

**PZC Work Session Minutes**  
**April 11, 2019**

**I. Call to order**

Present: Harder, Loe, MacMann, Rushing, Stanton, Strodman, Toohey

Absent: Burns, Russell

Staff: Bacon, Caldera, Teddy, Zenner

**II. Introductions**

**III. Approval of Agenda**

Mr. Stanton made a motion, seconded by Ms. Rushing to approve the agenda as presented.

(Unanimous voice vote).

**IV. NEW BUSINESS**

**A. Medical Marijuana Text Amendment- Discussion**

Mr. Zenner introduced the topic and requested to establish general ground rules to help structure the work sessions on this topic anticipated weekly through May 2. He requested input from the Commission, noting there would be ample opportunity for public comments during the hearings before the Planning Commission and Council on this matter. Furthermore, Mr. Zenner noted that written comments would be accepted and provided to the Commission and Council for consideration.

Mr. Zenner noted the necessity of being able to get through all the material with the Commissioners and asked that if any guests attending this evening's meeting wanted to provide information or questions to the Commission that they email that material to the staff. Mr. Zenner further noted that the UDC requires a public hearing on proposed text amendments and that any comments offered by the public would be captured within the public hearing minutes that ultimately are forwarded to City Council for consideration.

Mr. Zenner stated that the public hearing on this matter was anticipated at the Planning Commission's May 9, with introduction before the Council tentatively scheduled for May 20. He said the first reading or intro at Council would read the matter into the record and the second meeting, tentatively scheduled for June 3, would allow for public input as part of the Council's public hearing. Following the May 9 Commission public hearing, he asked the public to provide any further comments to the City Clerk so they may be provided to the City Council members directly.

Mr. Zenner noted that the Commission was requested to provide Council with a recommendation on the time, place, and manner in which medical marijuana would be integrated into the City's zoning regulations. He reviewed the four types of medical marijuana facilities as defined by the state under Amendment 2 and noted that the role of the local government was to consider the health, safety and welfare of the public when developing regulations.

Mr. Zenner referenced the permitted use table (included within the proposed regulations as Attachment A) and described how each of the facility types fit into the different land use categories. He noted that the districts in which the facilities were shown took into consideration prior Commission discussion from the March 7 work session and additional research conducted by planning/legal staff as well as input from City leadership. Mr. Zener also indicated that he would like to discuss the separation maps that had been prepared before entering into a round-robin style of comments from the Commission.

Mr. Zenner noted that the draft, as presented, would be the future public hearing document; however, may be amended to include minor amendments. He noted that there were several non-negotiable points within the draft that staff would not be open to changing based upon the request of City leadership. He acknowledged that Commission may not agree with the provisions as presented, but indicated that the Commission's concerns and recommendations for changes would be captured as part of the public hearing notes and forwarded to Council for their consideration as possible amendments.

Mr. Zenner further indicated that there was no intent to duplicate requirements that the Department of Health and Senior Services (DHSS) would be responsible for administering within the proposed regulations. Furthermore, Mr. Zenner indicated that the draft regulations included provisions that would be removed prior to producing the final public draft that were determined to be more related to business licensing procedures. He noted the provisions appear in the draft at this time to ensure that public as well as the Commission understood staff had given specific consideration to safety and operational issues associated with the four facility types. Mr. Zenner noted that Mr. Caldera was working on the business license documents at this time and that a parallel text amendment to the Business License chapter of the City Code would be presented at the May 20 Council meeting. .

There was general discussion of the timeline and how revisions and suggestions would be noted or included in the public hearing draft. There was concern expressed that the process appeared to be non-inclusive.

Mr. Zenner presented the maps showing the required buffers around schools, daycares and churches (100-1000 feet) overlaid over each zoning district. Mr. Zenner noted that following analysis of the results, staff supported starting with the largest buffer allowed

per Amendment 2 (1,000 feet) from each of the four medical marijuana facilities. M. Zenner noted that staff believes, based on the results, there is ample area for the uses to locate and establish a business presence. He noted that the areas could be reduced later should the public and the industry deem it desirable or if it was determined there were not enough available locations.

