

9. Chapter 155 Text Amendments, Medical Marijuana Establishments (Revisions)

Mr. Bird stated that the recommendations given by the Board at the previous meeting will all be honored. He explained that there is one significant new aspect that staff is looking for the Board's recommendation, and that is a requirement that marijuana establishments have frontage on an arterial roadway. Mr. Bird stated that the intention of this requirement is to avoid such establishments from being hidden away from public view but rather to make them operate in full public sight as a deterrent from them becoming seedy.

Mr. Evans asked for clarification as to what changes were made by the Board previously and what new changes are proposed. He asked what areas before this proposed modification were medical marijuana establishments allowed in and where would they be permitted after this modification.

Mr. Bird stated that originally the proposal was to exclude the use from the NW CRA. At the previous meeting, however, that exclusion from the NW CRA area was removed per the Board's recommendation. He explained that that recommendation has been obeyed and that a new requirement is being proposed that would necessitate that the establishments front on an arterial roadway.

Mr. Evans commented that this seems to be a very limited area throughout the City.

Mr. Stacer asked if all the roads indicated by different colors on the material provided by staff are classified as arterial roads.

Mr. Bird confirmed this.

Mr. Evans asked why this requirement is being added. He also asked if the Board's previous recommendation has been taken to the City Commission.

Mr. Bird responded that it has not because staff is coming back to the Board for their recommendation on this one new particular aspect of arterial road frontage.

Mr. Evans asked how many areas in the City, and specifically in the northwest area, would have permitted the use without this additional requirement as opposed to if this new requirement is added.

Mr. Bird responded that it would prohibit the use from being on a side street anywhere in the City. He responded that the intention is to have the use on major roads so as to not be hidden away from sight.

Ms. Sarver stated that one of the biggest reasons is to reduce the amount of potential traffic in the neighborhoods.

Mr. Evans stated that it appears to him that this amendment is an attempt to undo the Board's previous recommendation of allowing the use in the NW CRA since this will greatly prohibit a lot of properties from having this use. He stated that he feels this new requirement is not reasonable and that having the use on an arterial roadway may make the facility unsafe.

Mr. Bird offered a hypothetical example of a medical marijuana establishment being on South Dixie Highway but abutting a residential neighborhood instead of fronting on Dixie Highway. He explained that the intent of this requirement is to force the use to be fronting on the main roadway. Mr. Bird added that as a practical consequence, this requirement

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probably only eliminates two locations since once facilities are established, their distance separation requirements would in turn restrict the number of other facilities.

Mr. Evans responded that there are enough safeguards already proposed and so there is no reasonable basis for adding this requirement. He reiterated that frontage along an arterial road might be less safe due to traffic volumes. He asked if this eliminates two different areas from being able to have the use.

Mr. Bird responded that nothing is eliminated until the first establishment is opened, which then imposes distance requirements from its perimeter. He added that this requirement will keep the usage farther from residential areas.

Mr. Evans asked what the problem would be with these uses being established on a side road.

Mr. Bird stated that there is in fact a distance requirement from residential areas. He added that this would prohibit the use from being located down industrial streets and require them fronting on main streets.

Mr. Evans stated that he does not see how this is only a "slight" modification.

Ms. Sarver stated that the recommendation sought tonight was only regarding the addition of the requirement of frontage along an arterial road. She reiterated that per the testimony and submitted report from staff, the reason for this proposed change is out of a concern for traffic impacts that these establishments would create. She clarified that all other aspects of the text would remain as the Board previously recommended and that even if the Board wished to not recommend this new change, their previous recommendation will still go to the City Commission.

Dr. Mills asked what the numbers on the map correspond to.

Mr. Bird responded that those numbers correspond to the width of the right-of-way.

Dr. Mills asked for clarification on the classification of a section of Hammondville Road.

Mr. Bird responded that that section of Hammondville Road is 80' wide.

Dr. Mills asked if this would not be considered an arterial road.

Mr. Bird stated that roads under 100 feet are considered collector roads.

Dr. Mills asked if this change would impact whether the use was allowed in the NW CRA district.

Mr. Bird responded that staff is only looking for a recommendation regarding prohibiting the use along certain roadways.

Mr. Evans stated that the implementation of the amendment would significantly restrict the amount of areas that would be allowed in the NW CRA. He added that this is an attempt to get around the Board's previous recommendation of allowing the use in the district.

Ms. Sarver stated for the record that the addition of this proposed amendment was not intended to reduce the allowed areas in the NW CRA, and that it is city-wide. She stated that the reason for the proposed modification is due to a concern of traffic and not in any way an attempt to circumvent the process.

