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**CITY OF TEMPE  
DEVELOPMENT REVIEW COMMISSION**

**Meeting Date: 04/28/2020  
Agenda Item: 9**

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**ACTION:** Request a Code Text Amendment for MEDICAL MARIJUANA AMENDMENT, consisting of a change to the Code to eliminate the current maximum 25,000 square-foot size restriction for medical marijuana cultivation facilities in Tempe. The applicant is CJK, Inc. (DBA Hana Meds).

**FISCAL IMPACT:** While this ordinance change does not directly impact revenue, the planned development will result in collection of the standard development fees, calculated according to the approved fee structure at the time of permit issuance.

**RECOMMENDATION:** Approve

**BACKGROUND INFORMATION:** MEDICAL MARIJUANA AMENDMENT (PL200016) consists of a request to eliminate the maximum 25,000 square-foot size restriction on medical marijuana cultivation facilities. The request includes the following:

ZOA200002      Text Amendment to the Zoning and Development Code, Section 3-426, Medical Marijuana

Applicant      Bryan McLaren, Zoned Properties, Inc.

**ATTACHMENTS:** Ordinance, Development Project File

**STAFF CONTACT(S):** Karen Stovall, Senior Planner (480) 350-8432

Department Director: Chad Weaver, Community Development Director

Legal review by: N/A

Prepared by: Karen Stovall, Senior Planner

Reviewed by: Suparna Dasgupta, Principal Planner

**COMMENTS:**

This is a request for a code text amendment within the Zoning and Development Code that regulates the size of medical marijuana cultivation facilities in Tempe. Currently, cultivation facilities are limited to a maximum size of 25,000 square feet. The proposed amendment consists of a change to Section 3-426 C.2 which would eliminate the size restriction.

Neighboring cities currently have the following size restrictions for cultivation facilities within industrial zoning districts:

- Chandler – 3,000 s.f.
- Gilbert – 3,000 s.f.
- Mesa – 25,000 s.f.
- Phoenix – none
- Scottsdale – none

The City of Tempe requires a cultivation business to apply for a “zoning clearance,” which is an administrative review process that verifies compliance with the Code regulations and procedure requirements for a security plan. If clearance is given, applicants must then apply to the Arizona Department of Health services (ADHS) for a permit and must certify that their facility location complies with local ordinances.

**BACKGROUND:**

The City of Tempe adopted the Medical Marijuana Ordinance in 2010. At that time, the code restricted the number of building entrances to one ingress/egress door in order to regulate the size of both medical marijuana dispensaries and cultivation facilities. In 2015, City Council approved an ordinance (O2015.49) that eliminated the single doorway restriction and instead restrict the maximum size for a cultivation facility to twenty-five thousand (25,000) square feet.

The city currently has four (4) medical marijuana cultivation facilities.

At this time,

**PUBLIC INPUT:**

- Neighborhood meeting not required
- No public input received at the time of completion of this staff report

**CITY DEPARTMENT INPUT:**

Staff consulted with the Tempe Police Department for any concerns they may have regarding this request. The Police Department responded that they have no compelling information to oppose the text amendment, since the square footage of a building does not impact the customized security plan to the degree that it would oblige them to maintain the current maximum 25,000 square feet.

Staff also consulted with the Community Development Department, Building Safety Division, for any concerns they may have regarding building code issues. No feedback was provided.

**CONCLUSION:**

Based on the information provided by the applicant and input from other City departments, staff recommends approval of the ordinance.

**HISTORY & FACTS:**

- October 29, 2010      Staff provided City Council a Friday memo update outlining the City of Tempe’s current involvement with the Arizona League of Cities and Towns with potential provisions for the proposed Proposition 203, cited as the Arizona Medical Marijuana Act.
- November 2, 2010      Election date, including the ballot initiative for Proposition 203, Arizona Medical Marijuana Act.

