

Attachment C

TA-4-20: Medical Marijuana Dispensary Size Expansion - Village Planning Committee Summary Results

Village	Date	Recommendations	Vote
Maryvale	7/8/20	Approval	6-4
Encanto	7/13/20	Approval	9-0
Rio Vista	7/14/20	Approval	4-0
North Mountain	7/15/20	Approval	11-5
Deer Valley	7/16/20	Approval	6-2
Estrella	7/21/20	Approval	6-0-1
Ahwatukee Foothills	7/27/20	Approval	14-0
Alhambra	7/28/20	Approval	7-5
Paradise Valley	8/3/20	Approval	9-2
Desert View	8/4/20	Approval	7-0
Camelback East	8/4/20	Approval	18-0
Laveen	8/10/20	Approval	8-0
Central City	8/10/20	Approval	15-0
South Mountain	8/11/20	Approval	11-2
North Gateway	8/13/20	Approval	6-0

Village Planning Committee Meeting Summary Z-TA-4-20

Date of VPC Meeting	July 8, 2020
Request	Amend Sections 623.D.124.d and 627.D.92.c of the Phoenix Zoning Ordinance to increase the maximum net floor area for nonprofit medical marijuana dispensaries.
VPC Recommendation	Approval, per the staff recommendation
VPC Vote	6-4

VPC DISCUSSION & RECOMMENDED STIPULATIONS:

Mike Weber joined the meeting during this item and Zeke Valenzuela left during this item, bringing the quorum to 10.

Sarah Stockham, staff, explained that the text amendment will increase the permitted size of not-for-profit medical marijuana dispensaries from 2,000 to 5,000 square feet. The current 2,000 square foot maximum includes the retail area and all back-of-house operations such as storage, hallways, and bathrooms which leaves approximately 700 to 900 square feet for patient area. The text amendment responds to a sustained increase in the demand for medicine, will improve patient privacy, and will align the limitation with other jurisdictions and previous zoning approvals. The text amendment is being presented to all of the Village Planning Committees for recommendation and is projected to be considered by the City Council in October 2020. Staff is recommending approval of the text amendment.

Lindsay Schube, of Gammage & Burnham, representing the applicant, reiterated and expanded upon the staff presentation, highlighting the following:

Scope of amendment: The amendment is narrowly focused to expand the maximum floor area for dispensaries from 2,000 square feet to 5,000 square feet. The amendment does not modify any other restrictions on medical marijuana facilities. New facilities and those wishing to expand will require a use permit and be subject to separation requirements such as one mile from other dispensary facilities.

Response to demand: Since 2011, the number of cardholders increased from 16,000 to 245,000 which is a 1,400 percent increase. During this same time, the

number of cardholders per dispensary changed from 1 per 126 to 1 per 953 cardholders indicating the demand far exceeds the current supply.

Demand for customer privacy and retail space: The origin of the 2,000 square foot maximum was a conservative estimate of retail demands, but the estimate did not account for the sheer demand for medicine, the specificity of medical consultations, and the array of different products. Dispensaries can serve 600-700 patients per day with 50 or more patients in a dispensary at a given time.

Significant regulation: Medical marijuana dispensaries are highly regulated by the State of Arizona and by the City of Phoenix. They are the only use in the ordinance that is size restricted (except for outdoor merchandise display and outdoor garden centers) and are required to maintain a security plan on file with the city.

Ms. Schube concluded the presentation by quoting a 2018 staff report for a text amendment which highlighted how dispensaries do not produce significant public safety issues or detrimental effects. Ms. Schube then thanked the committee and invited questions.

Vice Chair Gene Derie shared that there has been a sizable number of variances to reduce the distancing requirements for dispensaries. **Ms. Schube** responded that there are requests for variances, some of which get denied and some get approved. Ms. Schube continued that the request does not change the separation requirements and that it is hard to find sites that meet the separation requirements and do not cluster dispensaries close together.

Sarah Gonzalez asked if there is an increased demand for medical marijuana in Maryvale, how the tax income from dispensaries is being reinvested in Maryvale, how does medical marijuana help health disparities for people in Maryvale, and the location of the three dispensaries in Maryvale. **Ms. Schube** responded that the data regarding an increased demand for medical marijuana is sent out by the state of Arizona and due to HIPPA, the data is aggregated at the county level. Ms. Schube continued that the Arizona Department of Health Services is working on distributing tax funds, and medical marijuana can help with seizures and it can change people's lives, and the dispensaries are located at 2175 N. 83rd Ave, 4120 W. Indian School Road and 2330 N 75th Ave, which was approved for a size increase by the Board of Adjustments.

Brandon Sirochman asked Ms. Schube to expand on how patients meet with a doctor to receive their card and shared concern with how many licenses Curaleaf, located next to Ak-Chin Pavilion has, and concern with the request to expand the retail area for dispensaries. **Ms. Schube** explained that the patients will meet with a doctor who will determine if they are eligible to receive a card, and the patient will apply for their card with the State. She explained that the doctor is not prescribing a specific product when they are evaluating if the patient is eligible to apply for a card and that there is a doctor on site in the dispensary who can meet with patients and patient consultants who can answer specific questions. Ms. Schube added it is challenging when there are a lot of people in the store at the same time and the doctor comes to the counter to help with questions. Ms. Schube shared that there are 130 licenses in the state and there are no

more available, none of the dispensaries will be able to expand automatically, and that with an increased demand there is an increase for more parking and due to the pandemic, more space to practice social distancing. Ms. Schube speculated that Curaleaf has around 14 licenses.

Viri Hernandez asked what sort of impacts the request will have especially regarding increased criminalization. **Ms. Schube** answered that most dispensaries work with communities such as the Boys and Girls Club but she does not represent the three dispensaries in Maryvale so she cannot speak to specific community engagement in Maryvale.

Chair Jeff Armor stated that engaging the dispensary owners has been difficult, and while the idea of increasing the allowable retail space may sound good now, there could be problems in the future. Chair Armor added that the privacy at pharmacies such as CVS is lacking. Chair Armor asked how many patients on average visit a dispensary per day, what the time frame is for when a patient can return to the dispensary and how factors such as traffic are considered. **Ms. Schube** answered that it is unlikely the number of licenses will go up, there is always the opportunity to apply for a text amendment to change the standards back, the request is seeking to get to at least the same level of privacy as a CVS, dispensaries see on average 400-500 people a day and there is a limit on how much you can purchase every two weeks, and that traffic impacts are considered by the Zoning Adjustment Hearing Officer when applying for a use permit.

Jeff O'Toole stated that this request is less about increasing privacy and more about stocking more product but the request to increase the retail area is rational.

Ken DuBose shared that he has seen many people from the Cancer Institute who cannot eat or sleep and can see how medical marijuana is expanding, and 2,000 square feet for any retailer isn't enough.

Alvin Battle asked what the criteria is for the on-site doctor. **Ms. Schube** explained that the doctor must have a medical degree and a valid medical license, they do not give prescriptions on site, and shared that one doctor she knows works as an ER doctor and another is a family practitioner.

Motion:

Mike Weber motioned to recommend approval per the staff recommendation. **Jeff O'Toole** seconded the motion.

Vote:

6-4, Motion to recommend approval passes with committee members Armor, Derie, Battle, DuBose, O'Toole and Weber in favor and committee members Demarest, Gonzalez, Hernandez and Sirochman opposed.

STAFF COMMENTS REGARDING VPC RECOMMENDATION & STIPULATIONS:

None.

Village Planning Committee Meeting Summary Z-TA-4-20

Date of VPC Meeting	July 13, 2020
Request	Amend Sections 623.D.124.d and 627.D.92.c of the Phoenix Zoning Ordinance to increase the maximum net floor area for nonprofit medical marijuana dispensaries.
VPC Recommendation	Approval
VPC Vote	9-0

VPC DISCUSSION & RECOMMENDED STIPULATIONS:

Rick Mahrle announced that, as an employee of Gammage and Burnham, he is declaring a conflict of interest and will be leaving the meeting until the item has been concluded.

At this time, Rick Mahrle left the meeting reducing the quorum to nine members (eight being required for a quorum).

Nick Klimek, staff, explained that the text amendment will increase the permitted size of not-for-profit medical marijuana dispensaries from 2,000 to 5,000 square feet. The current 2,000 square foot maximum includes the retail area and all back-of-house operations such as storage, hallways, and bathrooms which leaves approximately 700 to 900 square feet for patient area. The text amendment responds to a sustained increase in the demand for medicine, will improve patient privacy, and will align the limitation with other jurisdictions and previous zoning approvals. The text amendment is being presented to all of the Village Planning Committees for recommendation and is projected to be considered by the City Council in October 2020. Staff is recommending approval of the text amendment.

Stephen Anderson and Lindsay Schube, of Gammage & Burnham, introduced themselves as representing the applicant. Reiterating and expanding upon the staff presentation, they highlighted the following:

- *Scope of amendment.* The amendment is narrowly focused to expand the maximum floor area for dispensaries from 2,000 square feet to 5,000 square feet. The amendment does not modify any other restrictions on medical marijuana facilities. New facilities and those wishing to expand will require a use permit and be subject to separation requirements such as one mile from other dispensary facilities.

