

**CITY OF BILOXI
AGENDA ITEM
FACT SHEET**

Item No.: 4 B

Council Meeting Date: May 17, 2022

ITEM TITLE: **ORDINANCE (1st Reading)**

INTRODUCED BY: **Mayor Andrew "FoFo" Gilich**

CONTACT PERSON: **E. Michael Leonard, CAO**

Jerry Creel
Jerry Creel, Director of Community Development

SUMMARY EXPLANATION:

An Ordinance to amend text within the Land Development Ordinance to introduce and define the specific use – Medical Cannabis.
Case # 22-037-PC

Resolution Ordinance _____ Public Hearing _____ Routine Agenda _____

Exhibits for Review

Contract _____ Minutes Plans/Maps _____ Deed _____ Lease _____

Other (Specify): Case Fact Sheet

Submittal Authorization: Council President _____ Mayor

STAFF RECOMMENDATION: Staff recommends approval

COUNCIL ACTION: Motion By: _____ Second By: _____

Vote:	<u>Councilmember</u>	<u>Yes</u>	<u>No</u>	<u>Other</u>	<u>Councilmember</u>	<u>Yes</u>	<u>No</u>	<u>Other</u>
	Lawrence	___	___	___	Tisdale	___	___	___
	Gines	___	___	___	Glavan	___	___	___
	Newman	___	___	___	Barrett	___	___	___
	Deming	___	___	___				

ACTION TAKEN:

ORDINANCE NO. _____

AN ORDINANCE TO AMEND TEXT WITHIN THE LAND DEVELOPMENT ORDINANCE TO INTRODUCE AND DEFINE THE SPECIFIC USE – MEDICAL CANNABIS

WHEREAS, on Thursday, May 5, 2022, the Biloxi Planning Commission conducted a public hearing in the Auditorium of the Dr. Martin Luther King, Jr., Municipal Building, 676 Dr. Martin Luther King, Jr. Boulevard, Biloxi, Mississippi, to hear Case No. 22-037-PC, a charge initiated by the Director of Community Development, to consider **Text Amendments** to the Biloxi Land Development Ordinance, specifically the addition of **Section 23-4-3(D)(8)n: Cannabis Dispensary, Cannabis Research Facility or Cannabis Testing Facility; Section 23-4-3(D)(8)o: Cannabis Cultivation Facility, Cannabis Processing Facility, Cannabis Disposal Entity or Cannabis Transportation Entity;** the addition within **Article 23-10-2: Terms and Uses Defined;** amendment of **Section 23-4-1 (B): Use Table- Residential Districts;** amendment of **Section 23-4-1 (C) Use Table: Nonresidential and Planned Development Districts** and amendment of **Table 23-4-3(D)(11): Required Minimum Spacing Between Regulated Business Uses and Protected Uses and Districts;** and

WHEREAS, the Planning Commission members, at their meeting on May 5, 2022, were apprised of the particulars of this case, being made cognizant of the fact that the purpose of the hearing was to introduce medical cannabis related uses within the City of Biloxi, succeeding the approval of The Mississippi Medical Cannabis Act in February of 2022; and

WHEREAS, after some discussion of the particulars of this case, the Biloxi Planning Commission voted to amend and approve the proposed **Text Amendments** to the **Land Development Ordinance** as follows:

Amend Article 23-10-2: Terms and Uses Defined

Cannabis

All parts of the plant of the genus cannabis, the flower, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin, including whole plant extracts. Such term shall not mean cannabis-derived drug products approved by the federal Food and Drug Administration under Section 505 of the Federal Food, Drug, and Cosmetic Act.

Medical Cannabis Dispensary

An entity licensed and registered with the MDOR (Mississippi Department of Revenue) that acquires, possesses, stores, transfers, sells, supplies or dispenses medical cannabis, equipment used for medical cannabis, or related supplies and educational materials to cardholders.

Cannabis Cultivation Facility

A business entity licensed and registered by the Mississippi Department of Health that acquires, grows, cultivates and harvests medical cannabis in an indoor, enclosed, locked and secure area.

Cannabis Disposal Entity

A business licensed and registered by the Mississippi Department of Health that is involved in the commercial disposal or destruction of medical cannabis.

Cannabis Processing Facility

A business entity that is licensed and registered by the Mississippi Department of Health that:

- (a) Acquires or intends to acquire cannabis from a cannabis cultivation facility;
- (b) Possesses cannabis with the intent to manufacture a cannabis product;
- (c) Manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and
- (d) Sells or intends to sell a cannabis product to a medical cannabis dispensary, cannabis testing facility or cannabis research facility.

Cannabis Research Facility

A research facility at any university or college in this state or an independent entity licensed and registered by the Mississippi Department of Health pursuant to this chapter that acquires cannabis from cannabis cultivation facilities and cannabis-processing facilities in order to research cannabis, develop best practices for specific medical conditions, develop medicines and provide commercial access for medical use.

Cannabis Testing Facility

An independent entity licensed and registered by the Mississippi Department of Health that analyzes the safety and potency of cannabis.

Cannabis Transportation Entity

An independent entity licensed and registered by the Mississippi Department of Health that is involved in the commercial transportation of medical cannabis.

Add Section 23-4-3(D)(8)n

n. Cannabis Dispensary, Cannabis Research Facility or Cannabis Testing Facility

Cannabis Dispensaries, Research Facilities and Testing Facilities are allowed within the NB-Neighborhood Business, CB-Community Business, RB-Regional Business and I-Industrial zonings as a permitted use and DT-Downtown and WF-Waterfront as a Conditional Use, and shall comply with the following standards:

1. Cannabis Dispensaries must have a license with the MDOR (Mississippi Department of Revenue) before submitting for a CO with the City of Biloxi.
2. Cannabis Dispensaries shall not be located within one thousand (1,000) feet of the nearest property boundary line of any school, church or childcare facility.

