

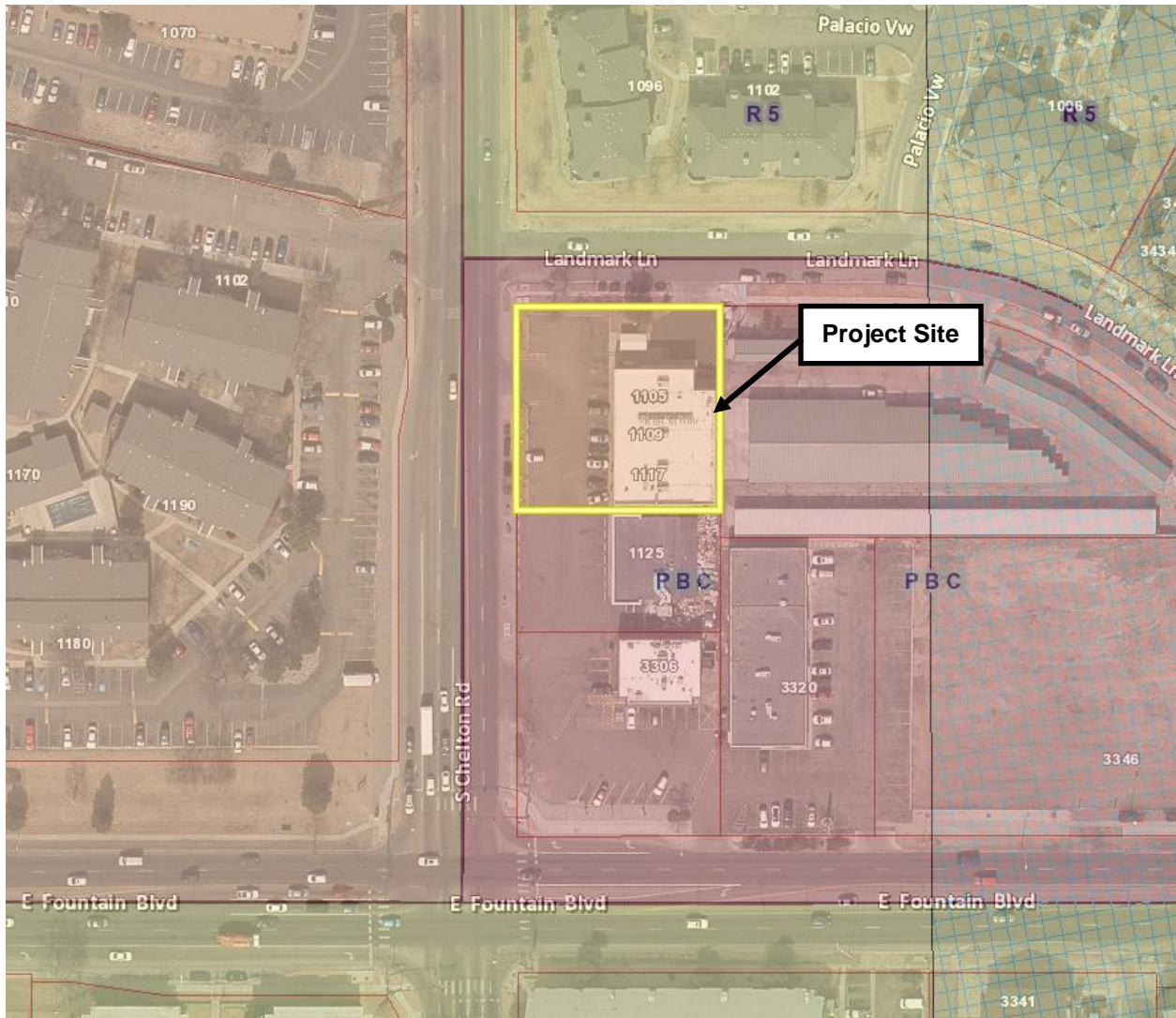
CITY PLANNING COMMISSION AGENDA
MAY 20, 2021

STAFF: MATTHEW ALCURAN

FILE NO:
CPC CU 20-00107 – QUASI-JUDICIAL

PROJECT: TOTAL GREEN

OWNER/DEVELOPER: SUN AND ALEX LEE



PROJECT SUMMARY:

1. **Project Description:** The project application is for approval of the Total Green Conditional Use Development Plan. If approved the proposed application will allow for the expansion of an existing Optional Premises Cultivation Operation (see **“Conditional Use Development Plan” attachment**). The request is to expand an existing Marijuana Optional Premises Cultivation

(marijuana grow) and Medical Marijuana Center (dispensary) from their existing 2,544 square foot 1105 South Chelton Road location into the adjoining unit 1109 (2,829 square feet) and unit 1117 (1,371 square feet) creating a single user of the entire tenant space. While this move does expand the uses into new tenant spaces, it is important to note that the subject property is a multi-tenant commercial building adjoined to the existing location and the building is under one ownership. The expansion more specifically shifts the uses under a single user of the entire space. The subject property is zoned PBC (Planned Business Center) and pursuant to Section 7.3.203 of City Code, a Medical Marijuana Center (dispensary) is permitted by right, while an Optional Premises Cultivation Operation (marijuana grow) is permitted through a Conditional Use request. With that being said, the Optional Premises Cultivate Operation (marijuana grow) is the focus of this Conditional Use Development Plan request. Marijuana licensing requires any change of location or enlargement to go through all Land Use Review entitlement processes prior to the City Clerk's Office review and potential approval of licensing.

