

PLANNING COMMISSION
DECEMBER 21, 2010

MINUTES OF A REGULAR MEETING OF THE PLANNING COMMISSION OF THE TOWN OF CLARKDALE HELD ON TUESDAY, DECEMBER 21, 2010, IN THE MEN'S LOUNGE OF THE CLARK MEMORIAL CLUBHOUSE, 19 N. NINTH STREET, CLARKDALE, AZ.

A Regular Meeting of the Planning Commission of the Town of Clarkdale was held on Tuesday, December 21, 2010, at 6:00 p.m., in the Men's Lounge of the Clark Memorial Clubhouse, 19 N. Ninth Street, Clarkdale, AZ.

Planning Commission:

Chairperson	Jorge Olguin	Present
Vice Chairperson	Jack Van Wye	Present
Commissioners	Vic Viarengo	Excused
	Karen Daniels	Present
	Dave Puzas	Absent

Staff:

Community Development Director Sherry Bailey

Others In Attendance: Chief Pat Haynie, Town of Clarkdale.

AGENDA ITEM: CALL TO ORDER: The Chairperson called the meeting to order at 6:02 p.m.

AGENDA ITEM: ROLL CALL: The Community Development Director called roll.

NEW BUSINESS:

AGENDA ITEM: MINUTES: Consideration of the **Regular Meeting Minutes of November 16, 2010**. Vice Chairperson Van Wye motioned to approve the Regular Meeting Minutes of November 16, 2010. Commissioner Daniels seconded the motion. The motion passed unanimously.

AGENDA ITEM: REPORTS:

Chairperson's Report: None.

Staff Report: The Community Development Director stated Jodie Filardo will present the Clarkdale Sustainability Park update and talk with the Planning Commission on what they hope to accomplish at the January 28th CSP meeting the Commissioners are invited to.

AGENDA ITEM: PUBLIC COMMENT: - The public is invited to provide comments at this time on items that are not on this agenda. Action taken as a result of public comment will be limited to directing staff to study the matter, or scheduling the matter for further consideration and decision on a later agenda, as required by the Arizona Open Meeting Law. Each speaker is asked to limit his or her comments to **FIVE MINUTES**.

AGENDA ITEM: WORKSESSION: MEDICAL MARIJUANA ORDINANCE.

Staff Report by the Community Development Director:

Background:

The passage of the Medical Marijuana Act by the voters in Arizona has resulted in a need for communities to consider the appropriate zoning and requirements for Medical Marijuana Dispensaries, cultivation facilities and caregiver growing requirements. The new state law provides for reasonable zoning requirements as part of a communities approach to regulating medical marijuana.

The Arizona League and Cities and Towns has provided a model ordinance as a guide for communities. A copy of the model ordinance is attached. The Town of Clarkdale's City Council gave some general direction to staff at their last council meeting. The analysis that follows includes portions from the model ordinance, Tucson's ordinance, and ordinances from other communities and the direction from council.

Analysis

Clarkdale's zoning ordinance is a use based ordinance. Generally, the courts have held that if a use is not listed as allowed, it is not allowed in whatever zoning district is under question. In reviewing the proposed model ordinance and in discussing with council and Police Chief Haynie, the best approach for dispensary zoning would be to allow it in the CBD Central Business District with some standards from the new law itself and applied by the Town.

Section 3-9 Central Business District (CB)

A. Principal Uses Permitted: (Not requiring a use permit).

15. Medical Marijuana Dispensary in a storefront location
 - (a) Floor areas not to exceed 1,500 square feet
 - (b) The facility must have windows open to the street
 - (c) One secure entrance/exit where the purchasing area is located.
 - (d) Must be a state licensed, registered non-profit dispensary
 - (e) Located no closer than 500 feet from a public school (grades K through 12), day care, pre-school, private school or charter school.
 - (f) No use allowed on the premises.
 - (g) Approved security measures.

Section 3-11 Commercial (C)

A. Principal Uses permitted: (Not requiring a use permit).

19. Medical Marijuana Dispensary in a storefront location
 - (a) Floor areas not to exceed 1,500 square feet
 - (b) The facility must have windows open to the street
 - (c) One secure entrance/exit where the purchasing area is located.
 - (d) Must be a state licensed, registered non-profit dispensary
 - (e) Located no closer than 500 feet from a public school (grades K through 12), day care, pre-school, private school or charter school.

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- (f) No use allowed on the premises.
- (g) Approved security measures.

Section 3-15 Industrial District (I)

A. Principal Uses permitted: (Not requiring a use permit).

13. Commercial Medical Marijuana Cultivation Facility

- (a) Must be a state licensed facility associated with a licensed medical marijuana dispensary.
- (b) Must occur in an enclosed, locked facility which can only be accessed by registered Medical Marijuana Dispensary Agents associated in the registry with the non-profit medical marijuana dispensary
- (c) Must have approved electronic security measures

The state law only allows 124 medical marijuana dispensaries to receive approval from the Department of Health Services. At this time the promulgating rules associated with this new law have not been developed. The law is very specific about the length of time given to DHS before they must start issuing registration cards for all classes.

