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PLANNING & ZONING

STEVEN JOSEPHSON, AICP

From: Steve Josephson, AICP, Planning and Zoning Director
Subject: Staff Recommendation for Agenda Item #3, Amendments to the Stark County Zoning Ordinance REVISED
Date: June 28, 2018

AGENDA ITEM #3- Public Hearing for ZTA 01-18 – Proposed Amendments to Article II: Rules and Regulations, Article V: Zoning District Regulations, and Article VI: Additional Provisions of the Stark County Zoning Ordinance as adopted on October 2, 2012 regarding medical marijuana compassion centers.

ARTICLE II

2.3 Definitions

Compassion Centers: Establishments licensed by the State of North Dakota Department of Health for one of two purposes: 1) growing, processing and manufacturing medical marijuana to supply the product to dispensaries, 2) dispensaries for distribution of medical marijuana to qualified patients or designated care givers.

ARTICLE V

5.1 Agriculture District

5.1.2 Conditional Uses

- 1) Commercial feedlots subject to the provisions of this Code.
- 2) Manufacturing and processing of agricultural resources and products indigenous to the county but not including rendering plants, fertilizer plants and the like.
- 3) Solid waste disposal facilities subject to the provisions of the Code.
- 4) Electrical substations, high voltage transmission lines and accessory buildings used for the primary purpose of transmission of electrical energy from one area to another. These provisions shall not apply to those transmission lines which directly serve the county.
- 5) Transmitting towers, relaying stations and pipelines.

- 6) Mobile Homes (Manufactured Homes) - Manufactured or modular homes on a permanent type of foundation.
- 7) Hunting lodges.
- 8) Bed and breakfast inns.
- 9) Anhydrous ammonia storage facilities.
- 10) Wastewater plants and systems.
- 11) Water depots.
- 12) Gravel pits, crushing and stockpiling.
- 13) Communication towers.
- 14) Airport and landing field.
- 15) Wind energy facilities.
- 16) Child care and child nurseries.
- 17) Adult care centers.
- 18) Agricultural equipment storage.
- 19) Family home day care.
- 20) Firing range, outdoor.
- 21) Hospitals and medical centers.
- 22) Stables.
- 23) Livestock transfer and feeding operations.
- 24) Kennels.
- 25) Mineral and other substance excavation and mining
- 26) Temporary uses, including, but not limited to
 - i. Bazaars, Carnivals, or Fairs;
 - ii. Musical Events;
 - iii. Racing Events;
 - iv. Rodeos;
 - v. Public gatherings for a single-purpose event;
 - vi. Temporary building or yard for construction materials and/or equipment incidental and necessary for current construction in the immediate surrounding area;

- vii. Temporary office incidental and necessary for the construction, sale, or rental of the property in the immediate surrounding area;
- viii. Temporary operations for road improvement projects, including a temporary asphalt plant.

Permits shall be valid for such period of time as determined by the County Commission and shall be renewable at the discretion of the County Commission.

- 27) Correctional facilities.
- 28) Components of water and wastewater systems
- 29) Radio and television transmitting and receiving facility.
- 30) Colleges and universities.
- 31) Dormitories.
- 32) On site storage of equipment and material related to oil exploration and production.
- 33) MET Towers.
- 34) Manufacturing Compassion Centers

5.6 Commercial District

5.6.2 Conditional Uses

- 1) Contractor's yard and operations.
- 2) Second story residential dwelling units.
- 3) Processing and packaging of materials.
- 4) Warehouses and wholesale dealerships.
- 5) Commercial grain bins, grain elevators or related activity.
- 6) Private membership clubs and lodges.
- 7) Small animal veterinary hospitals.
- 8) Dairy, locker plant.
- 9) Hotels and motels.
- 10) Golf driving range, miniature golf course, go-cart track, or race track.
- 11) Dormitories.
- 12) Child care and child nurseries.
- 13) Adult care centers.

- 14) Firing range, indoor, small arms.
- 15) Kennels.
- 16) Mini-warehouses.
- 17) Open storage.
- 18) Truck stops.
- 19) Vehicle parts sales.
- 20) Animal hospitals and clinics provided they are not located nearer than five hundred (500) feet from any residence except the residence of the owner-operator.
- 21) Drive-in theaters.
- 22) Communications towers.
- 23) Airport.
- 24) Correctional facilities.
- 25) Radio and television transmitting and receiving facility.
- 26) Wastewater plants and systems.
- 27) Water depots.
- 28) Temporary uses, including, but not limited.
 - i. **Bazaars, Carnivals, or Fairs;**
 - ii. Musical Events;
 - iii. Racing Events;
 - iv. Rodeos;
 - v. Public gatherings for a single-purpose event;
 - vi. Temporary building or yard for construction materials and/or equipment incidental and necessary for current construction in the immediate surrounding area;
 - vii. Temporary office incidental and necessary for the construction, sale, or rental of the property in the immediate surrounding area.
- 29) Wind energy facilities.
- 30) Water and ski slides and resorts.
- 31) Electrical substations, high voltage transmission lines and accessory buildings used for the primary purpose of transmission of electrical energy from one area

to another. These provisions shall not apply to those transmission lines which directly serve the county.

