

Planning and Zoning Commission Work Session Minutes
May 18, 2023
Conference Room 1A & 1B - 1st Floor City Hall

Call to Order

Commissioners Present –Carroll, Geuea Jones, Kimball, Loe, MacMann, Placier, and Stanton
Commissioners Absent – Burns, Wilson
Staff Present – Teddy, Thompson, and Zenner

Introductions

Approval of Agenda

Meeting agenda adopted unanimously

Approval of Minutes

May 4, 2023 work session and regular meeting minutes adopted unanimously

Old Business

A. Marijuana Microbusiness UDC Amendments

Mr. Zenner introduced the topic and with the assistance of Mrs. Thompson explained the reason for the urgency to make the amendments to the UDC. It was discussed that the Department of Health and Senior Services (DHSS) had chosen to accelerate the release and acceptance date for applications relating to marijuana microbusiness licenses for dispensaries and wholesale (cultivation and manufacturing) facilities. Forms for applications were to be released on June 6 and acceptance of applications for the first of three-rounds of license issuance were scheduled to begin on July 27. Issuance of licenses for the first round of applications would be no later than October 4. The remaining two rounds of licensure would occur on June 30, 2024 and again on April 4, 2025. Once all rounds of licensure are completed it was noted that 6 microbusiness dispensary and 12 wholesale facility licenses would be issued – 2 dispensaries and 4 wholesale facilities per round.

There was general discussion on the limited nature of the microbusiness facilities provisions within the Article XIV of the State Constitution as well as discussion relating to the need to have the amendments incorporated into the UDC such that under-represented business owners could have equal access to the industry. There was also discussion on the potential for the total number of facilities to be expanded given the fact that the City of Columbia now lies within two (2) Congressional Districts. Mrs. Thompson; however, noted that Article XIV clearly states that licenses will be based on the Congressional Districts that existed as of December 6, 2018. Given there has been no supplemental information provided by DHSS and to her inquiries regarding how this matter is intended to be resolved, the proposed amendments are based on the single Congressional District which would result in a total of 18 facilities being permitted within the area.

There was additional discussion on the licensure limitations that current exist within the “use-specific standards” as well as the distance and spacing requirements. Mr. Zenner noted that the proposed amendments did not include microbusiness dispensaries within the licensure limitation clause and that distance and spacing standards would be the same for all microbusiness facilities as they are for current “medical” and “comprehensive” facilities. There was discussion on the potential for creating a new application procedure that would establish a different set of spacing limits for the new facility types. However, after internal staff discussion, it was concluded that the current application and evaluation criteria found within the existing use-specific standards are sufficient.

Staff noted that a public hearing on the amendments, which are essentially the same as those made for “comprehensive” facilities, has been advertised for the Commission’s June 8 Regular meeting. Mr. Zenner explained that this schedule was necessary to ensure that adequate time existed for staff to generate possible zoning verification letters that may be required to accompany facility applications to DHSS. He noted that any delay in processing the amendments would result in them becoming effective after DHSS opens the application acceptance

period given that the Council's July 3 meeting has been cancelled. Based on the June 8 Planning Commission public hearing, the item would be introduced to Council on June 20 and final read on July 17.

The amendments will include new definitions for the microbusiness facilities, updates to the Permitted Use Table to allow microbusiness facilities where their equivalent medical and comprehensive facilities are allowed, and updates to the use specific standards such that they are applicable to all types of marijuana facilities capable of being licensed within the State.

Commissioners asked if the text proposed to be incorporated into the UDC could be modified. There was concern with a reference contained within the definitions. After discussing the proposed change, Mrs. Thompson and other Commissioners agreed that since the amendment was copying directly what was defined within Article XIV that no change to that text could be made. Mrs. Thompson and the Commissioners agreed the language was not nearly as "tight" as what was desired, but they were not asked to prepare it.

Finally, the Commission discussed two additional topics associated with marijuana in general. The first dealt with marijuana transport services and the second dealt with "smoking" lounges. Mr. Zenner responded to the issue of transport services indicating that the State has a licensure process, but the UDC does not contain specific regulations pertaining to where these types of businesses are allowed to operate out of. He noted that the staff views these businesses similar to "taxi" services and allows them in the M-C and IG zoning districts.

Mr. Zenner further noted that there has been discussion to define the use within the UDC, but time has not permitted for such a definition to be created. Presently staff is operating under a "Director Interpretation", as allowed by the UDC, on where the use is allowed based on its similarity to other uses defined within the Code. Commissioner's suggested that it would be best to define the use to get in front of particular issues that may arise as the microbusiness' are coming on-line. Several Commissioners commented that given the limited level of State regulation on the transport industry it may see significant increases in its activity levels.

