



**CITY OF HELENA
Zoning Commission
April 11, 2023 – 6:00 PM
Meeting Minutes
Recording Available**

Members Present:

Rebecca Harbage (Chair), Kim Wilson (Vice-Chair), Alyssa Sorenson, Betsy Story

Members Absent:

Nicole Anderson

(0:02:24) Call to Order and Roll Call – It was noted that a quorum was present with four members in attendance.

(0:03:38) Minutes – Minutes from the February 14, 2023 meeting were approved.

Regular Items

Item 1

Staff Presentation and Questions for Staff

(0:04:29) Community Development Department Director Christopher Brink gave a brief overview of the changes proposed to the marijuana use categories in the land use table and descriptions in Helena City Code, Title 11, known as the City of Helena Zoning Regulations.

(0:10:29) Vice-Chair Wilson asked if headings in the land use table could be bolded or underlined to make them stand out for ease of reading, as he had trouble finding an item. Director Brink stated that would be done. Vice-Chair Wilson asked about the text on page 11 and some of the detail on pages 26 and 27, regarding having multiple marijuana uses separately permitted and operated [in one building]. Director Brink stated that he thought that the only instance that the state would permit more than one operation within one building or operation is a cultivator and dispensary, but it would need to be a canopy tier [cultivator] to qualify for a combined facility. Mr. Wilson asked if there were any existing medical marijuana dispensaries that would be in violation of the new regulations and if so how many. Director Brink stated that all 19 existing facilities permitted in the city will be able to continue to operate as permitted by right, or as they currently are, as there are no changes to zoning districts that would make them [non-conforming]. Chair Harbage asked for clarification if the definitions updated to conform with that is said in state code. Director Brink confirmed that was the purpose.

(0:13:21) Ms. Sorenson asked what happens if a school or daycare moves into the area of an already established dispensary. Director Brink stated that the first there has the right to locate there and would assume that when the state comes in to license the daycare facility, they would not permit it because it is within that location. Ms.



Story asked for clarification about cultivation facilities as the table states they are only permitted in CLM and MI and the definitions on page 27 specify the size of the facilities allowed in each of those districts, and why that is not delineated in the land use table and if the conditions in the definitions [could be indicated]. Director Brink stated that there had been prior discussion, and that he meant to add it under the supplemental requirements. Director Brink stated he could make a reference in supplemental side of the table to the tier when it is not permitted. Chair Harbage asked if the city had decided to add any glazing requirements and noted that on page 28 it talks about cultivation operations must be located indoors and marijuana plants may not be visible by normal unaided vision from the exterior, and that it had been discussed but couldn't remember what was decided. Director Brink stated that he could not recall either but thought that it was decided to leave it as if knowing that the state has their own separate glazing requirements. Chair Harbage followed up by asking if the distance and location on pages 26 and 27 are based on MCA or selected by the city. Director Brink stated those are the city's preference, consistent with how the city measures casinos and taverns.

- (0:17:26)** Chair Harbage asked if there was a reason why businesses selling marijuana or marijuana products only have defined distances from public or private schools and daycare facilities listed and not from other public buildings/facilities such as parks. There was some discussion about past conversations, and Vice-Chair Wilson suggested looking at the crossed-out language, and Director Brink stated he assumed that there was an attempt to stay consistent with the language that was previously there for dispensaries and grow operations.

Public Comment and Commission Discussion

- (0:20:12)** The item was opened to public comment. There was no one in attendance online or in person. Public comment for the item was closed. Vice-Chair Wilson asked Director Brink if he was considering if the [distance] should be pulled over to the other three categories. Director Brink confirmed he was thinking about that. Vice-Chair Wilson asked if dispensaries were a permitted use in Ru-R3 zoning. Director Brink stated it is not. Chair Harbage expanded on her previous question about the distances, and that she thought the intent of the distance from schools and daycares is that those are places where children are likely to congregate and it struck her that parks are also places where children are likely to be, as well as public building owned by the city such as the Civic Center or Grand St [Theatre]. Director Brink stated he meant to be consistent with the potential impact; between the cultivation operation and the manufacturer operation, there are similar impacts so why not make the distance similar as well. Chair Harbage also asked if the [distance for cultivation/manufacturing from schools and daycares] can also be applied to businesses engaged in the sale of marijuana as well. Director Brink suggested keeping the language of 11-2-5 Section I-1-b-3 the way it is but add the same language under 11-2-5 Section I-1-a.
- (0:24:21)** Chair Harbage agreed and asked about grandfathering language for existing medical dispensaries and grow operations. Director Brink noted that there was possibly one business downtown that may be impacted in relationship to the courthouse, but it could be far enough way. Chair Harbage asked about the language in 11-2-5 Section I-4-b, and the impact of a change in permitted zoning districts on their ability to continue conducting business. Director Brink explained they would be able to operate the same as they do today. Vice-Chair Wilson asked



if they would be able to expand under those provisions. Director Brink confirmed that they would not be able to expand. There was some discussion about crafting a motion.

Motion and Discussion

(0:27:55) Vice-Chair Wilson moved to adopt the draft ordinance as presented by staff with the following changes: The category and subcategories under marijuana sales/operations will be moved to page 5 between industrial manufacturing and overnight accommodations; and on pages 26-27 section I-1-a will be amended to add as a second paragraph the paragraph identical to section I-1-b-3. Ms. Story seconded the motion.

Chair Harbage called for discussion of the motion. Ms. Sorenson noted the locations of shops near parks and Director Brink noted there may be one within 500 feet of Centennial Park. Vice-Chair Wilson asked if there was one located in the Livery Square building near Womens Park and Hill Park. It was noted that there was not a dispensary in that building, and there had not been a dispensary in that building. Chair Harbage added for the record that the Commission's intent it not to harm existing businesses in any way, but the intent I to avoid having marijuana dispensaries in or near places where children will be congregating, and it seems like the other category should be looked at as well. Chair Harbage continued that the Commission recognizes there are grandfathering provisions for existing businesses that may be located within that distance, however they would be welcome to weigh in on if this would harm thie business. Vice-Chair Wilson asked if the businesses that may be impacted by this be identified and given notice of the Commission of this [change]. Director Brink stated that will be done prior to the City Commission meeting.

(0:32:58) There was no further discussion, and a vote was called. The motion passed unanimously (4:0). Director Brink stated his intent to get this item before the City Commission in May.

Old Business

(0:34:16) There was no old business identified.

New Business

(0:34:16) There was no new business identified.

Public Comment

(0:34:19) There was no general public comment.

Member Communications / Proposals for next Agenda

(0:34:39) The next scheduled meeting is Tuesday May 9, 2023, but there may not be anything for a public hearing. It was suggested that a work session be held for signs.



Adjournment

(0:35:29) The meeting was adjourned just before 7:00 PM.