

**ORDINANCE 2017-015**

**PASSED: MARCH 13, 2017**

**AUTHORIZING A ZONING MAP AMENDMENT FROM “LI” LIGHT INDUSTRIAL DISTRICT, TO “PD-I” PLANNED DEVELOPMENT – INDUSTRIAL DISTRICT, TO ALLOW FOR A MEDICAL CANNABIS DISPENSARY (JUSTICE GROWN) IN A MULTI-TENANT BUILDING LOCATED AT 650 PEACE ROAD.**

**WHEREAS**, the City of DeKalb is a home rule municipality with the power and authority conferred upon it by the Illinois Municipal Code and the Constitution of the State of Illinois; and

**WHEREAS**, Justice Grown, (herein referred to as “Petitioner”) of the property commonly known as 650 Peace Road, Unit E, DeKalb, Illinois (herein referred to as “Subject Property”), has petitioned the City of DeKalb for approval of a zoning map amendment from the “LI” Light Industrial District to the “PD-I” Planned Development – Industrial District, to allow a medical cannabis dispensary in an approximately 2,960-square-foot tenant space in a multi-tenant building on the Subject Property; and

**WHEREAS**, pursuant to proper legal notice, a public hearing was conducted by the Planning and Zoning Commission on February 22, 2017; and

**WHEREAS**, the City and Petitioner have conducted all required public hearings before the Planning and Zoning Commission of the City of DeKalb for the rezoning for the Property, and have otherwise satisfied all conditions precedent to the adoption of this Ordinance; and

**WHEREAS**, the City Council has reviewed and adopts the following findings of fact of the Planning and Zoning Commission of the City of DeKalb, finds that the proposed rezoning is in conformance with the applicable zoning factors contained therein, and finds that approval of the rezoning for the Property is in the public interest and promotes the public health, safety and welfare;

**STANDARDS OF REZONING**

**1. The proposed rezoning conforms to the Comprehensive Plan, or conditions have changed to warrant the need for different types of land uses in that area. The proposed rezoning is appropriate considering the length of time the property has been vacant, as originally zoned, and taking into account the surrounding areas trend in development.**

The 2005 Comprehensive Plan recommends the subject site for commercial use. Staff believes that the proposed development meets the intent of the City’s Comprehensive Plan. The locations where a medical cannabis dispensary can locate and meet all of the setback requirements is very limited. The area near the Peace Road and Pleasant Street

intersection is one of those areas. The proposed dispensary will be locating in a multi-tenant building with excess parking and at a highly visible intersection.

**2. The proposed rezoning conforms to the intent and purpose of the Unified Development Ordinance.**

The proposed use and zoning of Planned Development – Industrial will comply with the regulations of the UDO except for the two exemptions related to the minimum lot size for a Planned Development and the type of building medical cannabis dispensaries can locate in. The exceptions to the UDO are justified based upon the limited areas where medical cannabis dispensaries can locate and the precautions that will be taken regarding building security and safety.

**3. The proposed rezoning will not have a significantly detrimental effect on the long-range development of adjacent properties or adjacent land uses.**

Much of the surrounding area is already developed. The proposed use will be locating in a multi-tenant building that is currently fully occupied. There are two other similar multi-tenant buildings to the north. The locations where a medical cannabis dispensary can locate and meet all of the setback requirements is very limited. The proposed rezoning should not have a detrimental effect on the adjacent properties or land uses.

**4. The proposed rezoning constitutes an expansion of an existing zoning district that, due to the lack of undeveloped land, can no longer meet the demand for the intended land uses.**

The subject property is currently zoned “LI” Industrial District. Rezoning the property to “PD-I” Planned Development – Industrial will allow a use that has very limited locations where it can be established in the City.

**5. Adequate public facilities and services exist or can be provided.**

The proposed use will be one of nine tenants in a multi-tenant commercial building. Adequate public services are already provided to the subject property and tenant space.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL** of the City of DeKalb, Illinois as follows:

**Section 1.** The recitals set forth in the preamble are hereby incorporated herein by reference and made a part of this Ordinance.

**Section 2.** This Ordinance is limited and restricted to the Subject Property legally described as follows:

LOT 1 OF ASPEN RIDGE SUBDIVISION, A SUBDIVISION OF PART OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 24,

TOWNSHIP 40 NORTH, RANGE 4 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MAY 3, 1995 IN BOOK "Z" OF PLATS, PAGE 40 AS DOCUMENT NO. 95004207, SITUATED IN THE CITY OF DEKALB, DEKALB COUNTY, ILLINOIS.

The aforementioned legal description is comprised of Parcel Identification Number (PIN) 08-24-218-024 and commonly known as 650 Peace Road, DeKalb, IL 60115.

**Section 3:** A zoning map amendment from "LI" Light Industrial District to "PD-I" Planned Development–Industrial District to permit a medical cannabis dispensary in the tenant space as shown on Exhibit A, exceptions to the UDO regarding minimum lot size for a Planned Development and to allow a medical cannabis dispensary in a multi-tenant building are hereby granted for the Subject Property and subject to the conditions listed in Section 4 of this Ordinance.

