

**PLANNING AND DEVELOPMENT SERVICES REPORT**

**Zoning Code Text Amendment**

**PUBLIC HEARING**

**PZ-22-00074**

**DATE: June 8, 2022**

**MEETING DATE: June 22, 2022**

**REPORT BY: Tiffany Antol, AICP**

**REQUEST:**

Noble Herb’s request for a Zoning Code Text Amendment to modify the existing Marijuana Dispensary hours.

**STAFF RECOMMENDATION:**

Staff recommends the Planning and Zoning Commission, in accordance with this report, find that the required findings of the Zoning Code have been met, and that the Planning and Zoning Commission make a recommendation to the City Council for approval of the Zoning Code Text Amendment.

**I. Proposed Amendment:**

Noble Herb, which currently runs a permitted Marijuana Dispensary in Flagstaff, is requesting to modify Section 10-40.60.220.C, which sets the operation hours for Marijuana Dispensaries, as follows:

**Current Text**

A Marijuana Dispensary shall have operating hours not earlier than 8:00 a.m. and not later than **7:00** p.m.

**Proposed Text**

A Marijuana Dispensary shall have operating hours not earlier than 8:00 a.m. and not later than **10:00** p.m.

The applicant’s narrative describing this request and a list of zoning code requirements across the state are attached for the Commission’s review.

**II. Zoning Code Text Amendment**

The Planning Director shall provide a recommendation to the Planning and Zoning Commission for its review. The Director’s recommendation shall be transmitted to the Planning and Zoning Commission in the form of a staff report prior to a scheduled public hearing. The recommendation shall include the following: an evaluation of the consistency and conformance of the proposed amendment with the goals and policies of the General Plan and any applicable specific plans; the grounds for the recommendation based on the standards and purposes of the zones set forth in Section 10-40.20 (Establishment of Zones) of the Zoning Code; and a recommendation on whether the amendment should be granted or denied.

A Zoning Code Text Amendment shall be evaluated based on the following findings:

**A. Finding #1:**

**The proposed amendment is consistent with and conforms to the objectives and policies of the General Plan and any applicable specific plan;**

The amendment’s primary purpose is to extend the hours of operation for Marijuana sales to align with other similar uses in the community such as pharmacies. This amendment is supported by goals and policies within the Regional Plan including the following:

Goal ED.1. Create a healthy environment for business by ensuring transparent, expeditious, and predictable government processes.

Goal ED.3. Regional economic development partners support the start-up, retention, and expansion of existing business enterprises.

Policy ED.4.2. Promote variety and flexibility in land use and development options within the urban growth boundary.

**B. Finding #2**

**The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City;**

The provisions of the amendment are not anticipated to be detrimental to the public interest, health, safety, convenience, or welfare of the city. To assist in ensuring that the Marijuana Establishment land uses are not detrimental, minimum separation requirements are established from facilities and locations that contain any of the following uses: daycares, educational, family recreation and entertainment, public libraries and parks, drug or alcohol rehabilitation, and other Marijuana Establishments. In addition, provisions have been incorporated pertaining to the security, disposal of marijuana remnants and by-products, and prohibition of onsite consumption of marijuana products and emissions of dust, fumes, vapors, smoke, or odors into the environment from a Marijuana Establishment.

**C. Finding #3**

**The proposed amendment is internally consistent with other applicable provisions of this Zoning Code.**

The amendment is internally consistent, utilizes the existing format, and does not conflict with other Zoning Code provisions. It maintains the Zoning Code's purpose as a comprehensive contemporary set of land uses and requirements that are straightforward, usable, and easily understood.

**III. CITIZEN PARTICIPATION**

Persons of interest on file with the Planning and Development Services section of the Community Development Division were notified of the Planning and Zoning Commission and City Council work sessions and public hearing via first-class mail. Moreover, notification of the work sessions and public hearings were published on the City's web pages and in the Arizona Daily Sun. As of the date of this report, staff has not had any public comments on the proposed Zoning Code Text Amendment.

**IV. PLANNING AND ZONING COMMISSION WORK SESSION**

At the Planning and Zoning Commission Work Session of May 25, 2022, staff reviewed the text amendment application with the Commission. The Commission had a general question about the rationale for extending hours in addition to questions about Marijuana Operations. The Commission did not have a consensus on the proposed hours of operation. As such, staff is providing a recommendation in accordance with the applicant's request.

**V. CITY COUNCIL WORK SESSION**

At the City Council Work Session on May 31, 2022, the City Council provided direction to staff to modify the existing marijuana Zoning Code provisions to accommodate for extending hours.

**Attachments:**

1. Application
2. Narrative
3. Supplemental documentation provided by applicant
4. Draft of Case No. PZ-22-00074, Marijuana Dispensary Hours