



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Mayor Diane Wolfe Marlin and City Council Members
FROM: Lorrie Pearson, AICP, Community Development Director
Kevin Garcia, AICP, Planner II
DATE: October 17, 2019
SUBJECT: **An Ordinance Amending The Urbana Zoning Ordinance (Cannabis Text Amendment – Plan Case 2385-T-19)**

Introduction

The Zoning Administrator requests an amendment to Articles II and V of the Zoning Ordinance to add definitions and establish use provisions for non-medical, adult use cannabis businesses. The proposed amendment would add definitions to Article II; add non-medical cannabis uses to Table V-1, Table of Uses; and amend Section V-13, Regulation of Medical Cannabis Uses.

On June 25, 2019, Governor Pritzker signed the Cannabis Regulation and Tax Act (410 ILCS 705/) into law, making Illinois the 11th state to legalize non-medical, adult use cannabis and the first to do so by the legislative process, rather than through a ballot initiative. The Act will take effect on January 1, 2020, making it legal for all adults 21 and older to possess and consume cannabis for nonmedicinal purposes. The Act established regulations for the cultivation, processing, distribution, and use of cannabis, adds taxing provisions, and includes social equity components that are generally lacking in other states that have legalized non-medical, adult use cannabis.

On September 3, the City Council passed a three percent Municipal Cannabis Retailers' Occupation Tax.

Since non-medical, adult use cannabis will not be legal in Illinois until January 1, 2020, there are no definitions or use regulations in the Zoning Ordinance governing adult use cannabis businesses. The Zoning Administrator requests this text amendment to establish guidelines for such uses. The proposal would add regulations to allow non-medical cannabis uses as permitted or conditional uses in some business, industrial, and agricultural districts.¹

The Plan Commission held public hearings on the proposed text amendment at their September 19 and October 10, 2019, meetings. The Plan Commission voted unanimously to recommend approval of the proposed text amendment to City Council.

¹ While the Act allows local governments to regulate “on-premise consumption” (e.g., cannabis smoking lounges), the proposal does not include regulations for such uses. The State is expected to release guidance to help clarify how on-premise consumption may be regulated. At that time, the City of Urbana may choose to address the issue. **Until the issue is addressed, on-premise consumption is not allowed.**

Background

On June 25, 2019, Governor Pritzker signed the Cannabis Regulation and Tax Act (410 ILCS 705/) (“the Act”), making it legal for adults 21 and older to purchase, possess, and consume cannabis for nonmedicinal purposes. In addition, the Act regulates how cannabis may be cultivated, transported, processed, and sold, and restricts the number of dispensing businesses that will be allowed in each region of the state. The Act prohibits consumption of cannabis in public places, in motor vehicles, on school grounds, and near people under the age of 21, and prohibits smoking of cannabis in any place where smoking is prohibited under the Smoke Free Illinois Act.¹

The Act grants local governments the authority to adopt reasonable zoning controls to regulate...

“...the time, place, manner, and number of cannabis business establishment operations, including minimum distance limitations between cannabis business establishments and locations it deems sensitive, including colleges and universities, through the use of conditional use permits.”²

Any regulations that a local government enacts cannot be more strict than the Act allows. For instance, dispensaries may operate between 6:00 AM and 10:00 PM. A local government could not further restrict the operating hours to, say, 8:00 AM to 8:00 PM.

Regarding distance limitations, the Act provides the following minimum distance requirements for cannabis businesses:

- No dispensary shall be located on a parcel whose property line is within 1,500 feet of the property line of a pre-existing dispensary.
- No craft grower shall be located on a parcel whose property line is within 1,500 feet of the property line of another craft grower or cultivation center.

On September 3, 2019, City Council passed Ord. No. 2019-08-047, which established a three percent Municipal Cannabis Retailers’ Occupation Tax. The tax would apply to all non-medical cannabis sales in Urbana. The proposed text amendment is a necessary step to identify where cannabis businesses may locate.