2. Applicant's Project Statement: (see "**Project Statement**" attachment)
3. Planning and Development Recommendation: City Planning staff recommends approval of the application as proposed.

BACKGROUND:

1. Site Address: 1109 and 1117 South Chelton Road.
2. Existing Zoning/Land Use: The property is currently zoned PBC (Planned Business Center) and currently developed with an existing commercial building.
3. Surrounding Zoning/Land Use: (see "**Context Map**" attachment)
 - North: R-5 (Multi-Family Residential)/Western Terrace Apartments
 - East: PBC (Planned Business Center)/Commercially developed
 - South: PBC (Planned Business Center)/Commercially developed
 - West: PUD (Planned Unit Development)/Lincoln Springs Apartments
4. PlanCOS Vision: According to the PlanCOS Vision Map (see "**PlanCOS Vision Map**" attachment), the project site is identified as a Neighborhood Centers.
5. Annexation: The subject property was annexed into the City under the Pikes Peak Park Addition #6 (December 1, 1964; Ord. 3084).
6. Master Plan/Designated Master Plan Land Use: The project site is not part of a master-planned area.
7. Subdivision: The project site is platted as Lot 1 of Cruz Subdivision Filing Number 1.
8. Zoning Enforcement Action: None
9. Physical Characteristics: The project site is currently developed as a multi-tenant, commercial space with three tenant spaces and associated parking.

STAKEHOLDER PROCESS AND INVOLVEMENT:

The public process included posting the site and sending postcards to 94 property owners within 1,000 feet of the site, on two occasions: during the internal review stage and before the Planning Commission hearing. The site was also posted during the two occasions noted above. Staff did not receive any public comment during the posting period.

Staff input is outlined in the following section of this report. Staff sent plans to the standard internal and external review agencies for comments. All comments received from the review agencies are addressed. Commenting agencies included Colorado Springs Utilities, City Engineering, City Stormwater, City Parks and Recreation, Engineering, City Traffic, City Fire, School District 2, Police, and E-911. Agreements

between the City of Colorado Springs and the surrounding military installations establish a two-mile buffer for land use application review. This application is not within the two-mile buffer for military notification.

ANALYSIS OF REVIEW CRITERIA, COMPREHENSIVE PLAN & MASTER PLAN CONFORMANCE:

1. Review Criteria / Design & Development Issues:

a. Background

The requested Conditional Use Development Plan application for the Total Green project will allow for the expansion of the Optional Premises Cultivation Operation (marijuana grow) from its existing location at 1105 South Chelton Road (**see “Conditional Use Development Plan” attachment**). The applicant is seeking to expand their existing 2,544 square foot 1105 S. Chelton Road location into the adjoining unit 1109 (2,829 square feet) and unit 1117 (1,371 square feet) creating a single user of the entire tenant space. Although the Medical Marijuana Center (dispensary) is a use permitted by right in the PBC (Planned Business Center) zoning district, an Optional Premises Cultivation Operation (marijuana grow) is permitted through a Conditional Use request, requiring a public hearing through the City Planning Commission for approval.

The current location has an approved license through the City Clerk’s Office. On September 19, 2019, the City Planning Commission approved the relocation to 1105 South Chelton Road from the original location at 1125 South Chelton Road. In order to expand into the proposed location at 1109 and 1117 South Chelton Road, a change of location and modification request to the previously licensed footprint area must be submitted to the City Clerk’s Office prior to operation. Any approval of this Conditional Use request does not guarantee the approval of a Change of Location License request through the City Clerk’s Office as required for marijuana-related businesses.

b. Conditional Use Development Plan

The project complies with all the dimensional controls for the PBC (Planned Business Center) zone district. Additionally, this site complies with the standards in City Code Section 7.3.205(M) ‘Medical Marijuana Facility (MMC)’ as it is not within one thousand feet (1,000’) of any public or private elementary, middle, junior high, or high school, or a residential childcare facility, or a drug or alcohol treatment facility, or any other Medical Marijuana Center (dispensary). The nearest dispensaries are approximately a mile away at the intersection of East Fountain Boulevard and South Circle Drive and South Academy Boulevard. Optional Premises Cultivation Operation (OPC) facilities do not have spacing requirements from other OPC facilities or specific land uses. Although this information has been verified by Staff through our internal mapping system, the applicant has done their due diligence to ensure their business is outside of the stated buffer.

