

**MINUTES OF THE PLANNING AND ZONING
COMMISSION MEETING**

Brentwood City Hall

**Date: July 10, 2019
7:00 PM**

Chairman Daming called the meeting to order at 7:00 PM and led the pledge of allegiance. John Nuernberger called roll with the following members present: Sheri Bilderback, Michael Daming, Mark Favazza, Paul Moran, Hart Nelson, John Nuernberger, John Ritter and Lisa Schuering.

APPROVAL OF MINUTES

Meeting Minutes for June 12th were approved by acclamation.

OLD BUSINESS

- 1) Case #19-15 – Application for Comprehensive Sign Plan and Architectural Elevation Review for Aspen Dental at 1819 S. Hanley Road.**

Josh Muckelvaney was present on behalf of Anchor Sign for Aspen Dental at 1819 S. Hanley Rd. Anchor Sign would like the Commission to reconsider the elimination of the sign on the west side of the building elevation which is the main entrance to the building. This would give the public the ability to properly locate and identify the building. Mostly in part due to Hanley Road being a commercial street, and the second reason because it is a side street which runs between the parking garage and Aspen Dental. Mr. Muckelvaney stated that the Hanley Station development has a master sign plan and every other building has two signs. Anchor Sign proposed a reduction of the original request making both signs not to exceed the allowed square footage for elevations. The square footage would equal approximately 60.10 square feet for each sign. Aspen Dental has agreed to use fabric/cloth for the awnings instead of metal.

Ms. Koerkenmeier explained none of the information provided with the application submittal has changed from the June 12th meeting. Anchor Sign has not provided any revised plans for the signage elevations or the awnings. Ms. Koerkenmeier did address the codes that Mr. Muckelvaney brought up regarding the initial comprehensive sign plan. However, she stated the parcel has only one commercial street which therefore allows only one wall sign for the building.

Ms. Bilderback agreed with Mr. Muckelvaney that the west side of the building should be allowed a wall sign especially since this is the entrance of their building. She stated it makes sense that there should be signage on the front of the building.

Chairman Daming wanted to know if this was brought up in the sub-committee meeting. Ms. Schuering stated it was not, and the Committee only discussed what was previously shared with the Commission at the June 12th meeting since the applicant did not provide any new information or an update to their application.

After some discussion the Commission agreed to recommend approval of the comprehensive sign plan for property at 1819 S. Hanley Road permitting one wall sign on the west elevation and one wall sign on the east elevation, each sign not to exceed 60.10 square feet, along with the agreement of no metal awnings but fabric/cloth awnings.

Hart Nelson made a motion for approval and Sheri Bilderback seconded the motion.

Roll Call: 7-ayes, 0-nay. Sheri Bilderback-yes, Mark Favazza -yes, Paul Moran-yes, Hart Nelson-yes, John Nuernberger-yes, John Ritter- yes, and Lisa Schuering-yes.

Motion passed.

NEW BUSINESS

- 1) Case #19-16 – Application for Text Amendment to Regulate Medical Marijuana Facilities in Accordance with the Adoption of Amendment 2, to the Missouri Constitution, to Enact Article XVI, Section 1, Relating to Medical Marijuana.**

Ms. Koerkenmeier spoke regarding legislation approved by Missouri voters that cities and counties cannot prohibit, or adopt regulations that essentially prohibit, medical marijuana facilities. The constitutional amendment contains four medical marijuana uses or facilities, licensed and regulated by the Missouri Department of Health and Senior Services. These facilities should be examined from a zoning standpoint and include:

- **Medical Marijuana Cultivation Facility:** A facility licensed by the Department 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. The state plans to limit number of licenses for cultivation facilities to sixty.
- **Medical Marijuana Dispensary Facility:** A facility licensed by the Department to acquire, store, sell, transport, and deliver marijuana, marijuana-infused products, and drug paraphernalia used 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. The minimum number of dispensaries set by the Amendment implies on dispensary for approximately 32,00 Missouri residents, cap is 192 licenses spread out evenly across state.
- **Medical Marijuana-Infused Products Manufacturing Facility:** A facility licensed by the Department to acquire, store, manufacture, transport, and sell marijuana-infused products to a medical Marijuana Dispensary Facility, a Medical Marijuana Testing, or another Medical Marijuana-infused Products Manufacturing Facility. State plans to limit the number of licenses for infused product manufacturing facilities to eighty-six.

- **Medical Marijuana Testing Facility:** A facility certified by the Department to acquire, test, certify, and transport marijuana. State limiting to two test facilities.

