

Planning and Zoning Commission Work Session Minutes
March 7, 2019
Conference Room 1-B - 1st Floor City Hall

ATTENDANCE:

Commission Members Present: Burns, Harder, MacMann, Rushing, Russell, Stanton, Toohy

Commission Members Absent: Strodtman

Staff: Bacon, Caldera, Teddy, Zenner

Guest(s): Several relating to medical marijuana

ADJUSTMENTS TO AGENDA: Mr. Zenner said New Business Item A (Medical Marijuana) may be moved before Old Business Item A (Rock Quarry Road Stakeholder Report) if the Commission desired. Ms. Russell made a motion, seconded by Ms. Loe to adjust the agenda to move New Business Item A to be discussed first (unanimous voice vote).

APPROVAL OF MINUTES: February 21, 2019 Work Session

No modifications to minutes were offered. Motion to approve by Burns, seconded by Russell (unanimous voice vote)

NEW BUSINESS

A. Medical Marijuana Text Amendment – Discussion

Mr. Zenner introduced the topic. He summarized the state law changes under Amendment 2 as passed in November 2018 regarding medical marijuana facilities and the need to amend the UDC to allow them to be a permitted use in the City. He reviewed the general regulations prescribed under state law and the four facilities defined as provided by the State. The State has provided definitions for the following types of facilities:

1. Medical Marijuana Cultivation Facility
2. Medical Marijuana-Infused Products Manufacturing Facility
3. Medical Marijuana Testing Facility
4. Medical Marijuana Dispensary Facility

Mr. Zenner said local governments were able to regulate the time, place and manner of the facilities so long as regulations were not in conflict with State law and were not unduly burdensome. He said that given staff's initial review of this new business activity and the associated regulations governing them will be found within the context of the UDC, it is the responsibility of the Planning Commission to offer recommendations to the City Council on appropriate amendments. He said the intent of the work session was to provide the Commission with information to assist in the formulation of appropriate regulatory language to allow for integration of this new use into the UDC's land use controls.

Mr. Zenner said the Amendment 2 sets a 1,000 foot separation distance between new facilities and existing, at the time of application, from schools, daycares and churches. He further noted that the City was able to reduce this separation if it was deemed appropriate. Mr. Zenner responded to Commissioner questions relating to how new marijuana facilities would be regulated by both permitted land uses once developed and by the presence of existing school and church facilities; the nuances of how to measure and if various and often smaller types, such as in-home daycares, would be need to be addressed. Mr. Zenner said such definitions and applications would require more in-depth discussion that what was intended for the work session and could become part of the overall discussion regarding appropriate regulations. He further noted that generally once one of the four types of facilities were legally constructed any of the Amendment 2 uses that required separation would generally be addressed by the planning concept common known as "coming to the nuisance". He described this as schools and churches could go closer than the required setback to an existing marijuana facility but not the opposite siting pattern under the State law.

Mr. Zenner presented a timeline of the City's proposed text amendment process in order to fit the State schedule for applications. He noted that, as is procedurally required, a public hearing will need to be held on any proposed revisions

to the UDC. He said staff recommends one or more "public listening" sessions may be necessary to ensure adequate public dialogue and vetting of the proposed regulations has occurred before forwarding a final Commission recommendation onto Council for their consideration. He noted that as part of the meeting this evening he would like to gauge the desire of the Commission on this approach and would work to develop a specific schedule based on the outcome of the discussion. Mr. Zenner stated that given the complexity of the topic and the issues needing to be addressed, a preliminary draft of the proposed regulations could be produced by the early to mid-April. This draft would be shared with the Commission in a work session followed by an advertised listening session that would become part of a regular Planning Commission meeting.

Mr. Zenner summarized the dates by which the State was required to complete specific tasks associated with Amendment 2 and related medical marijuana applications:

January 5, 2019: Pre-filed application fees will begin to be accepted for all four types of facilities

June 4, 2019: Application forms and instructions will be made available

July 4, 2019: Applications for identification cards will begin to be accepted

August 3, 2019: Facility applications will begin to be accepted

Mr. Zenner said it was staff's desire to go through each of the four defined facilities one by one, round-robin style, and discuss which districts should be considered appropriate for each type of facility. He further noted that once the zoning district recommendations were made he wanted to explore the Commissioner's thoughts on possible modifications to the 1,000-foot siting separation. He said staff intended on first developing draft land-use related regulations then consider additional use-specific regulations which may be ultimately informed by additional State regulations once they were produced. Mr. Caldera noted the necessity to clarify which land use districts were appropriate since different companies with various facility type interests were already contacting the City. These contacts were seeking an understanding of where the facilities may be allowed uses and any rules that may apply to them.

Potential locations for the four facility types, subject to additional "use-specific standards" are as follows.

Medical Marijuana Cultivation Facilities:

There was general discussion relating to use-specific standards and the potential of requiring a conditional use permit for this type of facility in certain zones. Security and outdoor activities were a specific concern discussed. The distinction between light versus heavy industrial uses was used as an example of how a future CUP process may work similarly to how the code defines different industrial uses in the IG and M-BP zones. There was discussion of separating farming-related definitions such as greenhouse operations from marijuana cultivation facilities for clarity. Mr. Zenner noted that additional investigation of the finer points and distinctions between existing and new definitions as well as use types would be a part of the future discussions.

