

MEMO

DATE: April 8, 2019

TO: Planning Commission Members

FROM: Patrick R. Zenner, Development Services Manager

Re: Medical Marijuana Text Amendment (Case # 103-2019)

As previously discussed at the March 7, 2019 work session, the Planning and Zoning Commission has been requested to consider “minimum” time, place, and manner zoning standards for the regulation of medical marijuana. The desired regulations are sought to be adopted by the City Council prior to the May 4, 2019, Department of Health and Human Services deadline for issuing application criteria for the four different facility types identified within Amendment #2.

In efforts to assist in identifying the “minimum” time, place, and manner regulations, the staff has performed research of other municipal ordinances that have provisions relating to medical marijuana facilities. The attached proposed “use-specific standards” have relied upon this research and are believed to be the “minimum” necessary standards that should be integrated into the City’s land use regulations to protect the public health and safety. Furthermore, staff believes that the proposed regulations are not unduly burdensome for future facility operators - a consideration that must be evaluated prior to adopting regulations per Amendment #2.

Accompanying the proposed “use-specific standards” are modifications to Table 29-3.1 (Permitted Use Table) of the UDC. Modifications to this table take into consideration the Commission discussion from the March 7 work session. However, following additional staff discussion and evaluation of specific land use integration concerns several changes have been proposed. These changes include the removal of dispensary and infused-manufacturing facilities from the M-N (Mixed-use Neighborhood) district, removal of cultivation and infused-manufacturing facilities from the M-C (Mixed-use Corridor) district and removal of infused-manufacturing from the M-DT (Mixed-use Downtown) district.

While there was Commission discussion during the March 7 work session that showed potential preference to include these uses within the identified districts subject to a conditional use permit, staff does not believe given its research and other available locations for these types of facilities that they are needed within the districts. Furthermore, given the time constraints associated

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with this request there is insufficient opportunity to development well-crafted conditional use standards that would address the potential impacts that these uses could create upon the public health and welfare.

As can be seen within the proposed “use-specific standards” the staff is proposing no modification to the 1,000-foot separation from churches, daycare centers, and elementary and secondary schools as specified in Amendment #2. This decision is based upon the available locations (see attached Separation Maps) in which the four facility types could locate. Restricting facility locations to the 1,000-foot buffer would leave ample opportunities to establish a business presence within the City in locations, staff believes, are most appropriate given the medically-focused nature of these uses. Staff further believes that these uses are more “destination” oriented and not “impulse” purchase driven. Several requirements currently under consideration by the Department of Health and Senior Services would also support this contention.

While Amendment #2 does permit a local municipality to reduce the separation requirements applied to the four facility types, the time available for the Commission to sufficiently debate to vet a reduction is significantly limited. Given this limitation, staff recommends that the 1000-foot requirement be supported as a beginning point and convey its desire to Council, if such action is supported, to debate and vet a reduction as a separate action. Such strategy is also recommended to be employed when considering any zoning district decision for which a consensus cannot be reached as well as the desire to create additional “use-specific standards”.

Also attached to this report are the proposed application criteria requirements currently prepared by the Department of Health and Senior Services, the State department responsible for the implementation and administration of Amendment #2. Of the five documents, one addresses application criteria that is “generally” applicable to all facility types and the remaining four documents provide proposed application criteria for each facility type specifically.

Given the breadth of these standards and the obligation that the State has to adopt them pursuant to Amendment #2, it is staff’s contention it is not necessary to include similar provisions within the proposed “use-specific standards”. Such duplication or a slight modification may create confusion to individuals looking to locate facilities within the City. If inclusion of a specific application provision is desired this could be accommodated following discussion of its implications.

The proposed text change will need to be scheduled for a public hearing on the May 9, 2019 Commission agenda meeting. Staff desires to utilize the work sessions of April 11, 18, 25 and May

2 (if needed) to discuss the proposed provisions. The amendment, as currently presented, is what is staff will present for consideration May 9, subject to possible minor modifications.

Staff will utilize the work sessions to present its position and desires Commission support of the standards proposed; however, acknowledges that a position to “agree to disagree” may be a possible outcome. Any potential modifications to the proposed amendment not include within the public hearing draft will be duly noted in the meeting minutes and summarized within the Council report forwarded with the Commission’s recommendation on the amendment for Council’s consideration. Council may choose to amend the attached staff draft based on Commission as well as public comments.

Staff looks forward to the opportunity to discuss this text change with the Commission and to complete its assignment. Please contact me if you have questions.