



**Planning & Zoning Commission
Agenda
Wednesday, March 15, 2023, 7:00 p.m.
Kirkwood City Hall
139 S. Kirkwood Road
Kirkwood, MO 63122
Posted March 10, 2023**

- I. **ROLL CALL**
- II. **APPROVAL OF THE MARCH 1, 2023 MEETING MINUTES**
- II. **UNFINISHED BUSINESS**
 1. **PZ-12-23 SPECIAL USE PERMIT (COMPREHENSIVE MARIJUANA DISPENSARY FACILITY AND ACCESSORY DRIVE-THROUGH FACILITY) AND MAJOR SITE PLAN REVIEW – NEW GROWTH, 10855 MANCHESTER ROAD**
Submitted: 2-10-22 Automatic Recommendation Date: 6-12-2
Petitioner's Agent: Jaimie L. Mansfield, Armstrong Teasdale LLP
(Subcommittee – Commissioners Diel and Evens)
Opportunity for Public Comment
- IV. **COMMISSION/STAFF (INTERNAL) ITEMS**
 1. **DEVELOPMENT PROJECT UPDATE**
- V. **PLANNING AND ZONING SCHEDULE:**
 1. APRIL 5 and 19, 2023 – 7:00 P.M.

Staff Liaison: Jonathan Raiche; Phone: (314) 984-5926; Email: RaicheJD@kirkwoodmo.org

Kirkwood Planning and Zoning Commission: Chairman Jim Adkins, Commissioners James Diel, David Eagleton, Ron Evens, Tom Feiner, Sandy Washington, Mary Lee Salzer-Lutz, Darrell Scott, and Allen Klippel.

Accommodation: The City of Kirkwood is interested in effective communication for all persons. Persons requiring an accommodation to attend and participate in the meeting should contact the City Clerk at 314-822-5802 at least 48 hours before the meeting. With advance notice of seven calendar days, the City of Kirkwood will provide interpreter services at public meetings for languages other than English and for the hearing impaired. Upon request, the minutes from this meeting can be made available in an alternate format, such as CD by calling 314-822-5802.



**CITY OF KIRKWOOD
PLANNING AND ZONING COMMISSION
MEETING MINUTES
MARCH 1, 2023**

PRESENT:

Jim Adkins, Chair
Tom Feiner, Vice Chair
James Diel
Ron Evens
Allen Klippel
Mary Lee Salzer-Lutz
Darrel Scott
Sandy Washington

ABSENT:

David Eagleton, Secretary/Treasurer

Pursuant to notice of meeting duly given, the Planning and Zoning Commission convened on Wednesday, March 1, 2023 at 7:00 p.m. in the City Hall Main Level Conference Room. City Attorney John Hessel, Planning and Development Services Director Jonathan Raiche, and Planner II Amy Lowry also attended the meeting.

1. Chair Adkins called the meeting to order at 7 p.m. and informed the audience of the Speaker Cards and procedures for making comments regarding items on the agenda requiring Site Plan Review. Chair Adkins announced that Commissioner David Eagleton was absent and his absence was excused.
2. Motion was made by Commissioner Scott and seconded by Commissioner Washington to approve the minutes for the February 1, 2023 meeting as written. The minutes were approved by seven of the eight members present with one abstention by Commissioner Salzer-Lutz.
3. **PZ-11-23 MIXED USE IN B-2 DEVELOPMENT PLAN – ART DISTRICT MIXED USE CONDOMINIUMS, 132 E. MONROE AVENUE**
Planner II Amy Lowry provided the Commission with an introduction on the application proposed for the site. Ms. Lowry stated that the property is approximately 1.5 acres and is zoned B-2, Central Business District. The site currently hosts the Missouri University Extension office as well as various unoccupied parking lots. The topography of the site has a decent amount of relief with the site sloping downward generally from west to east. Ms. Lowry showed the proposed site plan for the proposed 5-story building that would include 42 residential condominium units and approximately 5,500sf of commercial space for a total of approximately 120,000sf of floor area, excluding the parking garage.

The project would provide 29 parking spaces adjacent to and for the use of the commercial space as well as 84 parking spaces that will be restricted for the residential condo owners. The project exceeds the minimum requirements of the Code. There will be a driveway entrance at the south-end of the development along Taylor Avenue which will provide access to a screened dumpster and to the parking garage which will connect to the interior drive lane in the parking structure. A bicycle parking area is proposed within the parking structure near the Taylor Avenue frontage. The project will submit stormwater plans to MSD for review and approval.

By code, the proposal is allowed 43 units per acre or approximately 64 units which is more than the proposed 42 units. The frontages along Monroe and Taylor Avenue are both considered Phase 1A streets which requires a maximum structure setback of 20' to qualify and correspond with the minimum street frontage occupation of 90%. As proposed, the frontage occupation on Monroe is approximately 60% excluding the proposed plaza and over 90% if the plaza is included. As proposed, the frontage occupation on Taylor is approximately 65% excluding the proposed plaza and approximately 82% with the plaza included in the calculation. Modifications to the frontage requirement on each street frontage are required.

Ms. Lowry introduced the floor plans which showed 12 units per floor (6 per tower/wing) for the first 3 floors of residential and 6 total units on the 4th residential floor (3 per tower/wing) for a total of 42 units. The applicant is not required to provide architectural elevations at this point in the process; however, they are required to provide a height exhibit that will verify compliance with the maximum 60' height requirement for mixed-use projects.

Ms. Lowry explained that there is a requirement for street trees provided with one tree every 40 linear feet along each street frontage within a minimum 7' wide planting area. There is no requirement for landscape buffers against other B-2 zoned properties which exist to the west and south of the subject site. There is, however, a requirement for landscape buffering along the proposed driveway that leads to the parking structure. As proposed, they would not be able to meet this requirement and are requesting a modification to this requirement. The proposed lighting plan does require some revisions to meet the Code; however, Staff believes this will be able to be brought into compliance.

Ms. Lowry summarized that the modifications that are being requested are for the minimum street frontage occupation along both Monroe Avenue and Taylor Avenue as well as the landscaping requirement along the proposed driveway near the southeast portion of the lot. Ms. Lowry referenced the 16 criteria in the Zoning Code that are to be considered during the development plan review process.

