The Planning and Zoning Commission held a Meeting on October 9, 2019, at the City of DeKalb Municipal Building, 200 South Fourth Street, DeKalb, Illinois. Chair Christina Doe called the meeting to order at 6:00 PM.

A. ROLL CALL

Principal Planner Dan Olson called the roll. Planning and Zoning Commission members present were: Chair Christina Doe, Vicki Buckley, David Castro, Ron Klein, and Jerry Wright. Commissioner Max Maxwell was absent. Principal Planner Dan Olson and City Attorney Matt Rose were present representing the City.

B. APPROVAL OF THE AGENDA (Additions/Deletions)

Chair Doe requested a motion to approve the October 9, 2019, agenda as presented. Ms. Buckley motioned to approve the agenda as presented. Mr. Castro seconded the motion, and the motion was approved by unanimous voice vote.

C. APPROVAL OF MINUTES

August 7, 2019 – Mr. Wright motioned to approve the minutes, Ms. Buckley seconded the motion, and the motion was approved by unanimous voice vote.

September 4, 2019 – Mr. Klein motioned to approve the minutes, Ms. Buckley seconded the motion, and the motion was approved by unanimous voice vote.

D. PUBLIC PARTICIPATION (Open Floor to Anyone Wishing to Speak on Record)

None

E. NEW BUSINESS


Principal Planner Olson went through the staff report dated October 4, 2019, and provided Commission members with information relating to the enactment of the Cannabis Regulation and Tax Act (Act) which legalized private consumption and possession of cannabis for Illinois residents 21 years of age.
or older, which takes effect on January 1, 2020. He commented on the City Council’s discussions on August 12th and September 9th regarding the Act, resulting in a consensus of the Council in favor of allowing recreational cannabis dispensaries in the City. Principal Planner Olson advised the focus of the discussions addressed the regulatory framework for the sale of recreational cannabis including applicable zoning districts, maximum number of dispensaries, setbacks to schools and residential areas and public health and safety factors. He added staff took the requirements of the Act and direction from the City Council and prepared text amendments to the UDO and set a public hearing for tonight.

Principal Planner Olson explained how the Act preserves local zoning authority and provides municipalities the option to opt out or limit locations of cannabis businesses. He then commented on a pre-existing medical cannabis dispensary’s right to obtain a recreational cannabis license and the municipalities’ right to allow certain cannabis establishments and prohibit others. In addition, he noted the licensing of cannabis businesses is the exclusive domain of the State of Illinois and the Act authorizes up to 500 dispensary licenses across the State. Additionally, Principal Planner Olson touched on the six types of cannabis businesses regulated by the Act and advised members the City Council had decided to only address medical and recreational dispensaries at this time. He mentioned the other types of cannabis businesses would be undertaken at a future date.

Principal Planner Olson then addressed the existing location restrictions for medical cannabis dispensaries and the effect the current UDO setbacks had on potential sites. He referred members to the maps provided in their packet showing the 100 foot, 200 foot, 250 foot, 500 foot, and 1,000 foot setbacks to schools, day care centers and residential areas. He said the City Council’s recommendation was to have a setback of 250 feet be established to schools, day care centers, pre-schools and residential zoned areas. Principal Planner Olson added it was also suggested the 250-foot setback be established to any academic building or residence hall at NIU. Additional aspects touched on was how the setback reduction would open up most of the existing “LC” and “GC” zoned properties along the City’s commercial corridors including Sycamore Road, West Lincoln Highway and East Lincoln Highway. He noted cannabis establishments would not be allowed in the “CBD” Central Business District.

Principal Planner Olson provided an overview of the current regulations regarding medical cannabis dispensaries enacted in 2015. He then provided a summary of proposed amendments based on discussions with the Council in August and September of 2019. He introduced City Attorney Matt Rose and advised members Mr. Rose was available to address any questions or concerns they might have.
Chair Doe then invited attendees in the audience to speak.

