

STAFF REPORT FOR PLANNING COMMISSION MEETING OF DECEMBER 20, 2022

FILE NO: ZA-2022-0519

AGENDA ITEM: 14.P

STAFF CONTACT: Hope Sullivan, AICP, Community Development Director

AGENDA TITLE: For Possible Action: Discussion and possible action regarding a recommendation to the Board of Supervisors (“Board”) concerning an application from Will Adler on behalf of Green Thumb Industries Inc. (“Applicant”) for an ordinance amending location limitations for medical marijuana dispensaries and marijuana retail stores. (Hope Sullivan, hsullivan@carson.org)

Staff Summary: The Applicant is proposing to amend Carson City Municipal Code (“CCMC”) 18.04.130 to allow marijuana retail stores and medical marijuana dispensaries in the Retail Commercial use district within Township 15N, Range 20, Sections 5, 6 and 8 which is generally the area along North Carson Street north of Winnie Lane and west of Hot Springs Drive.

PROPOSED MOTIONS:

“I move to recommend to the Board of Supervisors approval of the requested zoning code amendment based on the ability to make the findings as outlined in the staff report.”

LEGAL REQUIREMENTS: CCMC 18.02.050 (Review); CCMC 18.02.075 (Zoning map amendments and zoning code amendments); CCMC 18.04.130 (Retail Commercial) and Nevada Revised Statutes (“NRS”) 278.260.

KEY ISSUES: Is the request to modify the allowable locations of marijuana retail stores and medical marijuana dispensaries appropriate?

BACKGROUND:

At its meeting of November 15, 2022, the Planning Commission considered a request to expand where medical marijuana dispensaries and marijuana retail stores could locate. The Planning Commission recommended denial of the request. The applicant has since withdrawn that request and substantially modified the application to still request an expansion, but to a much more limited area.

In 2013 the Medical Marijuana Act was signed into law authorizing Medical Marijuana Establishments (“MMEs”) in Nevada, including dispensaries, cultivation facilities, production facilities, and testing labs. The law also provides local jurisdictions with the right to prohibit or allow these establishments and, if allowed, the ability to regulate the location of MMEs through zoning and business license requirements.

On June 19, 2014 the Board, on first reading, introduced an ordinance allowing for medical marijuana establishments including dispensaries, cultivation and production facilities, and testing laboratories. The ordinance included the requirement for a special use permit (“SUP”) and limitations not only on the zoning districts within which these establishments may be located, but also the specific Sections, Townships, and Ranges where they may be located. On July 3, 2014, the Board adopted the ordinance.

In 2016, Nevada voters passed The Regulation and Taxation of Marijuana Act (codified as NRS Chapter 453D and later amended and recodified as NRS Title 56), legalizing recreational marijuana in Nevada. In 2017, the Board adopted an ordinance to allow for recreational marijuana establishments, including recreational marijuana stores, cultivation and production facilities and testing laboratories. The ordinance mirrored the requirement for the SUP and the locational limitations adopted with the 2014 ordinance.

Medical marijuana dispensaries and marijuana retail stores are limited to the GC and GI use districts. Within the GC zoning district (CCMC 18.04.135(3)) dispensaries are limited to the following:

“Sections 29 through 32 of Township 15 N., Range 20 E., south of Moses Street (South Carson Street vicinity) and within Sections 1, 2, 9, 10, 11 and 12 of Township 15 N., Range 20 E., and Section 36 of Township 16 N., Range 20 E., east of the I-580 freeway (Highway 50 East vicinity).”

FIGURE 1: South Carson Street vicinity.

