

**MINUTES OF A PUBLIC HEARING HELD BEFORE THE PLANNING COMMISSION OF THE CITY OF INDEPENDENCE, OHIO TO CONSIDER THE APPLICATION BY THE CLEVELAND CANNABIS COLLEGE, PPN 561-03-005, 6599 GRANGER ROAD, INDEPENDENCE, OHIO 44131, SEEKING A SPECIAL CONDITIONAL USE PERMIT TO OPERATE AN ADULTY EDUCATION FACILITY WITHIN AN EXISTING BUILDING HELD VIRTUALLY VIA ZOOM  
5:15 P.M., TUESDAY, AUGUST 3, 2021**

Chairman Lytkowski opened the Public Hearing at 5:20 p.m. and the following responded to Roll Call:

**PRESENT:** Dale Lytkowski, Chairman  
Gregory P. Kurtz, Mayor  
David Grendel, Vice Mayor  
Cheryl Chase  
William Gutermuth  
Don Ramm, City Engineer  
Jeff Markley, City Planner

**OTHERS**

**PRESENT:** Gregory O'Brien, Law Director  
Michael Gero, Building Official

Chairman Lytkowski stated that they have one item for the Public Hearing today, and that was the Cleveland Cannabis College seeking a Special Conditional Use Permit.

Chairman Lytkowski asked the Law Director if the Planning Commission gave the Cannabis College a Special Use Permit back in 2017.

Law Director O'Brien stated that the Planning Commission did, but it was for another property.

Chairman Lytkowski asked if that would carry over to this property.

Law Director O'Brien replied no. He stated that the permit would be property specific.

Vice Mayor Grendel stated that they were in Independence Tower previously.

Chairman Lytkowski stated that there were two issues; one was the Use Permit that they would have to agree or disagree on, and two they talked about a parking variance.

Law Director O'Brien stated that they would not need a parking variance for this use, but it will be made abundantly clear in the hearing and during the consideration by the

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Commission that if another use would come because this applicant will only be using approximately half of the building. If another occupant would come in, and they would seek a parking variance; they have caused the variance request. He stated that it would not be a reasonable excuse to grant the variance. He stated that he wanted to make sure. He stated that he would let Building Official Gero, if he was on the line, correct him if he was wrong. The Law Director stated that he thought it was that way though.

Building Official Gero stated that the Law Director was correct in the fact that there were only proposing to use part of the building. They did not have a tenant for the other part, and the part that they were going to use, there would be ample parking for that. He stated that should they find a tenant for the other space, it would have to be evaluated at that time whether or not ample parking was required or what the variance would be.

Vice Mayor Grendel stated that he went down to that location, and he thought there was an application to put a church in there he thought a year or so ago. He stated that he didn't know how they get into the building. There were small steps in the front, and there was a wall on each side which really narrows the entrance. He stated that he didn't think there was any handicap accessibility there at all. He stated that he drove around all four sides of the building, and there was no ramp or no nothing if anybody was in a wheelchair, even if they were on crutches it would be hard to get into that building. He stated that the place they were before was really very suitable for their endeavor; but this one here, he knows that was a big thing with the church application. He stated that the only entrance they would have up front would be difficult for anybody to get into the building.

Mr. Gutermuth stated that he recalled there being some sort of issue with fire sprinklers or something as well. He stated that they needed to come up to code. He stated that he didn't know if that was still an issue.

Vice Mayor Grendel stated that was the issue for that applicant.

Ms. Chase asked if the Commission was provided any of the pictures that she was looking at because she doesn't have those. That was the first time she was seeing those

Vice Mayor Grendel stated that they weren't provided those.

Chairman Lytkowski asked if the applicant was in attendance.

The Secretary stated that he was in attendance.

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The Chairman asked the applicant to explain what they were trying to accomplish.

Building Official Gero stated that he wanted to interject because the sprinkler question was raised. He stated that for the proposed use that was being evaluated now, sprinklers would not be a requirement.

Mr. Gutermuth asked why was in before.

Building Official Gero stated that the church would fall under an assembly use, and the adult education falls under a business use in the Building Code; and sprinklers were not required in a business use facility.

Mr. Gutermuth thanked the Building Official for that explanation.

Joe Balog entered the meeting.

Jason Laver entered the meeting. He wanted to thank the Planning Commission for the opportunity to discuss the project. He stated that with him on the phone he had the building owners Marybeth and John Baron. He has Joe Balog who would be an investor in the project. He stated that he had Austin Biggs on the line who was the President and Owner of Cleveland Cannabis College, and he has Joe Zumpano and Chad Whitmer who were the brokers on behalf of the sellers and Eliot Kajewski who was part of his team at Cresco.