Before calling the applicant to present, the Commission had multiple questions for Ms. Lowry. In reference to the proposed development name, Commissioner Klippel asked if the City has officially designated this area as the Arts District. Ms. Lowry replied that the City has not made any official designation for that but that it was the name the applicant chose for their development. In response to Commissioner Evens, Ms. Lowry explained that the height of the proposed building would be measured from the average proposed grade around the building to the top of the proposed roof. Ms. Lowry confirmed for Commissioner Feiner that the development is being reviewed as a single building, mixed-use development due to the fact that the proposed wings share a common first floor. Ms. Lowry and Mr. Raiche both explained that the project has been reviewed by Staff to have mandatory commercial on both the Monroe Avenue and the Taylor Avenue frontages. Along Monroe, the commercial has been limited to the eastern portion of the development due to the fact that the western portion of the first story is underground. Staff acknowledged that there is a portion of the building along Taylor that has the proposed structured parking directly on Taylor as opposed to being placed behind active commercial space as strictly noted in the current zoning code. In Staff's opinion, the reduced commercial frontage along Monroe would not disqualify the development from being considered to meet the basic requirement of a mixed-use development; however, the Taylor Avenue frontage is something that could be up for debate. Mr. Raiche offered that it is likely necessary to allow a vehicular access point along a required commercial frontage; however, the amount of parking that flanks said access aisle could be discussed. In response to Commissioner's Feiner question, Mr. Raiche replied that both of these streets are classified as mandatory commercial frontages. Commissioner Feiner also requested clarification about the proposed plaza and how this would or would not allow outdoor seating for the proposed restaurant. Staff expects that the proposed restaurant would have private outdoor seating but that the applicant should clarify the intent of whether or not the plaza will be dedicated for public use and to what extent.

In response to Commissioner Scott's questions, Ms. Lowry explained that the proposed development includes 42 residential units and that Staff is unaware whether or not they have any Letters of Intent from potential commercial tenants.

Commissioner Evens requested clarification if the development could be built in phases with one wing/tower being built and occupied prior to the other. Mr. Raiche explained that the approval would be for the entire building and that it would all be required to be built as proposed. Mr. Raiche also clarified that the construction of the project could feasibly be sequenced such that one residential wing/tower of the development was complete and occupancy could begin prior to the other wing/tower being completed.

Tyler Stephens with Core 10 Architecture introduced himself and the developer, Mark Mehlman. Mr. Mehlman gave an introduction about his development background and the mixed-use proposal being discussed. He explained that the City's performing arts center was the impetus for his interest in developing the

subject property and he is excited to make this proposal to the City. Mr. Stephens explained that a majority of the modifications requested (e.g. street frontage required) are necessary only because they are choosing to provide the outdoor plaza at the intersection of Monroe and Taylor. Mr. Stephens also offered that they discussed the commercial frontage requirement with Staff prior to applying and that having commercial split on two different levels that would go up with the elevation of Monroe is not practically feasible. The proposed greenspace along the western frontage of Monroe is intended to provide a more pleasant pedestrian experience. Mr. Stephens also confirmed that the building has to all be built at once; however, there are two residential components (towers/wings) and it is probable and likely that one side will be complete before the other and that tenants of the completed side would potentially occupy as long as they would meet the safety requirements for occupancy. Mr. Stephens also explained that the financing is in place for the entire project so there are no financial concerns for the applicant about finishing the entire project.

In response to the applicant's presentation, Commissioner Scott asked about the expected price-point for the condo units. Mr. Mehlman explained that they are targeting somewhere between the mid \$700k up to approximately \$1.5M. Mr. Mehlman also responded that they do not currently have letters of intent for the commercial space. Commissioner Washington inquired about the number of bedrooms per unit to which Mr. Stephens responded that they would range from 2 bedrooms (plus office) to 3 bedrooms (plus office) that would range from approximately 1,800sf to 2,200sf. Commissioner Klippel asked whether a color rendering was available to help determine whether the proposal was harmonious with the surrounding neighborhood. Mr. Stephens responded that Staff advised the applicant that they were not required at this point in the process which is focused on the development plan review. He also stated that if there are changes that need to happen to the building footprint, it could have significant impacts on the architectural design of the building which is why they have not conducted that design.

Commissioner Feiner referenced a letter that the Commission received from a Kirkwood resident with concern about the potential removal of a specific grove of trees that were planted in 2017 in conjunction with an Arbor Day celebration. Mr. Stephens responded that the applicant is agreeable to either relocating these trees to an off-site location that is acceptable to the City or is agreeable to replacing these specific trees with new trees.

Chair Adkins asked for any public comment. Joe Bannister approached the Commission and explained that he lives in the condos at the Station Plaza Development. Mr. Bannister expressed concern about traffic on East Monroe and noise that could be generated from the development. Mr. Bannister also wants to ensure that the proposed public plaza remains public. There were no other individuals wishing to speak. Chair Adkins then assigned the subcommittee which is comprised of Commissioners Klippel, Salzer-Lutz, and Washington. A subcommittee meeting was then set for 8:30am on Monday,

March 6th at the project site.

4. PZ-12-23 SPECIAL USE PERMIT (COMPREHENSIVE MARIJUANA DISPENSARY FACILITY AND ACCESSORY DRIVE-THROUGH FACILITY) AND MAJOR SITE PLAN REVIEW – NEW GROWTH HORIZONS, 10855 MANCHESTER ROAD

Planner II Amy Lowry provided the Commission with an introduction on the application proposed for the site which is the former National Tire & Battery. Ms. Lowry stated that the property is approximately 26,000sf and is zoned B-3. The property currently has three service-bays. Ms. Lowry also noted that, contrary to the County parcel data, the eastern property line runs along the eastern wall of the building. Because of this, the applicant will be required to obtain a shared/cross access agreement with the property to the east to accommodate the proposed on-site circulation. The applicant has the subject property under contract and the current owner owns the subject site as well as the property to the east. The proposal includes permanently closing the access point on Clay Avenue which is currently blocked by bollards. The property currently includes a total of 22 parking spaces and a retaining wall along Clay Avenue.