Staff worked with the City land use attorney to draft an ordinance to develop land use regulations to allow these types of facilities in the City of Brentwood and propose amendments to the Zoning Chapter to adopt these new regulations.

The draft represents a typical ordinance which provides zoning districts where facilities are permitted by right or by conditional use and includes supplemental regulations for all types of medical marijuana facilities.

Chairman Daming wanted to know why staff was suggesting these facilities be allowed as a permitted use rather than making it a conditional use in various zoning districts which the City would have more control over.

Ms. Koerkenmeier stated she has fewer planning concerns to put them as permitted uses because the ordinance also includes several supplemental regulations related to all types of medical marijuana facilities. Therefore, if the facilities can comply with all supplemental regulations then they would be compatible with surrounding land uses and specific zoning districts.

Ms. Bilderback thought that made sense and favored that these facilities be a permitted use at least somewhere in the City.

Ms. Koerkenmeier noted the Commission should discuss establishing distance requirements. Missouri law allows cities to place separation distances between medical marijuana facilities and schools, child daycare centers and churches. She believes cities are also allowed to establish separation distances between medical marijuana facilities. She is verifying if distance requirements can be placed between facilities and residential areas.

A list of existing churches, schools and child day care centers was provided to PGAV who prepared a map showing various separation distances at 750', 500', 300' and 150.' Missouri law allows a distance requirement up to 1000 feet but given since our land area is so small, 1,000 feet would eliminate most of the commercial areas. The Commission may want to discuss the amount of the review fee and business license fee for the various facilities. The City will need to determine the "type" of business it should file under for the business license which will be discussed further with our land use attorney.

Chairman Daming stated it would be good to overlay the buffer map onto the updated zoning map by the next meeting.

Dan Welsh has clients who have a property in Brentwood which someone may be applying to the State to locate a dispensary. The location of 8513 Manchester is zoned Manchester Corridor

Commercial District. The buffer as set forth in the Constitution is quite restrictive with the 1,000 feet buffer. The City has the ability to establish a lesser separation distance and to redefine churches, schools, and daycares. He noted the dispensaries will produce a significant amount of sales tax revenue and those figures are readily available through the trade association and other resources. He noted if the City of Brentwood's geography is essentially fully consumed by buffers there will be very few places to locate a medical marijuana dispensary in the City. He is not so sure about the liability concerns of that since the existing locations of churches, schools, and daycares, and applying the 1000' buffer requirement allowed by the State, would be of no fault of the City of Brentwood.

Mr. Welsh asked the Commission to consider allowing, whether through permitted use or conditional use, the dispensary operations in the MC, Manchester Corridor Commercial zoning district. He is of the opinion the MC district would be an appropriate district to locate medical marijuana facilities.

He stated the City has some churches that are questionable as to whether or not they are in fact churches. The constitutional amendment the voters passed back in November included a definition of church. He stated if you have an operation that looks like a church but doesn't meet with regularity, or if you've got an operation that may not be there permanently, or if you've got an operation that has a certain number of individuals who may or may not actually be members of the congregation or institution or whatever you call it, is it considered a church? The City has the ability to come up with its own definition of what church actually means.

He noted the State had no ability to change the fact there was a 1,000 feet buffer as set forth in the constitutional amendment, but the State allows cities to reduce the buffer and he thinks the City of Brentwood should consider this.

Chairman Daming commented it will be useful to have our land use attorney at the next meeting to discuss permitting facilities either by right or by conditional use, allowing the uses in the MC District, how the distance requirement measurements should be calculated and the cost to review a license and assessing an annual business license fee for these facilities.

Ms. Bilderback stated she is not comfortable with the idea of trying to determine, or rather try to change, what is a church or what isn't a church. She doesn't think it's up to the City to regulate how often a church decides to meet for it to be called a church or to give consideration to the formation of its membership. Although she is not opposed to the idea of considering this in the MC district, she noted there are residential areas adjacent to the MC District and that is another reason why the zoning map is critically important.

Mr. Nuernberger stated the church definition would be another issue we'd like to talk to the zoning attorney to respond to Ms. Bilderback's concerns.

The next regular meeting is scheduled for August 14th and the City's land use attorney will be invited to attend to continue discussion on medical marijuana land use regulations.

ALDERMANIC REPORT

None

CITY PLANNER'S REPORT

None

SITE PLAN REVIEW SUBCOMMITTEE APPOINTMENTS

None

RATIONALE FOR THE BOARD OF ALDERMEN

None

OTHER BUSINESS

None

ADJOURNMENT

Motion to adjourn all in favor; stand adjourned 7:49 p.m.