A medical cannabis establishment may receive a variance to this distance restriction by receiving approval from the school, church or child care facility and by applying for a variance with its respective licensing agency, provided that the main point of entry of the cannabis establishment is not located within five hundred (500) feet of the nearest property boundary line of any school, church or child care facility.

3. No medical cannabis dispensary may be located within a one-thousand-five-hundred-feet (1500') radius from the main point of entry of the dispensary to the main point of entry of another medical cannabis dispensary.
4. A medical cannabis establishment may not share office space with or refer patients to a practitioner.
5. A medical cannabis dispensary shall only make sales to cardholders inside the dispensary. A medical cannabis dispensary shall not sell or otherwise convey medical cannabis to a cardholder through the means of a drive-through, curbside delivery or other delivery outside the premises of the dispensary.
6. MDOH has been designated to regulate advertising, signage, and displays, sign permits are still required through the City of Biloxi after MDOH approval.

Add Section 23-4-3(D)(8)o

o. Cannabis Cultivation Facility, Cannabis Processing Facility, Cannabis Disposal Entity or Cannabis Transportation Entity–

Cannabis Cultivation Facilities, Cannabis Processing Facilities, Cannabis Disposal Entities, and Cannabis Transportation Entities are allowed within the A-

Agricultural, CB-Community Business, RB-Regional Business and I-Industrial zonings as a permitted use and shall comply with the following standards:

1. Cannabis Transportation entities, Cannabis Disposal entities, Cannabis Research Facilities and Cannabis Testing Facilities must have a license with the MDOH (Mississippi Department of Health) before submitting for a CO with the City of Biloxi .
2. All cultivation, harvesting, processing and packaging of medical cannabis must take place in an enclosed, locked and secure facility, and meet the City of Biloxi development standards.

Article 23-4 Use Standards

Section 23-4-1: Use Standards

Amend Section 23-4-1 (B): Use Table- Residential Districts

USE CATEGORY	SPECIFIC USE	RESIDENTIAL BASE DISTRICT											USE-SPECIFIC STANDARDS (SECTION)	
		A	AR	RE	RER	RS-10	RS-7.5	RS-5	RM-10	RM-20	RM-30	RMH		
Retail Sales and Service	<u>Cannabis Dispensary or Cannabis research facility or Cannabis testing facility</u>													<u>23-4-3(D)(8)n</u>
Agriculture	<u>Cannabis Cultivation Facility</u>	P												<u>23-4-3(D)(8)o</u>
Industrial Production and Manufacturing	<u>Cannabis Processing Facility OR Cannabis Disposal Entity</u>													<u>23-4-3(D)(8)o</u>
Transportation	<u>Cannabis Transportation Entity</u>													<u>23-4-3(D)(8)o</u>

Article 23-4 Use Standards

Section 23-4-1: Use Standards

Amend Section 23-4-1 (C) Use Table: Nonresidential and Planned Development Districts

TABLE 23-4-1(C): USE TABLE - NONRESIDENTIAL AND PLANNED DEVELOPMENT DISTRICTS																
P = PERMITTED USE C = CONDITIONAL USE																
A = ALLOWED SUBJECT TO A PLANNED DEVELOPMENT MASTER PLAN BLANK CELL = PROHIBITED USE																
USE CATEGORY	SPECIFIC USE	NONRESIDENTIAL BASE DISTRICT								PLANNED DEVELOPMENT DISTRICT					USE-SPECIFIC STANDARDS (SECTION)	
		LB	NB	CB	RB	DT	I	WF	SB	PD-GE	PD-HB	PD-C	PD-R	PD-TND		PD-H
COMMERCIAL USES																
Retail Sales and Service	<u>Cannabis Dispensary or Cannabis research facility or Cannabis testing facility</u>		P	P	P	C	P	C								<u>23-4-3(D)(8)n</u>
Agriculture	<u>Cannabis Cultivation Facility</u>			P	P		P									<u>23-4-3(D)(8)o</u>
Industrial Production and Manufacturing	<u>Cannabis Processing Facility OR Cannabis Disposal Entity</u>			P	P		P									<u>23-4-3(D)(8)o</u>
Transportation	<u>Cannabis Transportation Entity</u>			P	P		P									<u>23-4-3(D)(8)o</u>

Article 23-4: Use Standards
Section 23-4-3: Use-Specific Standards
Section 23-4-3 (D): Commercial Uses
Amend Table 23-4-3(D)(11)

TABLE 23-4-3(D)(11):REQUIRED MINIMUM SPACING ¹ BETWEEN REGULATED BUSINESS USES AND PROTECTED USES AND DISTRICTS (feet) BLANK CELL = NO SPACING REQUIRED												
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Cannabis Dispensary												1,500
Facility Frequented by 6—18 Year Olds												1,000
Place of Worship												1,000

WHEREAS, the Biloxi City Council, after careful review, hereby adopts the report and findings of the Biloxi Planning Commission, and in so doing, determines that the Text Changes proposed to the City of Biloxi Land Development Ordinance, as presented, are appropriate.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF BILOXI, MISSISSIPPI, THAT THE FOLLOWING SECTIONS OF THE

LAND DEVELOPMENT ORDINANCE BE AMENDED AS FOLLOWS:

Amend Article 23-10-2: Terms and Uses Defined

Cannabis

All parts of the plant of the genus cannabis, the flower, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin, including whole plant extracts.