- 32) Distribution Compassion Centers

5.7 Industrial District

5.7.2 Conditional Uses

- 1) Coal gasification and liquefaction plants.
- 2) Electric power generating plants, transmission lines and accessory structures.
- 3) Fuel and bulk storage plants.
- 4) Oil refineries and petrochemical plants.
- 5) Radio, television and microwave towers.
- 6) Salvage and junk yards.
- 7) Adult entertainment centers.
- 8) Noxious waste disposal sites.
- 9) Wind energy generation.
- 10) Workforce temporary housing.
- 11) Exploration, drilling, excavation and mining for, coal, sand, gravel, clay and other subsurface minerals as provided by in this Code.
- 12) Solid waste landfill.
- 13) Special waste disposal sites (industrial waste) subject to compliance with North Dakota Health Department rules and regulations.
- 14) Water depots.
- 15) Kennels.
- 16) Open storage.
- 17) Mini warehouses.
- 18) Vehicle parts sales.
- 19) Dairy, locker plants.
- 20) Recycling Facility.
- 21) Communication tower.
- 22) MET Towers.

- 23) Any use or process not mentioned above engaged in the storage of or in processes involving potentially or actually hazardous, explosive, flammable, radioactive, or other commonly recognized hazardous materials.
- 24) Distribution Compassion Center.
- 25) Manufacturing Compassion Center.

ARTICLE VI

6.32 Compassion Centers

The purpose of these regulations is to provide a regulatory framework for the siting, construction and operation of compassion centers in the county, subject to reasonable restrictions, that will preserve the safety and well-being of the residents of the county, while allowing equitable and orderly development of compassion centers.

6.32.1 Compassion Center Definition

Establishments licensed by the State of North Dakota Department of Health for one of two purposes: 1) growing, processing and manufacturing medical marijuana to supply the product to dispensaries, 2) dispensaries for distribution of medical marijuana to qualified patients or designated care givers. Compassion centers cannot be located within one thousand feet of a property line of a pre-existing public or private school as per North Dakota Century Code 19-24.1.

6.32.2 Manufacturing Compassion Center -General Standards

1. Manufacturing Compassion Centers are establishments licensed by the State of North Dakota Department of Health for the purpose of growing, processing and manufacturing medical marijuana to supply the product to dispensaries. Manufacturing centers are allowed as a conditional use in either the Agriculture (A) or Industrial (I) zoning districts.
2. Manufacturing compassion centers must comply with all applicable state laws and rules, including, but not limited to, NDCC Chapter 19-24.1 and NDAR Chapter 33-44.
3. The minimum lot size shall be three (3) acres.
4. One (1) principal structure is allowed per site, with a maximum building floor area of 10,000 square feet for the principal structure.
5. Accessory structures directly related to the principal use are allowed. Accessory structures may not be larger than twenty (20) percent of the total floor area of the principal structure, and the sum of the floor area for all accessory structures may not be greater than fifty (50) percent of the total floor area of the principal structure.
6. Principal and accessory structures must be set back a minimum of 100 feet from all lot lines. For the purposes of this section, a fence and a parking lot shall not be required to meet the 100 foot setback, but instead shall meet any applicable setback requirements established for the underlying zoning district.
7. Growing and processing of marijuana is not allowed in the following:
 - a. Greenhouses and other transparent structures;
 - b. Hoop houses and similar non-rigid or non-permanent structures.

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8. Glass roofs on hard-sided buildings shall be allowed if the glass roofed building has an internal screen to keep light from escaping during non-daylight hours.
9. Any structure related to a manufacturing compassion center must be set back a minimum distance of 1,250 feet from the property boundary of a lot or parcel within a residential zoning district.
10. Waste generated from the growing, processing or dispensing of marijuana that contains marijuana or contains any element derived from the marijuana plant must be stored in a secured waste receptacle that is only accessible by agents of the compassion center and agents of the contracted waste collection company.
11. Outdoor storage is prohibited.
12. Noise generated from the use shall comply with the noise regulations as they appear in Article VI of the Stark County Zoning Ordinance, be may not exceed 40 dB (A), measured at any property line, between the hours of 10pm and 6am.
13. Facility must be equipped with an air filtration system such that any odor, resulting from the growing or processing of marijuana, does not unreasonably interfere with the surrounding land owners' use and enjoyment of their property.
14. Fencing (including, but not limited to, razor wire) shall be finished in a muted tone that blends with the surrounding natural landscape and shall not be constructed of temporary materials such as plastic sheeting, hay bales, tarps, etc.
15. Off-street parking areas shall be lighted. Lighting in off-street parking areas shall be arranged to direct light away from adjoining properties in any residential district.

