



**CITY OF WINTER PARK
Planning & Zoning Board**

**Regular Meeting
City Hall, Commission Chambers**

**July 18, 2017
6:00 p.m.**

MINUTES

Chair Ross Johnston called the meeting to order at 6:00 p.m. in the Commission Chambers of City Hall Present: Ross Johnston, Chairman, Shelia De Ciccio, Adam Burt, Laura Turner, Bob Hahn and Owen Beitsch. Absent: Laura Walda and Ray Waugh. Also Present: City Attorney Dan Langley. Staff: Director of Planning and Community Development, Dori Stone; Planning Manager, Jeff Briggs; Senior Planner, Allison McGillis and Recording Secretary, Kim Breland.

PUBLIC HEARINGS:

REQUEST OF THE CITY OF WINTER PARK FOR: AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA REPEALING AND REPLACING ORDINANCE NO. 2981-14 AND THE CODE PROVISIONS ADOPTED THEREIN WITH A NEW SECTION 58-96 OF ARTICLE III OF CHAPTER 58, CITY OF WINTER PARK LAND DEVELOPMENT CODE TO PROHIBIT MEDICAL MARIJUANA TREATMENT CENTER DISPENSING FACILITIES WITHIN THE BOUNDARIES OF THE CITY AS AUTHORIZED BY SECTION 381.986, FLORIDA STATUTES; PROVIDING LEGISLATIVE FINDINGS; PROVIDING FOR CODIFICATION, MORATORIUM CONTIGENCY; SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

As part of the Chairman's opening statement, it provided that the role of the Planning and Zoning Board was to make a recommendation and that the decision on this matter would be made at a public hearing by the City Commission on Monday, July 24th at 3:30 pm.

City Attorney, Dan Langley explained to the Board what their role is with respect to the land development codes. He explained that the P&Z Board has been tasked with the assignment of being the local planning agency for the City of Winter Park and when the City is considering changes to the land development code, the P&Z Board's role is to review the proposed changes to the land development code to make sure they're consistent with the Comprehensive Plan and make a recommendation to the City Commission as to whether it believes that the proposed change is or is not consistent with the Comprehensive Plan. Thus, this is "zoning" matter and other matters of public policy are not necessarily relevant.

Planning Manager, Jeff Briggs presented the staff report and reiterated that the item being heard is a zoning matter regulating marijuana treatment centers through zoning and the Planning and Zoning Board will have to make a recommendation before the City Commission can act. He explained that, based on the state law that was signed by the Governor in June of 2017, regarding the regulation of marijuana treatment centers, cities and counties only have two options, 1) to prohibit marijuana treatment centers altogether or 2) permit them to be located every place a pharmacy is allowed, meaning anywhere that is zoned commercial would have to allow for marijuana treatment center. This ordinance would prohibit the 'use' since there is 600+ acres of commercial land where pharmacies and by extension then, medical marijuana treatment centers would be allowed as a permitted use which includes Orlando, Fairbanks, Orange, Aloma, New England and Park Avenues, among others. The concern is that if every community except Winter Park chooses to prohibit; then all of these businesses serving the Metropolitan Area would need to locate in Winter Park. Thus, it was prudent to prohibit now and see if the City later could serve a portion of the market versus the entire market.

Mr. Briggs added that this ordinance also has a section that should this law be overturned in the courts, it automatically imposes a one year moratorium which would give the City time to react and promulgate new zoning rules in order to provide time to go through this process again.

Chairman Johnston asked what would trigger a one year moratorium. City Attorney responded that section five (5) of the ordinance says that in the event that the statute that allows the local governments to prohibit medical marijuana treatment center/dispensing facilities, if that particular statute is interpreted by a court with proper jurisdiction as being unenforceable or unlawful, the moratorium would be in effect immediately, which would mean that the City imposes a pause on accepting and processing of any application for location or development of a dispensary for one year.

Staff Recommendation is for Approval of the Ordinance, which prohibits locations of marijuana facility centers in the City.

Mr. Briggs answered questions from the Board. He confirmed that the Ordinance being discussed is consistent with the Comprehensive Plan and that we had not received any applications as yet for dispensaries under current regulations.

Mr. Briggs also answered questions from the Board related to options the City would have regarding designating locations for dispensaries.

The Board heard public comment from James Turney, 668 Cortez Circle, Altamonte Springs spoke to the constitutional referendum passed by 70% of Florida voters and how prohibitions are contrary to the wishes of the voters of the State. He also proposed alternate solutions.

No one else wished to comment, the public hearing was closed.

There was discussion amongst the Board members comments from the Board regarding

Board member Laura Turner asked Staff if there was a statutory deadline in place by which the Board was required to make a decision regarding the Ordinance. City Attorney, Dan Langley, clarified that while there isn't a deadline, the law that was passed is already effective, meaning that the legislation has now preempted the existing code provisions with respect to location and permitting so as it stands now, there are no relevant code provisions that govern this type of use, dispensary only.

Vice Chair DeCiccio asked that, if there was an active application to open a dispensary at this time, would the City have to allow it since the City has not passed any Ordinance against it. City Attorney, Dan Langley, responded that the position could be that the City currently has a pending Ordinance that is considering the prohibition of the use and waiting to hear final judgement from the City Commission. However, without this pending Ordinance, the answer would be yes, the City would have to allow the request for the dispensary to be located anywhere in the city where a pharmacy would be permitted.

Chairman Johnston expressed concern that, over time, the allowance for medical marijuana could turn into the allowance of recreation marijuana in the state of Florida as it has in others. He asked the City Attorney if the City is defining medical marijuana or defining encapsulating marijuana, could a vape shop eventually sell marijuana and get around a provision or would it just be under the medical marijuana label that needs a prescription. The City Attorney responded that this is something that the City would have to look at when the legislation or constitutional provisions change, this Ordinance keys to the statute that defines what a dispensary is so it is all keyed to dispensaries for medical marijuana.

Board member Owen Beitsch asked what the principle criteria were that motivated the City and the Board to impose the current limitations regarding medical marijuana dispensaries. Mr. Briggs responded that this is something new to Florida and there is some uncertainty of how these kinds of business would operate, thus the Board wanted to limit the number of locations for these companies so there is time to understand and learn from that experience as well as other cities' experiences of how these businesses will operate.

There being no further comment from the Board, the Chairman asked for a motion.

Motion made by Sheila De Ciccio, seconded by Adam Bert for an ordinance of the City of Winter Park, Florida repealing and replacing Ordinance No. 2981-14 and the code provisions adopted therein with a new section 58-96 of Article III of Chapter 58, City of Winter Park land development code to prohibit medical marijuana treatment center dispensing facilities within the boundaries of the City as authorized by section 381.986, Florida statutes; providing legislative findings; providing for codification, moratorium contingency; severability, conflicts, and an effective date.

Motion carried unanimously with a 6-0 vote.

NEW BUSINESS:

There was no further business. Meeting adjourned at 6:27 p.m.

Respectfully submitted,

Kim Breland
Recording Secretary