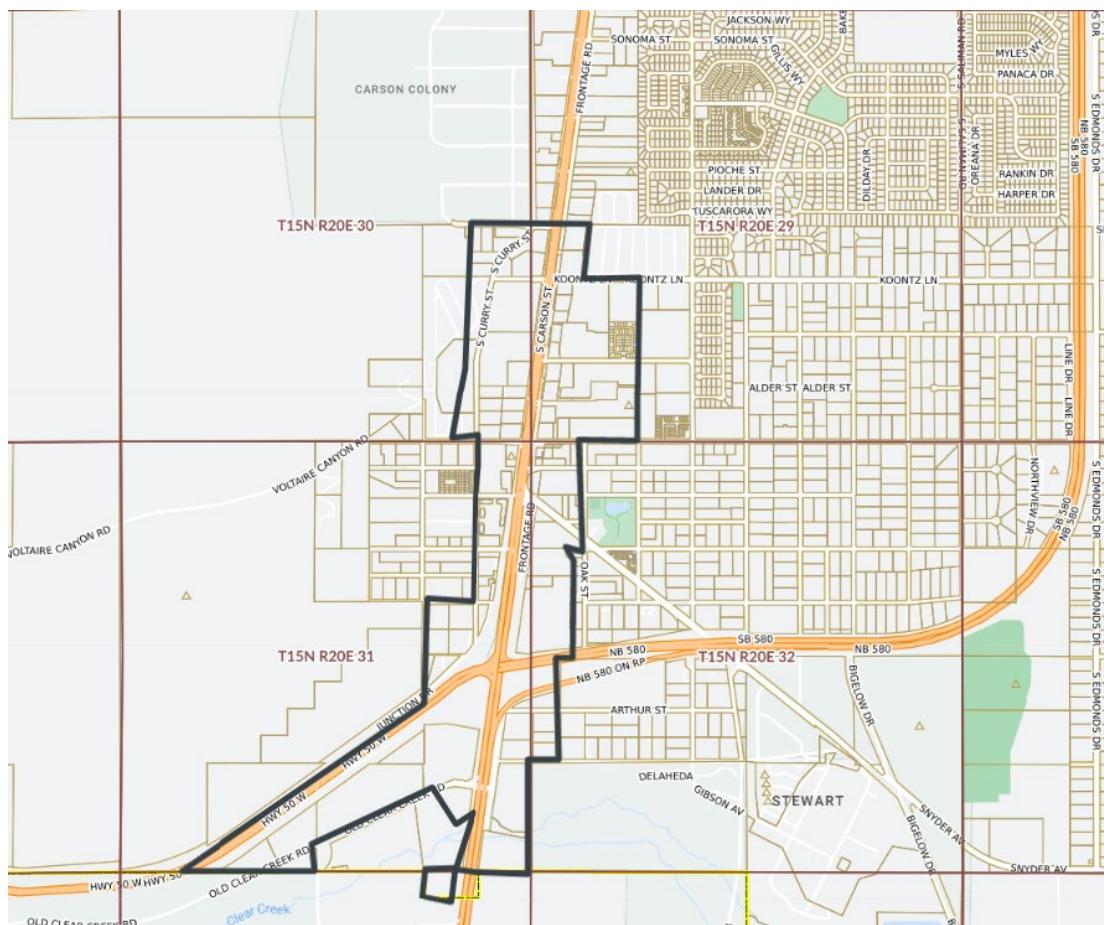
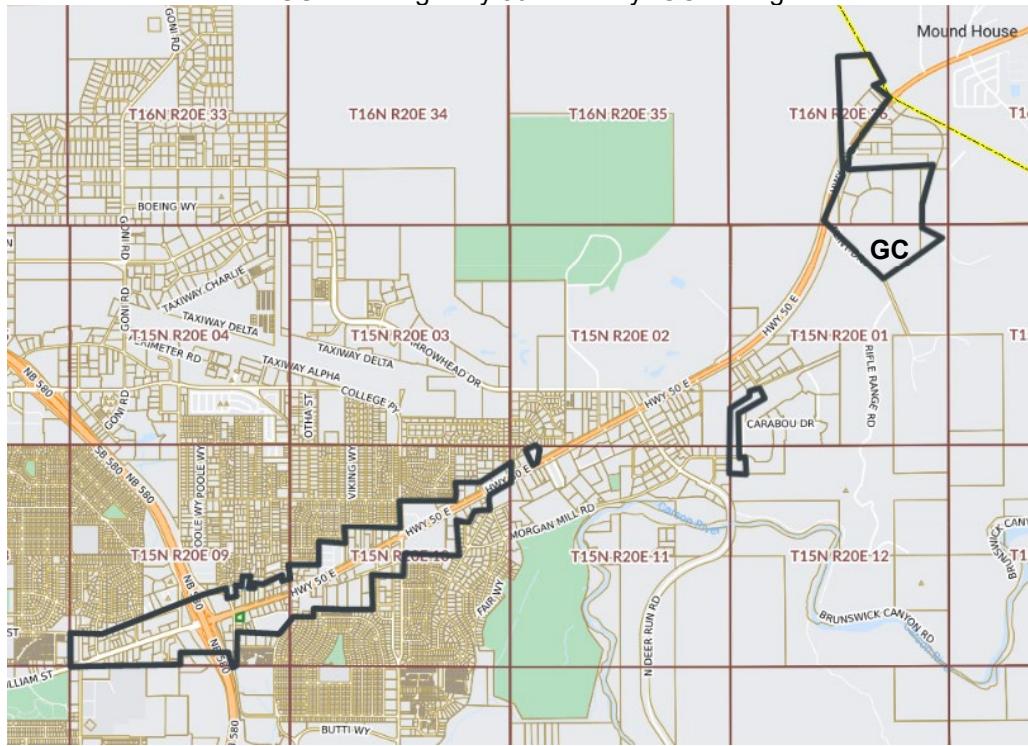