Mr. Zenner provided potential licensure numbers for each of the four facility types and how that would fit within the context of the buffer maps. He noted that the State intended on issuing 2 licenses for Testing Facilities, 24 Dispensary licenses per US Congressional District, 1 infused-product manufacturing license per 70,000 persons, and 1 cultivation facility license per 100,000 persons. He further explained proposed use-specific standards intended to regulate the total number of facilities that would be licensed within the City. Based on these standards a total of 6 dispensaries, 2 infused-product manufacturing, and 2 cultivation facilities would be locally licensed. He noted that the restrictions were developed with the understanding that the City is willing to take its proportional share of facilities, but not an unduly burdensome number.

There was discussion regarding the proposed distance separations. Mr. Zenner noted that much of the downtown M-DT district was precluded because of the numerous schools and churches, but that there was some area around Rose Music Hall that was open. Ms. Bacon noted that rezoning requests to M-DT and or changes in the landscape of daycares, schools and churches may change the environment over time.

Staff indicated that amendment of the 1,000 buffer was a non-negotiable item that would be retained within the public hearing draft that would be placed before the Commission and voted "up" or "down". Mr. Zenner reiterated that the concerns and recommendations for an alternate distance would be forwarded with the public hearing recommendation. Mr. Zenner noted that based on staff's research the 1000 foot buffer was reasonable.

Mr. Toohey said he thought the 1,000 foot distance separation from these facilities was too much if it left only the area by Rose available. He noted concerns with parking. He noted a concern with limited hours of operation and questioned the impact on property values of areas limited or allowed based upon the distance and separation. He said they should anticipate recreational marijuana and be thinking ahead. He said he would support 500 feet.

Ms. Rushing said she supported staff's recommendation of 1,000 feet. She thought that based upon the maps there were plenty of spots for businesses to go based upon the anticipated number that would locate in Columbia and that they would hear about it very quickly from the public if not.

Mr. Harder said he was okay with the 1,000 feet. He recalled watching a documentary about a medical dispensary on Breckenridge, Colorado's main street. Medical was not

problematic for them. He said when recreational marijuana was permitted the City Council voted to move the facility off the main street. He noted that recreational facilities would catch the eye and they should consider the future and impacts.

Ms. Loe said she did not understand why the downtown would be a target area for placing these uses within. She said the areas in the MC and IG seem to provide plenty of real estate. She discussed downtown as a destination, in some but not all instances, and not for every demographic. She preferred to error on the side of a higher distance followed by an evaluation of the effects and look at it again in the future if needed.

Mr. Strodman said he agreed with Ms. Loe given the limited number of facilities that would be permitted based on the local licensing criteria and the limits imposed by the State's use of the US Congressional Districts. He further noted that he did not see an imbalance between the permits to be issued and the amount of available properties. He thought the 1,000 feet was sufficient and that they'd know more about the demand soon enough. He noted some property owners may not support the use due to their personal beliefs, regardless if the use was not precluded.

Mr. Stanton said he concurred with the comments of Commissioners Loe and Strodman and indicated that he didn't see many benefits in shrinking the distance after looking at the maps. He said after looking at the data, a lower boundary didn't yield much gain and he was concerned given these businesses are "cash heavy" that a reduction in buffers may result in the potential negative elements of the businesses being unfairly borne by certain parts of the community.

Mr. MacMann said he supported 500 feet. He didn't want to rubber stamp any of the regulations and wanted to note the role of the Commission in the process.

Mr. Zenner indicated that staff was seeking an "up" or "down" vote from the Commission on each of the proposed regulations and its parts. Areas of disagreement and recommendations for changes would be forwarded to Council. The purpose for holding the work sessions was to gain Commissioner and staff perspectives on this topic and was to offer an opportunity to be respectful of everyone's time and opinion. Mr. Zenner noted that there was room for some modifications, but as stated at the beginning of the meeting there were particular non-negotiable items that staff would not change irrespective of the Commission's opinion or desire.

Ms. Rushing said she understood this to be a talking draft for the public hearing. Mr. MacMann wanted to ensure this was a bottom up and not top down process. Ms. Loe said the minutes would reflect the discussion.

