

Brookville Planning Commission
Regular Meeting
June 20, 2024

The Regular Meeting of the Brookville Planning Commission was called to order by Chairperson Henderson at 7:30 p.m. on June 20, 2024. The meeting was held in the City Council Chambers and virtually using Webex. The Pledge of Allegiance was recited. Mayor Letner, Members Claggett, Ezerski, Kristof, Schreier and Wright; Law Director Stephan and Clerk Duncan were present. Manager Kuntz was absent.

Roll call by Clerk Duncan.

Motion by Kristof, second by Schreier to adopt the Agenda as presented. All yeas, motion carried.

Motion by Kristof, second by Schreier to approve the minutes of the May 16, 2024 Planning Commission Meeting. All yeas, motion carried.

Law Director Stephan reported the Ordinance 2024-09 is before Planning Commission for a final recommendation to City Council. The public hearing on this proposed ordinance was held at the June 4, 2024 City Council meeting. The proposed ordinance amends the zoning code to permit the cultivation, processing and laboratory testing of medical marijuana and adult use cannabis in the 1-2 General Industrial District. The business must be licensed by the State of Ohio to operate in the City of Brookville. The proposed ordinance expressly prohibits the issuance of a zoning permit for a retail dispensary for either medical marijuana or adult use cannabis in any zoning district in the City of Brookville. Ohio Revised Code 3780.25 expressly authorizes local municipalities and townships to prohibit any type of marijuana business or to limit the number of permits that may be issued in their jurisdiction. Law Director Stephan opened the floor for discussion on the final recommendation.

Member Schreier asked if there is a legal definition difference between marijuana and cannabis?

Law Director Stephan replied marijuana and cannabis are in the same category. The reason the word cannabis is used here is because Chapter 3780 of the new statute refers to adult use cannabis. We are also referencing back to medical marijuana because we currently have a medical marijuana section in our code, and it is currently prohibited.

Member Kristof commented separating the cultivation issue from the dispensary issue was raised in the Public Hearing.

Law Director Stephan replied a yes vote on this proposed ordinance permits cultivation, testing and processing and prohibits retail dispensaries. Voting no would prohibit both.

Member Schreier asked if we could amend the proposed ordinance in the future to allow dispensaries once we have more history about how the dispensary would work in Ohio.

Law Director Stephan replied we could amend the ordinance in the future to add or subtract either dispensaries or cultivation, testing and processing. With respect to a retail dispensary, our proximity to the State border should be considered. The proposed ordinance, as drafted, expressly prohibits retail dispensaries. Law Director Stephan stated in terms of our desire to move forward, we do have a specific project, which would occupy an existing building in our industrial park on Carr Drive and would involve making significant investments in the building as well as a good number of employees.

Member Schreier stated the biggest concern in the public hearing seemed to be regarding allowing a retail dispensary and the influx it would bring to the community.

Member Wright stated the wholesale manufacturing of marijuana quickly became an oversaturated market in Michigan. Member Wright stated he is not opposed to bringing income into the city, however we should look at certain protections in case the market becomes oversaturated.

Law Director Stephan commented that the State of Ohio has looked at the issues other states have encountered, and they are addressing that by limiting the number of cultivation permits.

Member Wright asked if the current project is a business with precedent and validation?

Law Director Stephan replied staff has toured their current operation in Bethel Township and it was an impressive operation in a highly secured building. They have a very secure industrial process there for growth, rigid controls on their growth and testing, as well as rigid controls on the employees. They can be inspected by the State of Ohio at any point. Law Director Stephan stated staff feels confident that this is a good business.

Member Schreier stated this will be treated like a pharmaceutical controlled substance type of manufacturing company.

Member Wright asked how the public reacted at the public hearing?

Member Ezerski replied the public generally did not want dispensaries but were open to cultivation.

Member Ezerski asked what the tax abatement strategy is on the proposed project?

Law Director Stephan replied the city is not offering any tax abatements or putting any money into the project. Law Director Stephan stated the proposed initial investment is to invest \$3,554,000 into the building. After the initial investment, they plan to get a Level Two Cultivation License which will allow them to add more square footage for cultivation. This phase is projected to be a \$4,609,000 investment in the building. They are projecting 54 employees in the first phase, with up to 85 employees once the second phase of the business is completed.

Member Wright asked if there is any concept of revenue for the project?

Law Director Stephan replied the hourly pay rate is \$18 to \$40 an hour, plus bonuses and incentives, which would generate an estimated \$40,000 - \$60,000 per year in income tax.

Member Ezerski inquired where the nearest cultivation plant is?

Law Director Stephan replied there is one in Bethel Township and one in Clayton.

Member Schreier inquired whether the Bethel Township site would relocate to Brookville?

