

**City of Prospect Heights
Plan/Zoning Board of Appeals
November 21, 2019**

I. MEETING COMMENCEMENT:

The regular meeting of the Plan/Zoning Board of Appeals was called to order at 7:00 pm by Chairman Dash, at City Hall, 8 N. Elmhurst Road, in Prospect Heights, Illinois.

II. ROLL CALL:

Present: Commissioners Kempa, Patel, Tammen, Mellen, Saewert & Chairman Dash

Absent: Commissioner DeGraf by prior notice

Quorum is present.

Present at the meeting: Director of Building & Development Daniel A. Peterson and Recording Secretary: Karen Schultheis

III. APPROVAL OF October 24, 2019 MINUTES

Director Peterson comments on corrections needed. Approved with corrections.

Motion made by Commissioner Tammen, seconded by Commissioner Mellen to approve the meeting minutes as corrected.

ROLL CALL VOTE:

AYES: Commissioners Kempa, Tammen, Mellen, Patel & Chairman Dash

NAYS:

ABSENT: Commissioners DeGraf

ABSTAIN: Commissioner Saewert

Motion carried.

IV. OLD BUSINESS

Motion to add PZBA Public Meeting 19-15 SUB/LC and add PZBA 19-17PC

Motion by Commissioner Kempa, second by Commissioner Mellen

Voice Vote:

AYES: Commissioners Kempa, Tammen, Patel, Mellen, Saewert and Chairman Dash

NAYS:

ABSENT: Commissioners DeGraf

ABSTAIN:

Chairman Dash requests a motion to recommend that City Council approve the requests for both case numbers PZBA 19-15 SUB/LC and 19-17 PC.

Motion by Commissioner Tammen

Second by Commissioner Mellen

ROLL CALL:

AYES: Commissioners Kempa, Tammen, Patel, Mellen, and Chairman Dash

NAYS:

ABSENT: Commissioners DeGraf

ABSTAIN: Commissioner Saewert

V. NEW BUSINESS

1. PZBA – Public Hearing : Case No. ZBA 19-18 TA

Applicants: City of Prospect Heights

Address: 8 N. Elmhurst Rd., Prospect Heights, IL 60070

Description of Request:

The applicant is seeking a Text Amendment to Title 5 by adding definitions related to adult recreational cannabis businesses and establishing certain adult recreational cannabis uses as a Special Use in the B2, B2A, B3 and B4 zoning districts.

Chairman Dash requests a motion to open the public meeting for 19-18 TA at 7:06 pm

Motion by Commissioner Saewert

Second by Commissioner Kempa

VOICE VOTE:

AYES: Commissioners Kempa, Tammen, Patel, Mellen, Saewert and Chairman Dash

NAYS:

ABSENT: Commissioners DeGraf

ABSTAIN:

Chairman Dash swears in the representative of the City of Prospect Heights Building Department Director Daniel A. Peterson.

Daniel A. Peterson, Director of Building and Development for the City of Prospect Heights 8 N. Elmhurst Rd. Prospect Heights, IL 60070.

Director Peterson outlines the actions that have taken place prior to the public hearing. Director Peterson conveys the discussions of the ADHOC Committee. Director Peterson reviews the Ordinance presented.

Chairman Dash states for the record there is no one in attendance from the public to provide testimony.

Chairman Dash requests any further questions or comments from the commissioners.

Commissioner Mellen asks what the reasoning was for council for restricting to only allow one license and if a second applicant became available or wished to move to town would require a change in the ordinance but isn't that the case with the Special Use permit? That would still need to come before the board, require a public hearing and be approved under the standard protocol.

Director Peterson answers the second question first. In the event a primary cannabis business exists and a second applicant comes through for the Special Use and approval process, a text amendment and Special Use approval would be required, which has been done previously with other types of businesses to create the Ordinance allowing the second dispensary.

Chairman Dash clarifies the question by asking if it is required for the applicant to pursue a Special Use permit and must appear before the planning board and complete the process, why has the City Council restricted the number of licenses available to one.

