



City of Broken Arrow

Request for Action

File #: 20-141, Version: 1

**Broken Arrow City Council
Meeting of: 01-21-2020**

Title:

Consideration, discussion and possible approval of PUD-17C (Planned Unit Development Major Amendment), Vandever Acres Center, 4.94 acres, CG/PUD-17 (Commercial General), located west of the northwest corner of New Orleans Street (101st Street) and Elm Place (161st E. Avenue)

Background:

Planned Unit Development (PUD)-17C involves a 4.94-acre parcel located west of the northwest corner of New Orleans Street (101st Street) and Elm Place (161st E. Avenue).

With PUD-17C, the applicant is requesting approval of a major amendment to PUD-17 to include Medical Marijuana Dispensary as a permitted use in addition to other principal and accessory uses permitted as a matter of right in the CG (Commercial General) zoning district. When PUD-17 was approved, medical marijuana dispensary was not a permitted use; therefore, an amendment to the PUD is necessary to include the dispensary use as a permitted use.

On September 18, 2018, the City Council adopted Ordinance No. 3542 allowing for retail medical marijuana establishments, commercial marijuana growing facilities, wholesale marijuana facilities, and marijuana storage facilities. The ordinance allows for retail medical marijuana establishments in commercial zoning districts provided that the establishment is not located within one thousand (1,000) feet from any public or private school entrance. The ordinance also outlines the process that an operator must complete in order to obtain the required City of Broken Arrow Medical Marijuana Dispensary permit. Should this PUD major amendment be approved, the business operator will be required to obtain the dispensary permit.

In their meeting of December 5, 2019, the Planning Commission recommended approval (3-1 vote) of PUD-17C per Staff recommendation. Staff had recommended that the business operator obtain all applicable licenses and permits. At this meeting, no one spoke during the Public Hearing session on the item.

The City Council considered this item on January 7, 2020 where there was discussion regarding window coverings, what types of medical marijuana facilities are permitted in commercial versus industrial zoning districts, and the required 1,000-foot separation requirement between medical marijuana facilities and public or private schools. The Community Development Director expanded on the requirements for approval of the required license and inspections noting that the license is only valid for one year. As part of the licensing process, the City is permitted to enter a premise to inspect for building code, fire code, any other public health or life safety requirements including allowed uses per the Zoning Ordinance. Any violation of the ordinance is cause to issue a citation for compliance. If the violation is not addressed, fines will be assessed and the license may be revoked. Should violations be discovered during the annual renewal process that cannot be resolved, the license will not be renewed.

With this being one of the first two requests made for a major amendment to a Planned Unit Development permit to allow the use of medical marijuana facility, the City Council wanted to ensure that standard language was established for all such requests regarding medical marijuana facilities and tabled this item to the January 21, 2020 meeting.

Staff met with legal counsel for the property owners to discuss appropriate language to be included with a recommendation for approval. The recommended standard language is general in nature to avoid any conflict with state law. The Broken Arrow Code (Sec. 7-392(b)(5)) allows the city to impose reasonable terms and conditions on dispensaries to obtain compliance. Through this ordinance, the city has the authority to require that windows cannot be permanently covered. In addition, the city can require that blinds be open during standard business hours and can be closed after. The property owners' legal counsel and staff agree that the city has the authority to impose this requirement. The standard language is presented as Condition No. 1 below and is included in the revised Exhibit "A" which outlines the PUD Amendment Development Standards for PUD-17C.

Cost: \$0

Funding Source: None

Requested By: Larry R. Curtis, Director of Community Development

Approved By: City Manager's Office

Attachments: Published Planning Commission Staff Report
Case map
Aerial
Revised PUD Amendment Development Standards, Exhibit "A"

Recommendation:

Approve PUD-17C per Planning Commission and Staff recommendation, subject to the following condition of approval.

1. Medical Marijuana Dispensary uses shall comply with the laws of the State of Oklahoma and with all applicable regulations of the City of Broken Arrow, including but not limited to Chapter 7, Article XV of the Broken Arrow Code of Ordinances, as the same may be amended from time to time.