Law Director Stephan replied he does not know the answer to that question.

Member Wright inquired if this would open the door to more permits in this area?

Law Director Stephan replied the proposed Ordinance does not limit the number of permits. Planning Commission can certainly propose to recommend approval but limit the number of permits. The State of Ohio is already limiting the number of permits issued.

Mayor Letner asked if the product could be sold out of state or sold only within Ohio?

Law Director Stephan replied he is not certain but thinks it would only be sold in Ohio.

Member Wright asked if these questions could be followed up on a later date or does staff need a vote today?

Law Director Stephan replied the developers are under contract and need to move forward in July.

Member Schreier stated Planning Commission could recommend approval and at the same time recommend limiting the number of cultivation operations within the city.

Member Wright stated Planning Commission could also expressly prohibit dispensaries.

Member Kristof stated Issue 2, which legalized marijuana in Ohio, failed by 52 votes within the City of Brookville.

Member Wright asked for the revenue projection for the business again.

Law Director Stephan replied the estimated income tax would be \$40,000 - \$60,000 per year. The hourly pay rate is \$18 to \$40 an hour, plus production bonuses and incentives. There may be other taxable items.

Member Wright inquired how this income tax revenue compares to McDonalds?

Law Director Stephan replied he does not have those figures.

Member Wright inquired if we could create a land overlay concept to make the building nondescript?

Law Director Stephan replied their existing site in Bethel Township is nondescript. You cannot tell from the outside what type of business it is.

Member Ezerski asked if the Police Chief has any concerns?

Law Director Stephan replied city staff toured the Bethel Township site and had no concerns. It is an impressive business in terms of security and control.

Member Wright inquired if the business is not successful or does not work out can we change the ordinance to prohibit cultivation?

Law Director Stephan stated we could not revoke an existing zoning permit if the business is still operating. If the business closed, we could change the ordinance to prohibit cultivation.

Member Claggett stated he has been against this from the beginning. He does not think Brookville needs to be known for growing marijuana. Claggett stated marijuana serves no useful purpose but to alter the brain chemistry of the people who use it. Claggett asked if we are that desperate for \$40,000 that we would want this kind of thing in our community?

Member Henderson commented he has the same fear that approving this will attract it to the area and to other locations. We cannot stop dispensaries in neighboring towns and as soon as they approve it that is a concern that we need to be thinking about.

Member Claggett stated he read an online survey showing all the communities in a 20-mile radius of here voted against Issue 2, except for West Alexandria.

Member Wright stated if the proposed business has 80 employees, 50% of them are likely to be from our community. It would be a part of a dialogue.

Member Henderson stated the proposed pay rate of the employees working there tells you a little bit about what the clientele coming into work there is going to be.

Member Wright wondered about the odor of marijuana that would come from a cultivation and processing plant?

Law Director Stephan replied the developer indicated there are a few days of the month with a stronger odor, depending on what part of the process they are in.

Mayor Letner commented there is a 100-foot buffer for the odor. Most of the time you cannot smell it.

Member Wright asked how relevant is the \$40,000-\$60,000 in revenue to our financial budget?

Law Director Stephan stated it is a small percentage, but right now we have a vacant, water damaged industrial building that has been sitting empty for two years. We are looking at a huge investment in the building and the potential of bringing jobs into the community. Law Director Stephan stated this is a topic that members might be philosophically opposed to and may vote no for that reason. But in terms of filling an industrial building and bringing jobs into Brookville that revenue will help the city. In terms of a property tax, it would be like passing half a mill. When you do that one mill at a time, it does help the overall budget.

Member Wright commented that the financial picture is less relevant than we would like and asked if staff can renegotiate and try to get more from them? Wright stated he does not know if that is legally possible but otherwise we have a pretty tough call, because you have a vote that leans on half a percent. Wright stated he is not voting philosophically, but on what the community might want and what the community could benefit from. Wright stated he wishes the financials were more than what is being presented.

Member Schreier stated the proposed pay rate of \$18 per hour is similar to what other manufacturing jobs are paying, such as Green Tokai.

Member Ezerski asked how much traffic this type of business will generate, in terms of 18-wheelers?

Member Claggett stated we need to remember this is still illegal at a federal level.

Member Wright inquired whether there are any other proposals or projects for this site?

Law Director Stephan replied only one. There is potentially another offer to sell the building for storage, which would generate one employee. Law Director Stephan stated the realtor is present and the developer of the potential project is available online. This is not a public hearing on this project, but if Planning members have direct questions, they can ask.

Member Schreier asked if this is a relocation from their current site, or a secondary site?