- *Response to demand.* Since 2011, the number of cardholders increased from 16,000 to 245,000 which is a 1,400 percent increase. During this same time, the number of cardholders per dispensary changed from 1 per 126 to 1 per 953 cardholders indicating the demand far exceeds the current supply.
- *Demand for customer privacy and retail space.* The origin of the 2,000 square foot maximum was a conservative estimate of retail demands, but the estimate did not account for the sheer demand for medicine, the specificity of medical consultations, and the array of different products. Dispensaries can serve 600-700 patients per day with 50 or more patients in a dispensary at a given time.
- *Significant regulation.* Medical marijuana dispensaries are highly regulated by the State of Arizona and by the City of Phoenix. They are the only use in the ordinance that is size restricted (except for outdoor merchandise display and outdoor garden centers) and are required to maintain a security plan on file with the city.

They concluded their presentation by quoting a 2018 staff report for a text amendment which highlighted how dispensaries do not produce significant public safety issues or detrimental effects. They then thanked the committee and invited questions.

Brent Kleinman noted the recreational marijuana ballot initiative and asked whether 5,000 square feet would be sufficient to address the increased demand. **Anderson and Schube** responded that the text amendment applies only to medical marijuana dispensaries and if the ballot initiative passes then the city will likely initiative a new text amendment to govern non-medical dispensaries.

Aaron Searles inquired regarding how facilities would be able to expand noting the site constraints at locations such as the dispensaries near Central Avenue and Thomas Road. **Anderson and Schube** responded that the text amendment does not permit expansions by right and would instead require existing facilities to modify their use permit and would require new facilities to obtain a use permit which would be subject to separation requirements. Many dispensaries are tenants rather than property owners so it is more likely that facilities will expand through relocation rather than through physical development.

Drew Bryck expressed concerns regarding the potential for cultivation operations to expand in C-1 and C-2 zones. **Anderson and Schube** responded that cultivation is only permitted in industrial zones and the text amendment does not change that.

Chairman Jake Adams asked if all dispensaries are not-for-profits. **Anderson and Schube** responded that by law all dispensaries in Arizona must have not-for-profit status.

Motion

Brent Kleinman motioned to approve per staff recommendation and **Aaron Searles** seconded.

Vote

9-0; motion passed with members Adams, Cothron, Benjamin, Bryck, Kleinman, Matthews, Procaccini, Ressler, and Searles in favor; none in dissent or abstention.

Staff comments regarding VPC Recommendation & Stipulations:

None.



Village Planning Committee Meeting Summary Z-TA-4-20

Date of VPC Meeting	July 14, 2020
Request	Amend Sections 623.D.124.d and 627.D.92.c of the Phoenix Zoning Ordinance to increase the maximum net floor area for nonprofit medical marijuana dispensaries.
VPC Recommendation	Approval, as recommended by staff.
VPC Vote	4-0

VPC DISCUSSION:

Samantha Keating provided a staff overview of the request. The text amendment would increase the permitted size of non-profit medical marijuana dispensaries from 2,000 to 5,000 square feet. The current 2,000 square foot maximum includes the retail area and all back-of-house operations such as storage, hallways, and bathrooms. Staff is recommending approval of the text amendment.

Chair Massimo Sommacampagna asked if other jurisdictions also had non-profit medical marijuana operations. **Samantha Keating** responded that it was a state requirement, but the applicant could explain further.

Lindsay Schube and **Nick Sobraske**, of Gammage & Burnham, the applicant, provided additional information regarding the request. The scope of the amendment is narrowly focused. The amendment does not modify any other restrictions on medical marijuana facilities.

Ozzie Virgil commented that he was involved at the beginning. There was to be a certain number of dispensaries for the state. He is concerned with expansion and it leading to other expansion efforts. In regard to patient privacy, vets currently have people wait in cars. Is this an option for dispensaries?

Lindsay Schube explained that pre-covid the average dispensary had a waiting room with up to 50 people. A patient was brought into a separate area for consultation and point-of-sale. The request for 5,000 square feet is still modest and an appropriate request.

Ozzie Virgil asked about the non-profit nature of the business. Is the organization a charity or privately-owned? Where is the money going? How much does the state have? **Lindsay Schube** responded that the current state laws require owners to be registered as a non-profit entity. The businesses are very capital-intensive. The

state has approximately \$50 million to disperse. **Ozzie Virgil** responded he was not happy that nothing was being done with the state money.

Vice Chair Steven Scharboneau asked if manufacturing was permitted and inquired about security. **Lindsay Schube** explained the three different medical marijuana categories in Phoenix, noting that dispensaries were only permitted to sell product. Infusion and cultivation were only permitted in industrial zoning districts. In terms of security, ADHS requires a single secure entrance into the facility. Cameras are installed and annual reports are provided to the city.

Ozzie Virgil explained that he has been involved in discussions since the first text amendment and was concerned with what was happening in Colorado. He asked how many robberies had occurred and how much revenue was brought in per year. **Lindsay Schube** answered that she was aware of three robberies but did not know about revenue.

Loyd Nygaard thanked the presenters for their information and commented they had justified their request. He was surprised with the increase in card holders and assumed further requests in the future. He asked about how the local regulations compared to other states. **Lindsay Schube** responded that Colorado allows both recreational and medical marijuana. If recreational use passes in Arizona, the city will be able to make new regulations for the use.

Ozzie Virgil commented that 5,000 square feet is quite large. He sees the industry continuing to grow and he does not want to see things get out of control.

Vice Chair Steven Scharboneau commented that he heard Committee Member Virgil's concerns but thought that the request was not extremely large. The request is evidence based and is a fair request.

Chair Massimo Sommacampagna echoed the Vice Chair's comments and added that this is one of the only retail uses with size limitations. To him, violence was not a concern.

MOTION: **Vice Chair Steven Scharboneau** made a motion to approve per the staff recommendation. The motion was seconded by **Chair Massimo Sommacampagna**.

VOTE: 4-0, with Committee Members Sommacampagna, Scharboneau, Nygaard and Virgil in favor.

Discussion: **Ozzie Virgil** commented that he has concerns regarding the request but is voting in favor because the additional size is needed now. He has concerns with driving under the influence and does not want to see a free for all.

Village Planning Committee Meeting Summary Z-TA-4-20

Date of VPC Meeting	July 15, 2020
Request	Amend Sections 623.D.124.d and 627.D.92.c of the Phoenix Zoning Ordinance to increase the maximum net floor area for nonprofit medical marijuana dispensaries.
VPC Recommendation	Approval
VPC Vote	11-5

VPC DISCUSSION & RECOMMENDED STIPULATIONS:

Nick Klimek, staff, explained that the text amendment will increase the permitted size of not-for-profit medical marijuana dispensaries from 2,000 to 5,000 square feet. The current 2,000 square foot maximum includes the retail area and all back-of-house operations such as storage, hallways, and bathrooms which leaves approximately 700 to 900 square feet for patient area. The text amendment responds to a sustained increase in the demand for medicine, will improve patient privacy, and will align the limitation with other jurisdictions and previous zoning approvals. The text amendment is being presented to all of the Village Planning Committees for recommendation and is projected to be considered by the City Council in October 2020. Staff is recommending approval of the text amendment.

Nicholas Sobraske and Lindsay Schube, of Gammage & Burnham, introduced themselves as representing the applicant. Reiterating and expanding upon the staff presentation, they highlighted the following:

- *Scope of amendment.* The amendment is narrowly focused to expand the maximum floor area for dispensaries from 2,000 square feet to 5,000 square feet. The amendment does not modify any other restrictions on medical marijuana facilities. New facilities and those wishing to expand will require a use permit and be subject to separation requirements such as one mile from other dispensary facilities.
- *Response to demand.* Since 2011, the number of cardholders increased from 16,000 to 245,000 which is a 1,400 percent increase. During this same time, the number of cardholders per dispensary changed from 1 per 126 to 1 per 953 cardholders indicating the demand far exceeds the current supply.
- *Demand for customer privacy and retail space.* The origin of the 2,000 square foot maximum was a conservative estimate of retail demands, but the estimate did not account for the sheer demand for medicine, the specificity of medical

consultations, and the array of different products. Dispensaries can serve 600-700 patients per day with 50 or more patients in a dispensary at a given time.

- *Significant regulation.* Medical marijuana dispensaries are highly regulated by the State of Arizona and by the City of Phoenix. They are the only use in the ordinance that is size restricted (except for outdoor merchandise display and outdoor garden centers) and are required to maintain a security plan on file with the city.

They concluded their presentation by quoting a 2018 staff report for a text amendment which highlighted how dispensaries do not produce significant public safety issues or detrimental effects. They then thanked the committee and invited questions.

Jason Barraza asked who is the client? **Sobraske and Schube** responded that they are not representing the Arizona Dispensary Association. They stated that several dispensaries had sought a variance for to exceed the 2,000 square foot maximum but that this is not the right approach because a variance must prove a hardship; several dispensaries are supportive of this text amendment which will resolve the matter fairly, correctly, and without requiring individual variances.

Elizabeth Perez asked if it is possible to obtain a map of all dispensaries in the North Mountain Village. **Nick Klimek** responded that the data is likely mapped because the zoning ordinance requires separation requirements but that he will need to research whether a map is available for the committee. **Sobraske and Schube** responded that the information is not readily available due to potential HPPA issues.