Mr. Evans responded that it has a direct impact on the NW CRA district greater than other areas.

Mr. Sarver responded that it is difficult to provide a clear response to that due to the fact that until the first application is approved there is a lot of uncertainty.

Mr. Bird stated that the impact to the NW CRA by this proposed modification is very small. He explained that the places that are being excluded by this frontage requirement are mostly areas that would already be excluded due to the distance requirement from residential areas. He pointed out sections of Dixie Highway and Hammondville Road would potentially be the only areas newly excluded. He added, however, these areas are already very close to residential areas, so they might already be excluded even without this proposed additional requirement.

Mr. Evans responded that he does not see the substantial benefit of adding this modification. He stated that he does not think that this recommendation should have even been presented to the Board.

Ms. Sarver stated that staff has a legal right and obligation to bring any proposed text changes to the Board before going to the City Commission.

Mr. Stacer suggested excluding the NW CRA from this amendment.

Mr. Evans responded that he does not think this arterial road requirement should be included whatsoever.

Ms. Sarver stated that from a legal perspective, an exclusion of this requirement for the NW CRA should not be considered since there is no legal reason to exclude a particular area of the City and not others from this restriction.

Mr. Evans asked if the other standards for this use have been approved.

Mr. Bird responded that none of the standards have been approved yet.

Mr. Evans asked what the meaning is in the proposed text where it states that variances may not be sought for use standards.

Mr. Bird responded that applicant may not apply for variances from these provisions.

Mr. Evans asked what the reason is for this.

Mr. Bird clarified that the Board has already cast a vote on this aspect of the text. He stated to the Chair that the Board could make a motion to reopen the entire discussion if there is a desire to change their recommendation or the discussion could be limited to just this specific modification regarding arterial road frontage.

Ms. Sarver confirmed this.

Dr. Mills stated that he does not have any issue with the recommendation from the previous meeting, but added that he does not believe that the current modification regarding frontage is needed.

Mr. Hill asked Mr. Bird to confirm that the change would be very minor and only impact potentially to areas in the NW CRA.

Mr. Bird responded that it would ultimately depend on how applications are received. He stated that staff ran some model maps and that there may be a loss of about two establishments due to the distance separation requirements.

Mr. Evans asked Mr. Bird to describe the maps that staff made.

Mr. Bird responded that if the use is limited to only arterial roads, the number of potential sites is reduced from around 9 to 7.

Mr. Evans asked why the Board was not provided these maps.

Mr. Bird responded that there was no reason to provide them and that he does not currently have them.

Mr. Stacer asked if anyone from the public wished to speak. There were none.

MOTION by Dwight Evans and second by Jerry Mills to recommend against the inclusion of the proposed text amendment to require direct access to an arterial roadway. Three voted in favor and three voted against. Therefore, no action was taken.

Dr. Mills asked what a tie vote means.

Ms. Sarver stated that if the meeting continues without an additional motion, the recommendation will stay the same as previously approved. She added that typically motions are made in the affirmative.

MOTION by Richard Klosiewicz and second by Jeff Torrey to recommend approval of the inclusion of the proposed text amendment to require direct access to an arterial roadway. Three voted in favor and three voted against. Therefore, no action was taken.

Mr. Evans asked if it is permissible to make a motion to remove this item from the agenda. Ms. Sarver responded that the Board has already voted on the item.

(2:49:10)

10. 2017 Meeting Deadlines and Dates

Mr. Matt Edge stated that the Board needs to make a change to the November and December meetings due to a conflict in the Commission Chamber. He stated that they could keep the same date and simply push the meeting start time back an hour. The other dates for the year have no need to be modified.

MOTION by Richard Klosiewicz and second by Jeff Torrey to approve the proposed schedule change by beginning the regular November and December 2017 meetings at 7:00pm. All voted in favor.

(2:51:55)

11. Special Meeting, Capital Improvement Plan

Mr. Edge stated that the Board holds a special Capital Improvement Plan meeting each year and that this year the Board could either meet in advance of the regular May 24th meeting by beginning the special meeting at 5pm and the regular meeting at 6pm or they could begin the special meeting at 6pm and the regular meeting at 7pm.

Mr. Klosiewicz and Mr. Hill both stated that starting at 5pm would be preferable.

MOTION by Richard Klosiewicz and second by Jeff Torrey to begin the special CIP meeting at 5pm to be followed by the regular meeting at 6pm. All voted in favor with the exception of Dr. Mills.

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