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Add Section 23-4-3(D)(8)n

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Section 23-4-1: Use Standards

Amend Section 23-4-1 (B): Use Table- Residential Districts

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Retail Sales and Service	<u>Cannabis Dispensary or Cannabis research facility or Cannabis testing facility</u>		P	P	P	C	P	C								<u>23-4-3(D)(8)n</u>
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Industrial Production and Manufacturing	<u>Cannabis Processing Facility OR Cannabis Disposal Entity</u>			P	P		P									<u>23-4-3(D)(8)o</u>
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Amend Table 23-4-3(D)(11)

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Cannabis Dispensary												1,500
Facility Frequented by 6—18 Year Olds												1,000
Place of Worship												1,000

SECTION 1. All other sections of said of the Biloxi Code of Ordinances of the City of Biloxi, Mississippi, shall remain in full force and effect.

SECTION 2. This ordinance shall become effective thirty days from and after its passage and publication with law.

RESOLUTION NO. _____

RESOLUTION CALLING FOR A PUBLIC HEARING WITH RESPECT TO AN AMENDMENT TO THE **LAND DEVELOPMENT ORDINANCE** TO INTRODUCE AND DEFINE THE SPECIFIC USE – **MEDICAL CANNABIS**

WHEREAS, on Thursday, May 5, 2022, the Biloxi Planning Commission conducted a public hearing in the Auditorium of the Dr. Martin Luther King, Jr., Municipal Building, 676 Dr. Martin Luther King, Jr. Boulevard, Biloxi, Mississippi, to hear Case No. 22-037-PC, a charge initiated by the Director of Community Development, to consider **Text Amendments** to the Biloxi Land Development Ordinance, specifically the addition of **Section 23-4-3(D)(8)n: Cannabis Dispensary, Cannabis Research Facility or Cannabis Testing Facility; Section 23-4-3(D)(8)o: Cannabis Cultivation Facility, Cannabis Processing Facility, Cannabis Disposal Entity or Cannabis Transportation Entity;** the addition within **Article 23-10-2: Terms and Uses Defined;** amendment of **Section 23-4-1 (B): Use Table- Residential Districts;** amendment of **Section 23-4-1 (C) Use Table: Nonresidential and Planned Development Districts** and amendment of **Table 23-4-3(D(11): Required Minimum Spacing Between Regulated Business Uses and Protected Uses and Districts;** and

WHEREAS, the Planning Commission members, at their meeting on May 5, 2022, were apprised of the particulars of this case, being made cognizant of the fact that the purpose of the hearing was to introduce medical cannabis related uses within the City of Biloxi, succeeding the approval of The Mississippi Medical Cannabis Act in February of 2022; and

WHEREAS, after some discussion of the particulars of this case, the Biloxi Planning Commission voted to amend and approve the proposed **Text Amendments** to the **Land Development Ordinance** as follows:

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Add Section 23-4-3(D)(8)n

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Cannabis Dispensary												1,500
Facility Frequented by 6—18 Year Olds												1,000
Place of Worship												1,000

WHEREAS, the City Council of the City of Biloxi, Mississippi, having given the Planning Commission's recommendation full consideration, has determined that this is a matter of general public concern, and being so, it is in the best interest of the community to hold a public hearing on this matter before the City Council.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF BILOXI, MISSISSIPPI, THAT: the City Council will conduct a public hearing in reference to a text change as contained within Case No. 22-037-PC, City of Biloxi, on a date to be set and in accordance with all requirements as prescribed by the City of Biloxi Land Development Ordinance governing the conduct of public hearings.

.....B

RESOLUTION NO. _____

RESOLUTION TO DENY THE PROPOSED TEXT AMENDMENT WITHIN THE LAND DEVELOPMENT ORDINANCE TO INTRODUCE AND DEFINE THE SPECIFIC USE – MEDICAL CANNABIS

WHEREAS, on Thursday, May 5, 2022, the Biloxi Planning Commission conducted a public hearing in the Auditorium of the Dr. Martin Luther King, Jr., Municipal Building, 676 Dr. Martin Luther King, Jr. Boulevard, Biloxi, Mississippi, to hear Case No. 22-037-PC, a charge initiated by the Director of Community Development, to consider **Text Amendments** to the Biloxi Land Development Ordinance, specifically the addition of **Section 23-4-3(D)(8)n: Cannabis Dispensary, Cannabis Research Facility or Cannabis Testing Facility; Section 23-4-3(D)(8)o: Cannabis Cultivation Facility, Cannabis Processing Facility, Cannabis Disposal Entity or Cannabis Transportation Entity;** the addition within **Article 23-10-2: Terms and Uses Defined;** amendment of **Section 23-4-1 (B): Use Table- Residential Districts;** amendment of **Section 23-4-1 (C) Use Table: Nonresidential and Planned Development Districts** and amendment of **Table 23-4-3(D(11): Required Minimum Spacing Between Regulated Business Uses and Protected Uses and Districts;** and

WHEREAS, the Planning Commission members, at their meeting on May 5, 2022, were apprised of the particulars of this case, being made cognizant of the fact that the purpose of the hearing was to introduce medical cannabis related uses within the City of Biloxi, succeeding the approval of The Mississippi Medical Cannabis Act in February of 2022; and

WHEREAS, after some discussion of the particulars of this case, the Biloxi Planning Commission voted to amend and approve the proposed **Text Amendments** to

the **Land Development Ordinance** as follows:

Amend Article 23-10-2: Terms and Uses Defined

Cannabis

All parts of the plant of the genus cannabis, the flower, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin, including whole plant extracts.

Such term shall not mean cannabis-derived drug products approved by the federal Food and Drug Administration under Section 505 of the Federal Food, Drug, and Cosmetic Act.

Medical Cannabis Dispensary

An entity licensed and registered with the MDOR (Mississippi Department of Revenue) that acquires, possesses, stores, transfers, sells, supplies or dispenses medical cannabis, equipment used for medical cannabis, or related supplies and educational materials to cardholders.