Ms. Lowry summarized that the proposal includes removing two of the three existing service bays and re-purposing the one remaining service bay into a drive-through pick-up area. They are also proposing to remove a portion of the front of the building. The use-specific standards require that dispensing be conducted inside the building and that consumption of marijuana products cannot occur on-site. The proposed hours of operation are from 8am – 8pm daily. The proposed parking lot design includes 28 total spaces, which exceed the minimum required by the Code, as well as bicycle parking as required by the code. The site circulation for the drive-through will occur in a counter clockwise direction and the applicant provided an exhibit showing that they meet the minimum queuing distance required. The applicant has indicated that their average wait time for customers is 7 minutes based on other existing locations.

Ms. Lowry explained that the City's Code requires a minimum separation of 1,000' between the wall of the proposed facility and the nearest property line of any school, church, or daycare. The applicant provided an exhibit indicating that there is 1,076', measured using the methodology referenced in State regulation, between the proposed facility and the nearest church, school, or daycare which happens to be a church in this instance. Ms. Lowry also explained that the scope of the site changes proposed do not trigger overall landscape requirements for the entire site. The applicant has provided the required tree study/protection plan showing. This plan also shows the voluntary addition of one tree in the new landscape island near the building. Ms. Lowry stated that there are a few revisions needed for the lighting plan but that Staff expects these to be resolved. Finally, Ms. Lowry referenced to the review criteria listed in the Code for both Special Use Permit and Major Site Plan review.

Before calling the applicant to present, the Commission had multiple questions for Ms. Lowry. Chair Adkins asked about the status of the current fences along the northern property line. Ms. Lowry responded that there is still question about the ownership of the fences along the northern property line and it was later clarified by the applicant that the western portion of the fence is on the subject site, but the remaining fences are owned by the various residential neighbors to the north. Commissioner Evens asked about how the 1,000' separation distance is measured to which Ms. Lowry replied that it is determined by the State regulations which require that it is measured along the shortest legal walking route measured from the closest point of the building for the proposed facility to the closest property line of the nearest church, school, or daycare.

Commissioner Evens also asked about whether the criteria for drive-through uses differed based upon whether they were associated with a restaurant versus a bank or dry cleaner. Ms. Lowry explained that there are different requirements for required queuing length based upon the specific use of the drive-through. In response to Commissioner Evens next question, Ms. Lowry explained that the property directly to the east of the subject site is all part of the existing Honey Baked Ham property. Commissioner Klippel asked for additional clarification about the current status of the sale of the property and what assurance the City will have that the owner of the property to the east would provide a shared/cross access easement to the subject site. Mr. Raiche responded that Staff would recommend that such easement be a requirement of the Special Use Permit and that the applicant expects this requirement.

Commissioner Feiner asked if the impetus for the required shared/cross access is the proposed changes to the on-site circulation. Ms. Lowry clarified that the proposal is not to close any of the existing entrances but that the need for the shared/cross access easement has been made necessary because the properties which are now under common ownership are now being split into two separate ownerships.

Commissioner Diel asked whether or not the City has verified that the 1,076' separation distance provided by the applicant. Mr. Raiche confirmed that the applicant's exhibit is signed and sealed by a professional engineer and that the City has verified that the distance is accurate.

Chair Adkins then invited the petitioner to address the Commission. Rhys Williams with Armstrong Teasdale introduced various members of the development team. Mr. Williams provided background and a timeline regarding state and local actions that have occurred over the past year relating to adult use of marijuana. Mr. Williams acknowledged that the dispensary use and the drive-through component each require a special use permit in the B-3 District. He confirmed that the proposed facility meets the minimum separation requirement of 1,000' from the nearest church, school, daycare; minimum separation distance of 500' from the nearest other marijuana facility; the hours of operation will be between 8am and 8pm; and that the dispensing operations will occur all within an

enclosed building. Mr. Williams also stated that they will satisfy the Special Use Permit and Major Site Plan review criteria listed in the Code. Mr. Williams also explained that the drive-through component will include a garage door on the rear and front of the building and that the doors will be closed while any transaction is occurring. Mr. Williams also clarified that the building is proposed to be reduced by approximately 2,300sf.

George Stock, Stock & Associates Consulting Engineers, then presented various information about the proposed site plan. Mr. Stock explained that the site circulation currently operates in a one-way direction; however with the reduction of the building size, the applicant is able to get two-way circulation on the south and west side of the property. This will allow the on-site parking to be increased as well as providing required ADA parking that does not exist on-site today. Mr. Stock confirmed that the existing access on Clay Avenue is proposed to be closed. Mr. Stock also explained the results of their title research regarding the eastern property line. Behind the building, the proposal includes a two-lane drive lane that includes one lane for the drive-through and one by-pass lane – both which flow from east to west. Regarding the questions about existing fencing, Mr. Stock confirmed that the existing fence on the western portion of the fence is on the subject site but the fencing on the eastern portion belongs to the various residential owners to the north. The applicant is agreeable to providing one continuance fence on the subject site. Mr. Stock also referenced that they have already revised the lighting plan so that it complies with all City requirements.

Mr. Stock reiterated that two of the existing 3 service bays would be removed and replaced with additional surface parking. Mr. Stock also mentioned that the seller providing the required cross access agreement on the east side of the building is a condition of the purchase contract. Mr. Stock explained that the proposed queuing lane would still allow for a full 22'-wide, two-direction drive aisle adjacent. The proposed queuing lane accommodates 8 vehicles and terminates in a fully enclosed pick-up area. The applicant believes they are improving on-site circulation including that they are accommodating for site circulation of fire department apparatus.