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6.32.23 Distribution Compassion Center -General Standards

1. Distribution Compassion Centers are establishments licensed by the State of North Dakota Department of Health for the purpose of distributing medical marijuana to qualified patients or designated care giver. Distribution centers are allowed as a conditional use in either the Commercial (C) or Industrial (I) zoning districts.
2. Distribution compassion centers must comply with all applicable state laws and rules, including, but not limited to, NDCC Chapter 19-24.1 and NDAR Chapter 33-44.
3. Setbacks for proposed distribution compassion centers shall meet those requirements listed in NDCC Chapter 19-24.1. Otherwise, development standards shall be those of the overlying zoning district.
4. Waste generated from the dispensing of marijuana that contains marijuana or contains any element derived from the marijuana plant must be stored in a secured waste receptacle that is only accessible by agents of the compassion center and agents of the contracted waste collection company.
5. Dispensaries shall cease operations between the hours of 9 p.m. and 7 a.m.
- 7-6. No physician or psychiatrist shall issue a written certification for medical marijuana on the lot or tract on which the dispensary is located.
- 8-7. The public area of the facility must be accessible to persons with disabilities.
- 9-8. Off-street parking areas shall be lighted. Lighting in off-street parking areas shall be arranged to direct light away from adjoining properties in any residential district.

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~~10.9.~~ The following activities and uses are prohibited on the lot or tract on which the dispensary is located:

- a. Sales of alcohol and tobacco. Tinctures of marijuana that contain alcohol and are legal in the State of North Dakota are excluded from this restriction.
- b. Consumption of alcohol.
- c. Any method of consumption of marijuana or any product derived from the marijuana plant. (Consumption of marijuana or products derived from the marijuana plant must take place off-site.)

6.32.34 Conditional Use Permit

A conditional use permit for either a manufacturing or distribution compassion center may be granted by the County Commission the issuance of which is subject to the procedures contained within Section 8.3 of this code. This conditional use permit shall be reviewed on a bi-annual basis.

The application shall be signed by an authorized representative of the applicant, and shall include, but not necessarily be limited to, the following:

- a. The complete name, legal address and phone number of the applicant and of the property owner.
- b. A copy of the most recent deed or lease.
- c. A written description of the proposed compassion center that will, at a minimum, include the following:
 1. Details as to how the applicant will comply with each item in Section 6.32 of the Stark County Zoning Ordinance.
 2. Details as to how the applicant will comply with NDCC Chapter 19-24.1 as well as NDAR 33-44-01. A summary of how the proposed compassion centers will meet state requirements as well as the completed state application.
 3. An onsite security plan reviewed and approved by the Stark County Sheriff's Office.
 4. A schedule for the proposed start and completion of construction of the compassion center.
 5. A detailed operations plan including a description of all products and services to be produced or sold by the facility.
 6. A detailed waste management plan that includes all marijuana plants and substances involved in the development of medical marijuana products as they are allowed under NDCC 19-24.1.
 7. A bi-annual fee to be determined by the County Commission. The fee will be used to help offset the costs of policing, site inspections, monitoring, storage of media, regulation and any other administration or enforcement activities associated with the compassion center.

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6.32.45 Public Hearings

Upon receipt of the application, the Planning and Zoning Commission shall review the permit application and at such time as the Planning and Zoning Commission has determined the application is complete and sufficient shall schedule a public hearing on the application before the Planning and Zoning Commission. Notice shall be provided at least fifteen (15) day prior to the hearing in the official newspaper of the county and mailing written notice to property owners within five hundred (500) feet of the proposed wind energy facility perimeter.

If the Planning and Zoning Commission finds that the applicant for the Compassion Center Conditional Use Permit has satisfied all applicable requirements, it shall

recommend approval by the Commission. The Commission must approve, approve with conditions, or deny the application within sixty (60) days of the date of the submission of the application, or, when held, the date of the public hearing.

6.32.5 6 Site Development

Prior to building permit approval, the applicant shall submit a copy of the compassion care registration certificate issued by the State of North Dakota Department of Health Division of Marijuana to the Zoning Administrator.

The applicant shall be responsible for submitting bi-annual renewals of the State issued compassion care registration certificate to the Zoning Administrator.

STAFF RECOMMENDATION: Approval of the proposed amendment based upon the following findings.

The proposed amendment is consistent with the following objectives of the Stark County Comprehensive Plan:

- LAND USE- Provide for proper growth management practices; and
- LAND USE-Avoid conflicts between land uses.

The proposed amendment is consistent with the following implementation strategy of the Stark County Comprehensive Plan:

- GOVERNMENTAL- Stark County supports the periodic review of county codes and ordinances to ensure their current relevancy.