

Memorandum

TO: Williston Planning Commission

FROM: Ken Belliveau, AICP, Planning Director

DATE: November 19, 2012

SUBJECT: Medical Marijuana Dispensaries – Planning Commission Commentary

The town of Williston was recently asked by the Vermont League of cities and Towns (VLCT) several months ago if the town had adopted any ordinances or bylaws governing the location or operation of medical marijuana dispensaries. At that point in time, the town had not had any discussions about this topic, and thus there are no local regulations or adopted policies pertaining to them. The state statutes governing medical uses of marijuana were amended in 2011, and the subject had come up in informal discussion. In July 2012, the Selectboard asked the planning commission to discuss medical marijuana dispensaries and consider making some recommendations for the Selectboard to consider first weigh in on the subject and provide some input into the discussion.

The subject of medical marijuana dispensaries has received considerable attention in the press over the past few years, dominated by stories about the proliferation of these dispensaries in states like California and Colorado. Closer to home, the State of Massachusetts passed a referendum legalizing these dispensaries two weeks ago, and the subject has been receiving widespread attention of late.

Some background information about how medical marijuana dispensaries are regulated under state law, as considered and discussed by the planning commission is presented below.

Statutory Authority

Regulations pertaining to medical uses of marijuana in Vermont are codified within 18 V.S.A. § 4471-4474, and these regulations were most recently amended in June 2011. These state regulations specify various criteria pertaining to the licensing of dispensaries, which medical providers may prescribe medicinal uses of marijuana, as well as which types of medical conditions qualify for this type of treatment, etc. In addition, the final section of the statute also specifically enables municipalities to regulate “... *the time place and manner of dispensary operation through zoning and other local ordinances.*” (18 V.S.A. §4474l, emphasis added), including the ability to prohibit a dispensary from locating within the borders of the municipality.

The proliferation of medical marijuana dispensaries has been the subject of numerous news stories in many states across the country. Reports from states like California and Colorado have included stories

of concentrations of marijuana dispensaries in major cities along with suggestions of wide spread abuse or over prescription of marijuana for medical use.

Vermont's regulations, however, have put in place a number of restrictions or safeguards which make the type of scenario witnessed in some other states unlikely. Some of the more important provisions of Vermont's statues governing medical marijuana are as follows:

- A maximum of four dispensaries operating within the state at any one time.
- Dispensaries must be not for profit.
- A maximum of 1,000 patients with prescriptions at any one time.
- Prescribing medical care providers are limited to a single patient being prescribed marijuana for medical use.
- Registered patients may only have one prescribing provider at any one time.
- Minimum 6 months patient/provider relationship prior to prescribing marijuana.
- Limited range of qualifying disorders and conditions.
- No smoking of marijuana in most public places.
- No dispensaries allowed within 1,000 ft. of a school or child day care facility.
- Marijuana must be dispensed by appointment only.
- No consumption of marijuana on the dispensary property.
- Marijuana must be kept in a locked and secured location at all times.