Dave Bonenberger, New Growth Horizons, introduced himself and his company. The company is based in Rock Hill, Missouri and offers products under various retail names. Their products are currently transported to over 175 dispensaries across the State of Missouri. Mr. Bonenberger provided a summary of the current State regulations and offered that his company currently operates 4 dispensaries out of the total 192 dispensaries that are currently licensed in the State of Missouri with locations in Kansas City, Crestwood, south St. Louis County, and Warrenton. They have a fifth dispensary in Bridgeton that is complete and awaiting the State to finalize inspections to open the location. Each dispensary complies with the requirement that every employee can only assist a maximum of 3 customers at one-time. Waiting space is provided for customers if they cannot be immediately assisted. On-site security that is

certified by St. Louis County is provided at all hours of operation.

Mr. Bonenberger also explained that the Warrenton and Kansas City locations both include a drive-through which both operate very similarly to a drive-through at pharmacies like CVS or Walgreens. These drive-through operations do not allow for orders to be placed while in the drive-through as there are no menu-board or order kiosks. Customers are required to pre-order and provide identification at pick-up in accordance with the State regulations. They have rarely observed a queuing at their other locations. Their company believes in providing benefit to both their clients and to the communities in which they operate. Mr. Bonenberger is the head of the company's security operations and explained the extensive efforts they make.

The applicant's presentation was concluded and Chair Adkins opened to questions from the Commission. Commissioner Salzer-Lutz asked about how the overhead doors would function. Mr. Bonenberger explained that staff at the facility would monitor the drive-through and would open the overhead doors to allow the customer to enter and the door would then close while the transaction occurs. Mr. Bonenberger also responded that the building would have appropriate ventilation systems in place to accommodate the vehicles being within this specific enclosed portion of the building. It was also clarified that the overhead doors are not a function of State regulation but are specific to this proposal and is an effort to re-use the existing service areas while also providing additional measures to separate the use from the surrounding neighbors.

Commissioner Diel asked the applicant about what necessitates the needs for the high-level of security when compared to facilities that sell alcohol. Mr. Bonenberger responded that he believes marijuana dispensaries warrant the high-level of security to provide an extra level of comfort both to customers and neighbors which is especially important when these facilities are as new as they are. It was also confirmed that the heightened security is related to securing the inventory as well as the high amount of cash that is transacted on the premises. Commissioner Diel also inquired about the status of electronic payments for marijuana facilities. Mr. Bonenberger responded that there is an ability for them to accept electronic payments currently subject to some restrictions.

Commissioner Adkins asked about what the typical number of cars in a drive-through queue at one of their other facilities. Mr. Bonenberger responded that the Warrenton location, prior to legalization of adult-use marijuana, would average 120 daily transactions with 25 of those occurring in the drive-through. Since the approval of adult-use marijuana, the same location has seen 300 daily transactions with a maximum of 70 drive-through transactions in a single day. The busiest time is between 5pm – 8pm with no complaints related to traffic issues. Mr. Bonenberger also responded that the Warrenton, Kansas City, and Bridgeton locations are all adjacent to commercial uses and not adjacent to

residential. Chair Adkins voiced his concern for potential of noise generated by the drive-through users with car music and other related items. Mr. Bonenberger responded that their Staff has strict expectations about customer behavior while on the premises and they would not allow disturbing noises or behavior. He also acknowledged that the applicant would be agreeable to providing a consistent fence along the northern property line in an effort to mitigate sound and light from vehicles. Mr. Bonenberger also reminded the Commission that the previous auto repair user, there was likely a fair amount of noise generated with their equipment and activities.

Commissioner Evens asked if there was a rush for this development to compete for a limited number of available licenses. Mr. Bonenberger responded that there is no rush and that the applicant does not know whether or not there are surplus licenses available within this congressional district but that the company could either purchase an existing license from another company or relocate one of their existing licenses. In response to Commissioner Evens' additional question, Mr. Bonenberger said that the State currently has about a 5-6 month backlog to conduct final site inspections before authorizing the opening of these facilities.

In response to Commissioner Evens' question, Ms. Lowry confirmed that no issues or concerns were provided from the fire marshal's review of the plans. Mr. Hessel responded to a question from Commissioner Evens that the method of measurement being along the shortest walking path is consistent with the State regulation. The applicant and Staff confirmed that the City's Code has a maximum hours of operation from 8am to 9pm and the applicant's rep confirmed that they are proposing to operate between 8am – 9pm. Commissioner Evens asked Mr. Hessel whether or not there are other relevant topics that the Commission should consider with this application to which Mr. Hessel responded that the Staff and applicant have identified and addressed the appropriate topics.

Commissioner Scott stated for the record that one of the owner of New Growth Horizons, John Pennington, was a former client of Commissioner Scott.

Commissioner Klippel asked Mr. Stock if either of the existing entrances on Manchester Road would be limited to right-in/right-out. Mr. Stock responded that both entrances are currently full-access and are proposed to remain that way. MoDOT has been provided the plan and did not take objection to that proposal.

Jaimie Mansfield, Armstrong Teasdale, provided input regarding her experience with her client, New Growth Horizons. She explained that New Growth Horizons has often exceeded the minimum requirements of the State and that they have followed through with the various measures that were promised to go above and beyond at their other locations.

There was no one wishing to speak during the public comment portion of the meeting and a subcommittee was assigned with Commissioners Diel and Evens. An on-site subcommittee meeting was scheduled for Tuesday, March 7th at 8am.

5. ENVISION KIRKWOOD 2035 – QUARTERLY UPDATE

Mr. Raiche provided the following summary of a few items from the 2022 Quarter 4 update:

- The ongoing housing study is expected to be completed in March with a presentation to the City Council either in March or April. Once presented to the Council, the plan will be posted to the City's website. Mr. Raiche responded to Chair Adkins' question about how the City would affect cost of housing by explaining that the Study is commissioned to answer that exact question and that Staff expects there will be a variety of strategies (financial, regulatory, etc.) that the City Council could consider to pursue in an effort to provide more housing options within the community.
- The pedestrian bridge with the new I-44 overpass is now open and will have a grand opening in June of this year.
- The new proposed mixed-use development at Monroe & Taylor is important to note as progress toward the City encouraging new development around the Performing Arts Center.