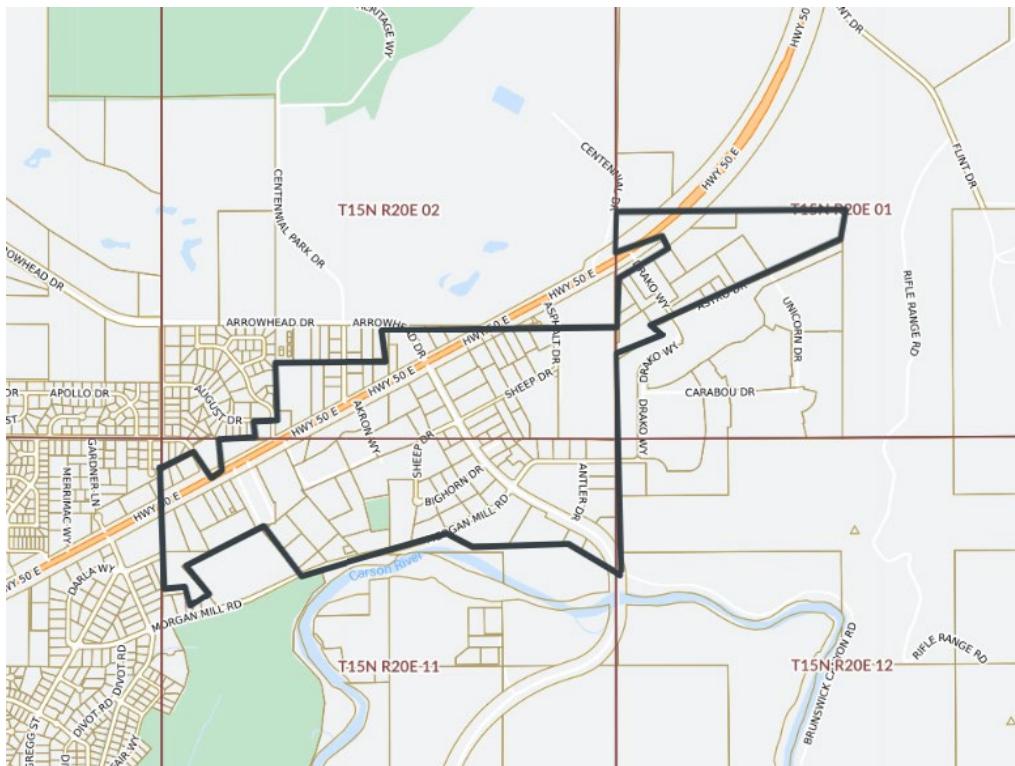
FIGURE 2: Highway 50 E vicinity- GC zoning



Within the GI zoning district (CCMC 18.04.150(3)) dispensaries are limited to the following:

“Sections 1, 2, 11 and 12 of Township 15 N., Range 20 E., and Section 36 of Township 16 N., Range 20 E (Highway 50 East vicinity).”

FIGURE 3: Highway 50 E vicinity- GI zoning



Figures 1 through 3 depict the areas within which a medical marijuana dispensary or a marijuana retail store can be located in the GC and GI zoning districts. There are additional locational limitations found in Carson City Development Standards (“CCDS”) 1.20, regarding distance from preschools and schools, daycares, park and other facilities whose primary service is to provide recreational opportunities to children, and proximity from residential zoning districts. These locational criteria are evaluated at the time of a SUP application.

At its meeting of September 15, 2022, the Board adopted Ordinance 2022-19, allowing for four marijuana retail stores and permitting drive-through services. Although the allowed number of marijuana retail stores was increased from two to four, the locational limitations and requirements have not changed.

DISCUSSION:

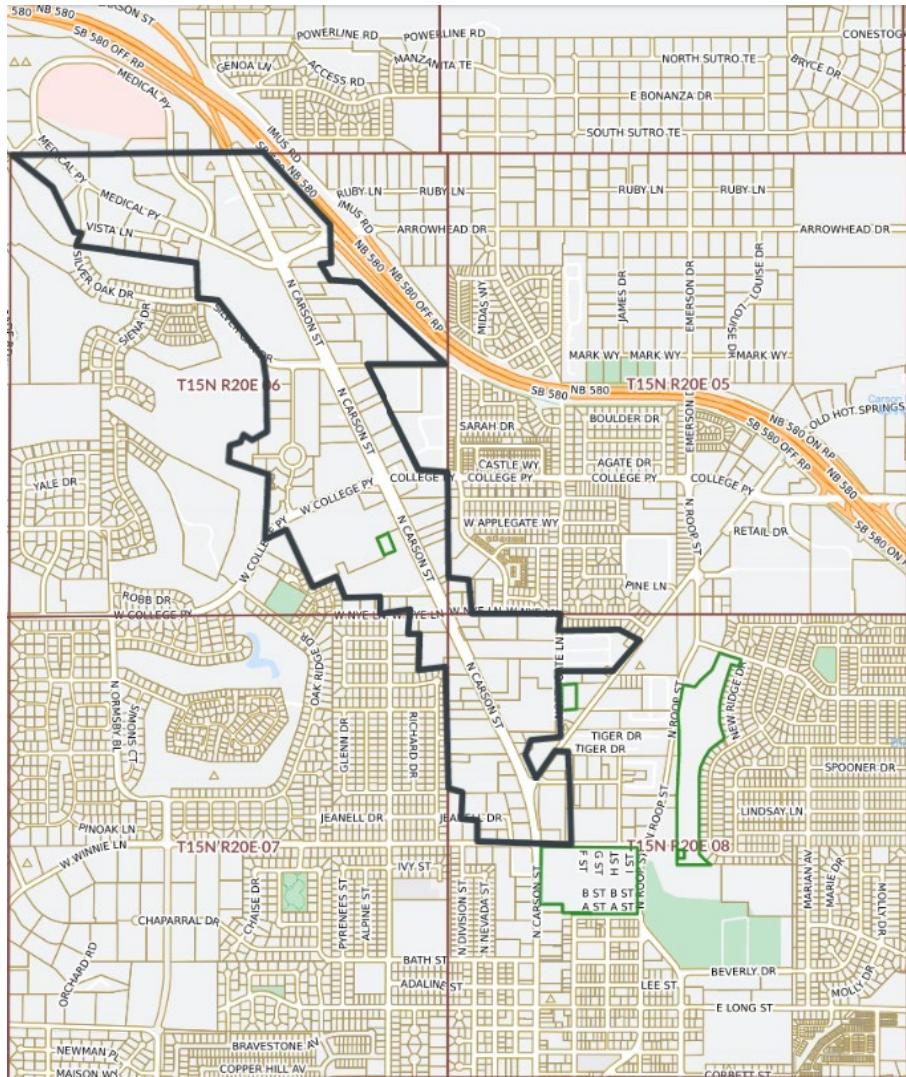
On June 19, 2014, the Board was considering the zoning regulations related to medical marijuana dispensaries before it had decided if it wanted to opt in or opt out. It did not know what to expect from these dispensaries in terms of impact on the community. It was very concerned about incompatibility with residential uses

