



PLANNING REPORT

Planning & Zoning Commission

Thursday, May 4, 2017

Medical Marijuana – CODE AMENDMENT

Case Summary

Agenda Item	3
Case Number	17-035ADMC
Proposal	Amendment to the Zoning Code to prohibit the cultivation, processing and retail distribution of medical marijuana.
Request	Review and recommendation of approval to City Council of a Zoning Code amendment under the provisions of Zoning Code Sections 153.232 and 153.234.
Applicant	Dana L. McDaniel, City Manager, City of Dublin.
Case Manager	Tammy Noble, Senior Planner (614) 410-4649 or tnoble@dublin.oh.us
Recommendation	<i>Recommendation of Approval to City Council.</i> Planning is recommending that the Planning and Zoning Commission recommend approval of Section 153.035 of the City of Dublin Zoning Code to City Council.

Facts	Zoning Code Amendment
Case Summary	This is a request for review and recommendation of approval to City Council to add Section 153.035 to the Zoning Code that prohibits the cultivation, processing, and retail distribution of medical marijuana.
Background	<p>On May 25, 2016, the Ohio General Assembly passed Substitute House Bill 523 which allows individuals with a qualifying medical condition, on the recommendation of a physician, to apply to the State of Ohio, and upon approval of their application receive an identification card allowing them to obtain, possess, and use medical marijuana for the treatment of the condition. The bill was signed into law and became effective on September 9, 2016. Additional deadlines, including implementing final rules for the program and final operation of a program are outlined in a memorandum dated March 30, 2017.</p> <p>Based on the state's Home Rule Authority, municipalities have the power to enact planning, zoning, and business regulations laws that "further the health, safety, and welfare" within the municipality. Specific to this bill, municipalities may adopt restrictions, including prohibiting or limiting the number of cultivators, processors, or retail dispensaries of medical marijuana within their corporate boundaries.</p> <p>Although House Bill 523 allows the State of Ohio to regulate medical marijuana, it continues to be classified as a Schedule I controlled substance under the Federal Controlled Substance Act and is illegal under federal law. Based on negative implications associated with federal prohibition, the Law Director is recommending that the City of Dublin prohibit the cultivation, processing, and retail distribution of medical marijuana.</p>

Details	Zoning Code Amendment
Process	Code Section 153.232(B)(9) provides the Planning and Zoning Commission with "other powers and duties" which includes making recommendations to City Council for amendments to the Zoning Code. The Commission should review the modifications, provide input, and vote on the changes. The proposed amendment will be forwarded to City Council for its consideration. The following sections summarize the major components and considerations of each section of the zoning regulations proposed for the amendment.
Section 153.035 Cultivation, Processing, or Retail Dispensing of Medical Marijuana in All Districts	<p>(a) The cultivation, processing, or retail dispensing of medical marijuana shall be a prohibited use in all zoning districts within the City of Dublin.</p> <p>(b) Use of property in violation of this section shall constitute a nuisance.</p> <p>(c) In addition to other penalties provided by law, the Director of Law shall be authorized to institute civil proceedings in a court of competent jurisdiction to enjoin violations of this Section; for monetary damages arising from violations of this Section; and to take all actions necessary</p>

Details	Zoning Code Amendment
	to secure enforcement of any injunction and collect upon any damage award, judgement, or fine in contempt levied in relation to a violation of this Section.

Analysis	Zoning Code Amendment
Review Considerations	The Zoning Code does not provide for specific review standards for Zoning Code text amendments. However, there are certain considerations that are appropriate when considering an application for these amendments. These are provided below, along with relevant analysis. The Commission is not limited to these considerations, and may choose to give each its own weight as part of the deliberations for a recommendation to City Council.
<i>Intent and Purpose</i>	<p><i>Whether the amendment is consistent with the intent and purpose of this Chapter and the Community Plan.</i></p> <p>Guideline Met</p> <p>The City of Dublin is tasked with regulating land uses that protect the health, safety and welfare of our community. Based on the safety considerations of operations associated with cultivating, process and distributing medical marijuana, it is the recommendation to the Planning and Zoning Commission that these uses be prohibited in the Zoning Code.</p>
<i>Error or Omission</i>	<p><i>Whether the change is the result of an error or omission in the original text.</i></p> <p>Not Applicable.</p> <p>The change is not based on an error or omission of language in the Code.</p>
<i>Area Effects</i>	<p><i>The potential effects on areas that are most likely to be directly affected by the change.</i></p> <p>Guideline Met.</p> <p>By prohibiting the uses described in Section 153.035, there will be no negative effects on areas within the City. By adopting the language, it will have the opposite impact by preventing safety considerations and security issues that may arise from the growth, processing and sales of medical marijuana.</p>
<i>Creation of Nonconformities</i>	<p><i>Whether the change might result in the creation of significant nonconformities on properties in the city.</i></p> <p>Guideline Met.</p> <p>Uses associated with medical marijuana are not currently provided with the Zoning Code and therefore, will not create nonconformities on properties within the City of Dublin.</p>

Recommendation	Approval
Approval	Planning is recommending that the Planning and Zoning Commission recommend approval of Section 153.035 of the City of Dublin Zoning Code to City Council.