6. DEVELOPMENT PROJECT UPDATE

Mr. Raiche provided a summary of Council action that occurred since the last P&Z meeting which included:

- Clark Animal Hospital received its second reading approval on February 2nd.
- A public hearing occurred on February 16th for the Audi Kirkwood project with the first reading scheduled for March 2nd.
- The text amendment related to adult-use marijuana passed second reading on February 16th.
- The text amendment related to outdoor seating and parking requirements is scheduled for public hearing before the City Council on March 2nd.

In response to a question from Commissioner Feiner, Mr. Raiche explained that the approval for the proposed project at 144 W. Adams has lapsed; however, the current code would allow for a new multi-family project at that location to be reviewed by Staff as a permitted use as long as no modifications or variances are needed.

Commissioner Klippel requested that Staff provide the Commission with a copy of a Wall Street Journal article regarding apartment rents falling in response to a wave of new supply.

There being no further business, motion was made by Commissioner Salzer-Lutz and seconded by Commissioner Scott to adjourn at 8:45 p.m. The next meeting will be held on March 15, 2023 at 7 p.m.

Jim Adkins, Chair

David Eagleton, Secretary/Treasurer

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**CITY OF KIRKWOOD
PLANNING AND ZONING COMMISSION
SUBCOMMITTEE REPORT
MARCH 15, 2023**

PETITION NUMBER: PZ-12-23

ACTION REQUESTED: SPECIAL USE PERMIT (MARIJUANA FACILITY/MEDICAL MARIJUANA FACILITY AND ACCESSORY DRIVE-THROUGH FACILITY) AND MAJOR SITE PLAN

PROPERTY OWNER: NEW GROWTH HORIZON, LLC d/b/a PROPER CANNABIS (UNDER CONTRACT)

APPLICANT: JAIMIE L. MANSFIELD, ARMSTRONG TEASDALE LLP

PROPERTY LOCATION: 10855 MANCHESTER ROAD

ZONING: B-3 HIGHWAY BUSINESS DISTRICT

DOCUMENTS SUBMITTED: SITE PLAN (1 SHEET) PREPARED BY STOCK & ASSOCIATES STAMPED "RECEIVED FEBRUARY 10, 2023, CITY OF KIRKWOOD PUBLIC SERVICES DEPARTMENT"

SITE PHOTOMETRICS PLAN (1 SHEET) PREPARED BY STOCK & ASSOCIATES STAMPED "RECEIVED MARCH 1, 2023, CITY OF KIRKWOOD PUBLIC SERVICES DEPARTMENT"

DESCRIPTION OF PROJECT:

The applicant is requesting approval for a Special Use Permit (SUP) for a Comprehensive Marijuana Dispensary Facility and accessory drive-through facility and Major Site Plan review for 10855 Manchester Road. A Comprehensive Marijuana Dispensary Facility is one type of Marijuana Facility that is eligible for consideration as a special use in the B-3 zoning district. The property consists of 26,012 sq. ft. The building most recently housed National Tire and Battery and contains 8616 square feet with 3 service bays. Two of the service bays will be removed from the building as will the front vestibule and associated canopy. The renovated building will contain 6,500 square feet and one of the existing service bays will be converted to a drive-through bay for pick-up orders only. The hours of operation are proposed to be from 8 a.m. to 9 p.m. daily. Additional detail of the proposed site plan is provided later in this report.

COMPREHENSIVE PLAN, LAND USE AND ZONING:

The site is designated as Corridor Commercial on the EnVision Kirkwood 2035 Future Land Use Map. Regional/Neighborhood commercial uses are among the development types preferred in this module of the Kirkwood Comprehensive Plan. The proposed use, Comprehensive Marijuana Dispensary Facility, is a special use as is the accessory drive-through use in the B-3 zoning district.

Surrounding land uses and zoning include the following:

To the north: There are residential uses zoned R-4, single-family residential, fronting on Doorack Lane.

To the south: Across Manchester Road, there are offices and vehicle wash & gas/fuel station uses zoned B-3.

To the east: There is a restaurant use zoned B-3.

To the west: Across Clay Avenue, there is a gas/fuel station use zoned B-3.

DEPARTMENTAL/AGENCY COMMENTS:

Electric: No comments.

Water: Before issuance of a building permit, the following is required:
1. Water service (and fire line if necessary) to be installed per City of Kirkwood Water and Fire Service Specifications.
2. Meter box/ vault shall be outside the path vehicular and pedestrian traffic.
3. Back taps are not accepted.
4. The plans provide no water service to the proposed building. Water service to be added to the plans in order to receive proper approval from the Water Department.

Engineering: A guardrail should be installed in front of and a fence erected along the retaining wall along Clay Avenue for vehicular and pedestrian safety.

Building/Fire: Construction plans must meet all City of Kirkwood adopted codes.

Forestry: No comments.

MoDOT: Based on review of the preliminary site plans, MoDOT finds the plan to be feasible. The developer will need a permit from MoDOT for any right of way water or sewer taps.

SITE ELEMENTS ANALYSIS:

Site and Structures

The proposed building will be 6,500 square feet on one floor and will include one drive-through bay for pick-up orders accessed from the rear. The existing building is about 35' from the front property line along Manchester Road and will be 44.6' with the vestibule removal, and is 34.9' from the front property line along Clay Avenue and will be 68.31' with the two bays removed. The existing building is also 35.33' away from residentially-zoned properties along the north property line and the building's eastern wall is on the eastern property line. The proposed building conforms to the height limitations, which is regulated through a maximum FAR of 2.0 in the B-3 zoning district. The FAR for this project is 0.25.

The use-specific standards for a Comprehensive Marijuana Dispensary Facility require that it be located a minimum of 1,000 feet from a church, place of worship, elementary or secondary school as defined by

the State, or child day-care center; this condition has been met. The measurement is made from the external wall of the facility structure closest in proximity to the school, daycare, or church to the closest point of the property line of the school, daycare, or church along the shortest path between the demarcation points that can be lawfully traveled by foot. As this is the first such dispensary to be proposed in the City, the minimum distance of 500 feet between marijuana facilities does not apply. The use-specific standards also mandate that operations of dispensing must be conducted entirely within an enclosed building, and consumption or smoking of marijuana products shall be prohibited on the premises.