Nadine Alauria, citing the dispensary near Metrocenter Mall, asked what the maximum amount of medical marijuana that a cardholder can obtain daily/weekly and why all facilities seem to have armed guards if security is not an issue. **Sobraske and Schube** responded there is a maximum amount that each cardholder can obtain within any two week period. When a cardholder makes a purchase, they scan their card which brings up a history in the State of Arizona history which provides and up-to-date summary of purchases which is used to enforce maximum per person allowances. Regarding security, dispensaries are not required to have a security guard however many do use guards as a deterrent to bad decisions and to protect their valuable medicine.

Ryan O'Connor asked if they had considered 3,000 square feet because the more modest increase would better align with the size of typical retail bay configurations. **Sobraske and Schube** responded that they had explored many alternatives and had landed on 5,000 square feet as a maximum which does not preclude a dispensary from seeking a smaller size facility. Because the State of Arizona places strict requirements on the configuration such as requiring a single point of ingress, many of the operations also tend to occupy non-traditional retail space; therefore, the typical retail bay configurations are less relevant to dispensary size.

Mike Krentz stated that due to privacy issues, he feels 5,000 square feet is reasonable especially with the required security measures.

Patricia Ford noted that she is concerned with security.

Elizabeth Perez stated that she does not believe Phoenix needs to lead on this issue and will be voting no on the request.

Jason Barraza stated that he will be abstaining from voting on the request as he is a lobbyist and regularly represents clients on related matters. He is not declaring a conflict of interest because he is not aware of who the client is behind the text amendment and therefore does not know if a conflict exists.

MOTION:

Mike Krentz motioned to approve the request per staff recommendation. **Gabriel** seconded the motion.

VOTE:

11-5, motion passes with, Argiro, , Church, Ford, Jaramillo, Larson, Magallanez, Sommacampagna, Whitney, Krentz, Wiedoff, and Carrell in favor, with Alauria, Viedmark, Perez, Herrera, O'Connor in dissent, and Barraza in abstention.

Staff comments regarding VPC Recommendation & Stipulations:

None.



Village Planning Committee Meeting Summary Z-TA-4-20

Date of VPC Meeting	July 16, 2020
Request	Amend Sections 623.D.124.d and 627.D.92.c of the Phoenix Zoning Ordinance to increase the maximum net floor area for nonprofit medical marijuana dispensaries.
VPC Recommendation	Approval
VPC Vote	6-2

VPC DISCUSSION & RECOMMENDED STIPULATIONS:

Mr. David Simmons, staff, provided an overview of the request. He explained that the text amendment will increase the permitted size of not-for-profit medical marijuana dispensaries from 2,000 to 5,000 square feet. The current 2,000 square foot maximum includes the retail area and all back-of-house operations such as storage, hallways, and bathrooms which leaves approximately 700 to 900 square feet for patient area. The text amendment responds to a sustained increase in the demand for medicine, will improve patient privacy, and will align the limitation with other jurisdictions and previous zoning approvals. The text amendment is being presented to all of the Village Planning Committees for recommendation and is projected to be considered by the City Council in October 2020. Staff is recommending approval of the text amendment.

Michael Merowitz and Lindsay Shube, of Gammage & Burnham, introduced themselves as representing the applicant. Reiterating and expanding upon the staff presentation, the amendment is narrowly focused on the maximum size and is intended to respond to increased demand for medicine.

The representatives noted that the amendment is narrowly tailored to only increase the maximum size of dispensaries including that all operations and expansions will also need to secure a use permit that is subject to separation requirements. Further, dispensaries are the only businesses regulated by the City, the State, and required to maintain a security plan.

Medical marijuana was approved in Arizona in 2010 and there are currently 38 dispensaries in the Phoenix-areas. The Arizona Department of Health Services is the regulating agency and maintains records based on "Community Health

Analysis Areas” (CHAAs) which are also used for other public health statistics; geographically, the CHAAs in Phoenix are closely aligned with the Urban Villages.

The proposed size maximum is comparable to the area under-roof for a QuikTrip. Since 2011 when the regulation was passed, the number of cardholders has increased 1,400 percent, 1 dispensary for every 953 cardholders. Dispensaries can serve 600-700 patients per day with 50 or more patients in a dispensary at a given time.

In conclusion, the amendment is narrowly focused and, if approved, dispensaries will require a use permit to expand, locate, or relocate

The current maximum of 2,000 square feet cannot accommodate the increased patient volume, product offerings, nor privacy and social distancing.

Ms. Michelle Gardner asked if the increase in size includes the total floor area or the actual lot size.

Ms. Shube shared that the increase in size is for the total floor area.

Chairman Joseph Grossman asked what activities are permitted.

Ms. Shube stated that the use is limited to retail sales. Sampling the product is not permitted on the premises.

Chairman Grossman asked if an existing facility was wanting to expand, what would the process entail.

Mr. Matthew Kenney was dropped from the meeting at 6:55, bringing quorum down to 8.

Ms. Shube shared that the applicant would have to check separation requirements just like a new facility and go through the required plan review and permitting process. Also, a use permit or variance may be required as well.

Chairman Grossman asked why the need for the increase in size.

Ms. Shube shared that the primary reasoning is to provide more floor space due to COVID and to create a sense of privacy for customers when speaking to employees about medical conditions.

Chairman Grossman asked what would constitute a sensitive medical discussion.

Ms. Shube stated that in order to buy from a dispensary a consumer would need a patient card. Different product strands treat different ailments. Discussion range depending on the medical condition. She shared that reducing seizures in children was one example.

Chairman Grossman asked how many dispensaries currently exist statewide.

Ms. Shube shared that around 140 licenses have been issued by the state. The City of Phoenix has 38 licenses.

Chairman Grossman asked if the medical conversations have to do with various strands of the products.

Ms. Shube stated this was indeed the case.

Mr. Mark Lewis asked if the recreation medical marijuana initiative passed, would additional licenses be issued.

Ms. Shube shared that this will be mandated by the City of Phoenix in a different section of the code.

Mr. Bill Levy shared that he has carried his medical marijuana card for nine years. He stated that the dispensaries that he has been to are always very busy and an increase in floor area would help to alleviate the overcrowding. He stated that he is in support of this proposal.

Mr. Ozzie Virgil stated that he knows these businesses need more room. However, 5Ksquare feet seems like a lot. He isn't too keen on these businesses coming back and asking for more floor area. He stated that if this were to be granted the industry would continue to come back and ask for even more in the future.

Chairman Grossman shared that he is opposed to this request. He stated that the smells generated from these businesses are a nuisance. He shared that he has concerns.

MOTION: **Mr. Bill Levy** motioned to approve Z-TA-4-20. Committee member **Mr. Keith Greenberg** seconded the motion.

VOTE: 6-2, motion to approve passed, with Committee Members Gardner, Greenberg, Levy, Lewis, Romero and Virgil in favor. Committee members Grossman, and O'Brien in opposition.

Staff comments regarding VPC Recommendation & Stipulations:

None.

Village Planning Committee Meeting Summary Z-TA-4-20

Date of VPC Meeting	July 21, 2020
Request	Amend Sections 623.D.124.d and 627.D.92.c of the Phoenix Zoning Ordinance to increase the maximum net floor area for nonprofit medical marijuana dispensaries.
VPC Recommendation	Approval, per the staff recommendation.
VPC Vote	6-0-1

VPC DISCUSSION & RECOMMENDATION:

At 7:23pm, Mr. Cardenas recused himself and left the virtual meeting for the rest of the evening, bringing the quorum to 6 members.

Mr. Bojorquez, staff, introduced himself and provided a presentation on the proposed text amendment case. Staff recommends approval, per the Exhibit A language included in the staff report.

Ms. Lindsay Schube, with Gammage and Burnham, introduced herself as the applicant and went over a presentation regarding the proposed text amendment. She discussed the increase in floor area requested from 2,000 square feet to 5,000 square feet and the reasons for this request. She added that her original application request was to increase the floor space to 6,000 square feet, but this was amended to 5,000 square feet.

Mr. Nicholas Sobraske, with Gammage and Burnham, introduced himself and went over the current Zoning Ordinance requirements pertaining to medical marijuana facilities.

Ms. Schube provided a description of a dispensary's floor area and discussed a floor area comparison table with different uses.

Mr. Sobraske further discussed the dispensary's size and made a comparison with a Subway shop's floor area.

Ms. Schube described the need for this request as it pertains to demand and how the request would improve patient privacy. She explained an increase in medicine variety over the years and discussed a comparison table on size limitations for

medical marijuana facilities with other jurisdictions. She described the zoning requirements for medical marijuana facilities, adding that there were three dispensaries in the Estrella Village CHAA and concluded her presentation requesting a recommendation of approval.

Chairwoman Perez asked if all medical marijuana dispensaries were considered non-profit entities and who is the client that Ms. Schube is representing.

Ms. Schube responded that yes, medical marijuana dispensaries are non-profit entities. She is representing three clients who have not been disclosed and named several companies that she is not representing.

Chairwoman Perez opened the public comment portion of this agenda item, but no requests to comment from the public were submitted.

MOTION

Ms. Cartwright made a motion to approve the item per the staff recommendation.
Ms. Ademolu seconded the motion.

VOTE:

6-0-1 Motion passed; Member Cardenas abstained.

STAFF COMMENTS REGARDING VPC RECOMMENDATION:

None.