Mr. Dewayne Brown, of 403 South 6th Street, advised of his support for the amendments. He noted the history of the prior approval process experienced by the City and the non-issuance of a license by the State. He commented on several medical and health benefits of cannabis in alleviating pain and suffering and the struggle of sufferers in accessing product resources. He stated he hoped the State would issue a local license and emphasized the need for prompt approval to address the needs of those who suffer.

Mr. Don Hawkins advised he was the owner of Competitive Edge, Inc., located at 700 Peace Road. He stated he would be before the Commission in two weeks regarding the hearing scheduled for a medical marijuana dispensary in the building he occupies. He advised of his concern with the City’s approach to the issue and how restrictive the process is, and the timeline that would have to be followed. He further commented on the costs and the volume of clients needed for dispensaries to be successful. Mr. Hawkins said with the large population of DeKalb County, most users would not be able to come to the proposed location. He stated DeKalb County is an agricultural county and to omit craft growers is bad for the community and advised he would be interested in being a craft grower himself. Mr. Hawkins commented on his uncertainty as to whether the separation requirement of 1,500 feet was only for recreational cannabis or the other cannabis businesses too. He shared he was in communication with the state government and his state representative and didn’t feel the approval of only three recreational cannabis dispensaries in a 10-county area was sufficient.

Principal Planner Olson reiterated the Council’s determination to only deal with dispensaries at this time and the review of other types of cannabis businesses would occur in the future. He stated the Council wanted to ensure the City had regulations for cannabis dispensaries in the UDO when applicants would come forward. He further advised the City Council will look at the other types of businesses in the near future once dispensaries are established.

Chair Doe requested clarification from Principal Planner Olson on the six types cannabis businesses covered by the Act as to whether they were different types of dispensaries or businesses. Principal Planner Olson confirmed they were different types of businesses. Chair Doe further inquired as to the setbacks referenced related to dispensaries or businesses. Principal Planner Olson confirmed the setbacks just applied to dispensaries at this time.

Mr. Hawkins asked if the State is going to allow medical marijuana dispensaries to automatically qualify to sell recreational cannabis. City Attorney Rose responded they would have the first chance at them. Conversation followed addressing the ability of a licensee operating two businesses from one location, the ability to operate at a second location, the clarification of what type of
business could be operated at a secondary location, and separation requirements.

Chair Doe gave the public the opportunity to speak. There was none.

Mr. Klein advised he was not in favor of recreational marijuana. He further advised he did not have any questions.

Mr. Castro requested clarification on a couple technical items. First, he inquired as to definition of “adult.” City Attorney Rose responded that “adult use” is 21 and over. Mr. Castro then addressed the map showing the 250-foot buffer and asked Principal Planner Olson if the map of the Central Business District (CBD) seemed to be shown as being excluded. Principal Planner Olson responded dispensaries would not be permitted in the CBD District. Mr. Castro commented he was in favor of the amendments as the proposed restrictions were comparable to those for alcohol and tobacco sales.

Ms. Buckley requested clarification from Principal Planner Olson regarding on-premise use of cannabis. He stated it was prohibited.

Mr. Wright provided a scenario of a medical dispensary not located in the City but applying for a recreational license in DeKalb. He asked if the application would be allowed. City Attorney Rose and Principal Planner Olson responded it would be allowed, however the applicant would have to submit the appropriate documentation and meet the zoning requirements for such a facility.

Mr. Wright suggested the transporter services for dispensaries being needed and why they were not allowed. Principal Planner Olson responded that dispensaries utilizing transporters is fine, but a transporter locating their place of business in the City would not be permitted at this time.

Mr. Wright asked about the background of the previous medicinal cannabis facility to the south being approved, but not opening. Principal Planner Olson stated they had not received a State license and the terms in the City’s approval were not met.