There was general discussion on the difference between CBD products and medical and recreation marijuana products. Ms. Bacon clarified the products were different in

chemical composition and these were regulated by the federal government. She noted they had permitted several CBD facilities already within the City.

There was discussion regarding the permitted use table. Mr. Zenner displayed the table on the screen and went through each use and in what zoning districts it would be permitted. He said staff had been conducting research on each use for the zones recommended by the Commission at the March 7 meeting, and the table had a few variations from that discussion and he explain the rationale for the changes. He noted that any planned developments would require formal rezoning amendments. He said this would allow public input given the medical marijuana facilities did not existed when any of the City's PD properties were approved.

Mr. Zenner highlighted the discussion previously held regarding greenhouses as potentially a comparable use to an indoor cultivation facility; however, noted that after additional research staff concluded there were limited similarity and therefore the use was removed from the M-C district. He noted that staff was recommending IG and AG zoning for these facilities in part due to their higher intensity of the water and power consumption as well as possible trucks traffic which were believed more akin to industrial and heavy agriculture uses.

Mr. Zenner also noted that cultivation facilities would be subject to additional use-specific standards which the Commission would be discussing at its upcoming March 18 work session. Additionally, he noted that Amendment 2 provided for open area cultivation and had different formulas for the number of plants allowed outside versus square footage within an enclosed structure. He said staff's research indicated that most facilities would be within enclosed facilities based upon quality control and security concerns. He also noted that no pop-up/mobile facilities and no open air facilities, for instance, were allowed by the use-specific standards. allowed.

Mr. Toohey discussed the use of the conditional use process for subtypes of uses, such as conditional use for open air versus permitted for enclosed. He thought there were opportunities to look at that process; however, was okay with the staff recommended zones and they could look at conditional uses later. Mr. Caldera said they needed to be deliberate in starting with permitted uses first given the time line so that there was certainty on where particular types of activities could occur for industry representatives seeking licenses.

Mr. Caldera noted that there would be opportunity to address conditional uses in the future after a framework was developed to move forward. Mr. Zenner said they would schedule additional discussion time after the May 9 hearing, especially in terms of things that may open up zones or opportunities via the conditional use process.

Ms. Loe opened up the round-robin discussion process.

Mr. MacMann noted concerns and wanted to make sure revisions would be considered. He appreciated the caution but wanted to ensure the regulations were not making assumptions about safety and criminality. He noted data showed most patients were disproportionately older male members of the community and large numbers of veterans.

Ms. Rushing noted the similarities and differences with greenhouses. She said she was okay with the staff recommended zones and they could look at the condition use option later in the MC based on scale.

Mr. Harder said he was okay with the staff recommended two zones; however, had questions about growing operations. He asked if it had to be grown here to be sold here. Mr. Caldera said no. Mr. Harder thought there were differences from greenhouses. There was general discussion regarding the State requirement for odor mitigation systems.

Mr. Stanton said he agreed with the zones proposed by staff. His concern was security issues. He said it was a cash heavy business and until the banks were able to get involved because federal law current did not recognize marijuana as a legal substance there would be safety concerns.

Mr. Strodman said he was okay with the two zones as suggested. He supported looking at potential conditional use later.

Ms. Loe said she shared Mr. MacMann's concerns on being careful about discussing safety issues and that safety needed to be protecting patients not criminalizing them. She said this was a cash crop that varied from the typical greenhouse model of buying plants in terms of use and scale. She said she was comfortable with the districts not including M-C.

Testing facilities were then discussed. Mr. Zenner noted there was discussion about including them within the M-N district which is where research labs and testing facilities are currently allowed. He noted; however, after additional research that only two facilities would be permitted by the State and given this limited number locating such facilities within the M-C, M-BP and I-G zones appear to provide ample opportunity for them to be established – not the M-N district. Mr. Zenner indicated that as part of use-specific standards safety and emergency plans would be required to be reviewed prior to the City issuing a business license.