During the June 19, 2014 meeting, there was testimony that the business owners seeking to operate medical marijuana dispensaries were only interested in areas on South Carson Street south of Fairview Drive and on Highway 50 west of the 580 interchange. Proponents for allowing medical marijuana dispensaries requested these locational limitations in lieu of the Planning Commission’s recommended 1000 foot separation from churches, parks, playgrounds, daycare facilities or recreational facilities. The Board agreed with the inclusion of the recommended locational criteria in lieu of the 1000 foot separation requirement.

The City now has six years of experience with medical marijuana dispensaries. Through implementation of design standards, they blend in with other community businesses and have not created compatibility issues.

The applicant is seeking to expand where medical marijuana dispensaries and marijuana retail stores can locate. Specifically, the applicant is seeking to expand where they can locate to include locations within the Retail Commercial zoning district within Sections 5, 6 and 8 of Township 15N, Range 20 E, north of Winnie Lane and west of Hot Springs Road.” This area is generally along North Carson Street and depicted on FIGURE 4.

FIGURE 4: PROPOSED EXPANSION AREA



The Board has the authority to approve zoning code amendments following a recommendation from the Planning Commission. In considering a zoning code amendment, the Planning Commission must consider the three required findings as identified in CCMC 18.02.075.

NOTICING & PUBLIC COMMENTS:

Noticing was completed consistent with NRS and CCMC. As of the completion of this staff report, no written public comments have been received. Any comments that are received after this report is complete will be submitted prior to or at the Planning Commission meeting, depending on their submittal date to the Planning Division of the Carson City Community Development Department.

OTHER CITY DEPARTMENTS OR OUTSIDE AGENCY COMMENTS:

The application was routed to commenting agencies and no comments were received.

FINDINGS:

The Planning Commission, in forwarding a recommendation to the Board for approval of a zoning code amendment, shall make all findings of fact found in CCMC 18.02.075(5) in the affirmative. The following findings are recommended by staff:

1. That the proposed amendment is in substantial compliance with and supports the goals and policies of the Master Plan.

This finding can be made in the affirmative. Goal 2.3 of the Master Plan encourages the city to provide opportunities for a range of retail services; and Guiding Principle 5: *A Strong Diversified Economic Base* encourages the City to maintain and enhance the base of primary jobs and provide a broader range of retail services to serve residents of Carson City as well as those in surrounding counties.

2. That the proposed amendment will provide for land uses compatible with existing adjacent land uses and will not have detrimental impacts to other properties in the vicinity.

This finding can be made in the affirmative. Medical marijuana dispensaries and marijuana retail stores are subject to a SUP. This means that the use can only establish if the Planning Commission can make the seven required finding of fact identified in CCMC 18.02.080 in the affirmative, including the finding that the use:

“will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding properties or the general neighborhood; and is compatible with and preserves the character and integrity of adjacent development and neighborhoods or includes improvements or modification either on-site or within the public right-of-way to mitigate development related to adverse impacts such as noise, vibrations, fumes, odors, dust, glare or physical activity;”

CCDS 1.20 provides supplemental standards for retail marijuana stores including:

- A single point of entry;
- Hours of operation limited to 8:00 AM to 10:00 PM;
- A 300 foot separation from residentially zoned property as measured on a straight line from the nearest residential property to the front door of the store;
- Adequate lighting and street improvements;
- 1000 feet from a public or private school;
- 300 feet from a facility that provides day care to children, a public park, a playground, a public swimming pool and any other facility the primary purpose of which is to provide recreational opportunities or services to children or adolescents.

