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PLANNING COMMISSION

TO: PLANNING COMMISSION

FROM: EVA CUTRO, PLANNING MANAGER 
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MEETING DATE: DECEMBER 6, 2023

SUBJECT: Z23-10 LAND DEVELOPMENT CODE TEXT AMENDMENT, CHAPTER I ZONING REGULATIONS, SECTION 3 BASE ZONING DISTRICTS AND USE REGULATIONS, SUBSECTION 3.4.4 COMMERCIAL DEVELOPMENT REGULATIONS; SUBSECTION 3.7.4 EMPLOYMENT DEVELOPMENT REGULATIONS; SECTION 5 ADDITIONAL USE AND SITE REGULATIONS; SUBSECTION 5.1.15 MARIJUANA FACILITIES; AND SECTION 6 ADMINISTRATIONS; SUBSECTION 6.7.2 INITIATION OF AMENDMENTS; AND 6.73 PROCEDURES, RELATED TO CLARIFYING AND TECHNICAL CHANGES, INITIATION OF AMENDMENTS, AND MARIJUANA FACILITIES.

STRATEGIC INITIATIVE: Exceptional Built Environment

The proposed text amendments will improve certain development standards and clarify how they are defined. The built environment is directly affected by the efficiency and effectiveness of the Land Development Code implementation.

RECOMMENDED MOTION

For the reasons set forth in the staff report, staff requests that Planning Commission move to recommend to the Town Council approval of Z23-10 an LDC Text

Amendment to the Town of Gilbert Land Development Code, Chapter I Zoning Regulations, Section 3 Base Zoning Districts and Use Regulations, Subsection 3.4.4 Commercial Development Regulations; Subsection 3.7.4 Employment Development Regulations; Section 5 Additional Use and Site Regulations; Subsection 5.1.15 Marijuana Facilities; and Section 6 Administrations; Subsection 6.7.2 Initiation of Amendments; and 6.7.3 Procedures, related to clarifying and technical changes, initiation of amendments, and Marijuana Facilities. The effect of the amendment will be to clarify the Code, address specific applicant concerns, and address scrivener's errors.

DISCUSSION

On a continual basis, staff seeks ways to improve the content and usefulness of the Land Development Code (LDC). This is often in response to customer needs and citizen expectations for a high quality-built environment.

In July of 2021, the Town completed a "refresh" of the LDC. The refresh modernized the LDC and introduced minor changes throughout the Code. After using the refreshed Code for two years, staff has discovered a few discrepancies, scrivener's errors, and minor cleanup items to address.

SCRIVENER’S ERRORS

Table 3.4.3.4.D.1 Development Regulations – General Commercial (GC)

The minimum required landscape area incorrectly states “45’ max”, it should say “Front”. The Table headings are also incorrect and should be 3.4.4, not 3.4.3.

3.4.4 D General Commercial (GC)

The General Commercial zoning district tends toward a mix of retail and office uses that are developed independently and may not be dependent on one another. There are a broad range of uses permitted within GC that often function as transitional in nature.

Table 3.4.3.4D.2 GC Accessory Structures

Accessory Structures (no Living Quarters)	
Construction	At the time of or after the primary structure/use
Number	Unlimited
Utilities	From primary service
Separation (ft.)	10 from any other structure/bldg.
Location	Within the building envelope or within a required side or rear building setback, but not within a required landscape area.
Height (ft.)	
Within the Building Envelop	45
Outside of the Building Envelope	20

Table 3.4.3.4.D.3 Incidental Dwelling Unit

	Facility Manager Dwelling Unit (Living Quarters)
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Table 3.4.3.4.D.1 Development Regulations – General Commercial (GC)		
Standards	GC	Additional Regulations
Maximum Size of Use or Stand-alone Building (sf.)	--	
Maximum Building Height (ft.)	45	
Building Stepback	Yes	A
Minimum Building Setback (ft.)		
Front	25	B, C
Side [Street]	20	
Side [Residential]	75	
Side [Non-residential]	20	
Rear [Residential]	75	
Rear [Non-residential]	20	
Separation between Buildings (ft.)		
Single-Story	15	
Multiple-Story	20	
Minimum Required Landscape Area (ft.)		
45’ max Front	25	B, C
Side [Street]	20	
Side [Residential]	40	
Side [Non-residential]	20	
Rear [Residential]	40	
Rear [Non-residential]	20	
Landscaping (% of net area)	15	See Landscape
Modifications to the above standards	See Planned Area Developments	
Building Setback to Parking (ft.)	See Circulation, Parking and Loading	
Off-Street Parking and Loading	See Site Regulations	
Sports Courts, Lighting, Storage, Outdoor Sale, Fences, Swimming Pools	See Site Regulations	
Land Uses	See Use Regulations	
Animals, Temporary Structures and Temporary Uses	See Supplemental Use Regulations	
Commercial Design Guidelines	See Chapter II	

Table 3.4.3.E.1 Development Regulations - Regional Commercial (RC)

The landscape % is missing, it should be 15%. The Table headings are also incorrect and should be 3.4.4, not 3.4.3.