On September 19, 2019, the Plan Commission held a public hearing on the proposed text amendment. Ultimately, the Plan Commission continued the case, recommending that staff consider establishing minimum distance buffers between dispensaries and K-12 schools, and between cultivation centers and residential areas. At the October 10, 2019, Plan Commission meeting, staff presented an updated text amendment that included such minimum distances: for dispensaries, staff suggested using the same 100-foot buffer from schools that Urbana requires for liquor stores; and, for cultivation centers, staff suggested a 300-foot buffer from residentially-zoned parcels, based on regulations used in Aurora, Colorado, considered a “best practice” community for cannabis business regulation. After discussion, the Plan Commission accepted staff’s recommendations, which are presented below, and voted unanimously to recommend approval of the proposed text amendment to City Council. No members of the public spoke at either Plan Commission meeting.

¹ Cannabis consumption is not limited to smoking, hence the specific reference to prohibiting smoking.

² Cannabis Regulation and Tax Act (410 ILCS 705/55-25 – Local Ordinances).

Discussion

There are no specific use regulations for non-medical cannabis cultivation, processing, transportation, or sale in Urbana, since these are all new business types in Illinois. These uses should be defined in Article II and their locations regulated in Article V of the Zoning Ordinance.

The State defines six types of cannabis business: craft growers, cultivation centers, dispensaries, infusers, processors, and transporters. Each is described below. *For complete definitions, see Exhibit A.*

- Craft growers are small-scale growing facilities (up to 5,000 sq.ft.¹) that can grow, process, and package cannabis for sale at dispensaries or to processors. They may also share premises with dispensaries or processors (or both).
- Cultivation centers are larger-scale growing facilities (up to 210,000 sq.ft. of “canopy space”) that can grow, process, and transport cannabis to other cannabis businesses.
- Dispensaries sell cannabis, cannabis-infused products, cannabis seeds, and paraphernalia.
- Infusers make cannabis-infused products like oils, tinctures, food, and beverages.
- Processors extract chemicals or compounds from cannabis to produce cannabis concentrate or cannabis products.
- Transporters transport cannabis for other cannabis businesses.²

In Article II, the proposed amendment adds a general definition, “Cannabis business,” which lists each type of cannabis business permitted by the State and refers to the Act for specific definitions. This “incorporation by reference” is preferable to defining each use separately, primarily because it ensures that Urbana’s Zoning Ordinance will always be consistent with the State statute. If the State changes the definition for any cannabis business, the Zoning Ordinance will automatically reflect the change. This will save time and effort since future text amendments will not be required if the State simply changes their definitions. Having a general definition is also more efficient: one definition is preferable to six.

In Article V, the proposed amendment adds distance requirements that mirror the requirements found in the Act. While the Zoning Ordinance could simply refer to the Act (as is proposed for definitions), in this case the day-to-day use and administration of the ordinance will be easier if the distance requirements are explicitly stated, even if that means in the future the ordinance may need to be changed if the State changes the Act.

As proposed, Article V also includes minimum distances from sensitive uses for dispensaries and cultivation centers, per the Plan Commission’s suggestions. The Plan Commission suggested that there should be some separation between dispensaries and K-12 schools. They asked staff to look at the City’s requirements for liquor stores as a basis for establishing a minimum distance for dispensaries, since the uses are similar. The City (and the State of Illinois) requires at least 100 feet of separation between liquor stores and schools, so the proposed text amendment would not allow dispensaries

¹ Craft growers may increase their growing area up to 14,000 sq. ft., in increments of 3,000 sq. ft., based on market need, craft grower capacity, and the licensee's history.

