

MINUTES OF THE REGULAR MEETING
OF THE
PLANNING AND ZONING COMMISSION

February 25, 2021
9:36 a.m.

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Phoenix, Arizona

MEMBERS PRESENT:

Mr. Greg Arnett, Chairman
Mr. Jay Swart, Vice Chairman
Mr. Kevin Danzeisen
Mr. Erik Hernandez
Mr. Matt Gress
Mr. Jimmy Lindblom
Ms. Francisca Montoya
Ms. Kate McGee

MEMBERS ABSENT:

Mr. Nathan Andersen
Mr. Lucas Schlosser

STAFF PRESENT:

Mr. Darren Gerard, Planning Services Manager
Ms. Rachel Applegate, Senior Planner
Ms. Rosalie Pinney, Recording Secretary

COUNTY AGENCIES:

Mr. Wayne Peck, County Attorney
Mr. David Anderson, Business Engagement Manager, OET
Ms. Pearl Duran, OET

REGULAR:

TA2020002

Chairman Arnett made the standard announcements, and asked if there were any changes or comments to the minutes for January 14 minutes. None.

COMMISSION ACTION: Chairman Arnett approved the January 14, 2021 minutes as written.

REGULAR AGENDA

Text Amendment - TA2020002

All Districts

Project name: **Marijuana**
Applicant: Commission-Initiated
Request: A text amendment to the Maricopa County Zoning Ordinance (MCZO) to incorporate definitions, use regulations and development standards related to the adult use of recreational marijuana

Mr. Gerard presented TA2020002 and noted this item is not being processed through the standard Enhanced Regulatory Outreach Program (EROP) process. It is being adopted as an emergency measure. There has not been a public stakeholder meeting or public meeting of this body for discussion. After today, this will proceed to the March 10 Board of Supervisors meeting for 24-hour vesting and affect. On November 3, 2020 Arizona voters passed Proposition 207, known as the Smart and Safe Arizona Act legalizing the sale of and adult use of recreational marijuana. The law does not allow the regulations for recreational marijuana to be more restrictive than adopted regulations for medical marijuana. The Arizona Department of Health Services has begun issuing licenses, this necessitates rapid processing of TA2020002. The text amendment is essentially a proposal to treat recreational marijuana the same as medical marijuana with regard to permitting related land uses and zoning regulation.

- Retail dispensary establishments permitted in the C-2, C-3, IND-1, IND-2 & IND-3 zoning districts;
- Retail establishments may include ancillary cultivation, extraction and infusion for the on-site dispensary;
- Wholesale establishments or off-site, standalone cultivation, extraction, infusion and/or testing facilities permitted in the IND-1, IND-2 & IND-3 zoning districts; and
- Medical marijuana and recreational marijuana facilities may be co-located into the same facility, site or campus.

The proposed verbatim language is in the staff report in paragraph 3. The definition for marijuana establishments includes types 'a', 'b', or 'c'. Paragraph 'f' is being added to the commercial zoning district use regulations with the development standards. Section 804.2.45. The facility may only have retail sale / dispersal of product, with ancillary cultivation, extraction, and infusion for on-site retail sale / dispersal of product. Staff believes this paragraph limits marijuana establishments to the type 'a' only, and does not allow for a, b and c. In Industrial that paragraph 'f' is not added where it's 'a' through 'e'. Marijuana establishments in industrial zoning can be a, b or c. Staff recommends the language to be initiated, and recommends approval to the Board of Supervisors.

Chairman Arnett asked about the type of activity and limitations. Mr. Gerard said under the commercial use regulation we have added paragraph 'f', so that medical marijuana facility can only have retail sales dispersal of product, with ancillary cultivation, extraction, and infusion for on-site retail sale / dispersal of product. This paragraph can be further clarified by adding a sentence to item 'f' that says: A marijuana establishment as defined in chapter 2 of this ordinance shall be limited to a type 'a' only.

Commissioner Gress asked is only part 'a' eligible for use in that area, and said 'b' and 'c' seem to be more industrial. Mr. Gerard said correct. We want to memorialize the way we have been implementing the ordinance for medical marijuana dispensaries already. We don't want to open up commercial zoning to wholesale distribution that's not a commercial use like a retail dispensary would be.