The development’s parking requirements fall under Neighborhood Center which requires 1 space per 250 square feet. Based on the building’s total square footage of 6,744, twenty-seven (27) parking spaces are required and have been provided on-site. Marijuana-related land uses have relatively low parking requirements. Optional Premises Cultivation Operations (grows) require 1 space per 5,000 square feet for the area associated with growing and processing with an additional 1 space per 400 square feet of any office space. Medical Marijuana Centers (dispensaries) require 1 space per 300 square feet of retail with an additional 1 space per 400 square feet of any office space.

A note has been provided on the Conditional Use Development Plan that requirements for ventilation and filtration will be met. This is regulated through Pikes Peak Regional Building Department (PPRBD) and the Development Review Enterprise (DRE) through the building plan review processes. As DRE is an extension of Land Use Review (LUR), building plan review will be coordinated to verify the Development Plan and all associated requirements are being met prior to approval. In the event any of the regulations are found to be out of compliance with City Zoning Code, Neighborhood Services can pursue enforcement.

The applicant has made significant improvements to the building, including signage, exterior lighting, and indoor and outdoor security cameras. The interior design of the expansion was also made with safety in mind. The applicant will install carbon filters to mitigate smell, chains will be used to fasten light fixtures, and security doors will be installed, as well as a security camera system with motion detector and security alarms. In addition, the applicant will bring the onsite landscaping into conformance with City landscape standards. The applicant secured funds for the financial assurance agreement, which was accepted and approved by the City Landscape Architect.

City Planning staff also notes that the PBC (Planned Business Center) zone district applied to the project site is supportive of the proposed land use type, in that City Code Section 7.3.203 *Permitted, Conditional and Accessory Uses* lists the Optional Premises Cultivation Operation (OPC) use type as a conditioned use; therefore, a zone change is not needed to implement the requested land use.

i. Traffic

The City's Traffic Engineering Division has stated that there are no traffic issues with the Optional Premises Cultivation Operation expansion.

ii. Enumerations

Enumerations has no objection to the conditional use. Enumerations has stated that since the tenant is going to expand to occupy the entire building, then building plans that are submitted should use the current address of 1105 South Chelton Road.

iii. Landscape

The financial assurance agreement required submittal of a landscape estimate to include replacement of all missing and dead plant material, re-mulch of all bare landscape areas, removal of all weeds and trash onsite, and trimming of all overgrown trees and shrubs. In addition, confirmation that irrigation system is in working condition, repair any broken or damaged components, and that all new plant material must have irrigation (drip) provided to them.

City Planning staff finds that the proposed project addresses all the applicable review criteria set forth in City Code.

2. Conformance with the City Comprehensive Plan:

City Planning staff has evaluated the proposed project for conformance with the City's current comprehensive plan (herein referred to as "PlanCOS"), adopted in January 2019. According to the PlanCOS Vision Map, the project site is identified as a Neighborhood Center (**see "PlanCOS Vision Map" attachment**). From an economic standpoint, City Staff is supportive of the growth and longevity of businesses within the community. Total Green has been at the current location since 2017. Conversely, from a policy standpoint, City Staff is not supportive of a proliferation of this type of land use; however, through changes in Zoning Code and policy, Staff has sought a heightened buffering and separation requirements from certain land use types, thus increasing the regulatory oversight of this land use type. These regulations have allowed for City Staff and marijuana facility owners to work together in how to best oversee the facilities.

It can be concluded that this location is adjacent to a number of single- and multi-family residential developments. Because Colorado Springs does not permit the recreational sale of marijuana and limits it to strictly medical, requiring a medical card for purchase, the use does not serve the larger neighborhood. However, the dispensary and grow uses are permitted, either by right or through a Conditional Use permit, as outlined in Section 7.3.205 of the City Zoning Code, and have been located in the neighborhood since 2017. Additionally, Total Green has proven to be a good neighbor as no enforcement cases have been opened against them.

As indicated above, City Planning staff finds the Optional Premises Cultivation Operation expansion project and its associated application to be in substantial conformance with PlanCOS.

3. Conformance with the Area's Master Plan:

The project site is not located within an adopted area master plan. The neighborhoods surrounding the project are developed with a mix of commercial and residential land uses. The applicant's Optional Premises Cultivation Operation expansion proposal is complementary and supportive of the current land use patterns. Through staff's review of the conditional use development plan application and consideration of the review criteria for establishing a development plan, as set forth in City Code Section 7.5.502(E), the overall area impacts of the project were analyzed.

STAFF RECOMMENDATION:

CPC CU 20-00107 – CONDITIONAL USE DEVELOPMENT PLAN

Approve the Conditional Use Development Plan for the Total Green in the PBC (Planned Business Center) zone district, based upon the findings that the request meets the review criteria for granting a Conditional Use as set forth in City Code Section 7.5.704 (A, B, and C) and meets the review criteria for granting a Development Plan as set forth in City Code Section 7.5.502(E).