

**CITY OF PHOENIX PLANNING COMMISSION
REGULAR MEETING
MONDAY, JUNE 9, 2014**

I. CALL TO ORDER/ROLL CALL/INTRODUCTION: Chair Summerhays called the Planning Commission meeting to order at 6:30 p.m. In attendance were Chair Micki Summerhays, Vice Chair David Lewin, and Commissioners George “Ike” Eisenhauer and Judy Grillo. There was a quorum. Staff in attendance were Planning Director Matt Brinkley and former Interim Planning Director Laurel Samson.

II. CHANGES TO THE AGENDA: Chair Summerhays moved the public hearing for LDC 14-10 before the public hearing for LDC 14-09.

III. NEW BUSINESS:

A. PUBLIC HEARING (LDC14-10): AMENDMENT TO PHOENIX LAND DEVELOPMENT CODE REGARDING ADULT BUSINESS ZONE AND AMENDING CHAPTERS 1, 2 AND 4.

Public Hearing: Chair Summerhays opened the public hearing and asked if there were any conflicts of interest, ex parte contact or specific bias. There were none. Chair Summerhays also asked the public if they have any objections. There were none. Chair Summerhays turned to the planner for the Planner’s Report. Chair Summerhays explained the typical procedures of a public hearing.

Ms. Samson explained the process of a Land Development Code amendment. She said that there are a couple of different ways to address the Medical Marijuana Facility (MMF) location issues we have had in the past. The State has recently changed the State Law regarding MMF. This code amendment would create an overlay district which would apply to any adult business. Its intention is to create a buffer between adult businesses and residential and other areas--especially where children are present.

Commissioner Lewin wanted to know if MMF would be considered an adult business. Ms. Samson said yes, MMF would be considered adult businesses. She added that a list of all businesses, which meet the definition of being a business where children defined as under 18 years of age are not allowed to be in, is included in the staff report.

She said that if children under the age of 18 are prohibited in any part of the building, that building must be more than 200 feet from any residential zone, more than 200 feet from an “active” city park, and more than 1000 feet from a school. There will be some exceptions, such as restaurants. There was discussion about the standards for exceptions.

Ms. Samson presented a map of possible sites for adult businesses to the Planning Commission and finished her presentation.

Public Comments: Andrea Adams, 380 Norton Street, Talent, OR, wanted to know if 310 N Main Street would be included in the Adult Overlay Zone. There was discussion as the map wasn't clearly showing her location.

Melanie Barniskis, 4075 Hilsinger Road, Phoenix, OR, said that the 1000 foot radius around a school has become an established drug free zone, but only in the sense that it adds to an existing federal law. This law refers to criminal activity within that zone and is not intended as a barrier for children. Chair Summerhays said that the State has come up with that rule and not the City.

Ms. Barniskis stated that she feels it is unnecessary to add on to the State Law and that she also wants to encourage the Planning Commission to not measure from property line to property line since property lines can be very long and far away from the actual building.

Andrea Adams, 380 Norton St, Talent, OR, said that the State already prohibits dispensaries within 1000 feet of the closest property line of any school. She said that she does not agree with measuring the 1000 foot buffer zone from property line to property line.

Chairman Summerhays closed the public hearing.

Commissioners' Deliberations: Chair Summerhays talked about grandfathering in existing adult businesses. There was discussion.

Commissioner Lewin raised the potential conflict between federal and state law and enforcing the 1000 foot enforcement zone. He believes that measuring the buffer from property line to property line is arbitrary due to instances where a large parcel under single ownership results in the exclusion of that use from the entire parcel. In his mind, the distance should be measured from the closest property line of a school to the public entrance of an adult business.

Commissioner Grillo raised the issue of the appearance of an adult business and its potential appeal or draw.

A consensus of commissioners agreed that the property line of the adult business lot should not be used. The distance should rather be measured from the closest principal, primary or public entrance of the adult business to the closest edge of the property to be protected (Schools, Parks, etc.).

There was discussion about minor syntactic changes. Ms. Samson said it is probably easiest to define "schools" at one place and then just refer back to it rather than going through the list again every single time. The Commissioners agreed.

There was also discussion of the number of students to qualify for an educational facility as a school. There was discussion. The Commissioners agreed to reduce the number from 50 to 30.

Commissioner Lewin talked about additional licensing for adult businesses that must be issued annually or on some other regular basis. Ms. Samson said that businesses that have an OLCC license already do have to renew their liquor license annually. There was discussion and the Commissioners were not supportive of such a requirement.

Commissioner Lewin raised the issue of prohibiting adult businesses within the City Center zoning and mixed use areas. Commissioner Grillo said that she doesn't want to see any restrictions in mixed use areas. There was discussion.