November 23, 2010	Development Review Commission held a study session with staff presenting an outline of proposed draft amendments regarding the regulation of medical marijuana.
December 1, 2010	Neighborhood Advisory Commission received a presentation by staff of an outline of proposed draft amendments regarding the regulation of medical marijuana.
December 14, 2010	Development Review Commission recommended approval of a Code Text Amendment for AZ MEDICAL MARIJUANA ACT Ordinance No. 2011.01. (5-2 Vote, DiDomenico and Webb dissenting)
December 17, 2010	The Arizona Department of Health Services (ADHS) posts initial draft of rules governing the regulatory system for the medical marijuana program.
January 13, 2011	City Council introduced and held the first public hearing for MEDICAL MARIJUANA (PL100378).
January 27, 2011	City Council held the second and final public hearing and adopted an ordinance for MEDICAL MARIJUANA (PL100378).
September 22, 2015	Development Review Commission recommended approval for a Code Text Amendment for MEDICAL MARIJUANA DISPENSARIES (PL150361), consisting of changes within the Code that regulate the location, operation requirements and total number of dispensaries in Tempe. The applicant is Steve White, White Berberian PLC. Development Review Commission recommended: <ol style="list-style-type: none"> <li>1. Exit/Size limitation: Approval (7-0 vote), subject to conditions</li> <li>2. Age limitation from 21 to 18: Approval (5-2 vote)</li> <li>3. Dispensary hours: Approval (7-0 vote), subject to hours limited until 8 pm</li> <li>4. Limiting total # of dispensaries: Denial (5-2 vote), not to limit the number of dispensaries</li> </ol>
October 22, 2015	Introduction and first public hearing to adopt an ordinance for a Code Text Amendment for MEDICAL MARIJUANA DISPENSARIES (PL150361), consisting of changes within the Zoning and Development Code, Section 3-426 that regulate operation requirements for dispensaries and cultivation facilities and the total number of dispensaries in Tempe. The applicant is Steve White, White Berberian PLC. (Ordinance No. O2015.49)
November 12, 2015	City Council continued the second and final public hearing on an ordinance for a Code Text Amendment for MEDICAL MARIJUANA DISPENSARIES (PL150361).
December 3, 2015	City Council approved an ordinance for a Code Text Amendment for MEDICAL MARIJUANA DISPENSARIES (PL150361), consisting of changes within the Zoning and Development Code, Section 3-426 that regulate operation requirements for dispensaries and cultivation facilities the and total number of dispensaries in Tempe. The applicant is Steve White, White Berberian PLC. (Ordinance No. O2015.49) (7-0 vote)
February 2, 2017	City Council Issue Review Session, regarding the one-year review and evaluation of Ordinance No. O2015.49. Received direction from Council to proceed with ordinance amendment, removing the dispensary limitation (2).
March 23, 2017	Development Review Commission recommended approval of PL170076, that regulated the location and operation requirements and number of dispensaries in Tempe.
April 5, 2017	Neighborhood Advisory Commission meeting of PL170076.
April 20, 2017	City Council introduction and first public hearing of PL170076.

May 4, 2017	City Council continued PL170076 to the May 25, 2017 agenda.
May 25, 2017	City Council second and final public hearing of PL170076 and adoption of Ordinance No O2017.25.
December 4, 2019	Neighborhood Advisory Committee meeting to discuss MEDICAL MARIJUANA AMENDMENT (PL190280), consisting of changes to the Code that regulates dispensary hours of operation.
December 10, 2019	Development Review Commission recommended approval of MEDICAL MARIJUANA AMENDMENT (PL190280), consisting of changes to the Code that regulates dispensary hours of operation.
February 13, 2020	City Council held the second and final public hearing and adopted an ordinance for MEDICAL MARIJUANA AMENDMENT (PL190280) to modify the permitted hours of operation for medical marijuana dispensaries from 8am to 8pm to no later than 10pm.
April 28, 2020	This case is scheduled to be heard by the Development Review Commission.
May 27, 2020	This case is scheduled for the introduction and first City Council public hearing.
June 11, 2020	This case is scheduled for the second City Council public hearing.

**ZONING AND DEVELOPMENT CODE REFERENCE:**

Section 6-304, Zoning Map Amendments (including Overlay Districts) and Code Text Amendments