² In less-densely populated areas, like Champaign-Urbana, cannabis businesses can transport their products up to 15 miles, which will likely reduce the need for transporter businesses in the area.

within 100 feet of any elementary school, middle school, or high school. The Plan Commission also recommended that, in addition to the “by right” zones proposed by staff for dispensaries, they also be allowed as a conditional use in the B-2, Neighborhood Business – Arterial, district. This would align the allowed zones for dispensaries with what is allowed for liquor stores.

The Plan Commission also had concerns that cultivation centers could emit odors that could be unpleasant for neighbors, so they suggested that a minimum distance be established between cultivation centers and residential zones. Staff researched the issue and suggested a minimum distance of 300 feet based on the regulations for cultivation centers in Aurora, Colorado, which was highlighted in *Planning* magazine as a “best practice” community in regulating cannabis businesses. Staff also suggested adding language, also based on Aurora, Colorado, to require cultivation centers to mitigate odors using air filters, scrubbers, or other methods.

All of the proposed changes described above, as well as the specific zoning districts proposed for each cannabis business type, are presented below, in the “Proposed Changes” section. In general, dispensaries, craft growers, and infusers are proposed as permitted uses in the more intense business zones and industrial zones, and cultivation centers, processors, and transporters are proposed as permitted uses in industrial zones.

Comprehensive Plan

The following goals and objectives of the 2005 Urbana Comprehensive Plan relate to this case:

Goal 24.0 Enhance Urbana’s commercial areas.

- 24.1 Use a variety of economic development tools to improve and redevelop Urbana’s existing commercial areas.

Goal 28.0 Develop a diversified and broad, stable tax base.

- 28.3 Promote an expanded tax base through aggressive marketing and development efforts aimed at attracting new business, retaining and expanding existing business, and annexation.

Goal 32.0 Promote new and expanded business opportunities.

The proposed text amendment would help accomplish these goals and objectives in several ways. This amendment would allow an entirely new job- and tax-generating industry to be established in Urbana. On September 3, 2019, the City Council passed a three percent Municipal Cannabis Retailers’ Occupation Tax¹, a tax on retail cannabis sales, which the Finance Department estimates would generate between \$275,000 and \$550,000 per year in tax revenue for the City of Urbana. In addition to the taxes generated from cannabis sales, cannabis businesses could help to fill vacant storefronts and vacant lots, and the businesses will provide jobs. There should also be some property tax benefits that occur once cannabis businesses are established.

¹ Ord. No. 2019-08-047.

Proposed Text Changes

The proposed changes are listed below, using a strikethrough and underline notation system. A strikethrough is used to indicate ~~deleted language~~, while an underline is used to indicate added language. Commentary on the proposed changes follow each proposed change and is listed *in italics*.

Section II-3. Definitions

Cannabis Business: A craft grower, cultivation center, dispensary, infuser, processor or transporter, as defined by the Cannabis Regulation and Tax Act, 410 ILCS 705/ 1-1 et seq., as amended.

This change would add a definition to include all Cannabis Businesses. The definition refers to specific business types defined in the Cannabis Regulation and Tax Act (410 ILCS 705/). See Exhibit X for full definitions of each of these business types.

Section V-13. Regulation of ~~Medical~~ Cannabis Uses

The title of this section should be changed so the section can include all cannabis uses.

~~A. Medical cannabis uses listed as permitted in Table V-1 shall only be permitted as provided herein so that these uses will not unduly interfere with or adversely affect the public health, safety, comfort, adjacent land uses, property values, or general welfare of the community.~~

This paragraph was added to the Zoning Ordinance in the text amendment that added medical cannabis uses to the Zoning Ordinance. It was copied from the opening paragraph in the “Adult Entertainment Uses” section of the Zoning Ordinance. However, nothing to date suggests that medical cannabis affects public health, safety, comfort, adjacent land uses, property values, or general welfare of the community, so this paragraph serves no real purpose.