The applicant shall seek conceptual plan approval from MSD and, if required, final design plans shall be submitted to MSD for review.

Site Access, Circulation and Parking

The applicant proposes to permanently close the existing curb cut on Clay Avenue which is currently blocked by bollards. This proposal would leave entry to and exit from the site from two, two-way access points on Manchester Road. The east access point is on the adjacent property addressed as 10841 Manchester Road. Both properties are currently owned by the same property owner; however, with the sale a cross-access agreement will be required to maintain the proposed circulation on the site – especially in regards to the proposed drive-through. The drive-through queuing is proposed as counter-clockwise around the east side of the building, one-way along the north side of the building, and then south through the west remaining building bay. The minimum size of the queuing lane is as determined by the Director of Public Services; restaurant use requires 9' by 160'. The applicant is providing 9' by 160' and the City finds this adequate. The drive-through is for pre-order pickup as governed by the State of Missouri with no menu board, speaker box, or customer window on the exterior of the site. Average wait time is estimated at 4-7 minutes.

Using the parking rate for the proposed use at 1 space per 400 square feet, 16 parking spaces are required, including 1 accessible. Applicant is providing 28 spaces, including 2 accessible spaces. Applicant is also required to provide 1 bicycle rack, accommodating 2 bicycles, for every 20 required parking spaces; 1 bicycle rack is provided.

The Missouri Department of Transportation reviewed applicant's site plan and found it feasible so the change in use for the building will not trigger the need for a traffic assessment. In accordance with the City's Complete Streets policy, applicant will complete and submit the Complete Streets Checklist.

Trash/Recycling

The applicant is proposing a trash enclosure, with the required landscape screening, on the northwest side of the property adjacent to the parking lot.

Landscaping

With the exception of the trash enclosure, the site changes do not trigger landscape requirements as the building is being reduced in size and only 4 parking spaces are being added (landscaping is required with the addition of 7 or more spaces). The tree study shows that an ash tree will be removed in the rear of the lot and a little leaf linden will be planted in the new curb island immediately northwest of the building. With the removal of the curb cut on Clay Avenue, a curb-end island will be created. Other curb-end landscape islands will be created at the ends of each parking row.

Lighting

The lighting plan must be revised to ensure lighting points are spaced 10' apart at the north property line and the calculation summary table is revised to include the average illumination level for the parking lot. A condition has been added to the recommendation section of this report requiring this resubmission prior to a public hearing being set before the City Council.

DISCUSSION:

A Zoning Matters sign was placed on the property on February 24, 2023. The request was introduced at the Planning & Zoning Commission meeting on March 1, 2023. A subcommittee meeting was held on site on March 7, 2023. A list of attendees of the subcommittee meeting may be viewed in Exhibit B. At the subcommittee meetings, the following items were discussed:

- 1) The applicant stated that the cross-access easement would be a condition of closing on the property.
- 2) There are separate fences in the rear of the building, one of which is on the subject lot and the others are on the residential lots. The subcommittee requested that a sound-mitigating and siteproof fence not less than 8' in height similar to a SimTek composite fence be installed on the applicant's property to reduce noise and headlight impact on the residential properties.
- 3) The subcommittee asked about a dumpster for the property and the applicant suggested that one be placed in the northwest corner of the site with the required landscape screening. This may result in the loss of parking spaces.
- 4) The fence along the western Clay Avenue retaining wall is in poor condition and should be replaced with a guardrail and fence of at least 42" in height. The subcommittee discussed that the fence should match the materials of the requested north property line fence.
- 5) The power lines from the pole to the rear of the building are low and should be raised so as not to impede emergency vehicles.
- 6) The subcommittee concluded that that the review criteria for Special Use Permits under Section 25-20(e) and for Site Plans under Section 25-19(h) have been met.

RECOMMENDATION:

The Subcommittee recommends that this application be **approved** with the following conditions:

1. The special use permit shall be limited to a Comprehensive Marijuana Dispensary Facility with additional allowance for an accessory drive-through facility.
2. The project shall be constructed and maintained in accordance with the plans referenced in the Documents Submitted portion of this report, except as noted herein.
3. A building permit shall be obtained within 12 months of approval of this Special Use Permit and Site Plan by the City Council. Failure to comply with this timing may result in the expiration of the special use permit and major site plan approval.
4. A cross-access easement for vehicular access shall be required along the proposed shared eastern drive on the adjacent property addressed as 10841 Manchester Road. Such agreement shall be reviewed by the City and recorded to maintain the proposed circulation on the site with a copy of said recorded agreement provided to the City prior to issuance of an occupancy permit.

5. A sound-mitigating and siteproof fence not less than 8' in height and made of SimTek or a comparable composite product shall be erected along the north property line adjacent to the residential properties.
6. A guardrail shall be installed in front of and a fence erected along the high side of the retaining wall along Clay Avenue. The fence should be a minimum of 42" in height and match the material of the north property line fence.
7. A dumpster enclosure shall be installed using a sightproof fence made of SimTek, a comparable composite products, or a superior product such as masonry, not less than 6' in height, and with latching gates of similar or complementary materials. The dumpster enclosure shall be surrounded by landscaping on three sides consisting of a continuous combination of Type A, B, or C deciduous and/or evergreen shrubs. The site plan shall be revised to include this condition prior to City Council approval.
8. The overhead electrical service lines that connect to the rear of the building shall be raised to the satisfaction of Kirkwood Fire and Kirkwood Electric so as not to impede emergency vehicles.
9. A revised lighting plan with lighting points spaced 10' apart at the north property line and the calculation summary table to include the average illumination level for the parking lot shall be approved by Staff prior to City Council approval.
10. The hours of operation shall be from 8 a.m. to 9 p.m. daily.
11. The overhead doors for the drive-through area shall be closed during each transaction.
12. There shall be no menu board, speaker box, or sound-amplification equipment on the site.
13. The applicant shall complete and submit the Complete Streets Checklist prior to issuance of building permits.
14. The applicant shall comply with all standard conditions as listed in Exhibit A.