If the area where retail marijuana stores are allowed is expanded, the supplemental standards will still apply.

The City has six years of experience with medical marijuana dispensaries and, more recently, retail marijuana stores. At the time the locational criteria was put into place, the City did not know what the impacts of this land use would be. After six years, the two existing dispensaries, which also have retail components, have not been problematic.

3. That the proposed amendment will not negatively impact existing or planned public services or facilities and will not adversely impact the public health, safety and welfare.

This finding can be made in the affirmative. The two existing dispensaries / retail stores have not had an adverse impact on public health, safety or welfare. Any new retail store will require a SUP. The SUP can only be issued upon the Planning Commission making each of the seven required findings in the affirmative, including the findings that the use:

"Will not overburden existing public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public improvements;"

and

"Will not be detrimental to the public health, safety, convenience and welfare."

Therefore, at the time of consideration of a specific SUP, the Commission will have the opportunity to review the request vis-à-vis these findings.

Attachments:

- 1) ZA-2022-0519 application packet

Carson City Planning Division
108 E. Proctor Street. Carson City NV 89701
Phone: (775) 887-2180 • E-mail:

FILE #

APPLICANT

Green Thumb Industries Inc.

MAILING ADDRESS, CITY STATE, ZIP

204 S. Minnesota St., Carson City, NV 89703

PHONE #

(775) 230-0247

FAX #

EMAIL ADDRESS

will@ssgr.us

For Office Use Only:

ZONING CODE AMENDMENT

FEE: \$3,250.00 + noticing fee

- Application Form, Written Project Description and Supporting Documentation
- 5 Completed Application Packets (1 Original + 4 Copies)

Application Reviewed and Received By:

Submittal deadline: Planning Commission application submittal

Note: Submittals must be of sufficient clarity and detail such that all departments are able to determine if they can support the request. Additional Information may be required.

Requested Amendment to Development Standards: _____ or Title 18 04.130

Revises provisions of Title 18.04.130 to
expand locations for marijuana dispensaries.

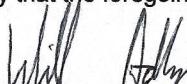
Required Findings: Title 18 of the Carson City Municipal Code (CCMC) requires that the applicant must present evidence justifying the revision to the Code, that the proposed addition/deletion will be consistent with the objectives of the Master Plan and will not be detrimental to the surrounding properties. A statement relative to findings from Page 2 **MUST** be included herewith, or on an attached sheet.

Please remember that the requested code revision will affect all of Carson City and not only your parcel of land. Present your statement with that in mind. In addition to the brief description of your project and proposed use, provide additional page(s) to show a more detailed summary of your project and proposal.

See attached.

ACKNOWLEDGMENT OF APPLICANT:

I certify that the foregoing statements are true and correct to the best of my knowledge and belief.



Applicant's signature

November 21, 2022

Date

Cecilia Rice

From: Hope Sullivan
Sent: Monday, November 28, 2022 3:59 PM
To: Cecilia Rice
Subject: FW: Adjustment to GTI Zoning change application, SSGR

C:

Please add email to soft file (energov) and hard file for Will's text amendment.

Hope Sullivan, AICP
Community Development Director
Carson City, NV
775-283-7922 (direct)



From: Will Adler <will@ssgr.us>
Sent: Monday, November 28, 2022 3:48 PM
To: Hope Sullivan <HSullivan@carson.org>
Subject: Adjustment to GTI Zoning change application, SSGR

This message originated outside of Carson City's email system. Use caution if this message contains attachments, links, or requests for information.

Hope,

In reviewing GTI's application to Carson City's zoning code, I have noticed an error on my part. The language I provided to create a new township section appears incomplete. To be consistent with the map provided I would like to clarify that this range is also supposed to state "west of Hotsprings road." This addition should clarify which township sections are being asked for more clearly.

All the best,

-Will Adler

Principal, Silver State Government Relations
775.230.0247

Zoning Code Amendment from Green Thumb Industries, Inc.

Submitted by Will Adler

November 22, 2022

Description of Amendment

The purpose of this amendment is to expand the currently allowed zoning for marijuana dispensaries and Retail Cannabis Stores within Carson City to allow Retail Cannabis Stores to be located within Retail Commercial zoning within Sections 5, 6, and 8 of Township 15 N., Range 20 E. north of Winnie Lane (North Carson vicinity). All other zoning restrictions relating to distance from parks, schools, public facilities, and all other compatibility requirements will remain unchanged. A new retail cannabis store will still have to go through the full special use permit process to show compliance with all State of Nevada and Carson City ordinances regarding the appropriate placement of a retail cannabis store.

This amendment adds a section to Carson City Municipal Code Title 18 to expand locations where a marijuana dispensary/retail cannabis store can be located. We are proposing the addition of a Retail Commercial zoning district to Title 18.04.130 to allow retail cannabis stores to be zoned within limited, retail commercially zoned parcels in North Carson City. The additional space to locate a new Retail Cannabis Store this amendment would provide will help prevent clustering too many Cannabis sales outlets too closely to one another which can create the perception of a cannabis district.

