries, confectionaries and producers of ointments, etc. which use extracts, oils or butters produced by Extraction Facilities to create infused products intended for consumption including edible or topical products.
- Staff evaluates as if non-marijuana use to determine if Retail Sales Use Group* or industrial/wholesale activity. (*Requires State-issued dispensary license and subject to dispensary zoning restrictions if retail sales).

Permitted Districts:

- General Retail, Highway Commercial, Commercial Services, Center City, Commercial Street, Restricted Industrial, Light Industrial, General Manufacturing, Heavy Manufacturing, and Industrial Commercial.
- 200-foot separation from elementary and secondary schools, child day care centers and churches.

Medical Marijuana Dispensary Facility is defined as:

- A facility licensed by the State to acquire, store, sell, transport, and deliver marijuana, marijuana-infused products, and drug paraphernalia to administer marijuana as provided for in this section to a qualifying patient, a primary caregiver, another Medical Marijuana Dispensary Facility, a Medical Marijuana Testing Facility, or a Medical Marijuana-Infused Products Manufacturing Facility.
- Similar to a pharmacy as part of the Retail Sales Use Group.
- Not permitted in Limited Business or Office Districts because these districts are sometimes embedded in residential neighborhoods.

Permitted Districts:

- General Retail, Highway Commercial, Commercial Services, Center City and Commercial Street.
- Restricted Industrial, Light Industrial, General Manufacturing, Heavy Manufacturing and Industrial Commercial.
- 200-foot separation from elementary and secondary schools, child day care centers and churches.

Mr. Joel Thomas asked if a church wanted to move in if there was already an existing dispensary.

Ms. Smith noted that they could stay as the church moved in after the dispensary.

Mr. Jobe asked about the closet door to a dispensary, used Battlefield Mall as an example.

Ms. Smith said it would be the main entrance to the mall would be considered the closet.

Mr. Coltrin asked about the distance restrictions, pharmacies and CUP's.

Ms. Smith stated that the State Constitutional amendment is, "unless otherwise permitted by local government, the distance will be 1000 feet." She also clarified the distance restriction for a pharmacy is none.

Mr. Rykowski noted that the State Constitutional amendment states that there must be a separation.

Ms. Smith stated there are a lot of properties that would allow, however if adjacent to a residential zone then you would be required to apply for a CUP.

Ms. Cox asked questions regarding liquor stores, alcohol by the drink, and adult entertainment and what are distance requirements.

Ms. Smith noted that alcohol by the drink is 200 feet distance (schools and churches), liquor stores (packaged liquor) there no distance restrictions and 2000 feet for adult entertainment. There are some additional individual restrictions that may apply.

Ms. Cox questioned the age requirements and separation distance and questioned the "time of operation" restrictions.

General discussion on the "time of operation" questions and restrictions.

Mr. Doennig opened the public hearing.

Mr. Sterling Mathis, 334 N. Main, wants to be able to cultivate and manufacture, however there is a church within the distance restriction and wants clarification on what is considered a church because they do not conduct services, but they did previously feed the homeless.

Ms. Smith noted that they would need to call and ask for clarification because it is considered a church when primarily intended for the conduct of organized religious services.

Mr. David Brodsky, 1920 Bridge Lane, Steamboat Springs, CO, would like to make one clarification on the distance restrictions. We currently have 1000-foot restrictions, but it is getting ready to be lowered to 500 feet. Also mentioned about the testing procedure and would like to see less distance restrictions.

Mr. Coltrin asked about state ownership and if out of state ownership is allowed.

Mr. Bordsky said that state ownership has to be 51%.

Mr. Chip Sheppard, 28056 S. Ingram Mill Road, is on the Board of Directors for New Approach Missouri (campaign committee). Would like to see less restrictions on who can be at the facility after hours, and noted that contractors need to be able to work on refrigerators, electricity, etc. He also noted that there will be 330 licenses state-wide.

Mr. David Schlum, 1258 E. Battlefield, noted that he looks that this give him personal freedoms and told a personal story about his wife who has chronic migraines and is happy to be able to access medical marijuana. He also would like the Commission to address the issue on hours of operation.

Mr. Desmond Morris, II, 1043 E. Caravan Street, has been developing a business plan to dispense high quality cannabis in Springfield. Has concerns on the constraints of hours of operation as well as the distance separations. Noted that the City will see a lot of revenue through jobs and taxes.

Mr. Doennig closed the public hearing.

Mr. Coltrin asked if the state law is written that Springfield can say "no" to Medical Marijuana?

Mr. Rykowski stated that the City of Springfield cannot "expressly prohibit" Medical Marijuana Amendments.

Ms. Cox expressed appreciation on the presentation, however has concerns on the hours of operation and wants to move forward without any further delay and will vote in favor.

Mr. Rose voiced his concerns on the hours of operation and that it seems to limit access to after hour contractors, i.e., electricians, plumbers, etc., and would like to see an amendment to remove the hours of operation and will be voting yes.

Ms. Broekhoven asked similar questions and stated that she would like to see an amendment to remove the hours.

Ms. Smith noted that the "hours of operations" are not in the State Regulations and therefore can be amended.

Mr. Coltrin believes that this will not make a better Springfield and does not feel like there is a choice but to vote in favor.

Mr. Jobe comments about the hours of operation are problematic both with respect to the narrow aspect of employees outside of hours, not including contractors, etc., however the proposed amendments have been highly covered and will be in support of this amendment.

Ms. Ogilvy also voiced concern on the hours of operation and the narrow aspect of employees outside of hours and will be voting yes.

Ms. Smith stated that the Commission may make an amendment to clarify the hours and contractors/employees.

COMMISSION ACTION:

Mr. Doennig motioned to strike the following requirement: "All medical marijuana facilities shall be closed to the public between the hours of 10:00 p.m. and 6:00 a.m., no persons not employed by the business shall be on the premises, and no sales or distribution of marijuana shall occur upon the premises at that time." Mr. Rose seconded the motion. Ayes: Doennig, Coltrin, Ogilvy, Cox, Rose, Broekhoven, Thomas, Shuler, and Jobe. Nays: None. Abstain: None. Absent: None.

COMMISSION ACTION:

Ms. Cox motioned to **approve** Medical Marijuana Amendments as Amended (Citywide). Ms. Broekhoven seconded the motion. Ayes: Doennig, Coltrin, Ogilvy, Cox, Rose, Broekhoven, Thomas, Shuler, and Jobe. Nays: None. Abstain: None. Absent: None.