- A. Medical cannabis uses shall only be allowed in locations that are consistent with the Compassionate Use of Medical Cannabis ~~Pilot~~ Program Act (410 ILCS 130/1 et seq., as amended):
1. No medical cannabis cultivation center shall be located or established in a building or structure within 2,500 feet of the property line of a pre-existing public or private preschool or elementary school or secondary school or day care center, day care home, group day care home, part day child care facility, or on any lot in an R-1, R-2, R-3, R-4, R-5, R-6, R-6B, R-7, B-3U or MOR Zoning District. State law reference (410 ILCS 130/105(c).)
 2. No medical cannabis dispensary shall be located or established in a building or structure within 1,000 feet of the property line of a pre-existing public or private preschool or elementary or secondary school or day care center, day care home, group day care home, or part day child care facility, or in a house, apartment, or condominium, or on any lot in an R-1, R-2, R-3, R-4, R-5, R-6, R-6B, R-7, B-3U or MOR Zoning District. State law reference (410 ILCS 130/130(d).)

On August 9, 2019, Public Act 101-0363 took effect, deleting the word “Pilot” from the name of the Compassionate Use of Medical Cannabis Program Act. This change reflects that, and cleans up references to State law.

B. Cannabis business uses shall only be allowed in locations that are consistent with the Cannabis Regulation and Tax Act, 410 ILCS 705/ 1-1 et seq., as amended, and as follows:

1. No dispensary shall be located on a parcel whose property line is within 1,500 feet of the property line of a pre-existing dispensary, or within 100 feet of a public or private elementary or secondary school. State law references 410 ILCS 705/15-20(b); 410 ILCS 705/15-70(n)(15).
2. No craft grower shall be located on a parcel whose property line is within 1,500 feet of the property line of another craft grower or cultivation center. State law reference 410 ILCS 705/30-30(o).
3. (OPTION 1) No cannabis cultivation center or craft grower shall be located on a parcel whose property line is within 300 feet of any residentially zoned lot in the City of Urbana, City of Champaign, or Champaign County, or in the B-3U or MOR Zoning District.

OR

3. (OPTION 2) A Conditional Use Permit is required to establish a cannabis cultivation center or craft grower on a parcel whose property line is within 300 feet of any residentially zoned lot in the City of Urbana, City of Champaign, or Champaign County, or in the B-3U or MOR Zoning District.
4. (OPTION 3) A Special Use Permit is required to establish a cannabis cultivation center or craft grower on a parcel whose property line is within 300 feet of any residentially zoned lot in the City of Urbana, City of Champaign, or Champaign County, or in the B-3U or MOR Zoning District.
5. Cannabis cultivation centers and craft growers shall mitigate exterior odors by installing air scrubbing and/or air filtration systems, or by some other means approved by the Zoning Administrator.

These minimum proposed distances mirror the requirements in the Act, and include the distances suggested by the Plan Commission. If the minimum distances in the Act ever change, this section may need to be updated. It is best to explicitly include these distances in the Zoning Ordinance, however, rather than refer to the Act, as the distance requirements are difficult to find within the Act.

For cultivation centers, Option 1 represents the language proposed by staff and recommended by the Plan Commission. Upon further analysis, Option 2 or 3 would provide more flexibility to allow cultivation centers in special circumstances (and with additional oversight), even if the parcel lies within 300 feet of a residentially-zoned district. Option 2 or 3 would be useful, for example, in

cases where there is a very large parcel where a small portion lies within 300 feet of a residential zone. A site plan could be approved as part of a conditional or special use permit to ensure that the cultivation center would be built far from nearby homes. Many unincorporated parcels on the edge of the City, which could be annexed if developed, fall into this category (see Exhibit L).

Option 2 or 3 would also allow craft growers in more locations, but would require conditional/special use permits in places close to residential areas, which would help ensure that they do not become a nuisance for nearby residents.