Justification for Amendment

The Carson City Municipal Code (CCMC 18.02.075) sets out the required findings:

1. That the proposed amendment is in substantial compliance with and supports the goals and policies of the Master Plan.

We believe this amendment will provide the opportunity for the revitalization of areas of Carson City in need of development, and improve shared infrastructure, and security/safety elements. As found in Goal 5.2b of the Master Plan, this amendment will encourage the reuse or redevelopment of unused or underused retail spaces by allowing new retail opportunities to enter those spaces. Additionally, this amendment supports the

Master Plan's goals of continued growth and success of Carson City and can assist with city finances by providing additional tax revenue. Goal 5.8a of the Master Plan encourages the maintenance of a balanced revenue system for business investment. The current zoning restrictions on cannabis establishments runs contrary to Goal 5.8 as its current restrictiveness will encourage the clustering of like cannabis sales establishments, limiting future business investment.

2. That the proposed amendment will provide for land uses compatible with existing adjacent land uses and will not have detrimental impacts to other properties in the vicinity.

The current zoning for retail cannabis stores was established in 2014 when the industrial cultivation and sale of cannabis were an unknown variable to Carson City. As cannabis operations had just begun in Colorado, the impacts of medical marijuana dispensaries were unquantifiable to the Board of Supervisors of 2014. To minimize the chance of unanticipated impacts from medical marijuana dispensaries, the Board of Supervisors of Carson City limited medical marijuana dispensary operations to the limited township ranges it is in today, in two township districts restricted to the eastern and southern portions of Carson City. The ranges allowed in 2014 were chosen to allow additional distance from the more densely populated core of Carson City.

Carson City has now had two successful dispensaries since the 2014 Board of Supervisors' decision to allow cannabis operations. In that time no detrimental impacts have been seen by law enforcement, nor by property owners in the vicinity. The city has had six years with medical cannabis facilities and four years with adult-use cannabis facilities. Those facilities are each located on arterial traffic corridors outside of the commercial core of Carson City and have had no detrimental impact on their surrounding community. The beneficial impact retail cannabis has had goes further than the millions

of dollars Carson City has received in gross revenue and sales tax revenue from Carson City's dispensaries. Businesses located near retail cannabis stores have commented on the benefits of increased security, and higher foot traffic that locating near a cannabis dispensary has provided them with.

Given the success of the 2014 Supervisors' decision, that allowed cannabis operations away from the downtown core of Carson City, GTI petitions to open up a new township zoning district in much the same way. This zoning amendment proposes the addition of a township zoning district in the North end of Carson City. As the North end of Carson City has little GC zoning a request for RC zoning is needed at this time to access commercial property North of Winnie Lane. This is consistent with Carson City's Master Plan as marijuana sales are allowed in Mixed-Use Commercial. The new Retail Commercial district requested in the amendment is also identified in Carson City's Master Plan as Mixed-Use Commercial. This amendment was written to be similar to the zoning intended back in 2014 by expanding the available zoning regions, while keeping all cannabis sales away from the downtown core of Carson City.

It has been suggested that the impact of clustering like cannabis stores would have a detrimental impact of customers transiting back and forth between retail cannabis stores. It has been suggested it would be best to prevent such a situation as it could well produce traffic, law enforcement, and public safety impacts. This amendment seeks to prevent such clusters by enabling a separate geographic area, to allow a new retail cannabis store to open away from Carson City's current retail cannabis stores. This amendment will keep cannabis operations distanced from one another, as they have been spaced since their operations began in 2016.

3. That the proposed amendment will not negatively impact existing or planned public services or facilities and will not adversely impact the public health, safety and welfare.

Through our discussions with law enforcement and other stakeholders, we are confident this amendment will be in alignment with the health and welfare interests of the public, as well as surrounding business and property owners.

Text of Amendment

Below is the amendment to Title 18.04.130. Sections in bold blue italics are proposed for addition.

18.04.130 - Retail commercial (RC).

The purpose of the RC District is to preserve a commercial district limited primarily to offices and retail sale of new merchandise and excluding all uses in the General Commercial and Industrial Districts, except for some service uses which are compatible with the zone. All uses within the RC District shall be conducted within a building, and aside from display windows, be screened from view. Outdoor display and storage of autos, recreational vehicles, or mobilehomes in conjunction with an existing business with sales of autos, recreation vehicles and mobilehomes is allowed in accordance with Division 2 of the Development Standards and provided the vehicles or mobilehomes do not encroach into City or State Right-of-Way without an approved encroachment permit and are screened from adjacent parcels. Temporary outdoor display and sale of merchandise for a period not to exceed 30 days within a calendar year may be authorized by the Director subject to Title 18.02.115.8 (Outdoor Sales and Activities).