Mark Nelson, of Paragon Development, stated it is a secondary site. Their existing site has a small footprint, so it is more cost effective for them to open another site at this existing facility. There are only 37 cultivation licenses in the State, as opposed to Michigan, where there are a thousand or more. The State is going to have a problem with production, so they are anticipating they are going to allow future expansion. The proposed site is a building they can grow into over time. There are no 18-wheelers involved in this operation other than for deliveries at start up.

Member Wright inquired how much would be cultivated on a daily basis?

Mr. Nelson stated when the building is fully built out, it will be somewhere around 5,000 pounds per year.

Member Wright stated he feels like that is a guarantee there will be an expansion.

Mr. Nelson stated it is going to be an issue. He stated there is a facility that he is no longer a part of in Oklahoma, where they had like 6,000 grow licenses at one time, with only 3 million people. Companies were going out of business left and right. In Ohio the companies are going to be extremely strong financially. Nelson stated he understands some people don't like marijuana and some do, but there are a lot of benefits it brings to a many people. One of the things that sways his conservative thinking is that there are a lot of drugs that are fentanyl laced. Nelson advised his product is highly lab tested, with every 15 pounds tested through an accredited lab through the State of Ohio. In the long run, people are going to utilize marijuana if they want to. Many already do and it is people like your friends, neighbors and people that go to the bowling alley and some that go to church and some that do not. It is a lot better for them to be able to get a product that is highly regulated by the government. The new person in charge of the Ohio Department of Cannabis Control is the previous State Liquor Commissioner, so they are operating the same way and really doing a good job of the rollout to ensure that there is a quality product, and it is highly controlled. Nelson stated in our facility, the State can actually log in and look at our camera system in real time so they can literally watch what we are doing. The sheriff has the option to do that as well. Every single plant has an RFID tag on it. From start to finish, there is zero product going out the back door. With the mechanical systems in place, it is a highly scientific facility.

Member Wright wondered if we should wait until other communities respond?

Chairperson Henderson stated if he wants to do that he will have to vote no. That is the only way to get more time.

Law Director Stephan stated he would like to take more time but the contract to purchase the building is going to expire on July 9.

Member Wright stated a real estate contract could likely be extended.

Member Schreier stated it would take a while to get more information.

Member Wright stated a no vote as suggested by Chairperson Henderson would be a process to extend the timeline at risk of losing revenue.

Member Kristof stated the moratorium is expiring so we have to make a recommendation tonight.

Law Director Stephan stated the moratorium expires on July 4 or 5. If this does not move forward we need to have a moratorium in place. Our Code of Ordinances calls for Planning Commission to make a recommendation.

Member Wright stated he hates to prevent revenue to the city, but \$40,000 does not seem like a lot. Wright feels Planning Commission needs more time.

Mayor Letner advised there is a marijuana cultivator in Clayton, who has been there for some time.

Member Kristof stated it is a tough decision because the Issue 2 vote was basically 50/50.

Member Wright asked if there is any way we can get more from the developer of the project?

Law Director Stephan inquired if Mr. Nelson could give a better payroll total?

Mr. Nelson stated the building has not been redesigned by their engineer, so they gave a rough estimate. He could put more numbers together for Planning Commission if he needs to.

Mayor Letner inquired about the vetting of employees through his company and through the State of Ohio.

Mr., Nelson stated the employees have to pass a State BCI and FBI background check. The State completes a vetting process and then his company completes their own vetting process.

Member Wright inquired if Paragon Development is willing to invest in the community as \$40,000 is a small amount.

Mr. Nelson asked how much?

Member Wright suggested \$1,000,000.

Mr. Nelson stated the company is owned by a disabled veteran. While they are well funded, they are not the big MSO's that are out there. Nelson stated they would be happy to talk about it as they want to be a good business partner with the community. They are not a publicly traded marijuana company, just two guys with a dream that run a business well.

Member Schreier commented the biggest thing is the newness of it all.

Member Wright stated what he is hearing is we can accept the \$40,000, or we can negotiate more.

Member Schreier stated you can say that is an opportunity, but to make that contractual would be difficult.

Member Kristof inquired about the license application process?

Law Director Stephan stated they would have to have a State license to operate. The city would issue a zoning permit on the condition that they have a state license.

Mr. Nelson stated they are currently going through the state licensing process.

Member Wright asked Mr. Nelson why the real estate purchase is at risk after July 9 and if there is a way to counter that? Wright stated he needs more time to talk with Mr. Nelson about helping the city out more with an investment in the community.

Mr. Nelson stated his understanding is that there is a back-up offer on the building that will be accepted after July 9.

Member Wright asked if the back-up offer is commercial?

Law Director Stephan stated the owner has a back-up offer from another buyer who wants to use the building as storage. The owner is adamant about selling the building and has indicated he will move on to the other offer after July 9.

