

- b. Two Suns Inc., **SPECIFIC USE PERMIT (SUP21-09)**: Consideration, discussion, and possible action to recommend approval or denial of a specific use permit to allow a medical marijuana dispensary at property addressed as 611 W. Highpoint Drive, Stillwater, Oklahoma, in the Commercial Shopping (CS) district. Tabled from 02.15.2022 Planning Commission Meeting.

Chair Phillips reads the description of the item and asks for Staff to present.

Brady Moore, Chief Performance Innovation Officer, presents SUP21-09 and reminds the commissioners that this item was originally tabled February 1, 2022, to have time for legal to provide a recommendation based on the information received from OMMA. On February 14th legal counsel recommended that the SUP not be denied based on the proximity of the facility Stillwater Public Schools is using for athletics. On February 15, 2022, the item was tabled again to encourage the applicant and Noel Bagwell, Executive Director, Payne County Drug Court, Inc. to meet. The meeting did take place and an email was received today, 03.01.2022, from Mr. Bagwell expressing that the meeting was cordial; however, his concerns still stand as stated in the previous letter. Mr. Moore asks if there are any further questions and says that the applicant is also here to speak.

Vice-Chair Allred excuses himself to tend to a personal matter at 5:55pm.

Chair Phillips, not seeing any questions for staff opens the public hearing and asks if the applicant would like to speak to the Planning Commissioners to express anything he hasn't already had a chance to say.

Jose Sanchez, 407 S Lowry St, Stillwater, OK, says that he is here to answer any questions the Commissioners may have and adds that he did have a chance to meet with the director of the Payne County Drug Court facility.

Chair Phillips asks if there are any questions for the applicant; none respond. Chair Phillips asks if there is anyone who would like to speak in favor; none responded. Chair Phillips asks if there is anyone who would like to speak in opposition; none respond. Chair Phillips closes the public hearing and asks for staff to present.

Mr. Moore presents the findings and alternatives and reminds the Commissioners that they are up against the 60 day window to make a decision.

Vice-Chair Allred returns to the meeting at 5:57pm.

Chair Phillips asks if there are any questions from the Commissioners and says that this item should be familiar since it's been here before; after the first meeting legal opinion was shared; and after the second meeting the applicants did meet as requested.

Commissioner Prather says that this is challenging, wanting to support local business and take into consideration the opinion of the drug court, how much weight can you put on the opinion of the drug

court. The opinion should be weighed but there isn't an exact way to do that and will this be damaging to Stillwater if they don't approve it.

Chair Phillips agrees with everything Commissioner Prather shared, supporting small businesses is important especially in small towns it's what helps us run. The weight of the services provided by Payne County Drug Court, Inc. does need to be taken into consideration. There are not a lot of these services provided in the Payne County/Stillwater area, and this specific one has been operating for around 20 years and is well known. Having known people in life struggle with addiction it is important to help with their recovery in any way. There might be negative impacts of the medical marijuana dispensary within such proximity of the drug court facility such as patrons not wanting to come for fear of temptation. There is also the matter of the facility the school uses for athletics. If the school decides to use the facility in the future for academic purposes this would be a non-conforming business.

Vice-Chair Allred expresses his sincere appreciation to the applicant and the drug court representative for meeting and having a civil discussion and wishes that more business could do that.

Chair Phillips asks if there is any further discussion or a motion.

Beth Anne Childs, Special Counsel, says that if the will of the commission is to recommend denial she respectfully requests that the motion does indicate "based upon the discussion of the Planning Commissioners", that way it is clear to the applicant and City Council.

Vice-Chair Allred asks if an objection to this would fall under unnecessary arbitrary capricious and unreasonable decision making.

Mrs. Childs explains that the SUP process is a little different from a rezoning process which is really where the arbitrary capricious standard lies. The purpose of the SUP process is to give the commission and council some additional leeway to consider things they might not have otherwise been able to consider. Municipalities are fairly heavily preempted in terms of MM retail establishments; however, statute does give the ability to look at the zoning code or in this case the SUP process. Based upon the comments the commissioners have made summarizing, it sounds like they are concerned about the close proximity to the substance abuse court program. You can't always predict what the courts will decide; however, the Commission has articulated concerns of the health, safety, and welfare of the overall community which is important.

Vice-Chair Allred motions to recommend denial of the SUP to the City Council based on the will of the Commission due to the public health and safety concerns and the comments made by the Commissioners; Commissioner Prather seconds.

Roll call:	Phillips	Allred	Shanahan	Prather	Hallgren
	YES	YES	YES	YES	YES

Time: 15 minutes