**Section 4:** The approval herein is granted subject to the following conditions:

- 1) Additional permitted and special uses shall be those as listed in the "LI" Light Industrial District.
- 2) Setbacks, building lines, floor area ratios, building dimension limitations, height restrictions and other similar lot/building size/shape restrictions and regulations shall meet those standards as set forth in the "LI" Light Industrial District and the UDO except as provided below:
  - a) Article 5.13.06 – The minimum site size for a Planned Development shall be reduced from 2 acres to 1.25 acres.
  - b) Article 7.18.04(6) – The medical cannabis dispensary shall be allowed in a multi-tenant building.
- 3) Prohibited Uses:
  - a) Adult oriented uses; adult bookstores or other establishment displaying, leasing, trading, selling pornographic materials as defined in the UDO, whether as a principal use or accessory to an allowed principal use;
  - b) Animal boarding;
  - c) "Second-hand", resale or consignment store;
  - d) Fire, bankruptcy sale, wholesale, overstock auction house or their equivalent;
  - e) Massage parlor;

- f) Dollar stores, discount department stores, or wholesale establishments;
- g) Currency exchange, money wiring, check cashing facility or equivalent;
- h) Auto title loan or post dated check or payday loan facility or equivalent, unless associated with and incorporating the full-services of a federally-insured bank, credit union or savings and loan;
- i) Bar, tavern, package liquor store, dance hall or any other facility;
- j) Drug paraphernalia or “head shop” or a retail establishment that permits the sale of drug paraphernalia as defined by City Code or state law;
- k) Community residences;
- l) Tobacco, pipe, cigar or cigarette sales, retail tobacco sales, “hookah bar” or other establishment that permits the indoor consumption of any product regulated under Chapter 64 of the City Code;
- m) Group homes;
- n) Parking lots, as a principal use;
- o) Pawn shops;
- p) Cemeteries and mausoleums;
- q) Funeral homes and mortuaries;
- r) Rooming houses or lodging houses;
- s) Automobile or motor vehicle/recreational vehicle/implement repair, service, sales, rentals or maintenance;
- t) Contractor offices associated with onsite storage of vehicles, supplies or equipment, building material or equipment sales, building or equipment service or maintenance offices, or the equivalent;
- u) Warehouses, whether accessory to a retail use, or self-service storage;
- v) Residential uses;
- w) Tattoo, body art or body modification related uses;
- x) Car washes, drive-thrus;

- y) Outdoor, drive-thru or standalone automatic teller machines (except for ATMs wholly concealed within the primary structure on the Property and accessible only from within the structure).
  - z) Any use not expressly identified as a Permitted Use.
- 4) This approval is expressly contingent and conditioned upon this applicant:
- a) Receiving a state-issued medical cannabis dispensary license by December 31, 2017.
  - b) Completing all required build-out and tenant improvements within six months after issuance of the state-issued medical cannabis dispensary license (and prior to opening of the facility).
  - c) Executing a site security agreement in form and content acceptable to the Chief of Police within a sixty day period after the issuance of the state-issued medical cannabis dispensary license (and prior to opening of the facility).
  - d) The Petitioner shall submit a proposed exterior signage plan within sixty days of the date of issuance of a state license for the medical cannabis dispensary for review and approval by the Community Development Director. Such proposed signage shall be subject to approval by the Director prior to any installation of the same, and any signage installed shall be maintained in accordance with the approved exterior signage plan (unless a revision is later approved by the City).

The failure of the applicant to satisfy any of the foregoing conditions shall constitute grounds for the Community Development Director to notify the applicant, in writing that the conditions have not been satisfied and that the Ordinance is subject to revocation. Upon receipt of such notice, the applicant may either agree and consent to the revocation of the Ordinance, or may submit to a due process hearing before a hearing officer designated by the Community Development Director. The report of such hearing officer shall be forwarded to the City Council of the City of DeKalb for consideration, and the decision of the City Council shall be final.

- 5) The medical cannabis dispensary approved herein shall be expressly limited to the retail sale of medical cannabis and cannabis-infused products pursuant to a lawfully issued prescription for the same based upon the current provisions of the Illinois Compassionate Use of Medical Cannabis Pilot Program, 410 ILCS 130/1, et. seq. This Ordinance shall not authorize the growing, production, processing creation, cultivation or compounding of cannabis or cannabis-based products, nor shall it authorize the retail sale of non-medical cannabis (i.e. any cannabis or cannabis-based product sold without requirement of a medical prescription, whether or not such sale is lawful under then-current applicable state or local laws).

Further, this Ordinance shall not authorize any consumption of cannabis or cannabis-based products on-site, except as otherwise required by a superior governmental mandate.


**Section 5.** All ordinances or portions thereof in conflict with this ordinance, including the prior versions of the ordinances included above, are hereby repealed.



**Section 6.** Should any provision of this Ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions will remain in full force and affect the same as if the invalid provision had not been a part of this Ordinance.

**Section 7.** That all provisions of the Unified Development Ordinance shall remain in full force and effect and this Ordinance shall take effect upon its passage and approval according to Law. The City Clerk or designee shall record a copy of this Ordinance included herein after execution of this Ordinance.

**PASSED BY THE CITY COUNCIL** of the City of DeKalb, Illinois at a Regular meeting thereof held on the 13<sup>th</sup> day of March, 2017, and approved by me as Mayor on the same day. Passed on First Reading by an 8-0 roll call vote. Aye: Jacobson, Finucane, Marquardt, Snow, Noreiko, Baker, Faivre, Rey. Waiver of Second Reading passed by an 8-0 roll call vote. Aye: Jacobson, Finucane, Marquardt, Snow, Noreiko, Baker, Faivre, Rey.

**ATTEST:**

  
**JENNIFER JEEP JOHNSON**, City Clerk

  
**JOHN A. REY**, Mayor

# EXHIBIT A