MOVED BY COMMISSIONER LEWIN TO RECOMMEND TO CITY COUNCIL, AN AMENDMENT TO PHOENIX LAND DEVELOPMENT CODE REGARDING AN ADULT BUSINESS ZONE AMENDING CHAPTERS 1, 2 AND 4, WITH TWO CHANGES AS DISCUSSED. SECONDED BY COMMISSIONER EISENHAUER.

ROLL CALL VOTE AS FOLLOWS:

Ayes: 4

Nays: 0

THE MOTION WAS PASSED UNANIMOUSLY.

B. PUBLIC HEARING (LDC14-09): AMENDMENT TO PHOENIX LAND DEVELOPMENT CODE REGARDING CERTAIN USES (MEDICAL MARIJUANA FACILITIES) AND AMENDING CHAPTERS 1 AND 2.

Public Hearing: Chair Summerhays opened the public hearing and asked if there were any conflicts of interest, ex parte contact or specific bias. There were none. Chair Summerhays also asked the public if they have any objections. There were none. Chair Summerhays turned to Ms. Samson for the Planner's Report.

Ms. Samson presented amendments regarding medical marijuana establishments. She discussed the function of dispensaries and similarities with other zones and other conditions and standards of uses including design standards.

Commissioner Lewin wanted to know if all adult facilities need to have the same hours of operation. Ms. Samson and the other commissioners didn't think so.

Public Comments: Melanie Barniskis described operations at the Greenery and addressed other questions that were raised during Ms. Samson's presentation. She didn't feel that the hours of operation should be limited. She also thought that MMF should be allowed in mixed use areas. She rejected any requirements that would draw attention to this kind of operation.

Andrea Adams believed that the operation functioned like a pharmacy and other similar retail uses. She encouraged the commissioners to allow MMF within mixed use zones. The hours of operations, she felt, were fair. She spoke again about the method of measuring and delineating a dispensary clear zone. She was also generally supportive of the proposed design standards. She liked the idea of using the public entrance as a point of measurement. She thinks that if MMF can be included as a part of the City of Phoenix it could have a big beneficial impact for the City of Phoenix.

Christine Totten, 1550 Oregon St., Ashland, OR, spoke in favor of the method of measuring the buffer area from property line to entrance. She believes that medical and dental office uses are most similar to MMF's.

Chair Summerhays closed the public hearing.

Commissioners' Deliberations: Chair Summerhays said that the Planning Commission should look at the maps more closely. She would like the locations of potentially legal locations clarified.

Commissioner Lewin recommended that the Planning Commission review the signage ordinance to understand its relationship with MMF's. Chair said that the Planning Commission will have to look at the sign ordinance again.

Commissioner Lewin believed that the boundaries for the adult businesses and dispensaries should be identical.

Chair Summerhays summarized that the number one concern should be the safety for the people of the community. What scares people the most, she thinks, is not the medical but the commercial distribution. Commissioner Summerhays added that the Planning Commission would like the MMF map to reflect the recommendations from the Adult Business Overlay. Also, the commissioners agreed that dispensaries were most like pharmacies in their operation and function.

The commissioners agreed that MMF's should be limited to hours of operation between 6 am and 9 pm.

Commissioner Lewin pointed out that the definition for schools should be changed, similar to what was discussed during the first Public Hearing; there are a couple places where the ORS number wasn't cited; and that the Light Industrial and Commercial Highway district got reversed in the narrative.

MOVED BY COMMISSIONER GRILLO TO RECOMMEND MEDICAL MARIJUANA FACILITIES BE CONSIDERED A RETAIL BUSINESS. SECONDED BY COMMISSIONER EISENHAUER.

ROLL CALL VOTE AS FOLLOWS:

Ayes: 4

Nays: 0

THE MOTION WAS PASSED UNANIMOUSLY.

C. MOTION APPROVING LETTER ENDORSING TRANSPORTATION GROWTH MANAGEMENT GRANT APPLICATION PROPOSED BY THE CITY OF PHOENIX.

Ms. Samson described the grant and application process. The funds would support planning for PH-5 and PH-10. She feels that the application will be competitive.

PLANNING COMMISSION CONSENSUS TO ENDORSE LETTER REGARDING TRANSPORTATION GROWTH MANAGEMENT APPLICATION AS PROPOSED BY THE CITY OF PHOENIX.

VII. PUBLIC COMMENTS: NONE

VIII. COMMENTS FROM COMMISSIONERS:

Commissioner Eisenhower said that Medical Marijuana is here to stay. He thinks that you should not deny access to medical marijuana to the people who need it.

IX. PLANNING DIRECTOR'S REPORT:

Matt Brinkley said that he is excited about working for the City of Phoenix

Ms. Samson said that there will be a public open house for the Transportation System Plan update, soon.

IX. ADJOURNMENT: Chair Summerhays adjourned the meeting at 8:40 p.m.

Micki Summerhays, Chair

Matt Brinkley, Planning Director