Cannabis Cultivation Facility

A business entity licensed and registered by the Mississippi Department of Health that acquires, grows, cultivates and harvests medical cannabis in an indoor, enclosed, locked and secure area.

Cannabis Disposal Entity

A business licensed and registered by the Mississippi Department of Health that is involved in the commercial disposal or destruction of medical cannabis.

Cannabis Processing Facility

A business entity that is licensed and registered by the Mississippi Department of Health that:

- (a) Acquires or intends to acquire cannabis from a cannabis cultivation facility;
- (b) Possesses cannabis with the intent to manufacture a cannabis product;
- (c) Manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and
- (d) Sells or intends to sell a cannabis product to a medical cannabis dispensary, cannabis testing facility or cannabis research facility.

Cannabis Research Facility

A research facility at any university or college in this state or an independent entity licensed and registered by the Mississippi Department of Health pursuant to this chapter that acquires cannabis from cannabis cultivation facilities and cannabis-processing facilities in order to research cannabis, develop best practices for specific medical conditions, develop medicines and provide commercial access for medical use.

Cannabis Testing Facility

An independent entity licensed and registered by the Mississippi Department of Health that analyzes the safety and potency of cannabis.

Cannabis Transportation Entity

An independent entity licensed and registered by the Mississippi Department of Health that is involved in the commercial transportation of medical cannabis.

Add Section 23-4-3(D)(8)n

n. Cannabis Dispensary, Cannabis Research Facility or Cannabis Testing Facility

Cannabis Dispensaries, Research Facilities and Testing Facilities are allowed within the NB-Neighborhood Business, CB-Community Business, RB-Regional Business and I-Industrial zonings as a permitted use and DT-Downtown and WF-Waterfront as a Conditional Use, and shall comply with the following standards:

1. Cannabis Dispensaries must have a license with the MDOR (Mississippi Department of Revenue) before submitting for a CO with the City of Biloxi.
2. Cannabis Dispensaries shall not be located within one thousand (1,000) feet of the nearest property boundary line of any school, church or childcare facility.

A medical cannabis establishment may receive a variance to this distance restriction by receiving approval from the school, church or child care facility and by applying for a variance with its respective licensing agency, provided that the main point of entry of the cannabis establishment is not located within five hundred (500) feet of the nearest property boundary line of any school, church or child care facility.

3. No medical cannabis dispensary may be located within a one-thousand-five-hundred-feet (1500') radius from the main point of entry of the dispensary to the main point of entry of another medical cannabis dispensary.
4. A medical cannabis establishment may not share office space with or refer patients to a practitioner.
5. A medical cannabis dispensary shall only make sales to cardholders inside the dispensary. A medical cannabis dispensary shall not sell or otherwise convey medical cannabis to a cardholder through the means of a drive-through, curbside delivery or other delivery outside the premises of the dispensary.
6. MDOH has been designated to regulate advertising, signage, and displays, sign permits are still required through the City of Biloxi after MDOH approval.

Add Section 23-4-3(D)(8)o

o. Cannabis Cultivation Facility, Cannabis Processing Facility, Cannabis Disposal Entity or Cannabis Transportation Entity–

Cannabis Cultivation Facilities, Cannabis Processing Facilities, Cannabis Disposal Entities, and Cannabis Transportation Entities are allowed within the A-Agricultural, CB-Community Business, RB-Regional Business and I-Industrial zonings as a permitted use and shall comply with the following standards:

1. Cannabis Transportation entities, Cannabis Disposal entities, Cannabis Research Facilities and Cannabis Testing Facilities must have a license with the MDOH (Mississippi Department of Health) before submitting for a CO with the City of Biloxi .
2. All cultivation, harvesting, processing and packaging of medical cannabis must take place in an enclosed, locked and secure facility, and meet the City of Biloxi development standards.

Article 23-4 Use Standards

Section 23-4-1: Use Standards

Amend Section 23-4-1 (B): Use Table- Residential Districts

USE CATEGORY	SPECIFIC USE	RESIDENTIAL BASE DISTRICT											USE-SPECIFIC STANDARDS (SECTION)	
		A	AR	RE	RER	RS-10	RS-7.5	RS-5	RM-10	RM-20	RM-30	RMH		
Retail Sales and Service	<u>Cannabis Dispensary or Cannabis research facility or Cannabis testing facility</u>													<u>23-4-3(D)(8)n</u>
Agriculture	<u>Cannabis Cultivation Facility</u>	<u>P</u>												<u>23-4-3(D)(8)o</u>
Industrial Production and Manufacturing	<u>Cannabis Processing Facility OR Cannabis Disposal Entity</u>													<u>23-4-3(D)(8)o</u>
Transportation	<u>Cannabis Transportation Entity</u>													<u>23-4-3(D)(8)o</u>

Article 23-4: Use Standards
Section 23-4-3: Use-Specific Standards
Section 23-4-3 (D): Commercial Uses
Amend Table 23-4-3(D)(11)

TABLE 23-4-3(D)(11):REQUIRED MINIMUM SPACING ¹ BETWEEN REGULATED BUSINESS USES AND PROTECTED USES AND DISTRICTS (feet) BLANK CELL = NO SPACING REQUIRED												
PROTECTED USE TYPE OR ZONING DISTRICT	REGULATED BUSINESS USE											CANNABIS DISPENSARIES
	BAR/LOUNGE/BREW/PUB/NIGHTCLUB	CHECK CASH / TITLE LOAN	DAY LABOR EMPLOYMENT SERVICE	ESCORT SERVICE OR BUREAU	LINGERIE MODELING	PAWN//BUY-SELL	SEX SHOP	SEXUALLY-ORIENTED CABARET	SEXUALLY-ORIENTED MEDIA	SEXUALLY-ORIENTED CINEMA	SEXUALLY-ORIENTED VIDEO ARCADE ²	
Cannabis Dispensary												1,500
Facility Frequented by 6—18 Year Olds												1,000
Place of Worship												1,000