Of more concern to Clarkdale is the requirement within the law that states if a dispensary is not located within 25 miles, an individual or a caregiver can be issued a registration card that allows them to cultivate marijuana for their own use or for 5 individuals in the case of a care giver. The cultivation of 12 plants are allowed per user. The caregiver classification raises concern of the part of staff. This is essentially a commercial concern that will possibly be going on in residential districts. In all cases except for individual use, the Town will be requiring a Home Occupation business license be obtained just like any other business. When the Town's Home Occupation Standards ordinance is examined, there are a number of conditions that should be part of a conditional use permit when carried on in residential districts. Staff is proposing that caregivers apply for and go through the process of getting a Conditional Use Permit. This will require a hearing before the Planning Commission and Town Council and may allow additional conditions be applied that are specific to the individual residential site.

Section 3-1 Single Family Residential (R1)

C. Conditional Uses Permitted: (Requires a use permit).

5. Medical Marijuana Caregiver facility.

- (a) Must be licensed by the state of Arizona to cultivate medical marijuana and registered as a caregiver.
- (b) Must have approved security measures.

Section 3-2 Single Family Residential (R1A)

C. Conditional Uses Permitted: (Requires a use permit).

4. Medical Marijuana Caregiver facility.

- (a) Must be licensed by the state of Arizona to cultivate medical marijuana and registered as a caregiver.
- (b) Must have approved security measures.

Section 3-3 Single Family Residential Limited (R1L)

C. Conditional Uses Permitted: (Requires a use permit).

6. Medical Marijuana Caregiver facility.
 - (a) Must be licensed by the state of Arizona to cultivate medical marijuana and registered as a caregiver.
 - (b) Must have approved security measures.

Section 3-4 Single Family and Limited Multiple Family Residential (R2)

C. Conditional Uses Permitted: (Requires a use permit).

7. Medical Marijuana Caregiver facility.
 - (a) Must be licensed by the state of Arizona to cultivate medical marijuana and registered as a caregiver.
 - (b) Must have approved security measures.

Section 3-5 Multiple Family Residential (R3)

C. Conditional Uses Permitted: (Requires a use permit).

5. Medical Marijuana Caregiver facility.
 - (a) Must be licensed by the state of Arizona to cultivate medical marijuana and registered as a caregiver.
 - (b) Must have approved security measures.

Section 3-6 Manufactured Home Residential (R4)

C. Conditional Uses Permitted: (Requiring a use permit).

3. Medical Marijuana Caregiver facility.
 - (a) Must be licensed by the state of Arizona to cultivate medical marijuana and registered as a caregiver.
 - (b) Must have approved security measures.

Section 3-7 Manufactured Home Residential Alternate (R4A)

C. Conditional Uses Permitted: (Requiring a use permit).

3. Medical Marijuana Caregiver facility.
 - (a) Must be licensed by the state of Arizona to cultivate medical marijuana and registered as a caregiver.
 - (b) Must have approved security measures.

Section 3-8 Suburban Residential (RS3)

C. Conditional Uses Permitted: (Requires a use permit).

5. Medical Marijuana Caregiver facility.

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- (a) Must be licensed by the state of Arizona to cultivate medical marijuana and registered as a caregiver.
- (b) Must have approved security measures.

The state law is very specific concerning confidentiality as can be seen in section 36-2810. If we require a Conditional Use Permit we will have to make sure our process does not violate the confidentiality portion of the law.

Staff is including other states working ordinances or information, the ordinances from other Arizona communities, the League's Model Ordinance, a copy of the law and as analysis by the Deputy Yavapai county Attorney, Jack Fields. The general feeling staff received from council was that the voters have spoken, it is intending to facilitate medical use of marijuana for pain relief and they wanted to accommodate that use without infringing on any surrounding property owners rights. It is a very delicate balance the Town will be undertaking. Our hope is to have a public hearing on the new changes to the ordinance at the January meeting and then proceed to council with a worksession between council and the Planning Commission.

-The Commissioners discussed the following:

- DHS draft rules
- Security
- Rules for video surveillance
- Caregiver is the weakest link
- Patient vs. caregiver
- CUP (Conditional Use Permit) should be renewed annually
 - Limited to individual applicant

This being a worksession only, there were no actions taken. Staff was given direction to schedule a public hearing on the ordinance for the Planning Commission's next regular meeting.

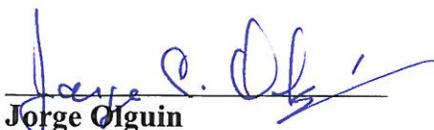
AGENDA ITEM: FUTURE AGENDA ITEMS:

-Jodi Filardo will present will present the Clarkdale Sustainability Park update and talk with the Planning Commission on what they hope to accomplish at the January 28th CSP meeting the Commissioners are invited to.

AGENDA ITEM: ADJOURNMENT:

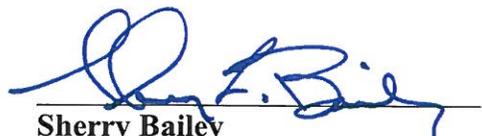
Vice Chairperson Van Wye motioned to adjourn the meeting. Commissioner Daniels seconded the motion. The motion passed unanimously. The meeting adjourned at 6:58 p.m.

APPROVED BY:



Jorge Olguin
Chairperson

SUBMITTED BY:



Sherry Bailey
Community Development Director