Chairman Arnett asked if there is anyone from the public that wished to speak. None.

Commissioner McGee asked was there difficulty implementing the medical marijuana ordinance. Mr. Gerard said yes, we have had three different ordinances. Now with recreational marijuana we are mirroring right up to medical marijuana, and hopefully have zero speed bumps.

Mr. Peck said we were challenged by someone who wanted to open up a medical marijuana facility. When it went to trial the court threw out our zoning ordinance on this item. We quickly put together what we have now, and it has worked very well.

Commissioner Lindblom asked what is ancillary cultivation, extraction and infusion. Mr. Gerard said as part of a dispensary it has products they are selling on site and they may be infusing the marijuana, or extracting the oils.

Commissioner Lindblom asked in staff's opinion it's not an intrusive manufacturing process, it's appropriate for commercial zoning and not an industrial use. Mr. Gerard said it comes down to the scale and scope of the activity. They can have limited extraction and infusion or even growing, to what you are doing in the retail store only. If they are wanting to sell it to 20 retail stores across the valley, that's of a different scale in industrial zoning.

Commissioner Lindblom said someone could get into the wholesale market and have a retail front, but in a different zoning district. Mr. Gerard said you can have a retail store in industrial zoning with a large infusion facility or acres of cultivation. Where in a shopping center you can have dispensary and may have a small grow room, but only for what you are doing on site.

Mr. Peck said the statute does treat these kind of activities only to serve the dispensary differently than a wholesale business. That is part of the reason staff is making the suggestion for additional language.

Commissioner Gress asked for more clarification to what ancillary means. Mr. Gerard said they could possibly use accessory.

Chairman Arnett asked is it the intensity of the use at that location. Commissioner Gress said it is different in C-2 zoned areas. He asked how we make it clear so part 'a' is specific with the limitations. The term ancillary is ambiguous.

Mr. Gerard said he believes ancillary may be more specific than accessory. The definition of ancillary is 'providing necessary support to the primary activities or operation of an institution'. He believes 'f' captures it and adding language to the end of 'f' strengthens it.

Commissioner Lindblom agrees with the interpretation.

Vice Chair Swart said he is comfortable with it as long as we add the sentence staff suggested.

Mr. Peck said he suggests taking the word ancillary out and eliminate the comma between extraction and infusion, because ancillary is being repetitious. The facility may only have retail sale / dispersal of product, with cultivation, extraction, and infusion for on-site retail sale / dispersal of product.

Commissioner Lindblom said there is some redundancy, and he believes the word ancillary is a good term to use. By taking the word out we get very specific, and the term helps establish our intent. Chairman Arnett said he agrees.

Mr. Peck said if you leave ancillary in then it means something other than what follows. Mr. Gerard recommended the facility may only have retail sale / dispersal of product, with cultivation, extraction, and infusion ancillary to the on-site retail sale / dispersal of product. Mr. Peck said that works very well.

Commissioner Lindblom said he agrees.

Chairman Arnett asked staff to reread the new proposed language in its entirety. Mr. Gerard said the proposed language with revisions to 804.2.45.f. The facility may only have retail sale / dispersal of product, with cultivation, extraction, and infusion ancillary to the on-site retail sale / dispersal of product. A Marijuana Establishment as defined in Chapter 2 of this Ordinance shall be limited to type 'A' only.

COMMISSION ACTION: Commissioner Lindblom motioned to initiate and approve TA2020002 with changes to Section 804.2 Use Regulations number '45.f'. Commissioner Gress second. Approved 8-0.

Commissioner Danzeisen was not audibly heard, his computer was muted during the roll call vote.

f. The facility may only have retail sale / dispersal of product, with ~~ancillary~~ cultivation, extraction, and infusion **ancillary to the** on-site retail sale / dispersal of product. A **Marijuana Establishment as defined in Chapter 2 of this Ordinance shall be limited to type 'A' only.**

Chairman Arnett adjourned the meeting at 10:17 a.m.

Prepared by Rosalie Pinney
Recording Secretary
February 25, 2021