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF BILOXI, MISSISSIPPI, that having given the Planning Commission's

recommendation full consideration, hereby rejects said recommendation and hereby denies the requested Text Changes to the Land Development Ordinance, as proposed within Case No. 22-037-PC, having determined that said Text Changes are unwarranted due to a determination that _____

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 2 BILOXI PLANNING COMMISSION MEETING
 3 MAY 5, 2022
 4 COMMUNITY DEVELOPMENT,
 5 DR. MARTIN LUTHER KING JR. MUNICIPAL BUILDING,
 6 676 DR. MARTIN LUTHER KING JR. BOULEVARD,
 7 BILOXI, MISSISSIPPI,
 8 BEGINNING AT 2:00 P.M.

9 PLANNING COMMISSION MEMBERS PRESENT:
 10 Charlie Dellenger, Co-chairman
 11 Kay Bankston
 12 Kyle Carron
 13 Steve Delahousey
 14 Charlie Dellenger
 15 Gary Lechner
 16 Joe King
 17 Debora Magee
 18 August Parker
 19 Jimmy Poulos
 20 Michael Todaro

21 ALSO PRESENT:
 22 Jerry Creel, Director of Community Development
 23 Caryle Lena, Planning Technician
 24 Ed Shambra, Executive Planner
 25 Tim Cipolla, Code Inspector
 Dr. Paul Tisdale, Councilman Ward 5

26 REPORTED BY
 27 Melissa Burdine-Rodolfich
 28 Simpson Burdine & Miguez

2
 3 C-O-N-T-E-N-T-S
 4 PAGE
 5 NEW PUBLIC HEARING:
 6 22-037-PC 5
 7 22-038-PC 22
 8 22-039-PC 22
 9 22-040-PC 77
 10 22-041-PC 119
 11 TREE HEARINGS: (None)
 12 OLD BUSINESS:
 13 21-058-PC 130

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1 MR. DELLENGER:
 2 Let's go ahead and get the planning
 3 meeting started.
 4 We'll take a roll call. Mr. Lechner,
 5 Mr. Todaro, Mr. Parker, Ms. Magee, Ms. Bankston,
 6 Mr. Delahousey, Mr. Poulos, Mr. Carron, Mr. King,
 7 Mr. Snow; myself, Mr. Dellenger, all present; Ed
 8 Shambra, Executive Planner; Jerry Creel, Director
 9 of Community Development; Caryle Lena, Planning
 10 Technician. Tim Cipolla on the projector, Melissa
 11 Rodolfich, the court reporter; and Dr. Paul
 12 Tisdale, Councilman Ward 5, in the audience.
 13 Mr. Parker, if you would like to lead us
 14 in a moment of prayer.
 15 (Moment of prayer.)
 16 MR. DELLENGER:
 17 Mr. Todaro, if you would like to lead us
 18 in the pledge.
 19 (Pledge of allegiance.)
 20 MR. DELLENGER:
 21 It looks like there is a lot of people
 22 in the audience; so if we could silence all cell
 23 phones and try to remain quiet while other people
 24 are at the podium, I would appreciate that.
 25 If everyone has had a chance to review

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1 the minutes, I would like a motion to approve the
 2 minutes.
 3 MR. DELAHOUSEY:
 4 So moved.
 5 MS. BANKSTON:
 6 Second.
 7 MR. DELLENGER:
 8 Moved by Mr. Delahousey; seconded by
 9 Bankston.
 10 All in favor, signify by saying "aye."
 11 (All in favor.)
 12 MR. DELLENGER:
 13 Any opposed?
 14 (None opposed.)
 15 MR. DELLENGER:
 16 Motion carries.
 17 Mr. Creel, are there any committee
 18 reports?
 19 MR. CREEL:
 20 Yes, sir. Mr. Chairman and Members of
 21 the Commission, over the past two weeks, the
 22 department has issued 162 building permits with a
 23 construction valuation of \$2.2 million. We have
 24 collected \$20,000 in permit fees. We've issued
 25 nine certificates of occupancy, three of those

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1 were for short-term rental. Of the permits
2 issued, one was for a renovation for Ellzey's
3 Phase 3 on Howard Avenue, a remodel of Stark's at
4 995 Bayshore Drive and two new single-family
5 houses.
6 MR. DELLENGER:
7 Thank you, Mr. Creel.
8 There are no continued public hearings.
9 New public hearings: First is Case
10 Number 22-037-PC, City of Biloxi, for the
11 introduction of cannabis-related uses to the
12 Biloxi Land Development Ordinance to include the
13 definitions of specific uses, identification of
14 the zoning district where these uses will be
15 authorized as permitted and conditional uses and
16 use-specific standards required for each category.
17 The sections of ordinance to include the following
18 text amendments to the Biloxi Land Development
19 Ordinance, specifically to provide, Article
20 23-10-2, Terms and Uses Defined; Section
21 23-4-3(D)(8)n through 23-4-3(D)(8)o through
22 Article 23-4, Use Standards; Sections 23-4-1 (B),
23 Use Table Residential Districts; Section 23-41
24 (C), Non-residential and Planned Development
25 Districts. This was advertised 4/14, 4/21 and