Mr. Laver stated that he first wanted to start off and talk a little bit about the Cleveland Cannabis College. He stated that as the Chairman mentioned, the Planning Commission did issue a permit back in 2017 when they moved into the City. They have been there ever since; so they were going on five years of being in the community. He stated that part of the issue with Independence Tower was they were split on multiple floors, both the first floor and fifth floor of the building. He stated that they were set up to be an easy access kind of a group. He stated that the single story nature of this building and being able to park very close adjacent to it was what appeals to this location right down the street.

He stated that the Cleveland Cannabis College would have a parking need for plus or minus 30 people. They do in-person learning as well as mostly online learning; so they were moving heavily into the online space. Approximately 70% of their students are online and about 30% are in person. He stated that would result to about 30 to 35 parking spaces which they would occupy approximately 9,000 square feet of the building. He

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stated that they have looked at what the remaining parking would be of about 46 spaces; and they have been involved in commercial real estate development and redevelopment of buildings and leasing for 20 plus years. They feel that it would be an adequate amount of parking spaces going forward to identify other users to go into the remaining office space that would be vacant on the eastern portion of the building as well as the warehouse in the back of the building. He stated that as potential building owners of the project, they feel very confident with what would be left over from a parking standpoint.

He stated that in terms of the hours of operation for Cleveland Cannabis College, they were basically normal business hours 9:00 a.m. to 5:00 p.m. type of operation. They have had discussions with the neighboring tenant which was Strong Style. They were a fitness gym and MMA, and their peak hours would be 5:00 p.m. to 8:00 p.m. hours. He stated that they have talked to the Director of Operations about their potential of them coming to the building and just kind of having a neighborly approach to the parking. They had a really good face-to-face meeting and discussion about the potential of parking bleeding over if it were to occur. He stated that they didn't think it would be a necessity but again they wanted to be neighborly with the potential businesses if they would move forward with the project.

Mr. Laver stated that in terms of the payroll at Cleveland Cannabis College, they were approaching a million dollars and growing; so it would be a growing business within the State of Ohio and nationally. They were looking to go recreational and open up more dispensaries and more growing facilities, etc.; and really what the college would do was it would train employees and workforce to go into the cannabis industry where they can't get any formal training. He stated that they were moving towards state accreditation for the classes that they provide, and that would put a little shot in the arm there with the group when that does happen. He stated that there was no product, there was no cannabis on site. He stated that it was purely a curriculum that would be taught to students and hopefully future employees within the cannabis industry.

He stated that he could answer questions from the Commission. He stated that he would be happy to answer any questions that they would have, but they feel very comfortable going forward with this project with them as a lead tenant to redevelop the building which has been vacant for more than five years or used for a storage purpose. He stated that they think that Cleveland Cannabis College would be the catalyst that would allow them to develop the building. He stated that there was a lot of office that was existing within the building as they could see in the drawing. He stated that they think that was part of the issue with this kind of a building, that there was a lot of office. He stated that they see the office getting pruned back potentially as they would redevelop it, but that

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they could utilize some of that office space for an adjacent tenant and obviously utilize the warehouse space.

Mr. Balog stated that they heard the Law Director's earlier comment about variances and creating a problem for themselves would not give them a right to a variance. He stated that they acknowledge that.

Vice Mayor Grendel stated that Mr. Laver mentioned the potential payroll for the college. He asked how many employees would they have total.

Mr. Austin Biggs stated that their total faculty and staff would be around 65 right now. He stated that some of those were in Columbus as well; but the majority were here in Cleveland. He stated that there were about 50, and about 24 were full-time.

Vice Mayor Grendel asked if the online classes would come out of that facility?

Mr. Biggs stated that they would, or some of the instructors would teach from home as well.

Chairman Lytkowski stated that Granger Development was making an acquisition. He asked if that was correct.

Mr. Balog agreed.

The Chairman asked within that acquisition Granger would have a tenant called Cleveland Cannabis College. He asked if that was correct.

Several people replied correct.

The Chairman stated that there was a vacancy in that facility within that existing structure. He stated that his question was for City Engineer Don Ramm, what would the parking spaces that they would need for the total facility, assuming if it was office or assuming it would be retail, or assuming it would be warehouse? He was just curious. He asked where would they fall short.

