

MINUTES
CITY OF GLENDALE PLANNING COMMISSION

COUNCIL CHAMBERS
5850 WEST GLENDALE AVENUE
GLENDALE, ARIZONA 85301

THURSDAY, JANUARY 20, 2011
7:00 P.M.

CALL TO ORDER

The public hearing was called to order at approximately 7:00pm by Chairperson Kolodziej.

ROLL CALL

Commissioners Present: Chairperson Kolodziej (Yucca), Vice Chairperson Spitzer (Barrel), Commissioner Petrone (Cholla), Commissioner Sherwood (Sahuaro), Commissioner Shaffer (Cactus), and Commissioner Larson (Mayoral).

City Staff Present: Tabitha Perry, Principal Planner, Jon Froke, AICP, Planning Director, Jim Colson, Deputy City Manager, Deborah Robberson, Deputy City Attorney, Thomas Ritz, AICP, Senior Planner, Deborah Mazoyer, Assistant Deputy City Manager, and Diana Figueroa, Recording Secretary.

APPROVAL OF MINUTES

Chairperson Kolodziej called for a motion to approve the Meeting Minutes of the November 18, 2010, workshop. **Commissioner Spitzer made the motion to approve the minutes as written. Commissioner Shaffer seconded the motion, which was approved unanimously.**

Chairperson Kolodziej called for a motion to approve the Meeting Minutes of the November 18, 2010, public hearing. **Commissioner Spitzer made the motion to approve the minutes as written. Commissioner Larson seconded the motion, which was approved unanimously.**

WITHDRAWALS AND CONTINUANCES

Chairperson Kolodziej called for any withdrawals and/or continuances. Ms. Perry stated there were none.

PUBLIC HEARING ITEM

Chairperson Kolodziej called for the public hearing item and staff's presentation.

ZTA10-01: A request by the City of Glendale Planning Commission to add a new Section 7.800 Medical Marijuana and amend Section 2.300 Definitions of the Zoning Ordinance. The proposed changes, if adopted, would enact reasonable zoning regulations that limit the use of land for registered nonprofit medical marijuana dispensaries to specified areas in the manner provided in Title 9, Chapter 4, Article 6.1 of the Arizona Revised Statutes. Staff contact: Thomas Ritz, AICP, Senior Planner (City-Wide).

Mr. Thomas Ritz, AICP, Senior Planner, made staff's presentation. He explained this is a request for Planning Commission to make a recommendation to City Council regarding a Zoning Text Amendment request. He said Proposition 203, the Arizona Medical Marijuana Act was approved by Arizona voters on November 2, 2010. This provides for various types of facilities such as dispensaries, offsite cultivation locations, infusion facilities, and designated caregiver cultivation locations.

Mr. Ritz explained the proposition provides that the state Department of Health Services (DHS) shall complete rules for implementing the proposition within 120 days. He stated the DHS and the writers of the proposition have taken the position that if a city does not enact new, reasonable zoning regulations, then Medical Marijuana shall be allowed everywhere in the city without limits. He said staff requests that the Planning Commission recommend approval of Zoning Text Amendment ZTA10-01 to enact reasonable zoning regulations.

Mr. Ritz stated staff proposes new definitions for the types of medical marijuana facilities described in the proposition. These new definitions were included in tonight's packet. He reviewed the new definitions.

In addition, he stated staff proposes a new section of the General Development Standards of the zoning code to regulate Medical Marijuana. Mr. Ritz explained the new zoning standards include limiting the zoning districts where medical marijuana facilities may be located. These standards provide for a separation between each medical marijuana dispensary, offsite cultivation location, and infusion or manufacturing facility so that no concentration of these uses is permitted. Staff is proposing a separation between these uses of 5,280 feet, which is one mile. He said the proposed standards also require separations from residentially zoned property, 500 feet, and a separation of at least a quarter mile from schools. He added the city of Glendale is 59 square miles in size.

Mr. Ritz concluded by stating staff is requesting that the Planning Commission recommend approval of the zoning text amendment to add new definitions for the types of medical marijuana facilities described in the proposition, and add a new section of the General Development Standards of the zoning code to regulate Medical Marijuana. Staff believes the proposed text amendments are reasonable zoning regulations.

Chairperson Kolodziej asked the Commission for questions. There were none.

Chairperson Kolodziej opened the public hearing.

Ms. Bonnie Steiger, 5325 West Acapulco Lane, stated she is opposed to the approval of the use of Medical Marijuana. She felt the dispensaries should be located at 2,000 to 3,000 feet away from any schools and should be located in industrial areas only. Ms. Steiger stated this is going to create more problems for the Police Department. She encouraged the Commission to carefully consider this item.

