



PLANNING COMMISSION REGULAR MEETING DRAFT MINUTES EXCERPT

MAY 3, 2018

7.B. MEDICINAL AND ADULT-USE CANNABIS ORDINANCE AMENDMENT– CITYWIDE (File No. P18-0044) Proposal to amend Napa Municipal Code Section 17.52.275 (Medicinal and adult use cannabis regulation and safety ordinance) to reduce the distance separation standards for medicinal cannabis retailers and small cannabis manufacturers from youth oriented property and modify the requirements of cannabis-related uses visible from a public street.

Commissioners provided disclosures.

Community Development Director Rick Tooker presented the Staff Report and provided a recommendation.

Commissioners offered the following initial questions and comments for Staff:

- Commissioner Kelley asked about impenetrable barriers such as long stretches of fenced railroad property and how the 600' is measured.

Mr. Tooker responded explaining how impenetrable barriers are reviewed on a case-by-case basis depending on the site conditions and the applicable regulations. He also explained how the measurement is applied.

Chair Murray opened the item for Public Hearing.

Eric Sklar, Napa Valley Cannabis Association, encouraged the Commission to independently review the draft Ordinance and to not simply take direction from the Council or Staff on the issue. He stated it is his impression that several on the Council do not want cannabis and together with Staff have made it difficult to open businesses. With the restrictive nature of the code, he explained people cannot find buildings in which to locate cannabis uses. Mr. Sklar suggested making the rules more practical and making the distance restrictions more flexible, as allowed by the State, such as reducing the setback to 200' from private, non-educational dance studios and martial arts uses, which he explained people are driven to these uses and do not walk to them.

James Hinton, Napa resident, provided a historical context noting that no businesses have opened yet since the Ordinance was adopted. He encouraged the Planning Commission to lobby the Council to support recreational sales as provided in Prop 64. He compared the desired cannabis to alcohol sales. Mr. Hinton also commented on zoning and use of downtown vacant spaces that are already positioned

for commercial use and therefore could more quickly house cannabis businesses. He added that the Police Department could keep an eye on these uses. Mr. Hinton also supported taxing adult-use cannabis.

Jay Donnellan, Wine Country Connoisseurs, explained that he is finding it difficult to locate property which his initial interest on Jordan Lane because of the separation requirement. He encouraged the Commission to support more flexible zoning allowing uses in other districts such as downtown.

Alicia Rose, Herba Buena, expressed support for the City moving forward with revisions to the Ordinance. She sought clarification regarding whether Asylum Slough would be considered a barrier, which Staff explained was the case. She also explained that from a business perspective there is no difference between recreational and medical use of cannabis; the difference is the user. Therefore, it does not make sense to regulate medical and recreational use differently when the product is used for the same therapeutic reasons. Ms. Rose commented that Napa could be losing out since her customers would have to obtain a doctor's recommendation for medicinal use when this would not otherwise be necessary elsewhere where medical and recreational is not distinguished. She also expressed concern over the requirement for two security guards, which comes at significant cost to her small business. She said she does not want to go back and change the regulations now, but we should consider this.

Anne Steinhauer, 6539 Consulting and Napa Valley Cannabis Association, supported opening up the regulations for cannabis operations. She supports cultivation in the County and providing access to locals. She would like to see the definition of youth oriented facilities explored. She also asked for more clarity on the impenetrable barriers and definition of what is a public right-of-way, such as for a highway or alleyway. Ms. Steinhauer supported moving this forward to the Council to support cannabis businesses that are closed and awaiting permitting and licensing.

Micah Malan, area resident, expressing concern that only three applications have been submitted and one approved so far, and that the regulations are too restrictive. He explained that one retailer cannot service a community of 80,000, or more when considering visitors to the County. He is finding it difficult to find a location. His research tells him that the State recommends one cannabis dispensary for every 20,000 residents and with all the cities in the County there is well over 120,000 people; therefore, we need at least six dispensaries to service the Napa County community. He is pleased that traffic will be reduced when dispensaries are open in Napa since so many locals travel to Vallejo. Mr. Malan supports reducing the setback to 600' to fulfill medical needs.

Brian Elliott, Canaco Compliance, expressed support for the City's work and explained that cannabis uses are not unsafe and are visited by all members of the community. He supports safe access to medicine. Once we get past the prohibitionist approach on recreational use, the market will open up to reflect the need and the market will take care of the rest of it. There is no foundation for the security guards as presented in the existing Ordinance.

After receiving no further comments, the Public Hearing was closed.

Commissioners offered the following comments:

- This is not a static process and when one looks at the timeline the City has made progress. We have immediate goals and need continued communication to see how the regulations are working.
- The description of barriers and similar terms could be defined to provide more flexibility in the ordinance implementation.
- Reducing the setback to 200' from private, non-educational facilities is an interesting suggestion, but rather than slow the process down this could be looked at later depending on how many retailers open.
- City, staff and the public need to keep the lines of communication open to track for future consideration of changes.
- The Commission has been more outside the box in its past recommendations to Council and the movement on the City's part, such as with reducing setbacks and the introduction of barriers, are all moving in the right direction.
- Reducing the need for two security guards and opening the use up to recreational use is something to consider, but for now there is support to test the regulations and possibly loosen them up later.
- Although some in the community are frustrated by how long it has taken to put the regulations in place, the Council ultimately makes these decisions and the Commission is advisory. Progress is moving in the right direction, such as compared to the original ordinance which would have allowed just one retailer.
- An annual review and stakeholder's group is advisable. This will help with the communication about how cannabis uses are functioning with respect to the regulations from people who are operating businesses.
- Cannabis operators may train their staff in multiple areas of the business which can help businesses function more efficiently.
- The prohibition of cannabis uses with exceptions is an area important to the Commission that should be looked at in the future.

Mr. Tooker responded to Commissioner questions explaining that Light Industrial Districts are not just for industrial use but rather also for retail use. Also, City staff speaks frequently with the public about cannabis uses. Mr. Tooker also referenced the definition of youth oriented uses which parallels the State regulations.

After deliberations, Commissioners Painter and Huether moved and seconded to forward a recommendation to the City Council to adopt the Ordinance as proposed.

Motion Carried:

AYES: Murray, Painter, Huether, Kelley
NOES:
ABSTAIN:
ABSENT:
RECUSED: Meyers