Village Planning Committee Meeting Summary

Z-TA-4-20

Date of VPC Meeting	July 27, 2020
Request	Amend Sections 623.D.124.d and 627.D.92.c of the Phoenix Zoning Ordinance to increase the maximum net floor area for nonprofit medical marijuana dispensaries.
VPC Recommendation	Approval, per the staff recommendation
VPC Vote	14-0

VPC DISCUSSION:

Mr. Bojorquez, staff, introduced himself and provided a presentation on the proposed text amendment case. Staff recommends approval, per the Exhibit A language included in the staff report.

Ms. Lindsay Schube, with Gammage and Burnham, introduced herself as the applicant and went over a presentation regarding the proposed text amendment. She discussed the increase in floor area requested from 2,000 square feet to 5,000 square feet and the reasons for this request. She added that her original application request was to increase the floor space to 6,000 square feet, but this was amended to 5,000 square feet. She also discussed the Zoning Ordinance requirements pertaining to medical marijuana facilities.

Mr. Mike Maerowitz, with Gammage and Burnham, introduced himself and provided a description of a dispensary's floor area and discussed a floor area comparison table with different uses. He explained the increase in demand for medicine over the past few years and how the request would improve patient privacy.

Ms. Schube described the increase in medicine variety over the years and discussed a comparison table on size limitations for medical marijuana facilities with other jurisdictions. She described the zoning requirements for medical marijuana facilities, adding that there is one dispensary in the Ahwatukee Foothills Village boundaries within unincorporated Maricopa County and concluded her presentation requesting a recommendation of approval.

At 7:10pm, Ms. Elena Pritchette joined the meeting, bringing the quorum to 14 members.

Mr. Michael Hinz asked on the number of medical marijuana dispensaries across the City of Phoenix and if the number of these facilities could be increased.

Mr. Maerowitz responded that there are presently 38 dispensaries across the city.

Ms. Schube added that the number of medical marijuana dispensary licenses is controlled by the State of Arizona and that there is presently a cap on licenses.

Chairman Elliott opened the public comment portion of this agenda item.

Ms. Sandy Grunow, resident and member of the Phoenix Mid-Century Modern Neighborhood Association, introduced herself and stated that she was in opposition to this text amendment request. Her opposition was due to the percentage of increased floor area while there is no concurrent increase in the protections for neighborhoods and other protected uses. She discussed the zoning ordinance separation requirements for medical marijuana facilities and the importance to enhance safety zones around neighborhoods.

MOTION

Mr. Max Masel made a motion to approve the item per the staff recommendation.
Mr. Mike Schiller seconded the motion.

VOTE:

14-0 Motion passed; no members abstained or dissented.

Village Planning Committee Meeting Summary Z-TA-4-20

Date of VPC Meeting	July 28, 2020
Request	Amend Sections 623.D.124.d and 627.D.92.c of the Phoenix Zoning Ordinance to increase the maximum net floor area for nonprofit medical marijuana dispensaries.
VPC Recommendation	Approval
VPC Vote	7-5-0

VPC DISCUSSION & RECOMMENDED STIPULATIONS:

Nick Klimek, staff, explained that the text amendment will increase the permitted size of not-for-profit medical marijuana dispensaries from 2,000 to 5,000 square feet. The current 2,000 square foot maximum includes the retail area and all back-of-house operations such as storage, hallways, and bathrooms which leaves approximately 700 to 900 square feet for patient area. The text amendment responds to a sustained increase in the demand for medicine, will improve patient privacy, and will align the limitation with other jurisdictions and previous zoning approvals. The text amendment is being presented to all of the Village Planning Committees for recommendation and is projected to be considered by the City Council in October 2020. Staff is recommending approval of the text amendment.

Applicant Presentation

Nicholas Sobraske and Lindsay Schube, of Gammage & Burnham, introduced themselves as representing the applicant. Reiterating and expanding upon the staff presentation, they highlighted the following:

- *Scope of amendment.* The amendment is narrowly focused to expand the maximum floor area for dispensaries from 2,000 square feet to 5,000 square feet. The amendment does not modify any other restrictions on medical marijuana facilities. New facilities and those wishing to expand will require a use permit and be subject to separation requirements such as one mile from other dispensary facilities.
- *Response to demand.* Since 2011, the number of cardholders increased from 16,000 to 245,000 which is a 1,400 percent increase. During this same time, the number of cardholders per dispensary changed from 1 per 126 to 1 per 953 cardholders indicating the demand far exceeds the current supply.
- *Demand for customer privacy and retail space.* The origin of the 2,000 square foot maximum was a conservative estimate of retail demands, but the estimate

did not account for the sheer demand for medicine, the specificity of medical consultations, and the array of different products. Dispensaries can serve 600-700 patients per day with 50 or more patients in a dispensary at a given time.

- **Significant regulation.** Medical marijuana dispensaries are highly regulated by the State of Arizona and by the City of Phoenix. They are the only use in the ordinance that is size restricted (except for outdoor merchandise display and outdoor garden centers) and are required to maintain a security plan on file with the city.

They concluded their presentation by quoting a 2018 staff report for a text amendment which highlighted how dispensaries do not produce significant public safety issues or detrimental effects. They then thanked the committee and invited questions.

Questions from the Committee

Tracey Adams inquired regarding the source and validity of the statistics cited in the applicant presentations, expressed skepticism regarding the argument regarding patient privacy as rationale for the request, and cited a Colorado Study which identified marijuana dispensaries as increasing crime up to 17 percent.

- **Schube and Sobraske** responded that the statistics come from their three clients and explained the operational characteristics of a dispensary wherein an individual is issued a medical marijuana card from a physician and then can access a dispensary where obtain a medicinal product with the assistance of an advisor. Unlike a Walgreens, a patient is not given a prescription for a specific product but is instead granted access to dispensaries where they can seek guidance from an advisor. They noted the existence of the Colorado study, however, Arizona did not see the same trend, likely due to the stringent oversight, reinforced by the findings of city staff and local law enforcement which indicates that crime actually decreased due to the numbers of camera.

Keith Ender asked who is requesting the text amendment and whether the sales volume justify the need for the expansions. In traditional businesses, such as CVS, all expansions are justified by studies that examine sales volume and market trends.

- **Schube and Sobraske** responded that they are not disclosing their clients but that the city has seen projects requesting variances to justify expansions but that a text amendment is the appropriate way to examine the issue fairly across the industry within the City of Phoenix. Regarding whether a thorough-analysis has been completed in the same way it would be conducted by the likes CVS, they noted that the industry is comprised mostly of local businesses and is therefore does not have such a corporate culture; however, the rapid increase in the number of cardholders of 1600% compared to the relatively stable number of dispensaries demonstrates strong and sustained demand.

Keith Ender asked if the industry is cash-only and whether it is possible to increase separation distances required by the ordinance.

- **Schube and Sobraske** responded that while the industry was mostly cash due to a variety of reasons, many operations accept alternative platforms such as Venmo and that many have relationships with lending institutions. Regarding changing separation distances, the Phoenix Zoning Ordinance is already very

stringent with regard to separation requirements restricting the placement of facilities from like-facilities, from churches, schools, and residential areas.

Jonathan Ammon opined on the potential impact of the Board of Adjustment, a quasi-judicial body, approving expansions for certain facilities without being able to demonstrate a hardship or unique condition. He asked whether there would be a precedent for allowing expansions if this text amendment were to fail.

- **Schube and Sobraske** responded that the correct way of handling the issue is through a text amendment and that staff would have likely initiated the request if they had sufficient time. If the text amendment fails, they anticipate that individual operators will begin initiating variance requests.
- **Jonathan Ammon** noted that the Board of Adjustment is quasi-judicial which means they must look at the precedent of past decisions. He reinforced that the City should be a welcoming and predictable place for investment and development and that this is an opportunity for the Village Planning Committee to support a streamlined process and efficient government

Public Comments

Mary Crozier introduced herself as a member of the North Central Phoenix Neighborhood Association and stated that there are three dispensaries within walking or bicycling of her neighborhood and that she is concerned with issues such as crime, negative impacts on the areas, and parking. Tempe recently increased the maximum size of dispensaries but, with the increase also increased the separation requirements; Chandler and Scottsdale have not followed suit. She asked why it is reasonable to increase the size of a detrimental use that stresses neighborhoods, schools, and churches.

John Hathaway introduced himself as a statistician and stated that it is ridiculous to evaluate this request as case with all benefit and no risk; the associated risk is documented by the Colorado study and acknowledged by the industry which requires security cameras and often places security guards on patrol outside facilities. The increased risk, acknowledged by the above points, should come with measures to mitigate the increased risk inherent with the size increase in pursuit of homeostasis.

Mary Mulligan agreed with the comments made by John Hathaway and noted that she is confused by the applicant's insinuation that there is no risk associated with these operations. Further, she does not appreciate the threat that if the text amendment fails that the Board of Adjustment will be forced to approve all variances. If approved, the increased size should come with increased separation distances.

Sandy Grunow stated that the request is to increase the maximum size by 250 percent and that the separation distances should be increased proportionately. The presence of cameras and security guards and the existence of regulating provisions such as separation distances acknowledge the inherent risks in a dispensary use. The required separation distances provide a safety zone from schools and neighborhoods so individuals will be safe when the bullets start flying.

Applicant Response

Lindsay Schube addressed the committee to respond to the public comments.

