



PLANNING COMMISSION REGULAR MEETING MINUTES

NOVEMBER 18, 2021

MEETING CAN BE VIEWED BY CLICKING [HERE](#)

1. CALL TO ORDER: 5:30 P.M.

A. ROLL CALL: Commissioners – Kelley, Oñate, Hurtado, Massaro
ABSENT: Commissioner Huether
STAFF: Community Development – Vin Smith, Michael Allen, Patty Baring
 City Attorney’s Office – Sabrina Wolfson

2. PLEDGE OF ALLEGIANCE

3. AGENDA REVIEW AND SUPPLEMENTAL REPORTS

No changes were made to the Agenda.

4. PUBLIC COMMENT

There were no requests to speak.

5. CONSENT CALENDAR

A. PLANNING COMMISSION MINUTES

Consideration of Planning Commission Regular Meeting Minutes for October 21, 2021.

Commissioners Massaro and Oñate moved and seconded to approve the Consent Calendar as submitted.

Motion carried:

AYES: Kelley, Oñate, Hurtado, Massaro
NOES:
ABSENT: Huether
ABSTAIN:
RECUSED:

6. CONSENT HEARINGS

7. PUBLIC HEARINGS/APPEALS

A. MEDICINAL AND ADULT-USE CANNABIS ORDINANCE AMENDMENT– CITYWIDE Proposal to amend Napa Municipal Code Section 17.52.275 (Medicinal and adult use cannabis regulation and safety ordinance) to allow retail sales of cannabis to adults who are 21 years of age and older. With the proposed amendments, adult-use cannabis retailers will be required to follow a similar approval process as currently established for medicinal cannabis retailers.

CEQA DETERMINATION: The Community Development Director has determined that the Recommended Action described in this Agenda Report is not subject to CEQA, pursuant to CEQA Guidelines Section 15060(c).

RECOMMENDED ACTION: Forward a recommendation to the City Council to adopt an ordinance amending Napa Municipal Code Section 17.52.275 to allow retail sales of cannabis to adults who are 21 years of age and older.

Chair Kelley summarized the order of actions during public hearing and introduced the item.

Commissioners provided disclosures.

Community Development Director Vincent Smith presented the Staff Report, provided background information related to the amendment.

The Commission had the following questions and comments for Staff:

- Clarification was requested regarding:
 - Existing language of the ordinance
 - Modification of facility location requirements for existing medicinal dispensaries that apply for the recreational use clearance

Mr. Smith responded to Commissioner questions and comments on the following:

- Clarification regarding:
 - Language changes of the existing ordinance
 - No changes to facility location requirements for existing medicinal dispensaries that apply for the recreational use clearance

Chair Kelley opened the item for public hearing.

Caity Maple, Vice President of Government Affairs for Perfect Union, spoke in support of the ordinance amendment.

Aimee Henry, a Napa Cannabis Collective Owner, spoke in support of the ordinance amendment.

After receiving no further requests to speak, public comment was closed.

Commissioners Hurtado and Oñate moved and seconded to close public hearing.

Motion carried:

AYES: Kelley, Oñate, Hurtado, Massaro
NOES:
ABSENT: Huether
ABSTAIN:
RECUSED:

The Commission had the following questions and comments for Staff:

- Clarification was requested regarding:

- Immunity of commercial cannabis sales
 - Definition of cannabis retailers
 - Impenetrable barrier language should be added to the definitions
 - Administrative approval process once ordinance amendment is approved
 - Language clarification regarding business conducted outside the location
 - Extension of security video record retention
 - Moratorium request
- Why would new businesses apply for the medicinal clearance?
 - If a youth-oriented business closes, does the eligible area for cannabis retailer expand?
 - Are all the clearances bound to the annual review for clearance, or is there a way to extend the timeframe between reviews?
 - Typo on F.27 should state two foot candle
 - Why can't the facilities just sell cannabis without layering medicinal and adult-use ordinances?
 - Is there a limitation on the number of permits that can be issued?

Mr. Smith responded to Commissioner questions and comments on the following:

- Clarification regarding:
 - Cannabis, as a federally regulated substance that undergoes the administrative review process to issue a clearance that indemnifies the City of the responsibility if the businesses are pursued by the federal government
 - In the current process, clearance is granted if the location meets the distance requirements from youth-oriented sites and meets the zoning requirements through administrative approval
 - Existing medicinal clearances are eligible to apply for the adult-use clearance
 - It is a business decision for new businesses to apply for the medicinal clearance
 - Existing cannabis businesses are not affected by proposed youth-oriented businesses within 600 feet as they were on the site first
 - The way the 600 foot radius is applied is if a new cannabis retailer proposes a business and there aren't any youth-oriented businesses within 600 feet, they clear that portion of the requirement to receive a clearance
 - The annual reviews allow the City to monitor criminal or inappropriate activity through the Police Department
 - The transactions must not occur outside the operating business establishment
 - There are a number of existing medicinal use clearances that may benefit from the differentiation from adult-use, such as costs and products available
 - There is no limitation on the number of clearances that can be issued
 - The ordinance presented to the Commission was first vetted to the City Council for direction and it was not recommended to change the ordinance, do away with medicinal clearances or impose a moratorium

