

New rule may open opportunities for cannabis cultivation

Written by By Holly J. Wagner Sun Correspondent
Friday, 26 May 2023 04:46



After a few months of wrangling, it appears that Gallup and builder Rick Murphy have reached an accord that would let him lease one of his buildings for marijuana cultivation.

Murphy asked to have the city's Land Development Standards amended to accommodate possible grow-op in what is presently the Cash & Carry building. That was running up against four zoning elements: the standards; a Downtown Overlay District that forbids cannabis cultivation and requires at least 50% of any business be devoted to public-facing uses ranging from entertainment to retail to food and beverage; and a requirement that cannabis growing operations be screened from public view with a wall.

Any changes to the standards or the overlay district would have to be applicable to any other structure with the same zoning, but the property's unusual location at 101 N. Third St., between State Highway 118 and the railroad tracks, actually works in Murphy's favor.

The building is in the industrial zone, which allows cannabis cultivation. It's also in the Downtown Overlay Zone, which is intended to encourage a lively downtown populated with restaurants, galleries, shops and other local businesses. Cannabis retail is allowed in the overlay zone, but cultivation is not.

Both rules are also under a code section that requires new cannabis businesses to be at least 300 feet from residential zones and a list of "protected uses" that includes day care facilities,

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schools, religious institutions, cemeteries, community or recreation centers, correctional facilities, libraries, parks and public open spaces. In this case the hangup was nearby Iglesia Hispania Pentecostal El Pueblo de Dios, a religious institution less than 300 feet away.

Following a previous suggestion from the city council, planning staff proposed reviving an old rule that eliminated the distance requirement where the cannabis business and the protected use are less than 300 feet apart, but separated by an “adequate barrier” such as an interstate highway or railroad right-of-way. The church is on the other side of the tracks from Murphy’s property.

Gallup’s Planning and Development Director C.B. Strain has previously recommended eliminating all of the protected uses except schools and day care facilities, but the council has been determined to preserve them.

“The more we whittle this down, we might as well go back to my original idea and just get rid of all the protected uses,” Strain said. “There’s got to be a line in the sand drawn at some point to say, this is our regulation. Anybody can challenge a regulation, but if it’s to the point where we are just amending it every time someone challenges it, we should just get rid of it.”

The overlay zone also has the 50% requirement, which staff finds onerous for all businesses, not just the cannabis sector. The new recommendation drops the requirement to 30% for the Downtown Overlay Zone, and the entire percentage if the underlying zoning is industrial.

Although the client that approached Murphy about a grow-op at his site has moved on, lifting the percentage requirement will let him market the property for cultivation or as a warehouse space, something he said is scarce in Gallup.

“We’re happy. It’s pretty close to what we originally proposed, maybe a little better,” Murphy said.

The screening requirement was easily dispatched after Strain pointed out that it was created when the city council anticipated allowing outdoor grow-ops, a plan it ultimately scrapped.

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“There is no place to apply it so it needs to go away,” Strain said.

Planning and Zoning commissioners support the recommendations. The panel approved them on a 5-0 vote May 9, and praised staff’s work to find solutions.

“This really does open up cannabis opportunities in a defined area. I think that’s good for the community,” Chairman Kent Wilson said.

Commissioner Keegan MacKenzie-Chavez observed that many of the properties in the immediate area are difficult to develop, and Commissioner Fran Pawlowski said, “You’ve gotta start somewhere, and this is a really good start.”

The public will have another opportunity to comment when the proposed changes go to the city council May 23.

“I think the council’s concerns have pretty much been addressed. I think everyone is generally in favor of all the changes so I don’t see any problem coming there,” Murphy said. He’s held off marketing the property until the issues are settled.

If approved, he will still have to go back to the Planning and Zoning Commission for a waiver of the 300-foot rule.

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