- Regarding crime and negative impacts, all dispensaries are required to renew their use permits annually including a review of crime incident reports; law enforcement agencies in the region have reported that it is very rare for these uses to increase crime and often crime actually decreases due to the additional police presence.
- Regarding separation requirements, the City of Phoenix currently has very stringent separation requirements and the communities referenced that increased size and separation in the same text amendment likely did so to bring their requirements closer to that already required by Phoenix.
- Regarding comments about the industry being cash-only, most dispensaries accept alternatives to cash such as Venmo and most operators now have relationships with lenders.

At this time, Tanairi Ochoa-Martinez left the meeting dropping the quorum to 12 members.

Floor Closed: Discussion, Motion, and Vote

MOTION:

Jonathan Ammon motioned to approve the request per the staff recommendation. **Christian Solorio** seconded the motion.

DISCUSSION:

Hal Becker asked how many times a cardholder can visit a dispensary per week.

Lindsay Schube responded that there is a maximum allowance that a cardholder can purchase in a rolling two week period and that some patients visit multiple times every two weeks for a fresher product.

Jak Keyser noted that the separation requirement is lower for neighborhoods because most commercial zoned parcels are surrounded by residential zones and it is illegal to zone-out a particular use. The increased size will bring the use into consistency with some similar uses such as liquor stores and compounding pharmacies which offer additional retail in addition to the pharmacy area.

VOTE: 7-5-0, motion passes with members LeBlanc, Solorio, Ammon, Krietor, Keyser, Sanchez, and Shore in favor; D. Smith, Fitzgerald, Ender, Becker, T. Smith in dissent; and none in abstention.

Staff comments regarding VPC Recommendation & Stipulations:

None.



Village Planning Committee Meeting Summary

Z-TA-4-20

Date of VPC Meeting	August 3, 2020
Request	Amend Sections 623.D.124.d and 627.D.92.c of the Phoenix Zoning Ordinance to increase the maximum net floor area for nonprofit medical marijuana dispensaries.
VPC Recommendation	Approval
VPC Vote	9-2

VPC DISCUSSION & RECOMMENDED STIPULATIONS:

3 speaker cards were submitted in opposition, wishing to speak

Mr. David Simmons, staff, provided an overview of the request. He explained that the text amendment will increase the permitted size of not-for-profit medical marijuana dispensaries from 2,000 to 5,000 square feet. The current 2,000 square foot maximum includes the retail area and all back-of-house operations such as storage, hallways, and bathrooms which leaves approximately 700 to 900 square feet for patient area. The text amendment responds to a sustained increase in the demand for medicine, will improve patient privacy, and will align the limitation with other jurisdictions and previous zoning approvals. The text amendment is being presented to all of the Village Planning Committees for recommendation and is projected to be considered by the City Council in October 2020. Staff is recommending approval of the text amendment.

Mr. Robert Goodhue asked why the use was limited to 2,000 square feet initially.

Mr. Simmons stated that he did not know the exact reasoning behind the floor area restrictions and will have to look into this.

Mr. Goodhue shared that he thinks the floor area restriction was put into place as a discouragement.

Mr. Alex Popovic stated that this industry is not going anywhere. He shared that he is not opposed to the request to increase floor area.

Chairwoman Jennifer Hall asked staff how many variances have been granted requesting an increase in floor area.

Mr. Simmons stated that he did not know the exact number but would look into this.

Michael Merowitz and Lindsay Shube, of Gammage & Burnham, introduced themselves as representing the applicant. Reiterating and expanding upon the staff presentation, the amendment is narrowly focused on the maximum size and is intended to respond to increased demand for medicine. They shared that two variances have been granted to increase floor area.

The representatives noted that the amendment is narrowly tailored to only increase the maximum size of dispensaries including that all operations and expansions will also need to secure a use permit that is subject to separation requirements. Further, dispensaries are the only businesses regulated by the City, the State, and required to maintain a security plan.

Medical marijuana was approved in Arizona in 2010 and there are currently 38 dispensaries in the Phoenix-area. The Arizona Department of Health Services is the regulating agency and maintains records based on "Community Health Analysis Areas" (CHAAs) which are also used for other public health statistics; geographically, the CHAAs in Phoenix are closely aligned with the urban villages.

The proposed size maximum is comparable to the area under-roof for a QuikTrip. Since 2011 when the regulation was passed, the number of cardholders has increased 1,400 percent, one dispensary for every 953 cardholders. Dispensaries can serve 600-700 patients per day with 50 or more patients in a dispensary at a given time.

In conclusion, the amendment is narrowly focused and, if approved, dispensaries will require a use permit to expand, locate, or relocate.

The current maximum of 2,000 square feet cannot accommodate the increased patient volume, product offerings, nor privacy and social distancing.

Mr. Robert Goodhue stated that the applicant can't compare this use to a Walgreens or CVS. He shared that the current code requirements of 2,000 square feet of floor area is sufficient for a use such as this, therefore, there is no need for a change to the code.

Public Comment:

Mr. John Hathaway stated that when a business proposes something like this a cost benefit analysis should be conducted highlighting cost and benefits to surrounding neighbors. He has concerns about an increase in crime and an increase in traffic volumes. He shared that most medical marijuana businesses have armed guards. He also stated that the applicant failed to mention

separation requirements. He shared that he is not in favor and asked that the applicant come back with a cost benefit analysis.

Ms. Mary Mulligan shared that she agrees with Mr. Goodhue in regard to comparing this use to other retail uses like Walgreens, etc. She also stated that the applicant has consistently failed to mention separation requirements for medical marijuana facilities.

Ms. Sandy Grunow asked why separation requirements are not included in the amendment language. She went over existing separation requirements in the code. She voiced concerns about increases in crime. She also mentioned that other cities have increased separation requirements with the increase in size requests. She asked Ms. Shube to reveal who she is representing. She stated that she is opposed to this request.

Applicants Response:

Ms. Lindsay Schube shared crime statistics and crime calls to the police departments in various municipalities. She highlighted the City of Tempe's crime statistics that revealed that medical marijuana facilities have a much lower crime rate than other types of retail businesses. She highlighted that the lower crime rates probably are a result of having security guards located at the medical marijuana facilities because they are a deterrent. She also shared that this application was submitted prior to the COVID epidemic and the request is not taking advantage of a global pandemic in order to gain square footage.

Mr. Michael Merowitz explained that just because the square footage of a building is increased for this specific use does not mean the separation requirements are changing. He iterated that separation requirements stay the same. He shared that if an existing medical marijuana facility wants to expand their tenant space beyond what is currently required, upon the approval of this request, then the business will have to request yet another use permit and meet separation requirements. This request, by no means, is meant to adjust separation requirements for medical marijuana establishments.

Ms. Sandy Grunow stated that the Federal Government views marijuana as an illegal drug so customers can't use their credit/debit cards if they are with a Federally insured bank. Therefore, these businesses deal in a large amount of cash, which makes them more susceptible to crime.

Mr. Schube shared that medical marijuana businesses do accept credit and debit cards from Federally insured banks.

Mr. Alex Popovic stated they the applicant is not requesting a use that is not already allowed by code.

Mr. Joe Lesher stated that medical marijuana has a stigma to it to some in the community. However, it is not the committee's responsibility to judge marijuana. He stated that he is in support of the request.

Mr. Bob Enright shared that he has worked with four medical marijuana businesses and they do need larger cash handling rooms that can accommodate accountant employees. However, many of these types of businesses are moving to delivery service so there may not be a need to increase the floor areas. For this reason, he is not in support of the request.

Mr. Robert Goodhue stated that the existing code requirement of 2,000 square feet is adequate for this type of use and that a larger floor area is an old way of looking at things in a post COVID world.

Chairwoman Jennifer Hall shared that she deals with medical marijuana facilities as part of her profession. She stated that it is hard for operators of these businesses to find locations limited to 2,000 square feet coupled with separation requirements. She believes that current regulations are too restrictive. She shared that crime does not increase with these types of businesses. She is in support of the request.

MOTION:

Mr. Alex Popovic made a motion to recommend approval of Text Amendment Case No. Z-TA-4-20 per the staff recommendation.

Mr. Alan Sparks seconded the motion.

VOTE:

9-2 with committee members Hall, Belous, Cantor, Leshner, Popovic, Severs, Sparks, Stewart and Ulibarri in favor. Committee members Enright and Goodhue opposed.

Staff comments regarding VPC Recommendation & Stipulations:

None.

Village Planning Committee Meeting Summary Z-TA-4-20

Date of VPC Meeting	August 4, 2020
Request	Amend Sections 623.D.124.d and 627.D.92.c of the Phoenix Zoning Ordinance to increase the maximum net floor area for nonprofit medical marijuana dispensaries.
VPC Recommendation	Approval
VPC Vote	7-0

VPC DISCUSSION & RECOMMENDED STIPULATIONS:

Kristi Trisko, staff, explained that the text amendment will increase the permitted size of not-for-profit medical marijuana dispensaries from 2,000 to 5,000 square feet. The current 2,000 square foot maximum includes the retail area and all back-of-house operations such as storage, hallways, and bathrooms which leaves approximately 700 to 900 square feet for patient area. The text amendment responds to a sustained increase in the demand for medicine, will improve patient privacy, and will align the limitation with other jurisdictions and previous zoning approvals. The text amendment is being presented to all of the Village Planning Committees for recommendation and is projected to be considered by the City Council in October 2020. Staff is recommending approval of the text amendment. There were no Commission questions of staff.