City Engineer Ramm stated that there was a little mishap when they transposed the slide, but he thought the questions he was asking were answered here at the bottom right corner of the slide. He stated that the total was 29,000 square feet, and 109 spaces required with

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62 spaces provided. So, the difference between those two based on their square footage that they list for the exhibit.

Mr. Laver stated that he thought there was an earlier version that was wrong. He stated that he believed what was actually submitted, there were 91 spaces required, and 81 spaces provided. He asked Mr. Bajko to confirm.

Mr. Bajko stated that the slide they were looking at right now was definitely supportive of what Mr. Laver just mentioned. He stated that there were 81 provided, 91 required. He stated that was based on the amendment of the Cleveland School of Cannabis requirements. He stated that to answer the Chairman's question, he thinks there were 130 spaces for the whole property if you did the math. He stated that the point was that the 5 per 1,000 for office space in general, generally speaking it was kind of onerous. He stated that he thought most municipalities have amended their requirements for less parking requirements because of surface parking and runoff and whatnot. So, the point that they were trying to make with the slide that was up right now was the fact that there was an opportunity with the Cleveland School of Cannabis to really make the rest of the building work better from the standpoint of they would be taking 9,000 feet, and they need 30 parking spaces instead of the 45 that the zoning code would require. That would allow for the remainder of the building to be more in line with their zoning code. He stated that he thought the opening statement was the idea of a variance for a future tenant, well based on the remaining space, they would not be required because those two remaining spaces would be able to have parking support them equally per the code.

Mr. Bajko stated that the difference between the two slides were they could see there was parking along Granger Road, it was double loaded on that front of the building which the previous slide didn't have that; so as Mr. Laver pointed out that their previous rendering wasn't completely accurate. So, the one that they were looking at right now really represents what parking would be available on site.

Vice Mayor Grendel asked if there was any other access besides the front entrance?

Mr. Bajko stated that there were two entrances on the east side, and there was actually one on the west side that has a barricade in front of it. He stated that if they would go to the photos, they could see that there was an entrance on the west side that was blocked off. He stated that the Building Official brought it up during the pre-meeting on this. He stated that there were three additional entrances to the office space besides the front entrance.

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Vice Mayor Grendel asked if the space they were renting would be on the west side of the building.

Mr. Bajko agreed. He stated that there was 16,000 total, and they were taking 9,000. He stated that they were 3 to 3 ½ per 1,000; that would be what they would need for their space, which would allow for the 5 per 1,000 for the remaining.

Building Official Gero stated that when he reviewed the drawing earlier when they had a pre-meeting with Mr. Bajko and Mr. Laver, they had 81 spaces on the site; and they had a use based on current building configuration of 109 spaces required. He stated that the office space was approximately 16,000 square feet which would come up with a requirement of 80 spaces. He stated that they were using only 9,000 square feet which would give them a requirement per the code of 45 spaces. He stated that the remaining spaces for the warehouse were 30 required. They only had an overall deficiency of about 40 spaces or so.

Chairman Lytkowski stated that was pretty significant.

Law Director O'Brien stated that if they were fully utilized.

Building Official Gero stated that was correct. It would be for the whole building; so based on that tenant coming in, the single tenant and what they would be proposing, the area that they were proposing to use, they would need to have 45 spaces satisfy their use. He stated that if they would bring another tenant in, if that tenant would be a warehouse, there would be a different parking requirement for a warehouse use as opposed to an office or business use. So, that's why it would depend on what the tenant would be that would come in. He stated that if the entire building were to come in at 30,000 square feet, they would need 150. He stated that 150 to 81, that would be where the deficit would come in, but for what they were proposing, they would have enough parking there right now without any other tenants in the building.

Chairman Lytkowski asked the Law Director if the Planning Commission would approve this, could they make it subject to additional tenants coming in? He asked how they could protect the down side?

Law Director O'Brien stated that he thought they had admissions from the applicant, and they will get them when they go into the regular meeting to re-affirm those; or they will incorporate them without objection. He stated that if he understood Mr. Balog who has a great deal of experience in the area, and he assumed that the brokers did too, if the

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applicant received approval, they would be doing so at their own risk and will assume the risk going forward. He stated that if the building owner would come in and say he has this use for the remaining portion of the property, but he would need a parking variance; and the City would be within its rights to say no that they created the need for the variance and therefore it would not fall under a practical difficulty area variance standard. Therefore, the City would be within its right to deny it. He stated that as long as the building owner would know that risk and would assume the risk, they could move forward, assuming the Planning Commission would recommend the passage to City Council.