Mr. Aaron Smith, Arizona Medical Marijuana Association, 1206 South Wilson, Tempe, representing the industry professionals and the patients who will be served. Mr. Smith commended Mr. Ritz and city staff for the work on this item. His first concern was the limited hours of operation. These businesses should be viable and should be allowed to operate under hours where the customers are able to access the business and obtain their needed medication. Extending the hours would be critical to the industry. Mr. Smith's second concern was the proposed setbacks. He reminded everyone that this is medicine and stated many other businesses have medication much more dangerous and those businesses are allowed to operate closer to schools and closer to residential than what is being proposed for medical marijuana locations. Last, Mr. Smith felt that a designated caregiver should have the same right to cultivate for a patient in their home as long as there is no operating medical marijuana distributor within 25 miles.

In response to a question from Commissioner Petrone, Mr. Smith clarified that dispensaries should be larger operations in order to make them sustainable. He said those dispensaries having difficulty operating are more likely to engage in criminal activity by possibly diverting medicine into the criminal market. He explained he has seen many dispensary sites and those located in areas which are zoned for pharmacies are more favorable than those located in zoned areas for adult businesses.

Commissioner Spitzer explained patients typically need to visit the dispensary every two weeks. He does not believe the proposed hours of operation would create a hardship if the dispensary was open for business on Saturday. In addition, law enforcement would prefer dispensaries to operate in as much daylight as possible to reduce the amount of criminal activity. Mr. Smith stated some patients may need to access the dispensary after 6pm similar to patients who can access a Walgreens pharmacy 24 hours a day. Mr. Smith added he would be more concerned if these facilities were located in industrial areas, which fortunately is not being proposed by the city of Glendale.

Commissioner Larson asked Mr. Smith what his ideal hours of operation would be. Mr. Smith suggested 8am to 8pm would be preferred.

Mr. Adam Trenk, Rose Law Group, 6613 North Scottsdale Road, said without being able to predict when people will need their medicine the proposed hours of operation may be inconvenient. He asked the Commission to consider longer hours of operation.

In response to a question from Commissioner Spitzer, Mr. Trenk stated he does not feel dispensaries should be open 24 hours a day, however, longer business hours are preferred. He thanked the Commission for the opportunity to speak.

With no further speakers, Chairperson Kolodziej closed the public hearing.

Chairperson Kolodziej asked for the Commission's comments.

Commissioner Sherwood stated this should not be treated as a criminal element and that the hours of operation are not too restrictive. He suggested business hours should be 8am to 8pm or 9pm.

Commissioner Petrone agreed with Commissioner Sherwood. He felt 8am to 8pm would be reasonable.

Commissioner Spitzer felt there are few cases of patients needing medical marijuana in the early morning or late night hours.

Commissioner Shaffer stated he cannot support extending business hours.

Commissioner Larson stated he also agrees with Commissioner Spitzer. He stated business hours include Saturday and Sunday, which is convenient. He felt that if the Glendale Police Department recommends the dispensaries to operate during daylight hours, he would respect that advise.

Chairperson Kolodziej stated he was not opposed to extending the evening hours to 8pm. He felt that the separation from schools is adequate.

Chairperson Kolodziej called from the motion.

Commissioner Sherwood made a motion to recommend approval of ZTA10-01 with the revised language to include the extension of the hours of operation from 9am to 8pm.

Commissioner Petrone seconded the motion.

Chairperson Kolodziej called for the roll call vote. Commissioners Larson, Shaffer, and Spitzer voted nay with Commissioner Sherwood and Petrone, and Chairperson Kolodziej voting aye.

The motion fails.

Chairperson Kolodziej called for another motion.

Commissioner Spitzer made a motion to recommend approval of Zoning Text Amendment ZTA10-01 as written. The motion was seconded by Commissioner Shaffer.

Chairperson Kolodziej called for the roll call vote.

Commissioners Larson, Shaffer, Spitzer, and Petrone voted aye, with Commissioner Sherwood and Chairperson Kolodziej voting no.

The motion was approved with a vote of 4 to 2.

Ms. Deborah Robberson, Deputy City Attorney, stated the Planning Commission's recommendation will be forwarded to the City Council for decision.

OTHER BUSINESS

Chairperson Kolodziej called for Other Business. There was none.

COMMISSION COMMENTS AND SUGGESTIONS

Chairperson Kolodziej called for Commission Comments and Suggestions. There were none.

NEXT MEETING

The next meeting is scheduled for February 3, 2011.

ADJOURNMENT

With no further business, the meeting adjourned at 7:46pm.

Respectfully submitted,


Diana Figueroa, Recording Secretary