Michael Maerowitz and Nicholas Sobraske, of Gammage & Burnham, introduced themselves as representing the applicant. Reiterating and expanding upon the staff presentation, they highlighted the following:

- *Scope of amendment.* The amendment is narrowly focused to expand the maximum floor area for dispensaries from 2,000 square feet to 5,000 square feet. The amendment does not modify any other restrictions on medical marijuana facilities. New facilities and those wishing to expand will require a use permit and be subject to separation requirements such as one mile from other dispensary facilities.
- *Response to demand.* Since 2011, the number of cardholders increased from 16,000 to 245,000 which is a 1,400 percent increase. During this same time, the number of cardholders per dispensary changed from 1 per 126 to 1 per 953 cardholders indicating the demand far exceeds the current supply.
- *Demand for customer privacy and retail space.* The origin of the 2,000 square foot maximum was a conservative estimate of retail demands, but the estimate did not account for the sheer demand for medicine, the specificity of medical

consultations, and the array of different products. Dispensaries can serve 600-700 patients per day with 50 or more patients in a dispensary at a given time.

- *Significant regulation.* Medical marijuana dispensaries are highly regulated by the State of Arizona and by the City of Phoenix. They are the only use in the ordinance that is size restricted (except for outdoor merchandise display and outdoor garden centers) and are required to maintain a security plan on file with the city.

They concluded their presentation by quoting a 2018 staff report for a text amendment which highlighted how dispensaries do not produce significant public safety issues or detrimental effects. They then thanked the committee and invited questions.

Discussion:

Rick Nowell asked what the background was for the previous dispensary cases and if they might also have been to make those requests more consistent with other jurisdictions.

Michael Maerowitz was not aware of the details of these cases.

Nicholas Sobraske shared that the cases were both requesting a variance to obtain a larger building.

Rick Nowell asked if the other jurisdictions listed in the presentation have a working dispensary ordinance.

Michael Maerowitz shared that all the jurisdictions, shown in the presentation, have ordinances.

Steve Bowser asked if all dispensary uses that request a permit or an expansion need to go through a public process and if there are limitations on dispensaries state-wide?

Michael Maerowitz stated, yes, all other jurisdictions shown in the presentation, have ordinances and yes, the state Health Services runs the licensing program for dispensaries and the cap for total state licenses is around 150 for the entire state.

Rick Powell asked if the Governor had closed down dispensaries during the Covid 19 crisis.

Michael Maerowitz shared that dispensaries are considered an emergency service but have had to manage with the same health protocols that we have encountered in all other health businesses state-wide.

Jill Hankins asked if dispensaries must be in standalone buildings or if they can be part of a suite of businesses.

Michael Maerowitz shared that dispensaries need to be in an enclosed building. No other regulations are listed.

Steve Bowser wanted to confirm that dispensary uses are not allowed in C-1.

Michael Maerowitz stated that they are not allowed in C-1.

Rick Nowell asked what percentage of dispensaries are located in standalone buildings are in a suite.

Michael Maerowitz stated that he did not know.

Public Comment:

John Hathaway shared that the maximum size of a dispensary is one of many issues that should be reviewed. He is not opposed to increasing the size of dispensaries, but his recommendation would be to deny the application at hand and ask staff to research the entire ordinance and then make all necessary changes in one edit.

Sandy Grunow shared via a statement read by Mary Mulligan that the expansion of dispensaries is growing by 150 percent and that the distancing of neighboring uses should be proportionate. She recommended that the expansion be denied until other edits to the ordinance can be accommodated.

Michael Maerowitz responded to the resident's comments by stating that all dispensaries require an annual status report which helps assure neighbors on a yearly basis that there are no concerns.

Lou Lagrave shared that dispensaries were looked at in 2010 and that he didn't feel like we needed to research the entire ordinance at this time.

Motion

Louis Lagrave motioned to approve per staff recommendation and **Rick Nowell** seconded.

Vote

7-0; motion passed with members Dickson, Hankins, Nowell, Powell, Younger, Lagrave, and Bowser in favor; none in dissent or abstention.

Staff comments regarding VPC Recommendation & Stipulations:

None.

Village Planning Committee Meeting Summary Z-TA-4-20

Date of VPC Meeting	August 4, 2020
Request	Amend Sections 623.D.124.d and 627.D.92.c of the Phoenix Zoning Ordinance to increase the maximum net floor area for nonprofit medical marijuana dispensaries.
VPC Recommendation	Approval, per the staff recommendation
VPC Vote	18-0

VPC DISCUSSION & RECOMMENDED STIPULATIONS:

Ms. Sofia Mastikhina, staff, provided an overview of the request. She explained that the text amendment will increase the permitted size of not-for-profit medical marijuana dispensaries from 2,000 to 5,000 square feet. The current 2,000 square foot maximum includes the retail area and all back-of-house operations such as storage, hallways, and bathrooms which leaves approximately 700 to 900 square feet for patient area. The text amendment responds to a sustained increase in the demand for medicine, will improve patient privacy, and will align the limitation with other jurisdictions and previous zoning approvals. The text amendment is being presented to all Village Planning Committees for recommendation and is projected to be considered by the City Council in October 2020. Staff is recommending approval of the text amendment, per Exhibit A of the staff report.

Ms. Lindsay Schube and **Mr. Stephen Anderson** introduced themselves as the applicants' representatives. **Mr. Anderson** reiterated and expanded upon staff's presentation, stating that this text amendment is a direct response to the increased demand for medical marijuana, it will improve patient privacy so that patients can be spaced out from each other when discussing their medical needs, and it will better align the City of Phoenix's size limitation with what is permitted in other local jurisdictions. He stressed that no other changes are proposed to the use, separation, or operation requirements of medical marijuana dispensaries. He provided an overview of the existing regulations regarding medical marijuana in the City of Phoenix, explaining that dispensaries were added as a permitted use into the Zoning Ordinance in 2010, they are only permitted in the C-2, C-3, A-1 and A-2 zoning districts, they are always required to obtain a Use Permit through the hearing process, and they are the only use in the Zoning Ordinance that is size restricted. He then noted that the current 2,000-square-foot size limitation includes all under-roof floor area, which includes ancillary spaces such as storage rooms, bathrooms, hallways, and so on. Even with an efficient

floor plan, this leaves 700-900 square feet for the patient consultant area. He added that the COVID-19 pandemic has changed how medical marijuana dispensaries operate. He explained that, to follow social distancing guidelines, the dispensaries can't admit as many cardholders into their store, and individuals have been required to line up outside of the dispensaries, which is another reason to allow for a larger square footage.

Ms. Schube compared the floor area sizes of typical retail stores, which range from a 1,200-square-foot Subway restaurant to a 180,000-square-foot Walmart Supercenter, to illustrate the need for more floor area in dispensaries to allow for ample spacing between patients. She reiterated that there has been a significant increase in demand for medical marijuana dispensaries. Since 2011, the first year of the medical marijuana program, there has been an increase of over 1,400 percent of medical marijuana card holders, yet the 2,000-square-foot size limitation for dispensaries has remained the same. Phoenix dispensaries are unable to effectively treat such an increase in demand with the current size limitations. She then presented an overview of the size limitations in other jurisdictions in Arizona, noting that many of them do not have a maximum size limitation at all, and reminded the committee that the text amendment proposes a 5,000-square-foot maximum, which is similar to the City of Tempe's regulations. She then explained to the committee that this text amendment will not result in all dispensaries in Phoenix automatically increasing in size. As each dispensary was required to obtain a Use Permit to operate, they are also bound to a specific legal description that outlines the boundaries of their floor areas so, to increase the floor area, they will be required to obtain a new Use Permit and go through a public hearing process. She concluded the presentation by stating that staff's recommendation for this text amendment is for approval, and that all the Village Planning Committees that have heard this request so far have approved it.

Ms. Barry Paceley asked what percentage within a dispensary is general retail, and what percentage is akin to a pharmacy. **Ms. Schube** replied that there are 38 dispensaries in Phoenix, and they function similarly to a hybrid between a doctor's office and a pharmacy. Prior to entering a dispensary, individuals must show that they have a patient card. Once inside, they wait in a lobby until they are called into the main area of the store to be assisted by a patient consultant. Instead of filling a prescription for a specific type of medication, as one would at a pharmacy, cardholders have a certain amount of product that they are allowed to purchase every two weeks. The patient consultant helps them determine which products are best for them, as there are many different forms of medical marijuana available. **Mr. Paceley** asked if a cardholder can go to multiple dispensaries in one day and purchase more than the permitted amount of that two-week period. **Ms. Schube** explained that every dispensary is connected to the Arizona Department of Health Services database, where every cardholders' purchases are inputted and tracked, so any dispensary would be able to see if a cardholder has already reached their permitted limit. **Mr. Paceley** asked if the 1,400 percent increase in number of medical marijuana cardholders was for the city of Phoenix or the entire state. **Ms. Schube** replied that it is for the entire state, and that, due to patient privacy rights, she does not know how many of those are located within the city of Phoenix.

Mr. Greg Abbott asked if the proposed 5,000 square feet includes all under-roof square footage or if it is a net value. **Mr. Anderson** replied yes, it includes all the space within a dispensary, including hallways, bathrooms, mechanical rooms, and storage areas, in addition to the sales floor.

