



City of Colorado Springs

Regional Development
Center (Hearing Room)
2880 International Circle

Meeting Minutes - Final Planning Commission

Wednesday, August 28, 2024

9:00 AM

2880 International Cir., 2nd Floor, Hearing Room

Special Meeting

1. Call to Order and Roll Call

Present: 7 - Vice Chair Foos, Commissioner Hensler, Commissioner Rickett, Chair Slattery, Commissioner Robbins, Commissioner Sipilovic and Commissioner Casey

Absent: 1 - Commissioner Cecil

Excused: 1 - Commissioner Briggs

2. Changes to Agenda/Postponements

3. Communications

Kevin Walker - Interim Planning Director

4. Approval of the Minutes

5. Consent Calendar

6. Items Called Off Consent Calendar

7. Unfinished Business

UDC Code Amendment

7.A. [24-397](#)

An Ordinance amending City Code Section 7.3.303.F (Marijuana-Related Services) of the Unified Development Code of the City of Colorado Springs. (Legislative)

Presenter:

Kevin Walker, Interim Director, Planning and Neighborhood Services

Attachments: [Draft Ordinance to City Council CAO Approved](#)
[Staff Report - RMS Council Ordinance Referral v3](#)
[UDC 7.5.702 Text changes](#)
[UDC 7.3.303 Marijuana-Related Uses](#)
[Charter Amendment](#)
[Statement of Insufficiency](#)
[MMC Facilities One Mile Separation Map8 24v2](#)
[2024 Presentation 8.28.24](#)
[City Council Draft Minutes](#)
[CPC Minutes 8.14.24 DRAFT](#)
[CPC Minutes 8.28.24 DRAFT](#)
[Letter Adinoff Opposition CS City Council ban on adult use sales](#)
[Public Comments Combined](#)

Kevin Walker, Interim Planning Director, reminded the Commissioners that this item along with the language and testimony from the applicant was introduced to the City Planning Commission on August 14, 2024. He gave a brief overview of the Ordinance which is to add a section regarding the distances from potential retail marijuana stores to other land uses inside the city. This has not changed since it was originally presented. Mr. Walker stated that the current context has changed since this item was presented. He stated that City Council placed a Charter Amendment on the ballot for November which will ban recreational marijuana sales in the City. The City Clerk's office has certified the signatures on the initiated ordinance to allow recreational marijuana sales at medical marijuana licensed locations in the City, which will also appear on the ballot in November. He stated that if they both pass, the Charter Amendment will trump the Ordinance and nullify it and sales will be banned if they both pass. He stated in response to the request from the Commissioners at the meeting on August 14, 2024, a map was prepared locating the current licensed medical marijuana locations and schools, along with a list of the UDC references of separation requirements. He stated that the proposal meets the criteria set forth by the UDC and that process requires that City Planning Commission hear this and refer it to City Council on September 10, 2024.

Commissioner Comments:

Commissioner Rickett asked what would happen if both ballot initiatives fail. Mr. Walker said the status quo would remain and recreational sales are banned in the City. Commissioner Rickett asked if the Ordinance is

approved by City Council and, in a year from now they go for open recreational marijuana sales, then there would be limited spaces within the City where that can happen. Mr. Walker said that is correct, if the Ordinance is adopted then the restriction will be a part of the code. Any change in recreational sales in the future will be subject to that change.

Commissioner Casey said the staff report indicates that the zoning restrictions are for retail marijuana stores and asked if it would be the same for medical marijuana or be decided by City Council using the zoning restrictions as shown in table 7.3.2, the use table.

Mr. Walker stated that the initiating Ordinance is very extensive in terms of where they are located and if they are co-located with any licensed medical marijuana facility. The Ordinance would require the locations be in the proper zone and locations. Commissioner Casey asked if the map indicates direct line distances of one mile. Mr. Walker said yes. Commissioner Casey stated that the proposed change uses the term "using a route of pedestrian access" which could be different. Mr. Walker said it would be different and it is a representation of that.

Commissioner Rickett said in the City Council minutes there is an Ordinance amending section 303.3.3 and Chapter 7 and asked if this was the entire amendment or are there other parts to the Ordinance. Mr. Walker stated this was the entire Amendment as shown in the staff report and he does not anticipate any clean up.

Public Comment:

Allison Dodge, Julie Deifaldt, and Council Member Lynette Crow-Iverson ceded their time to Henny Lasley. Henny Lasley, Co-Founder and Executive Director of One Change to Grow Up, gave a presentation on the impact of marijuana on children in schools within Colorado. Mrs. Lasley presented various marijuana statistics. One statistic showed 55% of new users are underage and others included vulnerable family and child health comparisons.