Director Peterson states that the State of Illinois is wanting municipalities to view this as if it were a liquor license and it is not a privilege. He states using Prospect Heights as an example, there are a number of liquor licenses issued to the specified number of users and there is no surplus. He states the same principle exists here as if a new restaurant were applying for a liquor license. That restaurant would have to go through the approval process and a new license would need to be created and granted.

Chairman Dash confirms this is to be structured in the same format as the liquor licenses are considered.

Commissioner Mellen confirms that the possibility isn't excluded it would require an amendment to the Ordinance.

Director Peterson confirms.

Director Peterson responds to the first question by stating that because cannabis is a new industry in Illinois and Nationally a little over five years' old there is still a lot of uncertainty in the cannabis industry it is his belief that the alderman felt comfortable with having no more than one retail space until there was more knowledge on how one would impact the City.

Commissioner Saewert states it is her understanding that in regard to medicinal marijuana the State will take approximately one year to decide who will receive licenses and that in 2020 the dispensaries that are licensed for medicinal marijuana will be the first to dispense the recreational marijuana. She asks if it works the other way around that if in 2021 a license was received for recreational marijuana could medicinal marijuana also be dispensed from the same location.

Director Peterson states the City does not know the answer to that question. He states when they have spoken to State Representative Walker's office there is still an issue in the medical field and a hesitancy for doctors to write prescriptions for medicinal marijuana. Therefore, the belief is there will not be a growth in the medicinal side of marijuana sales at this time.

Commissioner Saewert confirms if there was a dispensary that has a license to dispense medicinal marijuana the proposed ordinance does not cover that situation.

Director Peterson confirms that is correct.

Commissioner Saewert asks if it is the opinion of Director Peterson if it is necessary to have all the definitions included in the proposed ordinance if they are only looking at the dispensary.

Director Peterson states yes. He states the State Law requires this because the State wants the City to be able to identify the businesses and should one of those businesses wish to apply for a text amendment to receive approval it has already been established that the City knows what they are talking about. Secondly, it is an administrative process to put into place so when businesses are researching our town they already know we understand what their business is.

Commissioner Patel states he understands as of January first the opt in is only for dispensaries and asks if someone in the future would like to do a cultivation center will the process be to go for a text amendment if that option is still available.

Director Peterson responds according to the City Attorney if in a hypothetical scenario a cultivation center could go through the standard text amendment process which is already in the zoning code.

Commissioner Kempa asks in regard to the 750 foot set back from a day care and with the limited number of parcels has the city has to offer to a dispensary, what would happen if a daycare moved into one of the units prior to a dispensary.

Director Peterson states in that scenario the dispensary would not be able to establish a business. Until an actual business application and user identified any facility is open for any private owner to lease or sell to whomever they wish. It could be a potential text amendment but a difficult one to pass without studies and education on safety and security amongst other concerns.

Commissioner Mellen asks if the seven hundred fifty set back will work in the opposite direction is a dispensary is opened first will a day care be turned down for location if within the setback.

Director Peterson states yes because a day care is not allowed in those districts and would have to come for a Special Use and would be denied due to the dispensary within the setback.

Commissioner Saewert asks if there are any other types of businesses that the City of Prospect Heights could levy a tax on and receive a similar return or in example the video gaming, what type of revenue is the City receiving from that.

Director Peterson states on average the City receives about a quarter of a million dollars per year in video gaming revenue. The second highest revenue to the City is through the hotel/motel tourism tax however, the portion of the tax the City receives must be reinvested into the tourism district so therefore there is no general revenue benefit from that tax. There is a lot of motor fuel tax money that comes back to the City from our sales tax in town through the State revenue sharing formula. However in a direct product relationship of receiving a tax rate back there are no products in town right now that could generate what cannabis could generate.

Commissioner Kempa states it is to his understanding Arlington Heights has opted out of dispensaries even though they have medicinal and asks if the City of Prospect Heights places a dispensary on the border of Arlington Heights is that considered being a good neighbor and is this something the council has thought of.