Public Comment

Mr. Wally Gram expressed his opposition to the arbitrary expansion of dispensaries. He explained that there is not enough data to support such a request, and that Phoenix should not pass a new regulation simply to be more aligned with other jurisdictions. He then asked who the Gammage & Burnham attorneys are representing in this case.

Ms. Sandy Grunow, with the Phoenix Midcentury Modern Neighborhood Association, asked why the text amendment does not include an expansion of the distancing requirements as well as the floor area. She explained that medical marijuana dispensaries are required to have an armed security guard at their doors, while places such as banks do not, and that criminals target places with cash sales. A larger distance between dispensaries and schools, places of worship, or residential areas, would ensure a larger distance from stray bullets and criminal activities. She urged the Committee to vote against this proposal.

Mr. John Hathaway expressed his concern with taking a piece-meal approach to updating the city's regulations regarding medical marijuana dispensaries. He explained that the permitted size of a dispensary is only one small part of a host of other regulations, and that he would rather see the city take a holistic approach to update all the standards and regulations at once rather than tackling each regulation individually over a series of separate text amendments.

Ms. Schube addressed the concerns voiced by the members of the public present. In regard to this being an arbitrary request, she stated that there are, in fact, numbers to support this proposed expansion, as the number of medical marijuana cardholders has grown significantly over the years and the current 2,000 square-foot spaces simply aren't enough to support this increase in patients. She then addressed the concern over criminal activity, explaining that part of the regulatory process for medical marijuana dispensaries includes an annual review of all police and security activity, which typically include false alarms and lost personal belongings, and not violent or criminal activities. As this has been proven to be a safe type of business, they did not deem it necessary to adjust the spacing requirements in the request. She then explained that the city of Phoenix created a comprehensive medical marijuana ordinance in 2010, which addressed all the regulatory standards for all types of medical marijuana facilities at once. Since then, as demands have changed, amendments have been made to this ordinance, and will continue to be made, much like with any other regulation in a city ordinance. Finally, she stated that her firm is representing three dispensaries that are located in the city of Phoenix, but that they have not yet disclosed who they are during this process. She assured that they are not representing the Arizona Dispensary Association or the Marijuana Industry Trade Association.

MOTION:

Vice Chair William Fischbach made a motion to approve per the staff recommendation. **Ms. Dawn Augusta** seconded the motion.

VOTE:

18-0, Motion passes with Committee Members Swart, Fischbach, Abbott, Augusta, Beckerleg Thraen, Crawford, Eichelkraut, Garcia, Grace, McKee, Miller, Nye, O'Malley, Paceley, Rush, Scher, Sharaby and Tribken in favor.

STAFF COMMENTS REGARDING VPC RECOMMENDATION & STIPULATIONS:

Staff has no comments.



Village Planning Committee Meeting Summary Z-TA-4-20

Date of VPC Meeting	August 10, 2020
Request	Amend Sections 623.D.124.d and 627.D.92.c of the Phoenix Zoning Ordinance to increase the maximum net floor area for nonprofit medical marijuana dispensaries.
VPC Recommendation	Approval, per the staff recommendation
VPC Vote	8-0

VPC DISCUSSION & RECOMMENDED STIPULATIONS:

Ms. Sofia Mastikhina, staff, provided an overview of the request. She explained that the text amendment will increase the permitted size of not-for-profit medical marijuana dispensaries from 2,000 to 5,000 square feet. The current 2,000 square foot maximum includes the retail area and all back-of-house operations such as storage, hallways, and bathrooms which leaves approximately 700 to 900 square feet for patient area. The text amendment responds to a sustained increase in the demand for medicine, will improve patient privacy, and will align the limitation with other jurisdictions and previous zoning approvals. The text amendment is being presented to all Village Planning Committees for recommendation and is projected to be considered by the City Council in October 2020. Staff is recommending approval of the text amendment, per Exhibit A of the staff report.

Mr. Stephen Anderson and **Mr. Michael Maerowitz** introduced themselves as the applicants' representatives. **Mr. Anderson** reiterated and expanded upon staff's presentation, stating that this text amendment is a direct response to the increased demand for medical marijuana, it will improve patient privacy so that patients can be spaced out from each other when discussing their medical needs, and it will better align the City of Phoenix's size limitation with what is permitted in other local jurisdictions. He stressed that no other changes are proposed to the use, separation, or operation requirements of medical marijuana dispensaries. He provided an overview of the existing regulations regarding medical marijuana in the City of Phoenix, explaining that dispensaries were added as a permitted use into the Zoning Ordinance in 2010, they are only permitted in the C-2, C-3, A-1 and A-2 zoning districts, they are always required to obtain a Use Permit through the hearing process, and they are the only use in the Zoning Ordinance that is size restricted. He then noted that the current 2,000-square-foot size limitation includes all under-roof floor area, which includes ancillary spaces such as storage rooms, bathrooms, hallways, and so on. Even with an efficient floor plan, this leaves 700-900 square feet for the patient consultant area.

Mr. Maerowitz compared the floor area sizes of typical retail stores, which range from a 1,200-square-foot Subway restaurant to a 180,000-square-foot Walmart Supercenter, to illustrate the need for more floor area in dispensaries to allow for ample spacing between patients. He reiterated that there has been a significant increase in demand for medical marijuana dispensaries. Since 2011, the first year of the medical marijuana program, there has been an increase of over 1,400 percent of medical marijuana card holders, yet the 2,000-square-foot size limitation for dispensaries has remained the same. Phoenix dispensaries are unable to effectively treat such an increase in demand with the current size limitations. He then presented an overview of the size limitations in other jurisdictions in Arizona, noting that many of them do not have a maximum size limitation at all, and reminded the committee that the text amendment proposes a 5,000-square-foot maximum, which is similar to the City of Tempe's regulations. He also noted that the initial request was for 6,000 square feet to model what was approved in the City of Glendale, but that, after several meetings with city staff and with the City Council officer, it was determined that 5,000 square feet would be more appropriate for Phoenix. He then explained to the committee that this text amendment will not result in all dispensaries in Phoenix automatically increasing in size. As each dispensary was required to obtain a Use Permit to operate, they are also bound to a specific legal description that outlines the boundaries of their floor areas so, to increase the floor area, they will be required to obtain a new Use Permit and go through a public hearing process.

Mr. Anderson noted that the only people permitted to enter the dispensaries are cardholders and added that the COVID-19 pandemic has changed how medical marijuana dispensaries operate. He explained that, to follow social distancing guidelines, the dispensaries can't admit as many cardholders into their store, and individuals have been required to line up outside of the dispensaries, which is another reason to allow for a larger square footage. He concluded the presentation by stating that staff's recommendation for this text amendment is for approval, and that all the Village Planning Committees that have heard this request so far have approved it.

Ms. Cinthia Estela asked if the large square footage could result in more employment opportunities. **Mr. Anderson** replied that this is certainly a possibility and explained that the medical marijuana business has expanded in that there are now many ways to deliver the medicine, from edibles to tinctures. This means that each client visit potentially lasts much longer and having more dispensary agents on the floor to help cardholders would be beneficial.

Public Comment

Mr. Phil Hertel stated that this text amendment is unfair to existing medical marijuana dispensary business owners, as they will automatically be at a disadvantage if they don't have the opportunity to expand their operations.

MOTION

Ms. Jennifer Rouse made a motion to approve per the staff recommendation. **Ms. Stephanie Hurd** seconded the motion.

VOTE

8-0 Motion passed, with committee members Abegg, Estela, Flunoy, Hurd, Ortega, Rouse, Glass, and Branscomb in favor.

STAFF COMMENTS REGARDING VPC RECOMMENDATION & STIPULATIONS:

None.

Village Planning Committee Meeting Summary Z-TA-4-20

Date of VPC Meeting	August 10, 2020
Request	Amend Sections 623.D.124.d and 627.D.92.c of the Phoenix Zoning Ordinance to increase the maximum net floor area for nonprofit medical marijuana dispensaries.
VPC Recommendation	Approval, per the staff recommendation
VPC Vote	15-0

VPC DISCUSSION & RECOMMENDED STIPULATIONS:

Chris Colyer recused himself for this item, bringing quorum to 15.

Sarah Stockham, staff, explained that the text amendment will increase the permitted size of not-for-profit medical marijuana dispensaries from 2,000 to 5,000 square feet. The current 2,000 square foot maximum includes the retail area and all back-of-house operations such as storage, hallways, and bathrooms which leaves approximately 700 to 900 square feet for patient area. The text amendment responds to a sustained increase in the demand for medicine, will improve patient privacy, and will align the limitation with other jurisdictions and previous zoning approvals. The text amendment is being presented to all of the Village Planning Committees for recommendation and is projected to be considered by the City Council in October 2020. Staff is recommending approval of the text amendment.

Lindsay Schube and **Nick Sobraske**, of Gammage & Burnham, representing the applicant, reiterated and expanded upon the staff presentation, highlighting the following:

Scope of amendment: The amendment is narrowly focused to expand the maximum floor area for dispensaries from 2,000 square feet to 5,000 square feet. The amendment does not modify any other restrictions on medical marijuana facilities. New facilities and those wishing to expand will require a use permit and be subject to separation requirements such as one mile from other dispensary facilities. Ms. Schube quoted a 2018 staff report for a text amendment which highlighted how dispensaries do not produce significant public safety issues or detrimental effects

Response to demand: Since 2011, the number of cardholders increased from 16,000 to 245,000 which is a 1,400 percent increase. During this same time, the number of cardholders per dispensary changed from 1 per 126 to 1 per 953 cardholders indicating the demand far exceeds the current supply.