Table V-1. Table of Uses

Principal Uses	R-1	R-2	R-3	R-4	R-5	R-6	R-6B	R-7	AG	B-1	B-2	B-3	B-3U	B-4	B-4E	CCD	CRE	MOR	IN-1	IN-2
<u>Cannabis Business</u>																				
Craft Grower									C C			P	P	P	P				P	P
Cultivation Center (Non-Medical)									C C										P	P
Dispensary (Non-Medical)											C	P	P	P	P				P	
Infuser												P	P*	P*	P				P	P
Processor																			P	P
Transporter																			P	P
<u>Medical Cannabis</u>																				
Medical Cannabis Cultivation									C										S	P
Medical Cannabis Dispensary												P		P					P	
Liquor Store											C	P	P	P	P					

*Use permitted by Right when the gross square footage of the use is 3,500 square feet or less per floor, and by Conditional Use when the gross square footage is greater than 3,500 square feet per floor.

Notes: Changes are not being proposed for medical cannabis uses except to consolidate them under a “Medical Cannabis” heading in the use table. Liquor stores are included for purposes of comparison, esp. for dispensaries.

Craft Growers are proposed as by right uses in the higher business zones and industrial zones, and as a conditional use in the AG – Agriculture district. Since craft growers can share premises with dispensaries or processors, the allowed districts mostly overlap with the zones proposed for those two business types.

Cultivation Centers are proposed as by right uses in industrial zones and with a conditional use permit in agricultural districts. Cultivation centers are usually indoor facilities that are more industrial than agricultural in nature, so in the AG – Agriculture district, a conditional use permit will help ensure they are compatible with surrounding uses.

Dispensaries are proposed as by right uses in the higher business zones and the light industrial zone, and as conditional uses in the B-2, Neighborhood Business – Arterial district. This would allow dispensaries in the same zones that liquor stores are allowed in.

Infusers are proposed as by right uses in B-3, General Business and B-4E, Central Business-Expansion, and industrial zones. Smaller infusers (less than 3,500 square feet per floor) are proposed as by right uses in the B-3U, General Business-University and B-4, Central Business districts, and as conditional uses in those same districts. This would allow, for example, a small

cannabis bakery downtown by right, while a larger, more industrial-type operation would require a conditional use permit.

Processors and Transporters are proposed as by right uses in industrial districts only.

Summary of Findings

1. The Zoning Administrator proposes a text amendment to the Zoning Ordinance to add definitions and establish use provisions for non-medical, adult use cannabis businesses.
2. Adult use cannabis will be legal in Illinois on January 1, 2020 and its use is regulated by the provisions of the Cannabis Regulation and Tax Act (410 ILCS 705/) (“the Act”). The Act also regulates where and how adult use cannabis businesses can operate.
3. The proposed amendment will modify Articles II and V of the Urbana Zoning Ordinance to define and allow cannabis businesses in limited districts.
4. The proposed amendment would prohibit dispensaries from being located on a parcel whose property line is within 1,500 feet of the property line of a pre-existing dispensary, or within 100 feet of any elementary, middle, or high school.
5. The proposed amendment would prohibit craft growers from being located on a parcel whose property line is within 1,500 feet of the property line of another craft grower or cultivation center.
6. The proposed amendment would allow Craft Growers in the B-3, General Business; B-3U, General Business-University; B-4, Central Business; B-4E, Central Business-Expansion; IN-1, Light Industrial/Office; and IN-2, Heavy Industrial zoning districts.
7. The proposed amendment would allow Cultivation Centers in the IN-1, Light Industrial/Office and IN-2, Heavy Industrial zoning districts, and as a conditional use in the AG-Agriculture zoning district.
8. The proposed amendment would allow Dispensaries in the B-3, General Business; B-3U, General Business-University; B-4, Central Business; B-4E, Central Business-Expansion; and IN-1, Light Industrial/Office zoning districts.
9. The proposed amendment would allow Infusers in the B-3, General Business; B-4E, Central Business-Expansion; IN-1, Light Industrial/Office; and IN-2, Heavy Industrial zoning districts, and as a conditional use in the B-3U, General Business-University and B-4, Central Business zoning districts.
10. The proposed amendment would allow Processors in the IN-1, Light Industrial/Office and IN-2, Heavy Industrial zoning districts.
11. The proposed amendment would allow Transporters in the IN-1, Light Industrial/Office and IN-2, Heavy Industrial zoning districts.
12. The proposed amendment is consistent with the goals and objectives of the 2005 Urbana Comprehensive Plan to enhance Urbana’s commercial areas, develop a diversified and broad, stable tax base, and promote new and expanded business opportunities.
13. The proposed amendment conforms to notification and other requirements for the Zoning Ordinances as required by the State Zoning Act (65 ILCS 5/11-13-14).