Director Peterson states Arlington Heights has chosen not to delve into the recreational use, should Arlington Heights have chosen to participate and placed a dispensary in the Target parking lot that would have prohibited us from doing so as the State requires a fifteen-hundred foot setback from any other dispensary.

Chairman Dash points out that had Arlington Heights had any objections they could have attended the ZBA hearing or any of the City Council meetings.

Commissioner Mellen asks what the ADHOC committee presented to Council in regards to potential benefits of recommending the allowance of cultivation centers and craft growers even though City Council chose not to accept that recommendation.

Director Peterson states they were looking at cannabis as a retail product. Therefore there were potential jobs being created in the processing and cultivation of this product. There are also business owners and property owner who may benefit from having a potential client or new tenant moving in. There are property owners who could market and possibly get a better return if they have the proper facility. The committee was looking at this as a holistic system in which you cannot have the sales without the other part of the business. The City of Prospect Heights code already allows for the industrial side of the business, the manufacturing, the storing and warehousing and some of the agricultural aspects of the business.

Commissioner Mellen asks if there is a direct revenue source for the City versus the indirect source just described.

Director Peterson states the only way there would be a direct revenue source is if one of the users is a high labor employer to receive our share of the direct employer rebate through the Illinois legislative distributive fund calculation of what percentage of income tax we would receive. However, because Prospect Heights does not receive money from taxes except for the police pension and road bond fund the other taxing districts would benefit by making sure we have low vacancy rates and getting the best dollars for our building stock.

Commissioner Saewert states it is her understanding the Police did a report for the ADHOC committee and asks what are the safety concerns the Police have.

Director Peterson states the Police are comfortable with the State requirements for safety. The main concern is the ability to measure the level of intoxication or influence which would be a situation regardless if there is a dispensary in Prospect Heights or not.

Chairman Dash asks if there are any other questions in regard to how the ordinance is written.

Chairman Dash requests a motion to close the public meeting for 19-18 TA at 7:45 pm

Motion by Commissioner Mellen

Second by Commissioner Saewert

VOICE VOTE:

AYES: Commissioners Kempa, Tammen, Patel, Mellen, Saewert and Chairman Dash

NAYS:

ABSENT: Commissioner DeGraf
ABSTAIN:

Chairman Dash requests a motion to receive into the public record the staff review of the zoning compliance for the application 19-18 TA with the zoning standards as presented by staff and to make these standards a part of the official record of this application.

Motion by Commissioner Kempa

Second by Commissioner Patel

VOICE VOTE:

AYES: Commissioners Kempa, Tammen, Mellen, Patel, Saewert and Chairman Dash

NAYS:

ABSENT: commissioner DeGraf

ABSTAIN:

Chairman Dash requests a motion to receive into evidence Exhibit A, the packet of information from No Weed Illinois

Motion by commissioner Tammen

Second by Commissioner Patel

ROLL CALL:

AYES: Commissioners Kempa, Tammen, Patel, Mellen, Saewert and Chairman Dash

NAYS:

ABSENT: Commissioner DeGraf

ABSTAIN:

Chairman Dash requests a motion to recommend to City Council the approval of the request to amend Title Five (5) by adding definitions related to adult recreational cannabis businesses and establishing certain adult recreational cannabis uses as special uses in the B2, B2A, B3 and B4 zoning districts as presented in Draft Ordinance O-19-42.

Motion by Commissioner Patel

Second by Commissioner Mellen

VOICE VOTE:

AYES: Commissioners Kempa, Tammen, Mellen, Patel, Saewert and Chairman Dash

NAYS:

ABSENT: Commissioner DeGraf

ABSTAIN:

This case will appear before City Council on December 9, 2019.

VI. Previous Application Updates

VII. Communications

1. 2020 ZBA calendar

VII. Adjournment: 7:50 pm

Motion to Adjourn: Commissioner Patel

Second: Commissioner Saewert

Voice Vote: Unanimous