She provided a map of Denver showing the locations of dispensaries in relation to where kids are most impacted. She spoke about data provided from the American Public Health Association in 2021 regarding cannabis availability. These included location outlets in poor and minority

communities, times of day for increased crime within the immediate vicinity of the stores. She presented a billboard that is being actively used in Denver for education. She showed statistics on THC potency in Colorado and the issues it causes, such as sleep issues, addiction, depression, anxiety, psychosis, and suicide. She also showed products being sold in Denver that seem to be marketed to children with various packaging, coloring and flavoring. High potency THC, over 15% has three times the increased risk of psychosis and daily use has five times the increased risk of psychosis. She stated that 93% of products in Colorado, Washington and Oregon are over 15% of THC. She showed public health statements regarding adolescent marijuana use from the Colorado Department of Public Health and Environment website and they use these statements in their social media posts to help inform parents. She presented statistics from the Colorado Violent Death Reporting System on teen suicide showing that marijuana is the number one substance found in toxicology reports among fifteen- to nineteen-year-olds and communities of colors have been more impacted. She concluded that One Chance to Grow up has done a good job in the state bringing down youth numbers.

Commissioner Comments:

Vice-Chair Foos asked if the proposed one-mile restriction will eliminate opportunity for recreational marijuana in the future. Mr. Walker referred to the map stating the majority of the land that is development inside City limits is in blue which would make it difficult to find a location. There are locations within City limits, thousands of acres on the eastern, northern and southern edges of the City where there could be locations.

Commissioner Rickett asked why are we doing this. Mr. Walker said the answer could be found in the minutes of the City Council meeting on July 22, 2024. He said the technical reason is that City Council asked that City Planning Commission review the item.

Commissioner Hensler asked if the one mile were to be approved, would it impact existing businesses or if the medical facilities would be impacted if it changed to recreational. Mr. Walker stated that the initiated Ordinance is the one allowing the retail sales of recreational marijuana, not the Charter Amendment. It does not impact any current medical marijuana or new licenses or locations that may be proposed relative to medical marijuana. It is a restriction to recreational sales, which by initiated Ordinance would

only be allowed if it is co-located with medical marijuana licensed locations.

Commissioner Hensler said if someone owned a medical marijuana location and then wanted to add recreational marijuana to the business, currently there would be a 1,000 foot restriction to the business. and If the one-mile Ordinance passes, then recreational marijuana could not be sold if it were less than one mile, but medical marijuana could be sold. Mr. Walker confirmed.

Commissioner Casey asked if the existing licensee of the medical marijuana facility could move somewhere that is a mile distance and re-establish the business as medical and retail. Mr. Walker said they can if they meet the code requirements for medical marijuana.

Commissioner Rickett stated he understands the issue with kids and to continue to work on the state level on policy changes such as restrictions on the strength of THC, however the issue has no bearing on this Ordinance. Recreational marijuana cannot be sold to kids or anyone under the age of 21. The issue is with the black market. Commissioner Rickett said he would have liked to ask the District Attorney how many arrests have been made for distribution to minors in the last ten years since it has been legalized in the state and in Colorado Springs. He fully supports helping children and trying to reduce THC levels, however it will end up on the black market, and has no relationship to recreational marijuana. He referred to the map stating that the land has been pushed to the military bases and does not see the advantage of the Ordinance. He said it is not going to stop the black market and this Ordinance does not address the real issue which is getting it out of the hands of the kids.

Commissioner Casey said the Unified Development Code states a medical marijuana center cannot be closer than 1,000 feet of another medical marijuana center. He stated that it does not appear that there are distance requirements for retail marijuana and asked if there could be an issue with clustering of those businesses.

Mr. Walker said that could be a possibility, however, the only idea on the table for recreational sales inside City limits is to co-locate with a medical marijuana location which would have a 1,000 foot requirement between the two locations. Commissioner Casey asked if a medical marijuana facility

wanted to sell recreationally, but they were within a mile from a school and wanted to relocate to a vicinity such as the Ford Amphitheater which is within a mile walking distance, they could move there and sell medical and retail marijuana at that location. Mr. Walker said they would still need to obtain their license and be in the proper zone while meeting the distance requirements in the code.

Commissioner Robbins asked if the Ordinance passes and requires recreational marijuana to be sold at medical marijuana location, would it reduce the number of recreational facilities that are available. Mr. Walker said there are currently no recreational marijuana facilities inside City limits. Commissioner Robbins asked if this opens the door for future recreational marijuana to be sold at other locations, stating it seems that availability is being added. Mr. Walker said the map shows the medical marijuana locations within the City limits is covered by a blue dot. Commissioner Robbins asked if there was a want to add recreational marijuana to those locations. Mr. Walker said no, the initiated Ordinance is requesting that medical marijuana locations be allowed to co-locate, however, that is not what this proposal does. This proposal restricts recreational marijuana sales within the one-mile area. Commissioner Robbins said he sees this as a way of opening the door for recreational marijuana down the road and is concerned about it. Mr. Walker stated that is just the opposite, that this Ordinance will be more restrictive on recreational sales.

