

MINUTES OF THE MAY 12, 2021 PLANNING & ZONING MEETING

- *5-c** Amending Chapters 7, 31, 86, and 87 of Title 11, the Zoning Ordinance of the Mesa City Code pertaining to marijuana. The amendments include, but are not limited to, repealing in its entirety Section 11-31-34: Medical Marijuana Facilities and replacing it with Section 11-31-14: Marijuana Facilities; removing, modifying, and adding definitions to Chapter 86: Use Types and Chapter 87: Definitions; and modifying various land use charts.
(Citywide)

Planner: Rachel Prelog

Staff Recommendation: Adoption

Summary: Chair Astle introduced agenda item *5-c and stated staff has received a comment card submitted by Conor Counselman and invited Mr. Counselman to speak.

Connor Councilman, address is 1225 West Main Street #101-272 stated I am speaking on behalf of an established Mesa Dispensary. The Mesa Zoning Ordinance for dispensaries was written back in 2012 when the medical marijuana program had only 40,000 patients. Today dispensaries are using the same amount of space to serve nearly eight times as many patients plus adult use customers. Proposition 207 has transitioned dispensaries from being tucked away medical facilities into mainstream high volume retail operations. Arizona dispensaries now rival In N Out, and Chick-fil-A and Dutch Bros in terms of customer volume. Based on our research, surrounding cities are generally increasing square footage to accommodate this increase in customer volume. As mentioned in the last study session, most dispensaries have lines going "out the door". Why is it acceptable to make people wait outside? Why is Mesa punishing businesses, patients and consenting adults by making them wait in 120 degree desert heat. By not giving dispensary space to conduct recreational transactions, Mesa's medical patients are the ones who will ultimately suffer. Further, Mesa could increase its tax revenue by not limiting the square footage of dispensers. Tax revenue was down due to COVID and Mesa needs this revenue. For example, dispensaries in Tempe can be four times larger with 10,000 square feet. A dispensary is within Mesa city limits that are on a county Island, one of which is not currently shown on the map and the presentation before you today have no square footage limitations. Scottsdale has no square footage limitations, Peoria, Surprise and Casa Grande all have no limits on dispensary square footage. Mesa shoppers will take their business to these locations because of shorter lines, extended hours and simply not having to wait in the heat. When customers take their businesses business to other jurisdictions, Mesa does not make tax revenue on these sales. Thank you for your time.

Chair Astle stated thank you very much for the presentation and your comments. As you heard in our study session, there were a few Boardmember's discussing this matter as well. And we also heard from our Planning Director as to Council direction on this. Do we have any other staff comments and anything as it relates to a response just for the record today as to the intent as to why we are leaving it at the 2,500 feet and maybe future plans on reevaluating the size of the business.

Planning Director Nana Appiah stated because recreational marijuana has just been introduced into the State of Arizona. The City Council just approved revisions to the Police Ordinance prior to the introduction of the text amendments because recreational marijuana has just been approved in the State of Arizona, we continue to assess and evaluate the locations of where the facilities will be going into. Right now, they are

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allowed in two zoning districts in the City. And in addition, we have to look at the performance standards and because it has been introduced into a 120 degree weather that is not close to anywhere in the State. When you compare to Florida, Colorado or Seattle, they are different climates. So as much as we continue to study the performance standards that really ensure public health and safety to upgrade this and also allowing and giving access to the users because one of the discussions at City Council is City Council wants to make sure that our users have access to the use. So, there is no indication from City Council to restrict access to getting the recreational marijuana. But the Council wants us to at least move forward as soon as possible to make it allowable in those zoning locations, so that users can have access to it instead of delaying in order to continue to evaluate. City Council does not want us to wait. As time goes on, and we assess and evaluate that, then we will revisit whether to expand or to put things in place that will give additional access, but also ensures that public health safety of those neighborhoods.

Chair Astle stated I appreciate that information. At this point, let's deliberate a little regarding what is in front of us.

Vice Chair Sarkissian stated I just wanted to reiterate on the record my comment earlier in the study session regarding that I do support expanding the square footage. I believe that we should move forward with this text amendment at this time and get it going. But I think the sooner the better to bring up the issue on expansion to at least come up closer to what some of the other surrounding communities are doing. I mentioned, I have seen some of these dispensaries where the customers are standing outside, not loitering, they are actually, just standing outside in line. Also, the fact that I feel when you take existing buildings and have to subdivide the space, put up walls and make half of the space unusable. It is underutilizing existing buildings, when instead you have people that could go into larger location. For a business with a decent record and with more people using this product and especially now with recreational product added to the existing medical facilities, you're going to need more space and to be able to serve more people. So just wanted to relay that so that Council hears this.

Dr. Appiah stated one thing I want to add also, right now, the separation distance is from the building to another location and those are the things that we also need to evaluate. Because if you expand the space of the building, basically, you are expanding to the separation distance and some of the existing uses will become a non-conforming use or will likely become non-conforming use. So, those are the assessment and evaluations that we need to continue to do. But the critical part here is Council did not want to make sure that at least we give the opportunity for people to get access to the product while we continue to evaluate what needs to be done in the future.

Boardmember Villanueva-Saucedo wants to encourage a quick evaluation. It is a legal, legitimate business. I am not sure what depth of analysis we go into for other legal legitimate businesses in our community, and I understand their spacing requirements, but I think this should be accelerated that it is a legal business, whether we like it or not. If other community standards are allowing it, then surely we must be able to find something here in Mesa. I still will be approving that today and I hope that there's some way to speed up that analysis.

Boardmember Villanueva-Saucedo made a motion to adopt amendments to Chapters 7,

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Vote: 7-0 Adoption

Upon tabulation of vote, it showed:

AYES – Astle, Sarkissian, Boyle, Allen, Crockett, Villanueva-Saucedo and Ayers

NAYS – None

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Note: Audio recordings of the Planning & Zoning Board Meetings are available in the Planning Division Office for review. They are also “live broadcasted” through the City of Mesa’s website at www.mesaaz.gov