

CITY PLANNING COMMISSION AGENDA  
September 19, 2019

STAFF: MORGAN HESTER

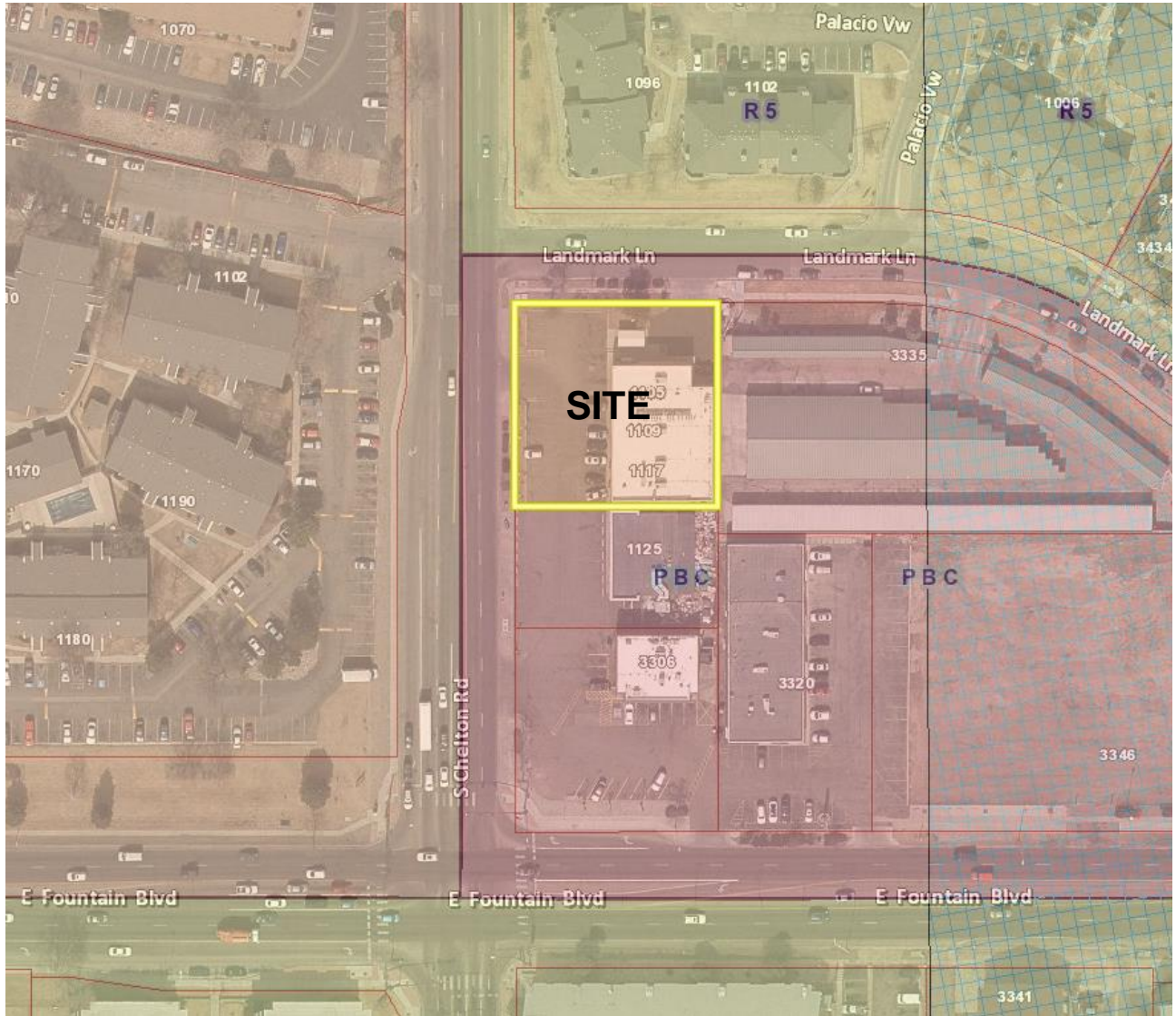
FILE NO(S):  
CPC CU 19-00040 – QUASI-JUDICIAL

PROJECT: TOTAL GREEN

OWNER: SUN LEE

DEVELOPER: N/A

CONSULTANT: N/A



## **PROJECT SUMMARY:**

1. Project Description: The project includes an application for a Conditional Use Development Plan for the property located at 1105 - 1117 South Chelton Road. The request is to relocate an existing Marijuana Optional Premises Cultivation (marijuana grow) and Medical Marijuana Center (dispensary) from 1125 South Chelton Road to 1105 South Chelton Road (**FIGURE 1**). While this move does relocate the uses to a new address, it is important to note that the subject property is a multi-tenant commercial center adjacent to the existing location and both properties are under the same ownership. The relocation more specifically shifts the uses to a new suite. 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: (**FIGURE 2**)
3. Planning and Development Team's Recommendation: City Planning staff recommends approval of the application as proposed.

