

CITY PLANNING COMMISSION AGENDA

STAFF: MICHAEL TURISK

CPC CU 17-00041 – QUASI-JUDICIAL

PROJECT: 2211 EAST BOULDER STREET MEDICAL MARIJUANA OFF-PREMISES CULTIVATION (OPC) EXPANSION

APPLICANT: WAY ARCHITECTS, INC.

OWNER: FLYWHEEL, LLC



**PROJECT SUMMARY:**

1. Project Description: Under consideration is a request for a Conditional Use Development Plan to expand a licensed Medical Marijuana Off-Premises Cultivation (OPC) facility. The 11,250 square-foot subject property is zoned C-6 (General Business) and is located at 2211 East Boulder Street, approximately one-third of a mile east of the intersection of North Union Boulevard and East Boulder Street (**FIGURE 1**). The Medical Marijuana OPC facility currently uses approximately 4,000 square-feet of the existing building for cultivation; this application requests expanding the OPC facility by approximately 6,000 square-feet for a total of approximately 10,000 square-feet of cultivation capacity.

2. Applicant's Project Statement: **(FIGURE 2)**
3. Planning and Development Team's Recommendation: City Planning staff recommends approval of the Conditional Use request with two conditions.

#### **BACKGROUND:**

1. Site Address: 2211 East Boulder Street
2. Existing Zoning/Land Use: C-6 (General Business)/Licensed Medical Marijuana Off-Premises Cultivation (OPC)
3. Surrounding Zoning/Land Use: North: C-6 (General Business)/charitable organization; residential  
South: C-6 (General Business)/warehouse  
East: C-6 (General Business)/warehouse  
West: C-6 (General Business)/auto repair
3. Comprehensive Plan/Designated 2020 Land Use: Mature Redevelopment Corridor
4. Annexation: Knob Hill Addition No. 7
5. Master Plan/Designated Master Plan Land Use: Knob Hill Redevelopment Plan (1984)
6. Subdivision: Platte Acres
7. Zoning Enforcement Action(s): None
9. Physical Characteristics: The property is improved with a 10,000 square-foot commercial/warehouse building with associated on-site parking. There is no significant slope or other notable terrain features.

#### **STAKEHOLDER PROCESS AND INVOLVEMENT:**

Staff notified 194 surrounding property owners within 1,000-feet of the subject property of the proposed medical marijuana cultivation expansion shortly after application submittal. That notification provided information about the project and instructions on how to contact staff and submit comments. Notice was also mailed prior to the City Planning Commission meeting. Furthermore, the applicant posted notice on the property during the internal review phase and prior to the City Planning Commission meeting. To date, City Planning staff has not received any written comments regarding this Conditional Use request.

Staff forwarded plans to various internal and external review agencies for comments. All comments received from the review agencies are addressed. Commenting agencies included Colorado Springs Utilities, City Fire, Police and Enumerations. Colorado Springs Utilities requested the applicant discuss the need for electrical upgrades given the anticipated cultivation expansion. Staff understands that the applicant has already initiated this discussion with CSU.

#### **ANALYSIS OF REVIEW CRITERIA/MAJOR ISSUES/COMPREHENSIVE PLAN & MASTER PLAN CONFORMANCE:**

1. Review Criteria/Design & Development Issues:  
Amendment 20, passed by the Colorado electorate in 2000, allows for restricted legal medical marijuana uses in the State. In Colorado Springs, Medical Marijuana Facilities include Centers (aka dispensaries), Off-Premises Cultivation (OPCs) facilities that provide product for Centers, and Marijuana Infused Products (MIPs) manufacturing (e.g., "edibles). Until 2016, however, licensed medical marijuana OPCs were treated as permitted uses for the purposes of zoning in the City's commercial zoning districts including the C-6 (General Business) districts in which the subject property is located.

However, *Ordinance 16-53 (FIGURE 3)* approved by City Council on May 13, 2016 states that proposed expansions of medical marijuana facilities must comply with the zoning requirements at the time of application for expansion, including the requirement that Conditional Use approval is required for OPC expansions located within the City's commercial zoning districts (if the expansion does not

meet minimum requirements for expansion of a legal, non-conforming use). The applicant holds an active license with the City Clerk's Office and through this application to expand wishes to meet market demand for off-site licensed medical marijuana centers. This request is notable given that the proposed expansion area is greater than 50% of the existing OPC's cultivation area, hence the need for Conditional Use approval. The subject OPC is licensed by the State of Colorado and the City, and the use and expansion is and would remain an OPC only.

While the licensed medical marijuana OPC has operated without any complaints or violations, it is critical that the day-to-day operations be managed effectively to ensure the applicant operates as a good neighbor. Furthermore, the OPC expansion would require utilities (electrical) upgrades in anticipation of increased power loads. As a condition of approval staff recommends the applicant coordinate with the Colorado Springs Utilities' Field Engineer to discuss the increased electric load associated with the OPC expansion and the upgrades that would be necessary to accommodate additional load.