Discussion

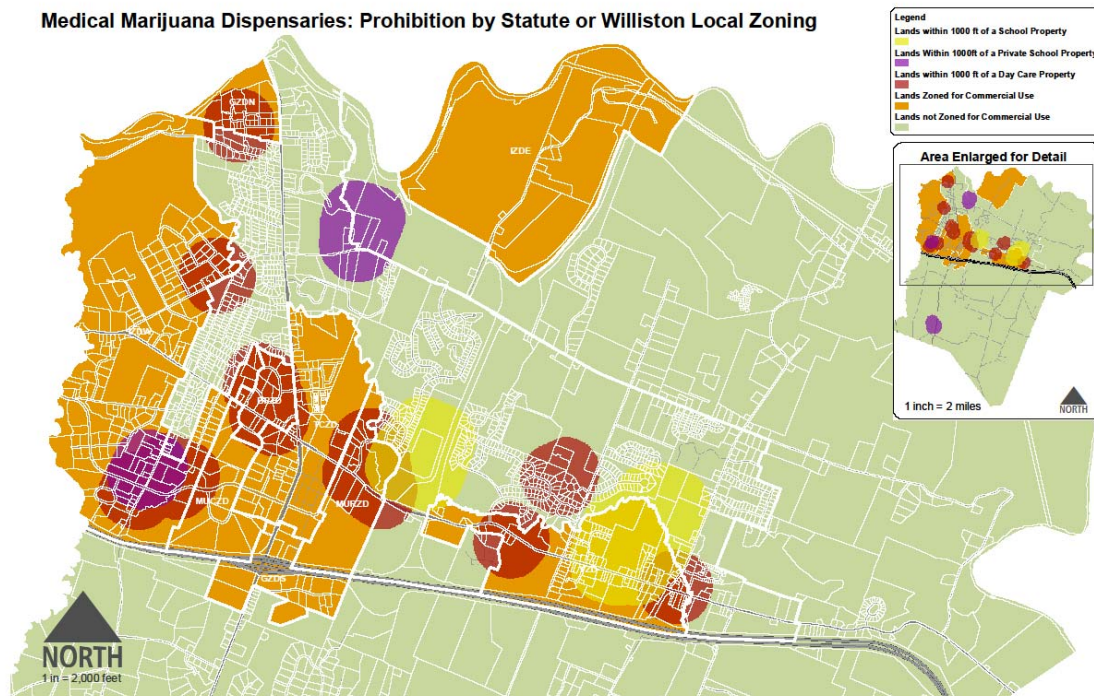
The town currently does not have any zoning regulations governing medical marijuana dispensaries. They are neither prohibited nor listed as an allowable use in any of the town's zoning districts. Uses in the town's zoning regulations are listed by NAICS codes, and there is not an NAICS code for marijuana dispensaries.

In their discussions about medical marijuana dispensaries, the planning commission considered several different policy options. These can be summarized as follows:

- **Take no action**, and let state regulators oversee the process of licensing any medical marijuana dispensaries in Williston without any town administered process or oversight.
- **Prohibit** these dispensaries from locating in Williston.

- Address the location of medical marijuana dispensaries in the town’s zoning regulations, specifying the time, place and manner of their operation; allowed zoning districts, times of operation, size of dispensaries, allowed signage, etc.

The planning commission discussed the potential merits and value of the use of marijuana for authorized medical uses. Some of the commission members felt that allowing these dispensaries should be considered, but had some concerns about where they might either be located or operated. At the same time, there was concern about ensuring that allowing these types of dispensaries did not result in encouraging illicit drug use or other types of criminal behavior. The planning commission also discussed a recent situation whereby the State of Vermont issued a license for a marijuana dispensary in Waterbury Center but refused to disclose the proposed location. Because the Town of Waterbury does not have any local regulations of these facilities, there was no mechanism available for the town to make this information known to the public. Enacting some type of local permitting requirements for marijuana dispensaries could help ensure that any dispensary proposing to be located in Williston would have its location disclosed to the general public.



The planning commission also discussed the limits on where these facilities may be located under state statute and limitations on commercial uses in general under the town’s existing zoning regulations. The planning office prepared the map displayed below which maps the location of licensed schools and day care facilities with a 1,000 foot buffer drawn around each. The pale green shaded areas are zoned for only residential uses under the town’s zoning regulations, so presumably commercial uses would not be allowed in these areas.

Ultimately, the planning commission was not able to reach a consensus on what approach the town should take, and the commission was evenly split between regulating, and thus allowing, these dispensaries under the town's zoning regulations and prohibiting them. There was also skepticism voiced by some members as to the validity of the claims of the medical benefits of marijuana use making them unwilling to recommend regulations allowing marijuana dispensaries. On the other hand, some commission members were in favor of allowing these dispensaries with a Discretionary Permit which requires a public hearing to ensure that the public would have some input into the process.

The Selectboard may still wish to consider other potential approaches the town might take, such as enacting some type of local ordinance other than zoning regulations to deal with the potential location of marijuana dispensaries within the town.