3.4.4 E Regional Commercial (RC)

The Regional Commercial zoning district is the most intensive commercial district within the Town. Often RC development includes destination or specialty retail, offices and niche market uses. RC has the largest selection of permitted land uses of all the commercial zoning districts.

Table 3.4.34 E.2 RC Accessory Structures

Accessory Structures (no Living Quarters)	
Construction	At the time of or after the primary structure/use
Number	Unlimited
Utilities	From primary service
Location	Within the building envelope or within a required side or rear building setback, but not within a required landscape area.
Separation (ft.)	10 from any other structure/bldg.
Height (ft.)	
Within the Building Envelop	55
Outside of the Building Envelope	20

Table 3.4.34 E.3 RC Incidental Dwelling Unit

	Facility Manager Dwelling Unit (Living Quarters)
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Table 3.4.34 E.1 Development Regulations – Regional Commercial (RC)

Standards	RC	Additional Regulations
Maximum Size of Use or Stand-alone Building (sf.)	--	
Maximum Building Height (ft.)	55	
Building Stepback	Yes	A
Minimum Building Setback (ft.)		
Front	25	B, C
Side [Street]	20	
Side [Residential]	75	
Side [Non-residential]	20	
Rear [Residential]	75	
Rear [Non-residential]	20	
Separation between Buildings (ft.)		
Single-Story	15	
Multiple-Story	20	
Minimum Required Landscape Area (ft.)		
Front	25	B, C
Side [Street]	20	
Side [Residential]	40	
Side [Non-residential]	20	
Rear [Residential]	40	
Rear [Non-residential]	20	
Landscaping (% of net area)	15	See Landscape
Modifications to the above standards	See Planned Area Developments	
Building Setback to Parking (ft.)	See Circulation, Parking and Loading	
Off-Street Parking and Loading	See Site Regulations	
Sports Courts, Lighting, Storage, Outdoor Sale, Fences, Swimming Pools	See Site Regulations	
Land Uses	See Use Regulations	
Animals, Temporary Structures and Temporary Uses	See Supplemental Use Regulations	
Commercial Design Guidelines	See Chapter II	

Table 3.7.4.C.1 General Industrial Development Regulations

The front setback for the required landscape area is missing, it should be 25 feet.

Table 3.7.4.C.1 GI Development Regulations		
Standards	GI	Additional Regulations
Maximum Building Height (ft./stories)	–	
Building Stepback	No	A
Minimum Building Setback (ft.)		
Front [Arterial]	35	
Front [Collector or Local]	30	
Side [Street]	25	
Side [Residential]	100	B
Side [Commercial/Office/ Public Facility/ Institutional]	20	
Side [Employment]	0	
Rear [Residential]	100	B
Rear [Commercial/Office/ Public Facility/Institutional]	15	
Rear [Employment]	0	
Separation between Buildings (ft.)		
Single-Story	15	
Multiple Story	20	
Minimum Required Landscape Area (ft.)	25	
Front [Arterial]	<u>25</u>	C, D
Front [Collector or Local]	25	
Side [Street]	25	
Side [Residential]	30	
Side [Commercial/Office/ Public Facility/Institutional]	20	
Side [Employment]	5	
Rear [Residential]	35	
Rear [Commercial/Office/ Public Facility/Institutional]	15	
Rear [Employment]	5	
Landscaping (% of net parcel area)	–	

MARIJUANA FACILITIES

The LDC currently allows Marijuana Facilities to operate until 8:00pm.

Section 5.1.15 Marijuana Facilities – Hours of Operation

A Marijuana Facility shall have operating hours not earlier than 8:00 am and not later than 8:00 pm.

The Town currently has one Marijuana Facility operating until 8:00 pm. Chandler, Phoenix, Apache Junction, and Tempe allow hours until 10:00 pm. Mesa allows hours until 9:00 pm. Staff is recommending an amendment to permit operations until 10:00 pm. This could allow our dispensary to be more competitive with other dispensaries, satisfy the increased demand since the facility was established, and generate additional sales tax revenue.