Mr. Stanton discussed the need for medical and pharmaceutical counseling in the same locations to help patients understand what types would best fit their condition. Ms. Bacon noted that the zones allowing dispensaries also allowed medical providers and counselors and that the business model identified by Mr. Stanton was not uncommon in helping to meet patient needs.

Ms. Loe said they had considered this use in M-C as only a conditional use below looking at her notes. Mr. Zenner said they felt better about safety concerns now that there was additional work to address security and emergency plans in the permitting process.

Ms. Low asked if they could do thumbs up on this use as there seemed to be consensus, rather than a round-robin. There was a general thumbs up of support on these uses in the proposed three zones of M-C, M-BP and I-G.

As the Commission began discussion on the location of dispensary facilities Mr. Zenner noted that staff had chosen to not include this use in the M-N zone although it had been discussed previously as a permissible location. Mr. Zenner cited safety concerns of a heavy cash business adjacent to residential areas as well as the potential impact that allowing this use in the M-N zone could have on the Comprehensive Plan's goal of support neighborhood-level services at nodal locations. Ms. Bacon concurred and noted that dispensaries might be a bit more of a destination than a neighborhood level service.

Mr. Zenner also noted Mr. Stanton's concern that until federal law changed the use was cash-heavy and thus perhaps not conducive to residential areas. He said there were a lot of dispersed corridors throughout the City that would allow the use. The Commission reviewed options based upon the maps. Mr. Zenner noted that after additional research, staff was recommending the M-DT, M-C and I-G for dispensaries.

The work session discussion pivoted to the review of the proposed use-specific standard for dispensaries within the M-DT. The standard singled out for specific discussion dealt with the requirement that dispensaries be located on the second floor rather than the street-level/storefront level. Mr. Caldera noted this standard was used in Boulder. The intent was to allow dispensaries to better blend into multi-use buildings to provide security to users as well as provide anonymity to their users from the street level.

Mr. Toohey asked if underground spaces in the M-DT would allow the use. He felt that the regulation was over-thinking the issue that dispensaries would create from his experience. He said it was a medical use and that patients were visiting for medical reasons and not to be stigmatized.

Mr. Stanton said he saw the safety argument both ways on this. He said they needed to be realistic on the safety concerns.

Mr. Strodman said they could evaluate this more down the road. He discussed if there was intent to open up or reduce the distance buffers in the M-DT this standard would have greater impact.

Mr. Zenner said the staff had debated this provision. There were pros and cons. It could be removed if recommended with the current buffers and then put back in if the Council decides to reduce the distance separation buffers.

Ms. Loe said she was concerned about accessibility for patients reaching second floors.

Mr. Toohey wanted to be forward thinking so when the time came for recreational marijuana use it might be approved. He said in other communities it was common to have a dispensary in the downtown district. He wanted to spend the time vetting these standards now.

Mr. Stanton and Ms. Loe said they could leave it in for now in the discussion draft and let it be vetted through the process. Mr. Stanton said the market would also provide feedback.

Ms. Rushing said they could leave it in for now but she was concerned about second floor accessibility and safety going in and out. She would feel safer going in and out from the street. She wanted to ensure access to all patients on a geographic basis also.

Mr. Zenner said staff would bring the Commission's concerns back to management for consideration and the staff reporting would reflect the conversation. He asked for round-robin comments if there was no additional discussion.

Mr. Toohey said he also thought that the medical use of dispensaries should be allowed in the M-N zone like pharmacies. He said they could look at conditional use standards later if needed. He didn't want to demonize a medical use and be too restrictive for people that needed it.

Ms. Rushing said she agreed with staff's recommendation other than the two-story requirement. She said she would like dispensaries treated like a medical use, but because it doesn't fit a standard drugstore business model, but because the federal government doesn't allow it cannot be. She noted that until the federal government recognizes the use which is a cash business that has security issues not related to patrons it's not appropriate in the MN district. The reality is that it is not the same now as a traditional pharmaceutical use.

Mr. Harder said he agreed with Ms. Rushing. He would like to see it treated the same as a pharmacy but didn't think it could presently be a permitted use in the M-N zone because of security issues. He thought this would change someday. He indicated that he believed access to facilities would be relatively easy given the locations throughout town that were available.