Mr. Wright inquired if the City was regulating all marketing with regard to dispensaries. Principal Planner Olson provided the City was matching the State’s regulations regarding advertising of cannabis. City Attorney Rose advised promotional-type advertising was regulated by the State. Ms. Buckley commented FCC-licensed operations were prohibited from accepting any such advertisement.

Chair Doe requested clarification as to how City Council selected a 250 foot setback as opposed to a 500 foot setback. Principal Planner Olson advised
the amounts were suggested by staff with consideration given to the existing tobacco/alcohol setback restrictions. He also stated the City wanted to ensure commercially zoned properties were opened up for dispensaries.

Mr. Hawkins addressed a prior statement by City Attorney Rose regarding the situation of a transporter business looking to locate in the City of DeKalb and having to apply and go through the City’s process for approval. City Attorney Rose explained an applicant could request to amend the UDO to allow the other type of cannabis business uses such as a transporter.

Ms. Buckley requested clarification of the impact on the proposal before the Commission. She stated her understanding was if the Commission passes the proposal, it doesn’t mean the City Council can’t come back with a request to allow the transporter business. Principal Planner Olson confirmed Ms. Buckley was correct.

Principal Planner Olson responded the City is looking to get ahead of the process to ensure it is ready when dispensary applicants come forward. He referenced the upcoming public hearing on a medical cannabis dispensary for 700 Peace Road and noted the applicant had indicated an interest in recreational cannabis licensing if approved for the medicinal.

Ms. Buckley inquired what outside research had been performed on how other states addressed this issue, including zoning. Principal Planner Olson advised the City has not looked at many other states, but noted Illinois was one of the most restrictive states in this matter. Principal Planner Olson and City Attorney Rose added the City had looked at other communities in the area and what they are doing regarding cannabis dispensaries, such as Elburn and Sycamore.

Chair Doe addressed the definition of “adult” and commented it might be beneficial having the term defined. City Attorney Rose advised the definition was from the State statute and mentioned “under 21” was referenced in the amendment.

City Attorney Rose continued with comments regarding enforcement being similar to what is utilized with tobacco. Discussion continued relating to the application of State law regarding smoking cannabis and the status of the City of DeKalb as a smoke-free community.

Chair Doe asked if there were any additional comments from the public.

Mr. Mark Robinson, of 925 South 6th Street, asked why the CBD was excluded on where dispensaries could locate. Principal Planner Olson advised the City Council had determined dispensaries were more appropriate for commercial strip centers and at this time did not want them in the CBD. Mr. Robinson
stated having these businesses in the CBD would open more activity in the downtown area, which would be beneficial for the City.

Chair Doe gave the public one more opportunity to speak. There was none, and the public hearing was closed.

Mr. Castro spoke to the rhetorical question presented by Mr. Klein of “what else beyond money is the City interested in” with the counter that recreational cannabis has its own value. Discussion on the pros and cons of recreational cannabis followed and the impact of legalization. Principal Planner Olson provided comment on the change in the law and the considerations currently in front of the Commission.

Ms. Buckley made a motion based on the submitted petition and testimony presented, the Planning and Zoning Commission recommend to the City Council approval of text amendments to Chapter 23 “Unified Development Ordinance” of the Municipal Code in relation to the adult-use of cannabis as shown on the attached Exhibit A of the staff report. Motion was seconded by Mr. Wright.

A roll call vote was taken. Ms. Buckley – yes, Mr. Castro – yes, Mr. Klein – no, Chair Doe – yes, Mr. Wright - yes. Motion passes 4-1-1. Mr. Maxwell was absent.

2. **Public Hearing** – City of DeKalb-initiated text amendments to Chapter 23 “Unified Development Ordinance (UDO)” of the Municipal Code to amend Article 5.09 “CBD” Central Business District to make private parking lots and parking structures a permitted use.

