

**Minutes of Planning Commission Meeting
Held Monday, October 23, 2017, at 7:00 P.M.
in the Council Chambers, 11 North 3rd Street,
Jacksonville Beach, Florida**



Call to Order

Chairman Greg Sutton called the meeting to order.

Roll Call

Chairman: Greg Sutton

Board Members: Britton Sanders Bill Callan (*absent*) David Dahl Georgette Dumont

Alternates: Jason Lee (*absent*) Margo Moehring

Also present were Senior Planner Heather Ireland, City Attorney Susan Erdelyi, and Staff Assistant Mandy Murnane.

Approval of Minutes

There were none.

Correspondence

Ms. Ireland reported that there no correspondence.

Old Business

There was no old business.

New Business

(A) PC #48-17- Land Development Code Text Amendment Application

Amend Land Development Code Article IV to add related definitions and amend Land Development Code Article VIII, Division 2. Supplemental Standards to instate a prohibition on Medical Marijuana Treatment Center Dispensing Facilities within the City of Jacksonville Beach.

Applicant: Planning and Development Department
11 North 3rd Street
Jacksonville Beach, FL 32250

Request: Approve a Prohibition on the operation of "Medical Marijuana Treatment Center Dispensing Facilities" within the City of Jacksonville Beach.

Staff Report:

Ms. Ireland read the following into the record:

On November 8, 2016, voters adopted an amendment to the Florida Constitution (*Amendment 2*) that legalizes the use of medically certified marijuana in the State of Florida and authorizes the cultivation, processing, distribution, and sale of related products by licensed "Medical Marijuana Treatment Centers" (MMTCs). While "dispensing facilities" are part of the new state regulations, the State has preempted to itself the regulation of all facilities. The State has decided that local jurisdictions can choose from only two available options for local regulation of dispensing facilities: 1) medical marijuana treatment center dispensing facilities can be regulated no more stringently than pharmacies are regulated, or 2) medical marijuana treatment center dispensing facilities can be banned altogether. Pharmacies currently are permitted in *C-1*, *C-2*, and *CBD* zoning districts, and also in commercial PUD zoning districts. The City currently has a moratorium on dispensaries in place until December 5, 2017.

Staff feels that there is a high likelihood of future State legislation regarding medical marijuana and the potential for legal challenges to the State legislation as it is currently adopted. For example, future constitutional amendments and legislation may further expand the legal use of cannabis in Florida. A prohibition on medical marijuana treatment center dispensing facilities would allow time for the State to make any changes to the current statutes, and for the City to respond accordingly and appropriately.

The City wants to ensure that in the event of a change to the State regulations that would strike or alter any local ban on dispensaries, that applications can be processed in a reasonable timeframe after consideration is given to the application process. The proposed draft ordinance language serves to prohibit any medical marijuana treatment center dispensing facilities within the City limits. This prohibition allows the City time to develop procedures, if necessary, to process applications, in the event that the State changes the adopted legislation to prohibit dispensing facility bans, or a court of law enters a final order striking or altering the authority of local jurisdictions to ban dispensing facilities.

Ms. Ireland reviewed the Draft Language handout [*on file*] and stated Article IV Definitions is proposed to be amended to add two new definitions for Medical Marijuana Treatment Center, and, Medical Marijuana Treatment Center Dispensing Facility, to **Section 34-41.General**.

The Draft Language handout provided the Land Development Code addition of **Section 34-408**, which states that in the event there is any change by legislation, the City would be given 180 days to decide how to process applications.

Public Hearing:

Mr. Sutton opened the public hearing, however, no one was in attendance.

Discussion:

Ms. Dumont asked if it would be possible to change the CBD zoning code to grandfather in CVS/ Walgreens. Ms. Ireland replied yes, it would be an option; they would be legal nonconforming uses because they existed prior to any code changes.

City Attorney, Susan Erdelyi, said one of the concerns about the change is the Burt Harris Property Rights Protection Act, which prohibits governments from inordinately burdening existing use of real property.

Ms. Moehring asked if data exists showing the negative impact of medical marijuana sales on the communities or are the negative impacts presumptive. Ms. Erdelyi responded yes, but not in Florida, and noted one secondary effect is the cash-only business has created opportunities for mischief.

Ms. Ireland added about thirty counties in Florida are also moving in the direction of the ban because the alternative does not make a good fit for their community.

Mr. Sanders asked if the sale of marijuana in pharmacies were to be allowed, would it still be a cash-only business. Ms. Erdelyi replied no because pharmacies still use the federal banking system and marijuana is still a federal crime.

Mr. Sutton asked Ms. Erdelyi if she was comfortable with the position and challenges the prohibition puts on the city, to which Ms. Erdelyi responded yes, especially because the federal crime is contradicting to the States at the moment. In the meantime, patients are able to obtain the medication in the Jacksonville area and currently, the supply is exceeding the current demand.

Discussion:

Mr. Sutton stated there was no one present in the Chambers to speak in favor or opposition.

Motion: Ms. Dumont made a motion to approve the application. The motion was seconded by Mr. Dahl.

Roll call vote: Ayes – Dahl, Sanders, Dumont, and Sutton.
Nays – Moehring
The motion carried 4-1.

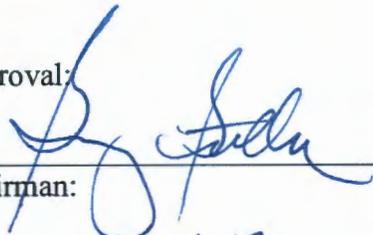
Planning & Development Director's Report

Ms. Ireland noted that the next meeting is scheduled November 13, 2017.

Adjournment

There being no further business coming before the Commission, Mr. Sutton adjourned the meeting at 7:20 P.M.

Submitted by: Mandy Murnane

Approval: 
Chairman: _____
Date: 12-11-17