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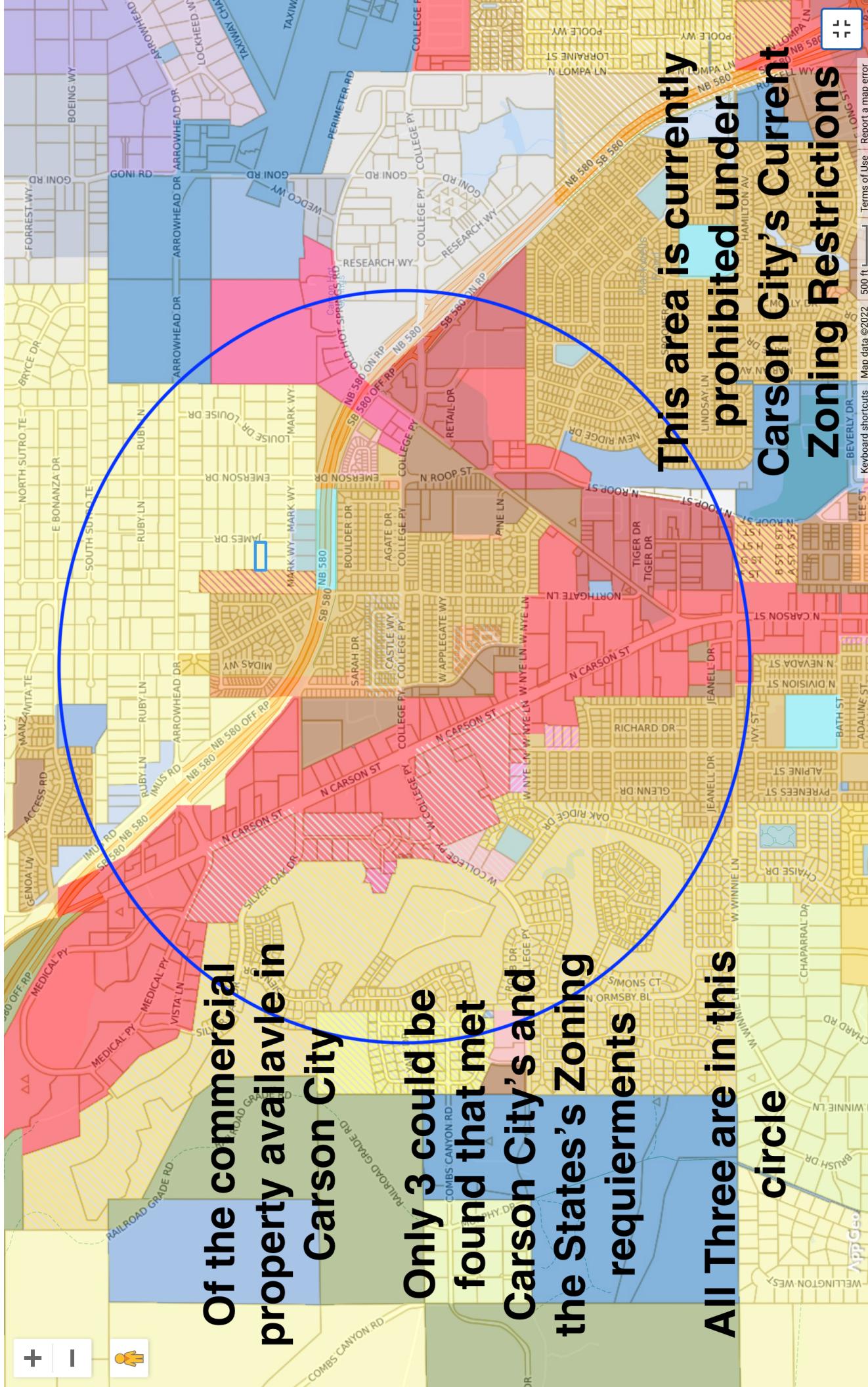
3. The Conditional Uses in the RC District which require approval of a Special Use Permit are:

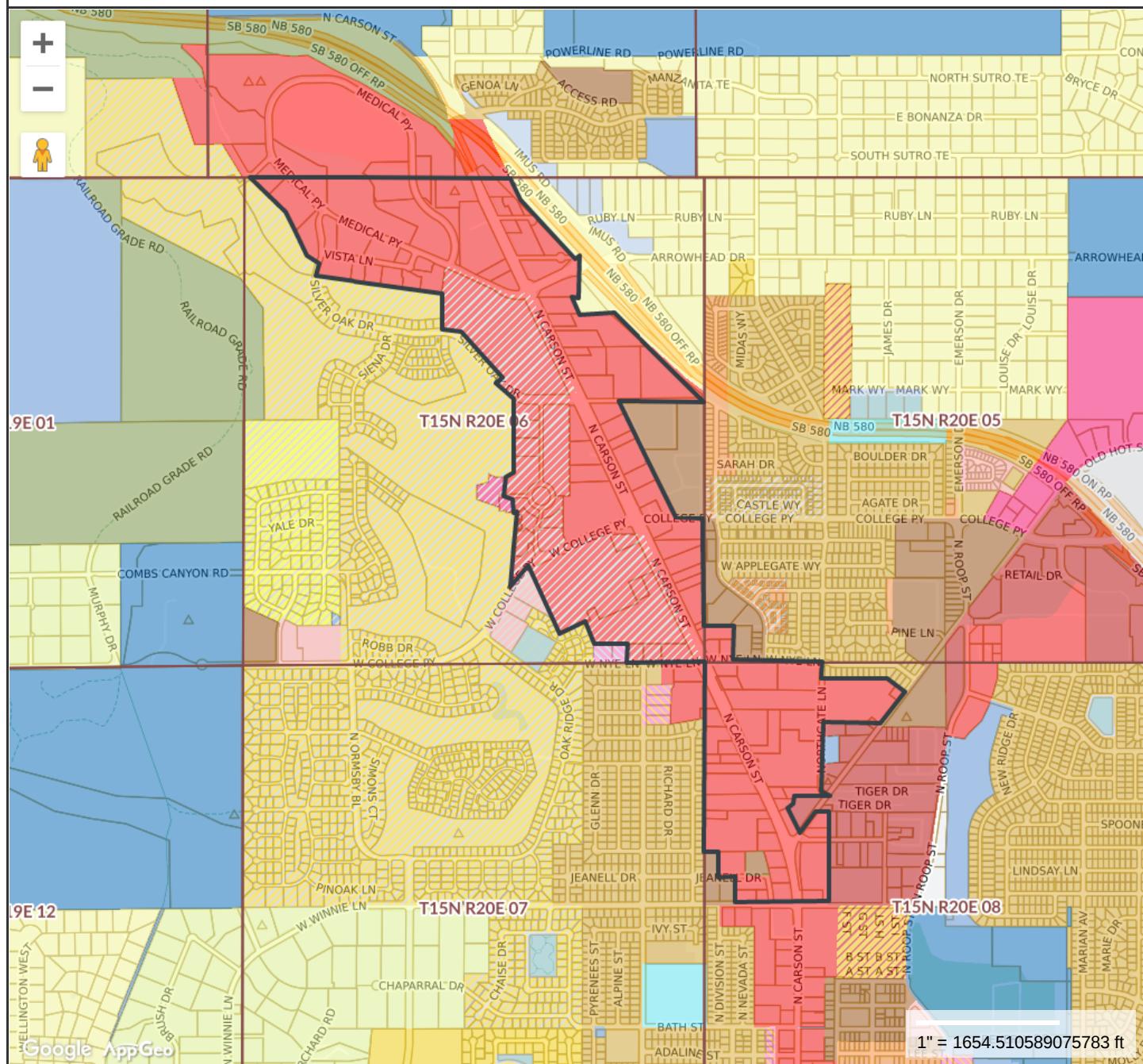
- Amusement Arcade
- Bar
- Bed and Breakfast Inn (only within the Historic District, and limited to Single Family 6000, Residential Office and Retail Commercial zoning districts, subject to the provisions of Title 18 Development Standards Division 1.7 Bed and Breakfast Inns)
- Building Materials (indoor only)
- Bus Passenger Depot
- Child Care Facility
- Community/Regional Commercial or Office Center
- Congregate Care Housing/Senior Citizen Home
- Facial Cosmetic Shading, Permanent
- Farmers Market
- Funeral Home, Mortuary

- Gaming (unlimited)
- Golf Course and Driving Range
- Hospital
- Hotel Residence
- Janitorial and Building Cleaning Service
- Kennel

Medical Marijuana Dispensary or Marijuana Retail Store subject to the provisions of Title 18 Appendix (Carson City Development Standards), Division 1.20 (Medical Marijuana Establishments and Marijuana Establishments), limited to those areas zoned Retail Commercial within Sections 5, 6, and 8 of Township 15 N., Range 20 E. north of Winnie Lane (North Carson vicinity)

- Miniature Golf Course
- Mobilehome Park
- Municipal Well Facility
- Newspaper Print Office
- Permanent Outdoor Sales subject to Title 18.02.115.8 (Outdoor Sales and Activities)
- Personal Storage/Retail/Office Complex subject to Division 1 and 1.10 Personal Storage of the Development Standards
 - Printer and/or Publisher
 - Recreational Vehicle Park
 - Schools, K-12, College, University or Vocational
 - Single Family, Two-Family and Multi-Family Dwelling
 - Skating Arena
 - Storage containers (permanent) subject to Division 1 and 1.10 Personal Storage of the Development Standards
 - Street Vendors are limited to the DT-MU and RC zoning districts, subject to Division 1 and 1.11 Street Vendors of the Development Standards
 - Tattoo Parlor
 - Tennis or Swimming Facility
 - Trailer or Truck Rental
 - Utility Substation
 - Veterinary Clinic
 - Youth Recreation Facility





**MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT**

Carson City , NV makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Geometry updated 11/17/2018
Data updated 11/17/2018

Print map scale is approximate.
Critical layout or measurement activities should not be done using this resource.