Principal Planner Olson advised members this item was regarding text amendments to the UDO in relation to private parking lots in the CBD. He noted public parking lots are permitted in the CBD if owned by the City. He commented on the recent sale of the City-owned lot located at the southeast corner of East Locust Street and North 1st Street, to Plaza DeKalb LLC, to provide parking for future residents of Plaza DeKalb. He advised in the UDO private parking lots were not listed as permitted or special use in the CBD; therefore, the City is proposing an amendment to the UDO.

Principal Planner Olson then provided a review of the special and permitted use references for parking lots currently existing in the various zoning districts in the UDO. He then commented on the parking for the downtown area being principally provided by the City as sites in the CBD are not required to provide their own off-street parking spaces. He noted the Cornerstone development has a private 40-space parking lot behind the building. He stated it was recommended the CBD be amended to add as a permitted use “private parking
lots and structures, as a principal use, when located within 300 feet of the use being served.” He noted to members the referenced parking lot at North 1st Street and East Locust Street is within 300 feet of the Plaza DeKalb project.

Chair Doe gave the public the opportunity to speak. There was none.

Ms. Buckley questioned the use of the private parking lot by Plaza DeKalb tenants considering its distance to the building. Principal Planner Olson shared the initial intent of developer was to utilize the public parking lots north of East Locust Street for the residents.

Mr. Castro inquired as to the private parking area south of the Cornerstone development. He then addressed discussions relating to the City having the option of building a multi-level parking facility near Cornerstone and wondered if the City would be limiting itself by selling a property like the one at North 1st Street and East Locust. Mr. Castro asked if a parking deck would be considered for this particular property (North 1st Street and East Locust Street). Principal Planner Olson advised this was not a consideration.

Chair Doe asked for confirmation that private lots are to be maintained by the owners and there would be signage advising the space was a private parking lot. Principal Planner Olson confirmed the maintenance responsibility would be the owner and advised signage would most likely be similar to the signage at Cornerstone’s private parking lot.

Ms. Buckley asked about lighting and landscaping requirements for the private parking lots. Principal Planner Olson advised the developer submitted a site plan for the lot at North 1st Street and East Locust Street and it met the setback and landscaping requirements. He stated the site has some existing landscaping around the perimeter which will be retained with some trees being relocated. He further stated the developer will be required to meet the City’s standards for parking lots.

Chair Doe gave the public one more opportunity to speak. There was none, and the public hearing was closed.

Mr. Wright made the motion based on the submitted petition and testimony presented, the Planning and Zoning Commission recommend to the City Council approval of a text amendment to Article 5.09.02 of the UDO to add “private parking lots and structures, as a principal use, when located within 300 feet of the use being served” as a permitted use in the CBD Central Business District as shown on the attached Exhibit A of the staff report. Motion was seconded by Mr. Klein.
A roll call vote was taken. Ms. Buckley – yes, Mr. Castro – yes, Mr. Klein – yes, Mr. Wright – yes, Chair Doe – yes. Motion passes 5-0-1. Mr. Maxwell was absent.

F. REPORTS

Principal Planner Olson advised the next Planning and Zoning Commission meeting would be Wednesday, October 23rd, with a public hearing for 700 Peace Road regarding a medicinal cannabis dispensary. In addition, a public hearing will be held regarding amendments to the annexation agreement and ordinances for the Chicago West Business Center, the 343-acre site south of the Tollway, to accommodate a proposed development. Principal Planner Olson added at the last two City Council meetings, the Council approved the second reading on the Mooney property (Agora Tower), and the amendments to the commercial development containing Aspen Dental and ATI Therapy to expand the approved service uses.

G. ADJOURNMENT

Mr. Wright motioned to adjourn, Ms. Buckley seconded the motion, and the motion was approved by unanimous voice vote. The meeting adjourned at 7:11 PM.

Respectfully Submitted,

Dan Olson, Principal Planner

Minutes were approved by the Planning and Zoning Commission on October 23, 2019.