He stated that there was also the issue of, it was his understanding that the whole area down there quite regularly floods a great deal. He stated that he didn't know the last time this building was, but the City over the years; he knows that his office was getting calls from property owners wanting some remediation. He stated that he assumed that would come up in any due diligence of the proposed building owners, but they would be assuming that risk as well.

Vice Mayor Grendel asked if there were any requirements as far as handicap accessibility on the building.

Law Director O'Brien stated that he would have to defer to the Building Official. He would be up to date on those codes as far as for building purposes.

Vice Mayor Grendel asked Building Official Gero if he had any thought on that.

The Secretary stated that the Building Official disappeared from the screen.

Mr. Bajko stated that if the use hasn't changed the building code, you would have to spend up to 20% of the budget on ADA improvements.

Law Director O'Brien stated to the Building Official that the question from the Vice Mayor was there was no ADA compliant measures in the building, and because they were seeking a Special Conditional Use Permit, would they need to install those or would they be grandfathered in because they were not making any substantive changes to the building?

Building Official Gero stated that it would depend on the extent of the changes that they make to the building whether or not they would trigger a requirement to provide accessibility features. He stated that he was going to guess that possibly Planning



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Commission could require some type of accessibility feature, but as far as the building code would go, there would be a threshold as far as the amount of alterations that they do to the building where they would trigger that.

Chairman Lytkowski stated that was what he thought would make sense for the safety forces.

Mayor Kurtz stated that would be a code issue that the City would manage, not the Planning Commission. He asked the Building Official if that was correct.

Building Official Gero stated that it would be a requirement through the Building Department.

Chairman Lytkowski asked if anyone had any other questions.

Ms. Chase stated that she did have one, and it may be the business between the building owner and the Cannabis College, but just thinking ahead, they would be 70% online and 30% in-person; she asked if any of that was Covid related? She asked if they anticipated that getting to be more like 50-50 as the pandemic would ease?

Mr. Biggs stated that they didn't plan on expanding their brick and mortar anymore. He stated that people were more willing to do online now, and their margins were larger online. So, they were moving towards online and keeping a small brick and mortar.

Ms. Chase replied thank you.

Chairman Lytkowski asked Mr. Gutermuth if he had any questions.

Mr. Gutermuth stated that was his only question as well, great minds think alike; so he was good.

Vice Mayor Grendel stated that he didn't have any further questions. He stated that he knows they had some problems when the church proposed to use the building. He stated that his comfort level was a little bit higher now that the majority of the students were online students and not in person.

He stated that the parking in the back, he drove back there and everything. He stated that he didn't think anybody who went to the facility would use the back for the college. They would use the front and the side.

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Chairman Lytkowski asked Mayor Kurtz if he had any comments.

Mayor Kurtz stated that from the public hearing standpoint, he did not have any comments.

Chairman Lytkowski stated that the comment that he has going through his mind, when he looked at the Minutes from 2017, they talked about not approving the Special Permit at the Public Hearing. They talked about delaying it for 30 days to give the Planning Commission time to reassess the parking, reassess the Special Permit. He wondered how the Planning Commission felt about it today. He asked the Vice Mayor if he had any comments about that.

Mr. Gutermuth stated that he didn't have any issues with this at this point. He stated that he thought they were in a different situation given the intended use of the facility and it being for assembly versus office. He stated that he thought the sprinklers were a large concern and whether or not the tenants were going to actually have money to do that. He stated that in this instance, he was feeling much more comfortable. He stated that was his perspective.

Chairman Lytkowski asked Mayor Kurtz if he had any comments.

Mayor Kurtz stated that he didn't have any at the Public Hearing.

Chairman Lytkowski stated that if there were no other comments. He asked the Vice Mayor if he had any comments.

Vice Mayor Grendel stated that he didn't have any comments at this time. He stated that he would reserve his comments for the meeting.

Chairman Lytkowski asked Ms. Chase if she had any comments.

Ms. Chase stated that she did not have any comments.

Chairman Lytkowski stated at this point and time, he would entertain a motion for adjournment of the Public Hearing.

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A motion was made by Vice Mayor Grendel, seconded by William Gutermuth, to close the Public Hearing.

**ROLL CALL:           Yeas: Grendel, Gutermuth, Kurtz, Chase, Lytkowski  
                          Nays: None  
                          MOTION CARRIED**

There being no further business, the Public Hearing was closed at 5:52 p.m.

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**Dale Lytkowski, Chairman**

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**Debi Beal, Planning Commission Clerk**  
Minutes Unapproved at Time of Release 08/04/21