Trevor Gloss, City Attorney, stated there are three different things that are going on. The first is a Charter Amendment that City Council referred to the ballot which would prohibit recreational marijuana in the City. The second is a petition from the citizens asking to legalize recreational marijuana in the City, to co-locate with the existing medical marijuana locations. The third is this Ordinance, which would prohibit recreational marijuana establishments from being within a mile of each other if they are approved. The City currently prohibits all recreational marijuana sales and this code change would only mean something if recreational marijuana were approved in the future. If it is approved through an initiated Ordinance or Charter Amendment, the City would enact new zoning and other regulations to deal with that which would be affected.

Commissioner Robbins asked if the Charter Amendment would change based on the two ballot votes. Mr. Gloss said it would change the Charter

Amendment, prohibiting it and then it would change the Charter. The initiated Ordinance is just an Ordinance and cannot conflict with the Charter, however, it depends on the language and how it fits into the code.

Commissioner Rickett asked Mr. Gloss if the Ordinance supersedes the ballot, does that supersede the will of the people in Colorado Springs. Mr. Gloss said no, it would not supersede it, but they would have to incorporate both to the extent possible. The initiated Ordinance would generate control, but they do have the authority to make interpretations and add surrounding guidelines. As long as the Ordinance does not say anything about distance restrictions, it would have control on the distance aspect.

Commissioner Rickett said it seems once City Council heard that the combination of medical and recreational marijuana, this was their knee jerk reaction to that saying if it passes, we are not going to let this happen, we will supersede the will of the people if that is what they so vote for. Mr. Gloss said he could not speak to that; it is more of a policy consideration. Commissioner Rickett asked if that is what would happen. Mr. Gloss said it would place additional regulations and guidelines and on it if it were passed. Commissioner Rickett stated if the Ordinance passes, and recreational marijuana passes then are they smart enough to know that they can move to locations right outside of every major military base in Colorado Springs and start selling recreational marijuana. Mr. Gloss said potentially, we would have to see what happens. Commissioner Rickett followed up saying that it is concerning that we are trying to create something that could go against the will of the people in Colorado Springs.

Commissioner Casey asked Mr. Gloss if he had any comment about how the one-mile restriction was established, the lack of rationale behind it and the public comments referencing that the one-mile restriction is arbitrary and capricious, asking for additional review. Mr. Gloss stated they would examine whether there is a rational basis between the distance restriction and the health and safety as part of the City zoning and police power. He said the arbitrary and capricious standard is the court review of Board and Council decisions during 106, so it would not be applicable here.

Vice-Chair Foos stated he agreed with the comments regarding the one-mile restriction, and it is indirectly using the zoning code to affect the will of the people.

Commissioner Hensler said she concurs and there are issues that have been discussed about increased crime and addiction because of marijuana use, but they do not benefit from the increased taxes. She said this is an end run around trying to keep the business out and is too limiting, the 1,000 foot restriction is sufficient and follows the code as written and is consistent with other communities up and down the front range. Commissioner Hensler stated that she will not be supporting the one-mile restriction.

Chair Slattery said she echoes the sentiments from the other commissioners, stating that potency and the normalization factor is more detrimental to children's desire to use higher potency marijuana at younger ages. She understands Council's intent on bringing this forward in an attempt of a protection mechanism but fails to see how it can be practically applied. She said the 1,000 foot restriction can be established if retail marijuana becomes legalized. Chair Slattery asked Mr. Walker what the language change would be if someone on the dais wanted to adjust the motion for the direct pedestrian access and direct mile access. Mr. Walker stated he did not want to construct Ordinances on the fly, but they could bring it back relative to that, but the medical marijuana restriction has been in place for many years and there is a methodology by which they can implement that. He said the competing proposals as they stand today require that any recreational sales coincide with medical marijuana locations and those locations are already established with the 1,000 foot criteria.

Commissioner Casey commented saying the language on using the route of direct pedestrian access is already in the code for medical marijuana stores and for consistency, it should be the same for retail.

Commissioner Rickett said they do not need to propose an Ordinance language, it would be a proposal based on the same restrictions for medical marijuana that would be the same for recreational marijuana.

Motion by Commissioner Hensler, seconded by Commissioner Sipilovic, to recommend denial to City Council the amendment of Section 7.3.303.F to the Unified Development Code of the City Of Colorado Springs based upon the findings that the code text amendment does not comply with City Code Section 7.5.702. The motion passed by a vote of 6-1.

Aye: 6 - Vice Chair Foos, Commissioner Hensler, Commissioner Rickett, Chair Slattery, Commissioner Sipilovic and Commissioner Casey

No: 1 - Commissioner Robbins

Absent: 1 - Commissioner Cecil

Recused: 1 - Commissioner Briggs

8. New Business

9. Presentations

10. Adjourn