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1 they used to define these different types of
2 entities. So you will see in your packet that, of
3 course, they define what is cannabis. They also
4 talk about the different types of entities, like
5 medical cannabis dispensary, cannabis cultivation
6 facility, cannabis disposal, cannabis processing
7 facility, cannabis research facility, cannabis
8 testing facility, also a cannabis transportation
9 entity.
10 And then they have some rules and
11 regulations in the state law that we also are
12 duplicating into the ordinance that talk about
13 where you can have these different types of
14 entities in there.
15 So what you have before you today is
16 mainly the definitions that come right out of the
17 state law as to what each one of these entities
18 are, how they are defined. And then the table in
19 the back of your packet that shows you where we
20 believe that they should be allowed.
21 For example, on the dispensary, which is
22 essentially the sales location where medical
23 marijuana/medical cannabis can be sold, we tried
24 to tie that in with where we allow a drug store or
25 a pharmacy to be located. And then you have got

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1 4/28.
2 Jerry, did you want to give us a brief
3 overview on this?
4 MR. CREEL:
5 As you know, the State of Mississippi
6 has passed a law that allows cities and counties
7 to consider the use of medical marijuana -- and
8 emphasize, medical marijuana, not recreational
9 marijuana. Now, the law that was passed is over
10 400 pages long, but out of the law that was
11 passed, there is only three or four of the pages
12 in there that relate to the city and county
13 governments. Most everything about medical
14 marijuana is going to be regulated by the State
15 Department of Health and the State Department of
16 Revenue, and it's very stringent in here, the
17 rules and regulations. But essentially, what's
18 happened is they've delegated the power of where
19 these types of entities go to the city, the cities
20 and the counties.
21 So what we did, since it was medical
22 marijuana and it is going to be done by
23 prescription, what we did is took the entities
24 that are a part of this that are defined in the
25 state law and used exactly the same language that

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1 some others in there, like the growing facility,
2 we tied that to agricultural. Although, with this
3 law, all of the growing facilities have to be
4 indoors. And they have to meet the State
5 Department of Health's regulations.
6 So essentially what would happen is if
7 someone wanted to open one of these facilities,
8 they would have to go to the state, get approval
9 for their plan. Once they had all of their
10 approvals from the state, then they would come
11 back to us and apply for that particular location.
12 And we would compare it to the zoning table.
13 Cannabis cultivation facility, right
14 now, we're recommending that that be permitted in
15 agricultural zoning as a use by right.
16 Cannabis dispensary, a research facility
17 or a testing facility would be allowed as use by
18 right in neighborhood business, community
19 business, regional business, a conditional use in
20 downtown, a permitted use in industrial and a
21 conditional use in waterfront.
22 A cannabis cultivation facility would be
23 allowed as a permitted use in industrial zoning.
24 A cannabis processing facility or a
25 cannabis disposal entity would be allowed in RB

1 zoning or industrial zoning. 9
2 The cannabis transportation entity would
3 be allowed as a permitted use in RB and in
4 industrial.
5 Now, we're going to get into some
6 situations -- these recommendations are a starting
7 point. We are going to get into some situations
8 where there might be a combination facility, one
9 that is a dispensary, but it also has
10 transportation tied to it or a processing facility
11 that has transportation tied to it. And what we
12 will do is, we will -- if this gets approved by
13 the Planning Commission and the City Council, we
14 would come back and modify as we get those
15 requests and those requests make sense, but we
16 believe we are starting off with a good initial
17 document here and that's pretty much the
18 presentation of it.
19 MR. CARRON:
20 Jerry, I have a question for you. I
21 know they regulate the distance where a cannabis
22 facility can be to a childcare facility, school or
23 church.
24 MR. CREEL:
25 That's correct.

1 and we might have to go back and talk to the State 11
2 about how to handle that.
3 MR. CARRON:
4 Yeah. I figured that would be a
5 question that we might want to pursue.
6 MR. CREEL:
7 And that's a good question. Thank you
8 for asking that.
9 MR. DELLENGER:
10 Are we limiting ourselves to -- I mean,
11 not knowing exactly what areas may be best for any
12 of these, I guess, for growing, say, since it all
13 has to be in inside, you know, it doesn't
14 necessarily have to be, to me, in agricultural
15 because we're limited in agricultural to not many
16 parcels in the City of Biloxi.
17 MR. CREEL:
18 Yeah. And I think we're going to have
19 some comments today from some people in the
20 audience that are asking that very question.
21 Since it is an indoor facility, basically a
22 nondescript building that it's going to be used
23 and, you know, it's going to have limited signage
24 on the outside, it's not necessarily a place -- a
25 growing facility is not necessarily a place where

1 MR. CARRON: 10
2 What do we do in the -- say, it's
3 located in one of these areas and later on a
4 childcare facility wants to open up within that
5 that distance? Is there any --
6 MR. CREEL:
7 They would have to obtain a waiver. In
8 other words, the way that it would work is that
9 this facility would not be able to open up within
10 those distances -- and this comes out of state
11 law -- within those distances from an existing
12 daycare.
13 MR. DELLENGER:
14 No. He's talking about, let's say,
15 there is a facility --
16 MR. CREEL:
17 I'm not finished yet.
18 MR. DELLENGER:
19 Okay.
20 MR. CREEL:
21 So in the event that we have an existing
22 cannabis facility and someone comes in to open up
23 a daycare, we would have to make them aware of it,
24 you know, because -- and then, you know, at some
25 point, there may be a variance request by someone

1 people are going to be pulling in and pulling out 12
2 of all the time, why wouldn't it be allowed in CB
3 zoning and RB zoning that? And that's a good
4 question and that's something for the Planning
5 Commission to consider.
6 We have put together a draft document
7 here, and, you know, Planning Commission can make
8 recommendations on -- I think we need to amend
9 this to say this zoning should allow it and then
10 we will take that to the City Council and see what
11 they say.
12 MR. CARRON:
13 Jerry, they also state that these
14 buildings will be secure buildings. Are there any
15 guidelines on that as to the level of security
16 that those buildings have to have?
17 MR. CREEL:
18 In the state law. Yes, that's regulated
19 by the state law. And listen, this thing was
20 painful to read because it's so specific about the
21 controls that the State Department of Health and
22 the State Department of Revenue are going to have
23 over these places.
24 So our -- we would be limited to just
25 the zoning aspects of it. I mean, we're not going