Demand for customer privacy and retail space: The origin of the 2,000 square foot maximum was a conservative estimate of retail demands, but the estimate did not account for the sheer demand for medicine, the specificity of medical consultations, and the array of different products. Dispensaries can serve 600-700 patients per day with 50 or more patients in a dispensary at a given time.

Ms. Schube concluded her presentation by stating that to date they had received recommendations for approval from all Villages and thanked the committee and invited questions.

Chair Rachel Frazier Johnson asked how many consultations take place at once in the retail area. Ms. Schube replied that most dispensaries have a one-on-one space for consultations and see 12-14 patients at once. She expanded that dispensaries see approximately 600-700 patients a day and have wait times up to 90 minutes to enter the facilities. She added that some dispensaries have been working on online ordering and curbside pickup.

Dana Johnson stated that dispensaries are highly regulated and asked staff about how the text amendment was assigned its number. Ms. Stockham replied that TA-3-20 was an entered as an error, so the next available number was TA-4-20.

Eva Olivas concurred with Mr. Johnson regarding the level of regulation on dispensaries and asked what reviews are done for dispensaries, does this proposal impact parking requirements, how will it be determined if a dispensary can expand, and stated that while this request will improve patient privacy, neighborhoods also want privacy. Ms. Schube responded that there is an annual review for the use permit where reports from the Police Department and Neighborhood Services Department are reviewed and notices are sent out. She continued that any expansion would impact parking requirements and will have to obtain building permit approval, and some dispensaries might not be able to expand given the requirements of the Building Code and distances to protected uses.

Sean Sweat commented that he would have preferred that this request be for no maximum similar to other jurisdictions and would be voting to recommend approval.

Public Comment:

None.

Motion:

Dana Johnson motioned to recommend approval per the staff recommendation.
Darlene Martinez seconded the motion.

Discussion:

None.

Vote:

15-0, Motion to approve passed, with Committee Members R. Johnson, Starks, Burns, Dubasik, Gaona, Johnson, Langley, Lockhart, Martinez, Olivas, Panetta, Rainey, Sonoskey, Sweat and Uss and in favor.

STAFF COMMENTS REGARDING VPC RECOMMENDATION & STIPULATIONS:

None.

Village Planning Committee Meeting Summary
Z-TA-4-20

Date of VPC Meeting	August 11, 2020
Request	Amend Sections 623.D.124.d and 627.D.92.c of the Phoenix Zoning Ordinance to increase the maximum net floor area for nonprofit medical marijuana dispensaries.
VPC Recommendation	Approve per staff recommendation
VPC Vote	11-2 Motion passes; with members Aguilar, Alvarez, Brownell, Busching, Coleman, Daniels, Holmerud, Monge Kotake, Shepard, Tunning and Trites in favor; Members Larios and Said in dissent; none in abstention.

VPC DISCUSSION & RECOMMENDED STIPULATIONS:

Mr. Bojorquez, staff, provided a presentation on the proposed text amendment case. Staff recommends approval, as presented in the staff report. He then invited the applicant to provide their presentation with the committee.

Ms. Lindsay Schube, with Gammage and Burnham, introduced herself as the applicant and went over a presentation regarding the proposed text amendment. She discussed the increase in floor area requested from 2,000 square feet to 5,000 square feet and the reasons for this request. She added that her original application request was to increase the floor space to 6,000 square feet, but this was amended to 5,000 square feet. She also discussed the Zoning Ordinance requirements pertaining to medical marijuana facilities. Lastly, she went over the 2018 text amendment pertaining to medical marijuana facilities.

Mr. Mike Maerowitz, with Gammage and Burnham, introduced himself and provided a description of a dispensary's floor area and discussed a floor area comparison table with different uses. He explained the increase in demand for medicine over the past few years and how the request would improve patient privacy. He shared a comparison table on size limitations for medical marijuana facilities with other jurisdictions. He added that Phoenix has the second highest number of medical marijuana card holders in the state and the proposed text amendment is consistent with the sizes granted in past variance applications.

Ms. Schube described the zoning requirements for medical marijuana facilities, adding that there are two dispensaries in the South Mountain Village boundaries and concluded her presentation requesting a recommendation of approval.

Ms. Kassandra Alvarez asked how the security for these facilities are selected and what type of training these companies are required to undergo.

Ms. Schube responded that a security plan is required to be approved by the City of Phoenix and the State. She added that on site security is optional for each dispensary owner and that security training is left up to each security company.

Mr. Greg Brownell stated that he is in favor of the expansion proposed and shared that in the past, the community was concerned that South Phoenix would be full of dispensaries.

Mr. Lee Coleman stated that he is unsure why a new use permit would be required in order for an existing facility to expand and discussed an existing dispensary near the river bottom.

Ms. Busching asked if there was a recent text amendment for the medical marijuana portion of the Zoning Ordinance. She also inquired on the identity of the clients who hired the applicant.

Ms. Schube responded that a text amendment had been processed a few years ago and that she is representing four clients who she convinced to undergo a text amendment process instead of processing individual variance requests.

Mr. Larios asked if there was an environmental justice assessment conducted. He added that the medical marijuana industry is predominantly white (non-minority) and he feels that keeping a smaller building size could allow for smaller enterprises to be part of the industry.

Mr. Maerowitz responded that the medical marijuana licenses were formerly issued via a Community Health Assessment Area (CHAA) system. He added that this considered the health benefits for patients.

Ms. Schube added that the state is presently not issuing any more medical marijuana dispensary licenses.

Chairwoman Trites opened and closed the public portion of the meeting and asked for further discussion from committee members. She then closed the discussion portion of the meeting and asked for a motion.

MOTION

Ms. Shepard made a motion to approve the item per the staff recommendation presented in the staff report. **Mr. Brownell** seconded the motion.

VOTE:

11-2 Motion passes; Members Larios and Said voted in dissent.

STAFF COMMENTS REGARDING VPC RECOMMENDATION & STIPULATIONS:

None.

Village Planning Committee Meeting Summary Z-TA-4-20

Date of VPC Meeting	August 13, 2020
Request	Amend Sections 623.D.124.d and 627.D.92.c of the Phoenix Zoning Ordinance to increase the maximum net floor area for nonprofit medical marijuana dispensaries.
VPC Recommendation	Approval
VPC Vote	6-0

VPC DISCUSSION & RECOMMENDED STIPULATIONS:

Kristi Trisko, staff, explained that the text amendment will increase the permitted size of not-for-profit medical marijuana dispensaries from 2,000 to 5,000 square feet. The current 2,000 square foot maximum includes the retail area and all back-of-house operations such as storage, hallways, and bathrooms which leaves approximately 700 to 900 square feet for patient area. The text amendment responds to a sustained increase in the demand for medicine, will improve patient privacy, and will align the limitation with other jurisdictions and previous zoning approvals. The text amendment is being presented to all of the Village Planning Committees for recommendation and is projected to be considered by the City Council in October 2020. Staff is recommending approval of the text amendment. There were no Commission questions of staff.

Stephen Anderson and Lindsay Schube of Gammage & Burnham introduced themselves as representing the applicant. Reiterating and expanding upon the staff presentation, they highlighted the following:

- *Scope of amendment.* The amendment is narrowly focused to expand the maximum floor area for dispensaries from 2,000 square feet to 5,000 square feet. The amendment does not modify any other restrictions on medical marijuana facilities. New facilities and those wishing to expand will require a use permit and be subject to separation requirements such as one mile from other dispensary facilities.
- *Response to demand.* Since 2011, the number of cardholders increased from 16,000 to 245,000 which is a 1,400 percent increase. During this same time, the number of cardholders per dispensary changed from 1 per 126 to 1 per 953 cardholders indicating the demand far exceeds the current supply.
- *Demand for customer privacy and retail space.* The origin of the 2,000 square foot maximum was a conservative estimate of retail demands, but the estimate

did not account for the sheer demand for medicine, the specificity of medical consultations, and the array of different products. Dispensaries can serve 600-700 patients per day with 50 or more patients in a dispensary at a given time.

- *Significant regulation.* Medical marijuana dispensaries are highly regulated by the State of Arizona and by the City of Phoenix. They are the only use in the ordinance that is size restricted (except for outdoor merchandise display and outdoor garden centers) and are required to maintain a security plan on file with the city.

Discussion:

Mr. Jason Stokes wanted to confirm that a use permit will require a hearing.

Ms. Kristi Trisko confirmed that a hearing process will be required.

Mr. Jason Stokes asked if the police had been consulted on this text amendment.

Ms. Lindsay Schube stated that a one-year status update was required by every dispensary in the city, per ordinance, and that the police have had no significant issues with any of these yearly updates.

Motion: **Committee Member Ms. Shannon Simon** moved to approve Z-TA-4-20 per staff recommendations.

Committee Member Ms. Julie Read seconded the motion.

Vote: The committee voted 6-0 to approve the motion.

Staff comments regarding VPC Recommendation & Stipulations:

None.