The Commission asked members of the coalition the following:

- Is there an advantage or disadvantage to having two clearances?
- Has there been projection of business increase when adult use retail is allowed?
- Where does the product come from?
- Why is there a request for a two-year deferral?
- Is there pent-up demand?

Ms. Henry states that there are some state designations that track sales as medicinal or adult use and having two clearances may make it easier to track. Revenue is expected to increase two to three times the

current sales. Medicinal Use requires a medical recommendation that deter many people to purchase, which currently is about 300-500 patients. Napa coalition products come from the state of California with 60-70 percent or more from within 200 miles. The two year deferral is to allow the city space and time and avoid a flood of applicants since Napa does not have a maximum for the number of retailers. There is pent-up demand for adult use.

Ms. Maple clarified that all cities are currently operating in are tracking medicinal and adult use sales, however this is the only City requiring two different clearances.

The Commission discussed and began deliberation. They made the following questions and comments:

- Napa needs to come up to speed to other communities
- There is a missed tax benefit opportunity by not allowing adult use
- It is a free marketplace
- Nuisances should be captured at the annual review
- Definition of an impenetrable barrier needs to be clarified
- Current dispensaries have paved the way for future dispensaries
- Is there distance regulation of liquor stores?
- Is there a maximum number of liquor stores allowed?
- Alcoholic Beverage Control (ABC) regulates liquor store permissions near youth-oriented sites at application
- Is there an option for a 12-month deferral program?
- What is the unintended consequences to release without the deferral?
- Would it be helpful for the Commission to provide a recommendation for the moratorium to the City Council?

Mr. Smith responded to Commissioner questions and comments on the following:

- Clarification regarding:
 - There is no maximum number of liquor stores allowed
 - Zoning ordinance regulates where liquor stores are permitted
- The Planning Commission can make a recommendation of this ordinance and if the City Council so chose, the Planning Commission would support the City Council to impose a moratorium to new cannabis retailers for a year
- The Planning Commission is a land-use body, agnostic to the success of any business in the City
- There are few caps placed on businesses within the City because it doesn't solve a concentration issue
- Impacts of the business in the neighborhood are monitored
- Staff is not recommending that there is a moratorium
- The Planning Commission would make a motion on the current recommendation and if there is a second recommendation, craft that motion with a second to forward the recommendation to the City Council

Acting Planning Manager Michael Allen provided clarification regarding ABC regulation of liquor stores. He noted that the cannabis retailers are limited to medical and light industrial sites within the city. The City does not monitor the financials for other businesses including cannabis, it only grants a clearance. The added status report after a year would not include cannabis retailer financial information as the City does not get involved with that.

Deputy City Attorney Sabrina Wolfson clarified that a moratorium is a separate ordinance that requires a 4/5 majority of the City Council. It would not be added to this ordinance, it would be a separate action. The Planning Commission could add to the additional recommendation to City Council to request a status report of the ordinance and clearances to then craft a moratorium.

Commissioners Oñate and Hurtado moved and seconded to forward a recommendation to the City Council to adopt an ordinance amending Napa Municipal Code Section 17.52.275 to allow retail sales of cannabis to adults who are 21 years of age and older with the added language of the definition of impenetrable barriers and that the recommendation that the City Council and Staff consider the appropriate length of time to retain surveillance records.

Motion carried:

AYES: Kelley, Oñate, Hurtado, Massaro
NOES:
ABSENT: Huether
ABSTAIN:
RECUSED:

Commissioners Massaro and Kelley moved and seconded to forward a recommendation to the City Council that the new adult use ordinance include a one-year moratorium for additional facilities beyond the existing facilities and a qualitative response metrics report to Council after one year.

Motion carried:

AYES: Kelley, Massaro
NOES: Oñate, Hurtado
ABSENT: Huether
ABSTAIN:
RECUSED:

Motion failed.

8. ADMINISTRATIVE REPORTS

None.

9. COMMENTS BY COMMISSIONERS AND STAFF

None.

10. ADJOURNMENT

The meeting was adjourned at 6:41 pm. The next regular meeting of the Planning Commission is scheduled for December 2, 2021 at 5:30 pm.



Vin Smith, Secretary
COMMUNITY DEVELOPMENT DEPARTMENT