Respectfully submitted,

James Diel

Ron Evens

**EXHIBIT A
STANDARD CONDITIONS**

1. A performance guarantee in the form of a cash deposit or letter of credit in an amount approved by the Public Services Department and an administrative fee (10% of the first \$10,000 and 2% of the remaining balance of the performance guarantee) shall be submitted within one year of final development plan approval and prior to the issuance of a foundation letter or building permit to insure the completion of the proposed improvements, utilities, and landscaping; to replace public improvements damaged by construction activities (sidewalks, curbs, etc.); and to guarantee significant trees designated to be saved. The letter of credit shall be in effect for a minimum of two years and may be extended in minimum six-month intervals as approved by the Department of Public Services.
2. All proposed public sidewalks shall be constructed so that they are compliant with ADA/PROWAG. Public sidewalks and/or curbs shall be reconstructed at the developer's expense at the direction of the Public Services Department or St. Louis County, depending upon the jurisdiction of the right-of-way.
3. Storm water management plans for the proposed site plan shall be submitted to Metropolitan Sewer District (MSD) and City for review and approval prior to the issuance of a grading, foundation or building permit. Storm water greater than one c.f.s. shall not be directed across the public sidewalk or driveway entrances.
4. Sanitary sewer plan shall be approved by MSD prior to the issuance of a foundation letter or building permit.
5. The water system shall meet the requirements of the Kirkwood Fire and Water Departments, including those in the Departmental Comments section of this Subcommittee Report. The Fire Department shall approve the water flow for the project. If satisfactory water flow is not available from the existing water system in accordance with City policy, the applicant shall install the necessary mains and accessories.
6. If applicable, proper ground disturbance permits through MDNR shall be obtained prior to issuance of permits from the City.
7. If applicable, a grading permit shall be obtained from the Public Services Department in accordance with the Kirkwood Code of Ordinances prior to any grading on the site. The grading permit shall include a grading plan in accordance with the Code of Ordinances.
8. Erosion and sediment control devices shall be sufficient to protect all off-site property from siltation and shall be installed prior to beginning of any grading or construction. The siltation control measures shall be installed and approved by the Public Services Department prior to issuance of a building permit. These devices shall be maintained during the construction activities.
9. During excavation and construction activities, the area of the site that is disturbed for this project shall be fully enclosed by a 6-foot high chain link fence to prevent the entry of unauthorized persons. The gate for the fence shall be locked during non-working hours.

10. No parking of construction trailers, material storage, equipment storage or construction equipment is authorized on the public streets at any time.
11. All new rooftop equipment, air-conditioning units, and mechanical equipment on the proposed building shall be completely screened from view of adjoining properties and public right-of-way.
12. An accessible route in compliance with ADA standards shall be provided from the proposed accessible parking spaces to the accessible entrance of the building.
13. The Architectural Review Board shall approve all signs, the dumpster enclosure, and building architecture prior to the issuance of any building and sign permits.

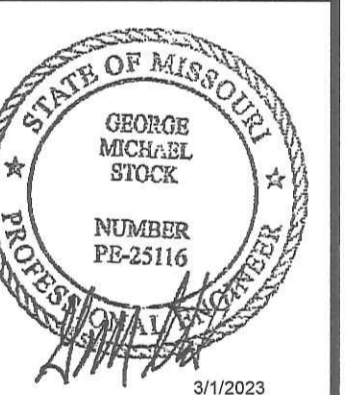
DRAFT

EXHIBIT B
Subcommittee Meetings Attendees

P&Z Subcommittee Meeting
 Project:
 Date:
 Location:

PZ-12-23
March 7, 2023
10855 Manchester Rd

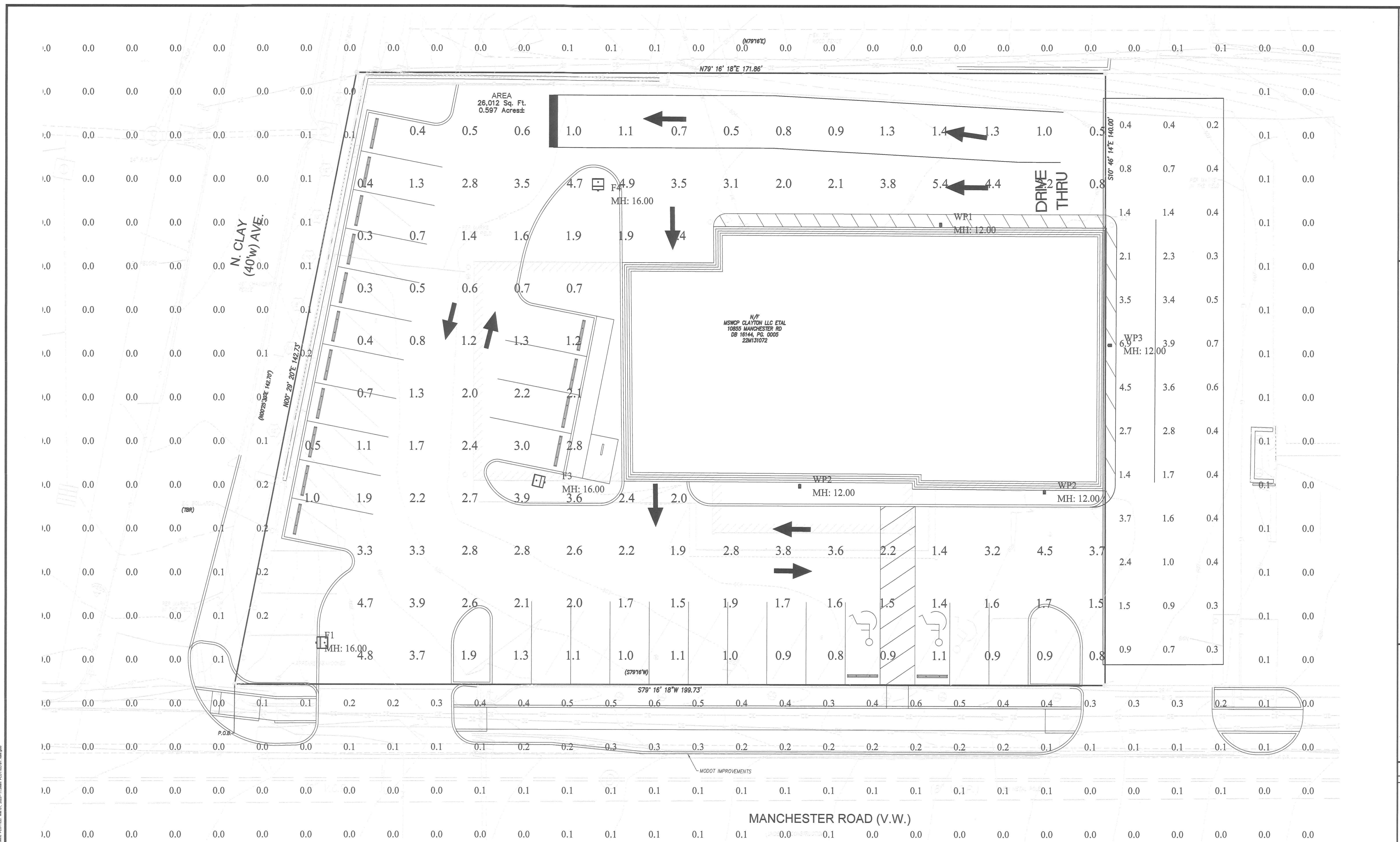
Name	Organization
Ron Evans	P+Z
DAVE BOWENSON	NGH
Rhys Williams	AT LLP (NGH)
GM Stock	Stock & Assoc.
Allen Kipper	P&Z
Robert Sumpter	Fire Marshal
JAMES DIEL	P&Z
Cheech Marin	Movie Star
Linsey Stevens	Resident - 1109 1/2 N Clay
Cory Meyer	Forestry
Brad Plunington	Plunington Suenle
Cara McKedy	eddy Design Group
Amy Lowry	City of Kirkwood