## **BACKGROUND:**

1. Site Address: The property associated with this project site is addressed as 1105 - 1117 South Chelton Road, at the southeast corner of Landmark Lane and South Chelton Road.
2. Existing Zoning/Land Use: The property is currently zoned PBC (Planned Business Center) and is a multi-tenant, commercially developed with a restaurant, liquor store, and laundromat.
3. Surrounding Zoning/Land Use:
  - North: R-5 (Multi-Family Residential)/Western Terrace Apartments
  - East: PBC (Planned Business Center)/Commercially developed
  - South: PBC (Planned Business Center)/Commercially developed with applicant's existing Marijuana Optional Premises Cultivation (OPC) and Marijuana Dispensary (MMC)
  - West: PUD (Planned Unit Development)/Lincoln Springs Apartments
4. PlanCOS Vision: 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: This development is not part of a larger 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 notification process consisted of providing notice to the neighbors by posting for the project on-site and sending postcards to property owners within 1,000-feet of the project site. Staff received letters of public comment on this project (**FIGURE 3**). All received comments were included in the development plan review process and were forwarded to the applicant. Of the comments that were received, adjacent residents expressed their opposition of a marijuana-related business locating in the area. It was clear

that those providing comment were potentially unaware that the business already exists immediately adjacent to the subject site. Based on this, Staff was able to deduce that Total Green has conducted their business in a way that has not violated any City Code issues. Commenting residents were additionally notified of the public process as it continued to the City Planning Commission.

The applications were sent to the standard internal and external agencies for review and comment. Any review comments received have been addressed. Review agencies for this project included City Land Use Review Division, City Public Works, Colorado Springs Utilities, City Traffic, City Engineering, City Fire and Police Departments, Water Resources Engineering, and Enumerations.

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

### **1. Review Criteria / Design & Development Issues:**

#### **a. Background**

The requested conditional use development plan for the Total Green project will allow for the relocation of a Medical Marijuana Center (dispensary) and Optional Premises Cultivation Operation (marijuana grow) from its existing location at 1125 South Chelton Road to 1105 South Chelton Road. **(FIGURE 1)** The applicant is seeking to move their existing location to the adjacent commercial center with the future goal of expanding into more 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. Total Green first submitted the co-located Medical Marijuana Center (dispensary) and Optional Premises Cultivation Operation (marijuana grow) application for 1125 South Chelton Road on October 9, 2015, prior to the November 26, 2015 moratorium. That application received local approval on January 21, 2016, Marijuana Enforcement Division (State Division) approval on March 10, 2016, and final issuance of the City licensing on January 1, 2017 upon completion of the required Building and Fire Code compliance inspections. Since that time, they have gone through regular renewals and their current active license is set for renewal prior to March 2020.

In order to move to the proposed location at 1105 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 is in compliance 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 own 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 grow 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's ultimate goal is to expand further into the multi-tenant center and when the time comes, will have to go through the Conditional Use process again as the marijuana licensing will have to be further modified.

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.

2. Conformance with the City Comprehensive Plan:

In January 2019, the City adopted the updated Comprehensive Plan, PlanCOS. PlanCOS is a high-level, visionary document foundationally laid out as a theme based approach to alignment of development intentions for the City. The intent of the Plan is to focus more on contextual factors and existing development characteristics.

From an economic standpoint, City Staff is supportive of the growth and longevity of businesses within the community. Total Green has been at the currently 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 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.

A land use map representing existing development within the immediate area has been provided in **FIGURE 4**. 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.

3. Conformance with the Area's Master Plan:

This property is not part of a larger Master Planned area.

**STAFF RECOMMENDATION:**

**CPC CU 19-00040 – CONDITIONAL USE DEVELOPMENT PLAN**

Recommend approval of the conditional use development plan for the Total Green project, 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 and the development plan review criteria as set forth in City Code Section 7.5.502.E.