

Memo

To: City Council

From: Bryan Myrkle, Community Development Director

Date: November 4, 2020

Re: Medical Marijuana growing operations in the City of Charlotte

The City of Charlotte recently received an inquiry regarding the potential issuance of a Certificate of Occupancy from the City for a medical marijuana growing operation in a commercial building located at 1671 Lansing Street.

There are a number of smaller medical marijuana growing operations currently in the City, but at 15,000+ square feet, this is a much larger facility (and presumably a much larger operation) than we have seen previously.

In 2018, I tried to initiate a zoning enforcement action against a medical marijuana growing operation established in a residential neighborhood, pursuing it as an unauthorized home-based occupation. My reasoning was that, regardless of one's feelings about marijuana, a person should not be able to set up what amounts to a business with industrial noise and odor, along with employees coming and going 24 hours per day, in a residential district. At that time, I was advised by City Attorney Hitch that medical marijuana operations are exempt from zoning and we could not enforce those regulations.

There are State-level regulations in place regarding medical marijuana, and there are also applicable building and fire code regulations

that must be followed in order to legally occupy any structure. However, if the requirements are met and the regulations followed, the City's hands are effectively tied when it comes to this kind of land use, and a Certificate of Occupancy will be issued.

I am communicating this to you now for two reasons. First, because I am not certain what information you may have been provided previously in regard to medical marijuana production within the City; and, secondly because I am aware the City Council previously voted to 'opt-out' of allowing the production and sale of recreational marijuana.

I did not want you to be surprised to learn that a facility of this size may be used for marijuana production in Charlotte. I also did not want you to think that City officials are 'permitting' or 'approving' these operations, even though that is the way it might be characterized.

Therefore, while no Certificate of Occupancy has been issued yet at this address; if the ancillary rules and regulations are followed, the City's regulatory role is restricted, and issuance of the Certificate cannot be withheld.

I have discussed this issue with the Police and Building Departments several times since receiving this inquiry. If you have any questions about whether our understanding and approach is legally correct, I would suggest that they be referred to the City Attorney, as it is his previous advice on which we are relying.