Relating to the issue of "smoking" lounges, Mr. Zenner noted that there was nothing specific in the UDC about this activity; however, he was aware of the potential for this use to become more prevalent within the City now that recreational marijuana usage is legally allowed. Present State regulations do not permit public smoking of marijuana; however, a "private club" may be a safe haven for such an activity. There was discussion that the City's Smoking Ordinance may have an impact on where it could occur. Mr. Zenner and Mrs. Thompson suggested that staff could do further investigation of how these types of establishments were permitted in other communities and come back with a future text change. Commissioners were receptive to this idea expressing a desire to "get ahead" of a possible issue before it became an issue.

Having addressed all relevant question relating to the proposed text change and associated issues, staff noted that this matter would be on the June 8 Commission agenda for public hearing. Mr. Zenner noted that due to his absence Mrs. Thompson would be delivering the staff report that evening.

B. Voting and Requests for Council "Old Business"

Mr. Zenner introduced the topic and explained observations the he and others were having related to the Commission's voting practices. Mr. Zenner stated that this topic was intended to be a "refresher" of the procedures relating to Commission actions, specifically with respect to how a matter can be placed on the Council's "Old Business" agenda. He noted that "perception is often reality" and based on recent comments from individuals appearing before the Commission there was concern the Commission's actions were not being as "objective" as possible with some votes being cast to ensure an item ends up on the Council's "Old Business" agenda.

Mr. Zenner explained that there is a defined process in the UDC for when an item is to be placed on the consent agenda. Generally, this occurs when more than 75% of the Commissioners present vote to approve an item. He noted that there are several different types of vote combinations that will result in less than 75% of the Commission voting in favor of an item and often the one that is most confusing is when only 8 Commissioners are present. In such an instance a vote of 6-2 is exactly 75% voting to approve a project and as such the item would normally go to the Council's "Old Business" agenda since it is not "greater" than 75%.

Mr. Zenner noted that while staff often gets the placement correct they are not perfect and sometimes a matter will not be properly flagged. He further noted that within the defined provisions, the Commission can always request that a matter be specifically placed on the “Old Business” agenda regardless of its vote. The best practice to ensure that such action is taken by the staff, and ultimately the City Manager, is to make a second motion relating to the item’s placement on the future Council agenda before moving to the next business item. The Commission has historically been consistent in taking this step; however, recent actions of the Commission are causing this practice to come under additional scrutiny.

There was general discussion on this practice and it was urged by several Commissioners that each member vote “their conscience” and that the practice described by Mr. Zenner be implemented. Mrs. Thompson noted that the general City Code also provides opportunity for “any member of the public” to request that an item be removed from the Council’s “Consent” agenda and placed under its “Old Business” agenda items. While the best practice would be to do as Mr. Zenner described it was not essential. Mr. Zenner noted if the request to remove an item from “Consent” to “Old Business” was not contained within the Commission’s action such a request would need to be made to the City Clerk to ensure it was effectuated.

Mr. Zenner further explained that the “Consent” agenda voting procedure being discussed is only applicable to items that were before the Commission for public hearings. For matter relating to subdivision actions, typically considered a ministerial activity, a formal request for their placement on the “Old Business” agenda would be necessary unless such request were made directly to the City Clerk following the Commission’s action.

Mr. Zenner noted the purpose of this item was to ensure the integrity of the Commission’s actions were protected and they retained respect as a deliberative body. He thanked the Commissioners for their attention. There was additional discussion on the matter of voting and it was suggested by the Chair that a simple change in how the Commission moved from business item to business item could be made. She offered to add at the end of the vote count and total announcement a phrase similar to “are there any other motions the Commission would like to make?”. She noted that this would be a prompt for any Commissioner desiring to make a motion to request an item be moved to “Old Business”. Commissioners agreed this change was appropriate and acknowledged that the prompt may not always be needed.

There was limited additional discussion on other procedural matters relating to the Commission’s meetings – specifically addressing the need to read the “Disclosure” statement at the beginning of each case. Following Commissioner discussion and advice by staff it was concluded that this matter would be retained as a part of the meeting procedures.

ADJOURNMENT

Meeting adjourned at approximately 7:15 pm

ACTION(S) TAKEN:

Motion made by Commissioner MacMann, seconded by Commissioner Loe, to approve the agenda as proposed. Motion made by Commissioner MacMann, seconded by Commissioner Loe, to approve May 4 work session minutes as presented with Commissioner Kimball abstaining. Motion made by Commissioner Carroll, seconded by Commissioner Loe, to approve May 4 regular meeting minutes as presented with Commissioner Kimball abstaining.