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1 to be the agency charged with making sure that
 2 there is security where it's supposed to be. So
 3 from our standpoint, if it meets the zoning
 4 requirements and they stay within those zoning
 5 requirements, then they are good with us.
 6 MR. CARRON:
 7 Thank you.
 8 MR. DELLENGER:
 9 Essentially it would just be like them
 10 operating any other business that was regulated by
 11 the state?
 12 MR. CREEL:
 13 That's correct.
 14 MR. DELLENGER:
 15 Okay. Is there anybody that would like
 16 to speak on behalf of these text amendments?
 17 Please come to the front, state your
 18 name and address for the record.
 19 MR. LLOYD:
 20 Good afternoon. Sid Lloyd, 15171 Lamey
 21 Bridge Road, Biloxi.
 22 I would like to get CB added to the
 23 zoning for agricultural cannabis because it's all
 24 secured. It's enclosed. Nothing is outside. You
 25 would never know it before if you were looking at

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1 industrial park? And they're going to need to
 2 have fire service, police service. They are going
 3 to be -- as Jerry said, they are going to be so
 4 heavily regulated and secured around them, they
 5 need to be in local areas that have access to
 6 police and fire.
 7 MR. DELLENGER:
 8 Okay. Thank you.
 9 Any other questions?
 10 Thank you.
 11 MR. LLOYD:
 12 Thank you.
 13 MR. DELLENGER:
 14 Anyone else like to speak on this
 15 subject?
 16 Okay. We'll consider that hearing
 17 closed.
 18 Is there any discussion among the
 19 members on this issue?
 20 MR. DELAHOUSEY:
 21 What's your thought, Ed's thought about
 22 adding permitted use to agricultural district?
 23 MR. CREEL:
 24 We do not have a problem with CB or
 25 maybe even RB. Again, because the buildings -- on

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1 any warehouse building in the city.
 2 And I have property on 67 that would be
 3 ideal. It's highway frontage, limited access.
 4 Main road, Lamey Bridge behind us. It's limited
 5 access into this property because it's a scenic
 6 highway, so there is no other way to get into it.
 7 But this would be a big boost for
 8 Biloxi's tax base to be able to put something like
 9 this there, and we are -- that's the only thing we
 10 basically can do. It's not a high traffic area
 11 that we can get into anymore, but we'd love to see
 12 it a community business because that's what it's
 13 zoned now, which it used be agriculture, before it
 14 was annexed into the city.
 15 MR. DELAHOUSEY:
 16 Would you recommend that it be permitted
 17 or conditional use?
 18 MR. LLOYD:
 19 Permitted. I don't think -- I mean, how
 20 much agricultural land do you have in Biloxi? So
 21 you're really going to cut yourself out of a lot
 22 of revenue by doing that.
 23 This is going to be safe and secure.
 24 They're not going to be 40- and 50,000-square-foot
 25 buildings, so why would you put them in an

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1 the outside, you're really not even going to know
 2 what's there and it's such a controlled
 3 environment. And Sid is actually correct, you
 4 know. The deliveries would come in from the rear,
 5 that kind of thing. So in retrospect, we probably
 6 should have added those to the recommendation.
 7 MR. DELAHOUSEY:
 8 CB and RB?
 9 MR. CREEL:
 10 I would say so, yes.
 11 MR. DELLENGER:
 12 Now, Jerry, do you mean for the
 13 cultivation, the transportation for all of it, or,
 14 I mean, because really you could have one facility
 15 that could essentially do it all theoretically.
 16 MR. CREEL:
 17 You could, yes. The multipurpose
 18 facilities we believe need to go into higher
 19 zonings, like RB, maybe industrial, into those
 20 because that's our more intensive zoning
 21 districts. This property that Sid is talking
 22 about is zoned CB. And if I remember right,
 23 that's just -- y'all are just talking about the
 24 growing facility and dispensary?
 25 MR. LLOYD:

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1 You need to have all of it there
2 because, I mean, you're going to have one
3 facility. If you're growing it, you're going to
4 be processing it and transporting it. Everything
5 is going to be taking place in one location.
6 MR. CREEL:
7 Yes. CB and RB.
8 MR. DELLENGER:
9 Would be for all of these?
10 MR. SHAMBRA:
11 Just remember what we have presently
12 zoned CB and RB. We have a lot of highway, small
13 shopping center. A lot of areas that could be
14 impacted.
15 MR. CREEL:
16 We have been getting a lot of requests
17 already, you know, people calling us asking us if
18 they can go ahead and open. Well, no, you can't
19 open yet. You know, we've still got to get
20 through where we're going to allow these things to
21 come in. And even on top of that, you've still
22 got to get the State's approval before you come to
23 us with the application.
24 This will work very similar to what we
25 do with projects that we have where they're

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1 That's correct, yes.
2 MR. DELAHOUSEY:
3 So are you saying that it might make
4 sense to add permitted use not only agricultural
5 for the CB and RB, but also industrial production
6 under CB and transportation under CB?
7 MR. CREEL:
8 I think CB for all of those would work.
9 And remember, we're dealing with something, you
10 know, that we have never dealt with before here.
11 I mean, this is all new and it was presented to us
12 and we can always go back and revisit later if we
13 need to. But CB, RB and industrial are the three
14 most intensive business zonings that we have.
15 And if this were something where people
16 were just setting this up on the side of the road,
17 no oversight from the State, that would be one
18 thing. But again, the regulations here are so
19 stringent that I really think that the calls that
20 we're getting right now, when it comes right down
21 to it and people see what type of money they're
22 going to have to spend to get into this business,
23 we're probably going to see half of those
24 applications go away.
25 MR. DELLENGER:

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1 building over the waterfront where we require them
2 to come in with their DMR approvals first before
3 we even accept the application or consider the
4 application.
5 MR. TODARO:
6 Other than having them at least, 1,000
7 feet apart, is there anything else, like Edward
8 said, that we could do to restrict, like, them
9 popping up in places we're concerned about like
10 the mall or something?
11 MR. CREEL:
12 Well, we're not allowed to pass anything
13 that would exceed the requirements of the State.
14 MR. TODARO:
15 And that's 1,000 feet apart?
16 MR. CREEL:
17 1,000 feet apart. But there is a
18 provision in there that says that if the
19 developer, if the owner of this place goes to that
20 school or goes to that daycare and asks for
21 permission, that there can be a waiver of up to
22 500 feet for the distance requirement.
23 MR. TODARO:
24 If that second party agrees to it?
25 MR. CREEL:

20

1 Jerry, would it be prudent to table this
2 maybe till possibly the next meeting to get a
3 better understanding of exactly all of these?
4 MR. CREEL:
5 That's up to the Planning Commission.
6 MR. DELLENGER:
7 I mean, I'm --
8 MR. CREEL:
9 You know, we sent them out last week to
10 give you an opportunity to read it and to call us
11 with questions, but if y'all feel like y'all need
12 more time, that's entirely up to the Planning
13 Commission if y'all want to do that.
14 MR. DELAHOUSEY:
15 It sounds like your office has done a
16 pretty thorough job of reading -- what did you
17 say -- 400 pages and trying to interpret that.
18 MR. CREEL:
19 Uh-huh.
20 MR. DELAHOUSEY:
21 And this document that you provided us
22 seems to be pretty thorough on -- puts the city in
23 a good position and one step ahead in getting
24 prepared for it instead of after the fact.
25 I would like to make a motion that we

1 approve this request with the addition of adding
2 CB to agricultural and industrial production and
3 manufacturing and transportation and adding
4 permitted to RB.
5 MR. POULOS:
6 Second.
7 MR. DELLENGER:
8 Motion by Mr. Delahousey; second by
9 Mr. Poulos.
10 MR. DELAHOUSEY:
11 Four different additions.
12 MR. DELLENGER:
13 For the adding of CB on those four?
14 MR. DELAHOUSEY:
15 CB on three of them; RB on one.
16 MR. DELLENGER:
17 All of those in favor, signify by
18 raising your hand.
19 Mr. Lechner, Mr. Todaro, Mr. Parker,
20 Ms. Bankston, Mr. Delahousey, Mr. Poulos,
21 Mr. Carron, Mr. King, Mr. Snow; myself,
22 Mr. Dellenger.
23 All opposed?
24 Ms. Magee, did you vote?
25 MS. MAGEE:

21

1 I'm sorry. I voted for.
2 MR. DELLENGER:
3 Okay. I didn't see your hand up.
4 Unanimous. That hearing is closed.
5 The next two hearings somewhat go
6 together, but are a little bit separate, so I'm
7 going to read those two together. We will hear
8 the first case and vote on it before going to the
9 second.
10 First one is Case Number 22-038-PC,
11 Heidi and Dan Hoyt, which is an application for a
12 zoning map amendment to authorize a change in
13 zoning district classification for a parcel of
14 land measuring eighty-seven one-hundredths of an
15 acre in size from its present zoning district
16 classification of RS-7.5, medium density,
17 single-family and to RM-10, low density,
18 multifamily residential for a parcel of land
19 identified as 1611 Glenn Swetman Street. This
20 case was advertised on 4/14, 4/21 and 4/28.
21 Mr. Cipolla, do you have the video on
22 that?
23 MR. CIPOLLA:
24 I'm in the corner of Glenn Swetman. It
25 goes right in the corner there onto Clower. This

22

1 is all one structure. This is the historic
2 Swetman House. I'm walking down to the Munro
3 property. The property line comes right there and
4 then it goes down to Cayman Cove. And I'll show
5 you the inlet there. This goes all the way to the
6 back of that fence. This is the front of the
7 house that looks toward the beach. That's it.
8 MR. DELLENGER:
9 I'm going to read the second case that
10 has to do with this one as well. We'll hear them
11 together, but we'll have to vote separately on
12 them.
13 The next one is Case 22-039-PC, Heidi
14 and Dan Hoyt, an application for a conditional use
15 approval to authorize an existing single-family
16 residence to be utilized as a bed and breakfast
17 for a property presently situated within a RS-7.5
18 medium density, single-family residential zone,
19 which property is being submitted for a zoning map
20 amendment for RM-10 and identified by municipal
21 address 1611 Glenn Swetman Street. That's the
22 same property there. We're going to be voting for
23 the change first and then the conditional use
24 second. That was advertised on the 21st and 28th
25 of April.

23

1 Is the applicant here? Would they like
2 to come forward? Please state your name and
3 address for the record.
4 MS. HOYT:
5 Hi. My name is Heidi Hoyt.
6 MR. HOYT:
7 My name is Dan Hoyt, 1611 Glenn Swetman.
8 MS. HOYT:
9 Thank you for having us here today. I
10 appreciate you taking the time. As we mentioned,
11 we live on 1611 Glenn Swetman Street. Our house
12 consists of four bedrooms and four and a half
13 baths.
14 MR. HOYT:
15 Six bedrooms.
16 MS. HOYT:
17 Excuse me. Six bedrooms and six and a
18 half baths. This is our private residence. We
19 live here full time. We applied for homestead
20 credit with the city and we plan on living there
21 full time.
22 But our bed and breakfast would be our
23 private home and for our overnight guests. This
24 means that we will continue monitoring the
25 property and be there at all times.

24