



Arapahoe County

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Board Summary Report

File #: 24-541

Agenda Date: 10/8/2024

Agenda #:

To: Board of County Commissioners

Through: Bryan Weimer, Director, Public Works & Development

Prepared By:

Jason Reynolds, Planning Division Manager, PWD

Presenter: Jason Reynolds, Planning Division Manager, PWD

Subject:

LDC24-005 Retail Marijuana Stores and Marijuana Production at DEA-Authorized Facilities Amendment

Purpose and Request:

This county-initiated project proposes amending the Land Development Code (LDC), specifically, Section 3-3.5, Marijuana Land Uses. The proposed changes would allow an existing commercial marijuana store to relocate within the same building without triggering a Use by Special Review process. The second proposed change would allow marijuana manufacturing and research facilities in industrially zoned areas, provided that the facility is registered with the Drug Enforcement Administration (DEA). Planning Commission and staff recommend approval of the proposed changes to the Land Development Code.

Background and Discussion: Earlier this year, Kazmira, a manufacturer of hemp-derived CBD products located in unincorporated Arapahoe County, asked the Board of County Commissioners to support Kazmira's application for a federal marijuana testing permit from the DEA. Kazmira made this request prior to proposed federal reclassification of marijuana to a Schedule 3 drug. However, if the proposed federal reclassification of marijuana to a Schedule 3 drug is approved, Kazmira has advised that will not materially change their application for a DEA permit. Indeed, it is likely that additional federally authorized marijuana manufacturing facilities will be needed to supply product for medical research. The Land Development Code currently prohibits all marijuana uses except for the four existing retail dispensaries in unincorporated Arapahoe County and a marijuana product manufacturing facility, even a DEA-authorized facility, is not permitted under the marijuana regulations.

The DEA authorization process is separate from Colorado's medical and retail marijuana system. If a DEA facility is approved, it would receive marijuana grown off-site from a federally licensed grow facility. The local facility would manufacture marijuana products, which would be transferred by the DEA to federally licensed researchers. The product would not be sold on any commercial market and the marijuana used for the manufactured products would be transferred both to and from the site under custody of the DEA.

On May 6, 2024, the Board discussed Kazmira's request at a study session. The Board directed staff to amend the Land Development Code to allow DEA-authorized marijuana facilities and chose to send a letter of support for Kazmira's DEA application (attached). After reviewing the code language for potential changes, staff identified a discrepancy in the existing commercial marijuana code that required a public process to relocate an existing dispensary within the same building while allowing expansions to proceed administratively.

Staff recommends two changes to the Land Development Code:

1. Allow retail marijuana stores to relocate within the same building. This proposed change would allow an existing retail marijuana store to relocate within the same building without a use by special review process and public hearing. As detailed in the attached Planning Commission materials, an existing retail marijuana business can *expand* within the same building without a public process but they would need a public process to keep the same square footage and move into the suite next door. The proposed change would allow relocation within the same building to use the existing administrative process as an expansion.

2. Allow marijuana product manufacturing in DEA authorized facilities. The proposed code changes would allow DEA authorized facilities as a permitted use in the industrial zone districts (I-1 light industrial, I-2 heavy industrial, and PUD zones that allow industrial uses), where other similar drug manufacturing/processing uses are allowed. The draft code requires the facility to conduct all activity within the facility and to operate in a manner that does not cause odors, smoke, heat, glare, etc. that would be detectable at the property line or an adjacent public area. It also requires that the facility maintain DEA registration in good standing, which must be furnished upon demand by the County. If a proposed facility does not have DEA authorization, it would not be allowed.

Planning Commission Recommendation

On August 20, 2024, Planning Commission held a public hearing on the proposed code changes. In response to Planning Commission questions, staff provided the following clarifications. The proposed change to the code maintains the limit of four retail marijuana stores in Arapahoe County; no additional retail stores would be allowed. If a DEA authorized facility is approved at the Kazmira site, they would not be able to open a retail marijuana store under our regulations. The county could consider restricting DEA authorized facilities in certain areas as requested by Centennial or if there was a desire to disallow them in rural areas. However, if the federal government classifies marijuana as a Schedule III drug, marijuana would be regulated the same way as other Schedule III drugs and the LDC does not place any special locational restrictions on the manufacture of similarly classified drugs such as estrogen, Tylenol with codeine, anabolic steroids, testosterone, etc. No members of the public spoke at the hearing. Planning Commission voted 6-0 to recommend approval of the

LDC amendment as presented by staff.

Fiscal Impact: No direct fiscal impact.

Alternatives: The Board has the following alternatives:

1. Approve the amendment as recommended by Planning Commission and staff, with or without additional stipulations;
2. Deny the amendment; or
3. Continue the amendment for additional information.

Alignment with Strategic Plan:

- ☐ Be fiscally sustainable
- ☐ Provide essential and mandated service
- ☒ Be community focused

Staff Recommendation: Staff recommends approval.

Concurrence: Planning Commission recommends approval.

Suggestion Motion(s): Attached.

Resolution: Attached.