In addition, there appears to be a scrivener’s error in the “lettering” of Section 5.1.15 of the Code. The subsections are currently lettered as “A, B, C, B, C.” This should be revised to correctly read “A, B, C, D, E.”

C. Location

Medical Marijuana Facilities shall be a minimum distance from the uses set forth in the following table, including medical marijuana facilities located in neighboring jurisdictions. Measurements shall be made in a straight line in any direction from the closest perimeter business walls. No separation is required when medical marijuana facilities are separated by a freeway.

Use or Use Classification	Separation Requirement (feet)
Another Marijuana Facility	5,280
Hospital	1,320
Day Care Center, public or private	1,000
Public or Private Park	1,000
Place of Worship	1,000
Schools, Public or Private	1,000
Residential District Boundary	1,000

BD. Hours of Operation

A Marijuana Facility shall have operating hours not earlier than 8:00 am and not later than ~~8~~10:00 pm.

GE. Security Plan Requirements

A Medical Marijuana Facility shall implement appropriate security measures to deter and prevent the theft of marijuana and medical marijuana, reasonably regulate customer access to the premises, and be in compliance with A.R.S. Title 36 Chapters 28.1 and 28.2. A sworn statement certifying a current approved security plan is on file with the State Department of Health Services shall be submitted to the Town upon request.

INITIATION OF AMENDMENTS

Currently the LDC allows Town Council, Planning Commission, and Owners to initiate amendments to zoning. However, only Planning Commission and Town Council can initiate an amendment to the text of the Zoning Code. While the language in Section 6.7.2 is accurate, it's not clear. Sections 6.7.2.C. Owner and 6.7.3 Procedures should be clarified as noted below. This would illuminate that property owners shall work through staff, Commission, and/or Council to pursue amendments.

6.7.2 Initiation of Amendments

A. ***Town Council***

The Town Council may direct the Planning Commission to initiate and analyze, conduct a hearing, and make a recommendation to the Council for an amendment to the text of the Zoning Code, a zoning ordinance, or the Official Zoning Map.

B. ***Planning Commission***

The Commission may initiate consideration of an amendment by directing the Planning Manager to prepare an amendment to the text of the Zoning Code, a zoning ordinance, or the Official Zoning Map and to schedule a hearing on the proposed amendment pursuant to the procedures set forth in this section. Following the hearing the Commission may make a recommendation to the Town Council for action.

C. ***Owner***

A property owner or an agent authorized in writing may apply for an amendment to the Official Zoning Map or a zoning ordinance governing the property. This provision does not extend to amendments of the Zoning Code.

6.7.3 Procedures

A. ***Pre-Application Review***

All applications by a property owner to amend ~~the text of the Zoning Code, a zoning ordinance, or the Official Zoning Map~~ the Official Zoning Map or a zoning ordinance governing the property shall be subject to pre-application review pursuant to the procedures set forth in Common Procedures.

PLANNING COMMISSION INPUT

On November 1, 2023, the Planning Commission initiated a LDC text amendment and conducted a citizen review to address initiation of amendments, hours of operation for marijuana facilities, and several scrivener's errors.

PUBLIC NOTIFICATION AND INPUT

A notice of hearing was advertised and published in The Arizona Republic newspaper, and an official notice was posted in four public places within the Town of Gilbert limits at Greenfield Public Library, Chamber of Commerce, Perry Public Library, and Civic Center Municipal Building II. The notification requirements of LDC Section 6.2.6 have been satisfied. Staff has received no comment from the public at this time.

STAFF RECOMMENDATION

For the reasons set forth in the staff report, staff requests that Planning Commission move to recommend to the Town Council approval of Z23-10 an LDC Text Amendment to the Town of Gilbert Land Development Code, Chapter I Zoning Regulations, Section 3 Base Zoning Districts and Use Regulations, Subsection 3.4.4 Commercial Development Regulations; Subsection 3.7.4 Employment Development Regulations; Section 5 Additional Use and Site Regulations; Subsection 5.1.15 Marijuana Facilities; and Section 6 Administrations; Subsection 6.7.2 Initiation of Amendments; and 6.7.3 Procedures, related to clarifying and technical changes, initiation of amendments, and Marijuana Facilities. The effect of the amendment will be to clarify the Code, address specific applicant concerns, and address scrivener's errors.

Respectfully submitted,

Eva Cutro

Eva Cutro, AICP
Planning Manager

Attachments and Enclosures:

- 1) Notice of Public Hearing