GEORGE M. STOCK E-25116
 CIVIL ENGINEER
 CERTIFICATE OF AUTHORITY
 NUMBER: 000996

REVISIONS:
 1. 2023-3-1 PHOTOMETRICS

DRAWN BY: K.S.G. CHECKED BY: G.M.S.
 DATE: 2/8/2023 JOB NO: 223-7367
 U.S.D. P #: BASE MAP #: 22M
 S.L.C. H&T #: H&T S.U.P. #
 M.D.N.R. #:
 SHEET TITLE: SITE PHOTOMETRIC PLAN
 SHEET NO.: C2.0

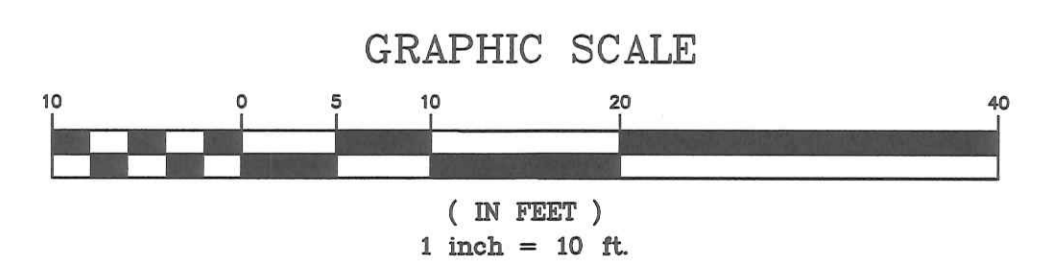
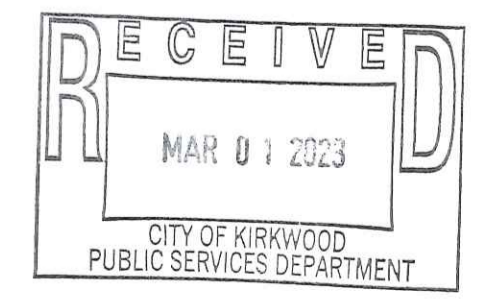


POLE FIXTURES MOUNTED AT 16' INCLUDING BASE
 LIGHT LEVELS CALCULATED ON THE GROUND

Label	CalcType	Units	Avg	Max	Min	Avg/Min	Max/Min
CROSS ACCESS	Illuminance	Fc	1.59	6.9	0.2	8.0	34.5
SIDEWALK	Illuminance	Fc	2.08	3.1	1.1	1.9	2.8
SITE	Illuminance	Fc	1.92	5.4	0.3	6.4	18.0
SPILL LIGHT	Illuminance	Fc	0.02	0.6	0.0	N.A.	N.A.

Symbol	Qty	Label	Arrangement	LLF	Lum. Watts	Total Watts	Description
[Symbol]	1	F1	Single	0.912	57	57	GALN-SA1C-740-U-SLL-HSS
[Symbol]	1	F3	Single	0.912	108	108	GALN-SA2C-740-U-5WQ
[Symbol]	1	F4	Single	0.912	57	57	GALN-SA1C-740-U-T1
[Symbol]	1	WP1	Single	0.912	59	59	GWC-SA1C-740-U-T3
[Symbol]	2	WP2	Single	0.912	59	118	GWC-SA1C-740-U-T4FT
[Symbol]	1	WP3	Single	0.912	44	44	GWC-SA1B-740-U-SL2

DESIGN IS BASED ON CURRENT INFORMATION PROVIDED AT THE TIME OF REQUEST. ANY CHANGES IN MOUNTING HEIGHT OR LOCATION, LAMP WATTAGE, LAMP TYPE, AND EXISTING FIELD CONDITIONS, THAT AFFECT ANY OF THE PREVIOUSLY MENTIONED, WILL VOID CURRENT LAYOUT AND REQUIRE A CHANGE REQUEST AND RECALCULATION.



DRAWING FILE: C:\DWG\2023\202307\20230701\20230701.dwg; PLOTTER: Proper Brand B5000; PLOT DATE: 2/8/2023 11:33:08 AM; LAYOUT: CDE; PLOTTED: Mar 11, 2023 11:08 AM; PLOTTED BY: MJP