Generally, there was agreement that the following districts will serve as a starting point for these facilities and that additional regulations such as use-specific standards and or conditional use processes may be developed for use sub-types, at different scales and intensities, and other factors such as indoor or outdoor.

A (Agriculture District) - indoor/outdoor

IG (Industrial District) - Indoor only

M-C (Mixed-use Corridor) - Indoor only

Medical Marijuana Infused Manufacturing Facilities:

There was discussion regarding storing and transporting of infused products as well as possible small scale facilities that may have a parallel to the current Artisan Industry definition and regulations. Commissioners discussed the potential of

making larger scale operations subject to conditions/use-specific standards, or potentially only allowing them to be within the higher, more intensive zones. It was clarified that the Artisan Industry definition did not include the new medical marijuana type definitions, but the way the code addressed Artisan Industries was helpful in describing the scale and operational model that may be allowed in the M-N, M-C and M-DT zones. The Commissioners noted a desire to see mapping of the 1,000 foot and other distance barriers from schools and churches, especially for the M-DT and M-N districts. Water and electric usage needs were also discussed as potential limiting factors in some zones as well.

Generally, there was agreement the following districts will serve as a starting point for these facilities and that additional regulations such as use-specific standards and or conditional use processes may be developed as found appropriate.

M-N (Mixed-use Neighborhood) - Artisan Industry-type of scale
M-C (Mixed-use Corridor) - Artisan Industry-type of scale
M-DT (Mixed-use Downtown) - Artisan Industry-type of scale
M-BP (Mixed-use Business Park) - Artisan Industry-type of scale
IG (Industrial)

Medical Marijuana Testing Facilities:

Mr. Zenner described these facilities. He said Amendment 2 requires that tested elements would be tracked and tagged as part of the State regulations. He said hazardous materials may be a concern and that these types of facilities would need to work closely with the Fire, Police and Health Departments as part of the building permitting process. Mr. Zenner further stated that these types of operations could be small or large, such as a small lab versus a hospital research and development operation.

Mr. Zenner suggested that this type of facility could be allowed within the M-OF district and higher. He said staff could look at comparable definitions and determine what zones this facility type would be allowed in and then work on the supplemental regulations to ensure public safety. Additional information on the type, size and potential impact of hazardous materials was desired by the Commission as they moved forward. Mr. Zenner also noted emergency plans, transportation network plans, fire suppression, and other related elements may be needed as part of building permitting.

The Commissioner's recommended that staff perform additional research on the impacts that this facility type may have and coordination with health and safety regulators/providers for additional advice.

M-C (Mixed-use Corridor) - subject to no hazardous materials
M-BP (Mixed-use Business Park) - subject to no hazardous materials
IG (Industrial)

Medical Marijuana Dispensary Facilities:

There was review of the applicability and differences between such facilities and the existing general retail definition. It was discussed that these facilities could be regulated similar to pharmacies or to tobacco and liquor businesses with an additional licensure. It was also discussed that due to the new neighborhood protection standards (e.g. step down/increased setback) that if these facilities were located near residential zones there would be protections. There was discussion relating to how staff would approach commercial uses within existing planned developments to which Mr. Zenner indicated that staff would need to do additional research on.

Mr. Zenner indicated that the Commission may decide to tighten or loosen the regulations relating to future dispensaries depending upon specific factors or following additional research/experience with these types of facilities. He suggested that the size and scale of the facility may be a determining factor when potential use-specific standards or

conditional use requirements, in certain zones, were developed. Mr. Teddy noted the need to listen to the public on their expectations for developed areas. Pop-up types of dispensary facilities were discussed as a concern.

Commissioners asked that staff look at other community regulations for guidance on these types of facilitates impacts upon neighborhoods have been addressed. There was general agreement that the following districts will serve as a starting point for these facilities and that additional regulations such as use-specific standards and or conditional use processes may be developed:

- M-N (Mixed-use Neighborhood)
- M-C (Mixed-use Corridor)
- M-DT (Mixed-use Downtown)
- IG (Industrial)

There was discussion on the distance standards with additional research desired, such as looking at the requirements for liquor and other facilities with distance standards. There may be a potential need to consider reductions in the 1000-foot separation for Medical Marijuana Dispensary Facilities. In some scenarios discussed, a parallel standard to liquor facilities was seen as a starting point for discussion. There was desire to drill down further in subsequent discussion. Staff will be researching other codes as it relates to potential use-specific standards that would not create unduly burdensome requirements.

No final decisions were made relating to the topic. Mr. Zenner said the topic and a proposed set of draft regulations will appear on the Planning Commission's April 18 work session agenda for discussion. The draft regulations will be available on April 12 for public review.

OLD BUSINESS

A. Rock Quarry Road Stakeholder Report - Follow up

This item was not discussed due to a lack of time.

ADJOURNMENT

Meeting adjourned approximately 7:03 p.m.