Mr. Strodman said he would like to see dispensaries permitted in the M-N zone and the second story requirement in the M-DT removed. He supported all other zones as proposed.

Ms. Loe said she agreed with Mr. Strotman's comments.

Mr. Stanton desired more information on the potential of allowing the use in the M-N zone.

Mr. Zenner said they could do additional analysis and come with the information at a later work session. He said M-N property would have the ability to seek a rezoning to a zone which permitted the use and or they could re-evaluate it as a conditional or permitted use. He was concerned that neighborhood nodes identified in the comprehensive plan that are generally considered appropriate for neighborhood-level shopping and services might have difficulties transitioning to M-N in the future if dispensaries were a permitted use. He said they would bring back information on these areas. He wanted to meet the objectives of the Comp Plan and support neighborhood needs.

Mr. Stanton said he had lived around the world and his experiences told him security and enforcement was a big deal. He thought maybe a conditional use process to have neighbors weigh in on the conditions until it became federally sanctioned. He cited concerns about cash crops near neighborhoods. The facilities may have security systems but the coming and going and the lack of security facilities by the neighborhoods themselves could provide challenges.

Mr. Toohey noted the facilities would have security in place.

Mr. Stanton said at this time he supported not allowing dispensaries in the M-N zone.

Mr. MacMann said in general he agreed with Mr. Toohey. He didn't see a big issue with allowing the use in the M-N zone. He noted the present availability of marijuana in all districts throughout town despite its illegal nature and noted the issues brought up by other Commissioners about it being a cash business were because of the federal government's stance.

The discussion moved on to production and infused manufacturing facilities. There was general discussion on how at various scales this use may be akin to the artisan industry standard in the code. This might be a conditional use later for the M-C zone but staff had recommended removing from the M-C zone at this point due to the numerous available locations within the M-BP and I-G zones. Staff suggested that the Commission could to revisit M-C as a future conditional use discussion.

Mr. Zenner said there were many locations tied to industrial areas which may allow for dual usage facilities such as growing and then product refinement and manufacturing on the same or adjacent sites. Mr. Caldera noted these facilities were not allowed, by the State, to sell directly to consumers.

Mr. Zenner noted based on the proposed State licensure breakdown the City of Columbia may get a total of 2 facilities. He further noted that based on the mapping analysis there were many industrial corridors where the uses could be accommodated. He also noted that there would be opportunity to talk with the Business Loop CIP about opportunities to use its existing industrial zoning to accommodate these types of facilities which would help fulfill some of the Corridor Plan's goals.

Ms. Loe asked for thumbs up or thumbs down from the Commission. There was general consensus by most but not all Commissioners. Mr. MacMann said he was thumbs down as he supported looking at M-C now as he didn't see an issue. Mr. Toohey said he supported looking at the M-C zone again in the future if recreational use is allowed.

Ms. Loe noted this was more permissive as a use that light industry presently. Mr. MacMann said there could be very small mom and pop types of facilities.

Mr. Zenner said he appreciated the Commission's attention. They had gotten through two of the important topics, distance and zones by use type. He said they would come back at the April 18<sup>th</sup> or April 25<sup>th</sup> work session with additional information on the M-N zones. At the 18<sup>th</sup> meeting they needed to talk more about use-specific standards.

Mr. Zenner noted that he would bring the Commission's comments on the M-DT in general and the second floor requirement in particular to City management for their consideration. He noted the Commission would review the 17 use-specific standards next and then use the May 25<sup>th</sup> work session to wrap up.

He noted the next work session was at 5:30 PM and there were regular business items including prep work for the 2020 CIP discussion which would be held during their May 9 work session.

Mr. Toohey asked how existing PD plans would be addressed. Mr. Zenner said applications could be submitted to revise the PD plan and analysis would occur based upon the use-specific standards.

#### **IV. NEXT MEETING DATE – April 18, 2019 @ 5:30 pm (tentative)**

#### **V. Adjournment**

Meeting adjourned at 8:01 PM