2. Criteria for Granting a Conditional Use:

**A. Surrounding Neighborhood: That the value and qualities of the neighborhood surrounding the conditional use are not substantially injured.**

The land uses located in proximity to the subject property and along the East Boulder Street frontage consists of an array of single- and multi-family residential, office and commercial uses with associated varied zoning. Thus the use and proposed expansion appears consistent with this development pattern and overall land use mix in the immediate area and along the travel corridor. However, medical marijuana uses have been documented to generate detectable off-site odor, particularly during plant flowering and product harvesting, with large-scale cultivation facilities obviously having the greatest potential. In response to this concern, adopted *Ordinance 16-54 (FIGURE 4)* formally recognizes the need for sound, well-developed and implemented off-site odor control protocols by stating: "*The MMJ facility shall install, maintain and operate an adequate ventilation and filtration system that ensures odors are not detectible by a person with a typical sense of smell from any adjoining lot, parcel, tract, public right-of-way, building unit or residential unit.*" The primary identified effective methods for mitigating odor include carbon filters, odor neutralizers and air purifiers, and although the subject OPC currently does not employ off-site odor control management, the applicant has indicated that an effective odor mitigation system will be installed as part of the proposed expansion. A recommended condition of approval would help to ensure follow-through to minimize this potential.

**B. Intent of Zoning Code: That the Conditional Use is consistent with the intent and purpose of this Zoning Code to promote public health, safety and general welfare.**

The request for the expansion of the existing licensed medical marijuana OPC is generally consistent with the intent and purpose of the Zoning Code to promote public health, safety and general welfare. The proposed expansion would occupy an existing commercial building that currently accommodates a licensed medical marijuana OPC.

**C. Comprehensive Plan: That the Conditional Use is consistent with the Comprehensive Plan of the City.**

City Planning staff finds that the proposed medical marijuana OPC expansion would conform to the City Comprehensive Plan 2020 Land Use Map and the Plan's Goals and Objectives. See more detailed discussion below.

3. Conformance with the City Comprehensive Plan:

In considering Conditional Use applications City Planning Commission must find that proposed projects substantially comply with the intent and purpose of the Comprehensive Plan. The Plan's 2020 Land Use Map designates this area of as a *Mature Redevelopment Corridor*. Policy LUM 206 of the Plan states that Mature Redevelopment Corridors are identified as existing, mature retail corridors that provide opportunities to transform from auto-oriented places to mixed-use centers through infill and redevelopment. The proposed project also would complies with Objective LU 4 (Encourage Infill and Redevelopment) and Policy LU 201 (Promote a Focused, Consolidated Land Use Pattern) by encouraging a more focused pattern of development in a well-defined and contiguous area of the City. The Plan also speaks to encouraging infill and redevelopment considered harmonious and in context with existing, surrounding development.

4. Conformance with the Area's Master Plan:

The property lies within the bounds of the Knob Hill Redevelopment Plan. However, the Plan does not clearly indicate nor suggest if the use and proposed expansion are appropriate. The Plan was adopted in 1984, well before medical marijuana uses and their various business models existed.

5. Conformance With Development Plan Review Criteria:

Of the 12 Development Plan review criteria listed in City Code, there are two identified as being most directly relevant to this request. They speak largely to the importance of the use being considered as harmonious and compatible with surrounding land uses and the neighborhood, and that the value and qualities of the neighborhood surrounding the Conditional Use are not significantly threatened.

This Conditional Use request would not have deleterious impact upon the surrounding area, as the use is and would be quiet, nondescript, nor would generate additional traffic or on- or off-site parking demands. The overall compatibility is considered enhanced given the requisite, effective off-site odor mitigation. Furthermore, the proposed expansion would indirectly serve the wider community by providing product for medical marijuana dispensaries and their patients.

6. Conformance with the City 2016-2020 Strategic Plan:

Although the current medical marijuana use and proposed expansion does not nor would not directly and significantly enhance employment opportunities, this request is suggested to conform to the identified *Platform Goals* of the 2016-2020 Strategic Plan by stimulating a more robust and diverse economy.

In reviewing this Conditional Use request, the following points serve as factors for recommending approval, including, but not limited to:

- The proposed expansion would occupy an existing space; no physical expansion of the building is proposed, and the use is and would remain entirely enclosed. The project represents an expansion of an existing use broadly considered as low-impact.
- Although perhaps not considered a "vibrant" infill-type project, the use and proposed expansion may be considered a small infill project as it is a reuse of an existing structure that would not require additional infrastructure to function.
- No additional traffic would be generated.

**STAFF RECOMMENDATION:**

**CPC CU 17-00041 – CONDITIONAL USE**

**Approve** the Conditional Use for the expansion of the medical marijuana Off-Premise Cultivation facility at 2211 East Boulder Street based upon the findings that the Conditional Use request complies with the three review criteria for granting a Conditional Use as set forth in City Code Section 7.5.704, and the development plan review criteria in City Code Section 7.5.502.E. with the following conditions of approval:

1. Contact the Colorado Springs Utilities' Field Engineer to discuss the increased electric load associated with the OPC expansion and the required upgrades.
2. Prior to Certificate of Occupancy, the applicant shall install an effective air filtration system and/or another method of adequately mitigating off-site odor generation.