Mr. Nelson stated they put a non-refundable deposit down on the building because they liked it that much. Nelson stated that he believes it is dispensaries that surrounding communities are very concerned about. No one seems to have a problem with medical marijuana, and they do not seem to have a problem with cultivation. Half of the neighbors at his current facility have no idea what they do. This is just like any other manufacturing business where workers come in, they do their job, and they go home. There is no public visitation and no signage.

Member Wright stated he agrees but \$40,000 is a used police cruiser. It is not much money.

Mr. Nelson commented what if we buy you another police cruiser?

Member Wright stated that is what he is talking about. Wright stated we need more time so we can properly negotiate.

Mr. Nelson stated say yes tonight and he will buy another police cruiser.

Mayor Letner asked if this is a 24-hour operation?

Mr. Nelson stated right now it is a day shift only. There may be some workers there up to 14 hours per day.

Member Wright stated that July 9 is before the next Planning Commission meeting. If there is a material amount of money at stake, we should have a separate meeting to talk about what that would be. Wright stated he is trying to do what is best for the community. Wright stated we need more than \$40,000. While a police cruiser would help but there is probably more thoughtful way to negotiate. Wright stated he does not want to make them lose a non-refundable deposit and he does not want to go against anyone here.

Member Kristof stated \$40,000 is not a lot but it is more than we would get from a storage unit.

Law Director Stephan stated his calculations based on the first phase of the project. If they get their level two cultivation license, we could be looking at revenue of \$60,000. That is not an overwhelming amount of money but in terms of filling an empty building and in terms of their investment, which could be up to 12 million, it is a not a bad deal.

Member Wright indicated Planning Commission is a team, so someone should tell him if he is off base. Wright stated the developer's investment is 8 million. The city has needs and city staff is more prepared to ask for those needs than he is. He does not know if we need a police cruiser. Wright advised Mr. Nelson to make this material, we need a \$100,000 investment in the things that we need. Perhaps the investment could be a part of an extension to our school system because we are at capacity in certain areas of our school. Wright stated we definitely need help in areas where we have not passed certain things like a street levy. If you do the math, \$100,000 is one 80th of the developer investment.

Mr. Nelson asked Member Wright if he is saying he will vote yes if his company commits to \$100,000?

Member Wright stated he cannot guarantee that, but he thinks it would be a part of the vote.

Member Schreier advised that Planning Commission is not the negotiator.

Chairperson Henderson stated he appreciates the conversation Member Wright is having with Mr. Nelson, who has indicated a willingness to negotiate. Henderson stated he does not think this can be factored into this decision.

Chairperson Henderson called for a motion on the recommendation that is before Planning Commission.

Member Kristof indicated he would be willing to make a motion to recommend approval of proposed Ordinance No. 2024-09, with an amendment that it be limited to one permit for marijuana cultivators, processors and laboratory testing.

Member Wright stated he is not trying to introduce levity or comic, but Mr. Nelson made the statement tell me now and I will add in a police cruiser. Wright asked if that is legally not a part of what can be done here as the Planning Commission?

Chairperson Henderson stated Planning Commission can make a recommendation to Council to consider that but they cannot make a deal right now.

Law Director Stephan recommended that Planning Commission makes a recommendation to instruct staff to negotiate with the business for additional compensation incentives.

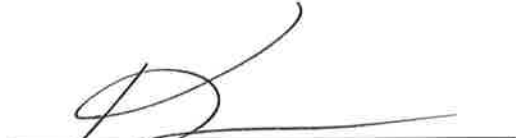
Member Schreier asked if they could table the proposed Ordinance for now, extend the moratorium and schedule a Special Meeting for negotiations?

Mayor Letner advised we are not in negotiations tonight. Planning Commission is here tonight to make a recommendation to Council.

Member Kristof stated he thinks with the voting results on Issue 2 and the State as a whole, he feels voting to allow cultivation and not allow a dispensary is as close to 50/50 as we can get. Kristof stated he would like to add to his motion that Council negotiate.

Motion by Kristof, second by Schreier to recommend approval of proposed Ordinance No. 2024-09, entitled "AN ORDINANCE AMENDING CHAPTER 1170 MEDICAL MARIJUANA AND CHAPTER 1145 I-2 GENERAL INDUSTRIAL DISTRICT OF THE CODE OF ORDINANCES OF THE CITY OF BROOKVILLE, OHIO." with an amendment that it be limited to one permit for marijuana cultivators, processors and laboratory testing and a recommendation to instruct staff to negotiate with the business for additional compensation incentives. Claggett nay, Letner yea, Schreier nay, Wright nay, Ezerski nay, Kristof yea, Henderson nay. Motion failed with five nays and two yeas.

Motion by Letner, second by Kristof to adjourn. All yeas, motion carried.



Kimberly Duncan, Clerk

Ryan Henderson, Chairperson