Options

The City Council has the following options regarding An Ordinance Amending The Urbana Zoning Ordinance (Cannabis Text Amendment – Plan Case 2385-T-19):

1. Approve the text amendment as presented herein;
2. Approve the text amendment as modified by specific suggested changes; or
3. Deny the text amendment.

Recommendation

At its October 10, 2019, meeting, the Plan Commission voted with seven ayes and zero nays to forward the proposed cannabis text amendment to the City Council with a recommendation for APPROVAL.

Attachments:

- Plan Commission Minutes 9/17/19 and 10/10/19 (Draft)
- Exhibit A: Cannabis Business Definitions
- Exhibit B: Local Zoning Authority
- Exhibit C: Illinois Municipal League Adult-Use Cannabis Fact Sheet
- Exhibit D: Municipal Cannabis Retailers' Occupation Tax (Ord. No. 2019-08-047)
- Exhibit E: Map – Proposed locations for Craft Growers
- Exhibit H: Map – Proposed locations for Infusers
- Exhibit I: Map – Proposed locations for Processors and Transporters
- Exhibit J: Map – Dispensaries allowed by BLS region
- Exhibit K: Proposed Zones for Cannabis Dispensaries
- Exhibit L: Proposed Zones for Cannabis Cultivation Centers

MINUTES OF A REGULAR MEETING

URBANA PLAN COMMISSION

APPROVED

DATE: September 19, 2019

TIME: 7:00 P.M.

PLACE: Urbana City Building
Council Chambers
400 South Vine Street
Urbana, IL 61801

MEMBERS PRESENT: Barry Ackerson, Dustin Allred, Jane Billman, Andrew Fell, Tyler Fitch, Lew Hopkins, Chenxi Yu

MEMBERS EXCUSED: Jonah Weisskopf

STAFF PRESENT: Lorrie Pearson, Deputy Director of Community Development Services Department/Planning Manager; Kevin Garcia, Planner II; Teri Andel, Administrative Assistant II

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Plan Case No. 2385-T-19 – An application by the Urbana Zoning Administrator to amend the Urbana Zoning Ordinance to add definitions and regulations for recreational cannabis.

NOTE: Mr. Hopkins arrived at the meeting.

Chair Fitch opened the public hearing for this case. Kevin Garcia, Planner II, presented the case to the Plan Commission. He began by stating the purpose for the proposed text amendment, which is to add definitions and establish use provisions for non-medical, adult use cannabis businesses. He discussed the Cannabis Regulation and Tax Act that the State of Illinois passed on June 25, 2019. He explained the six types of cannabis businesses the State of Illinois defines in the Act. He talked about how the proposed text amendment related to the goals and objectives of the 2005 Urbana Comprehensive Plan. He reviewed the proposed changes to the text in the Zoning Ordinance. He referred to Exhibit G – Proposed Locations for Dispensaries. He read the options of the Plan Commission and presented City staff’s recommendation for approval.

Chair Fitch asked if any members of the Plan Commission had questions for City staff.

Mr. Fell asked if there is a 3% tax on both medical and recreational cannabis. Mr. Garcia said no. Medical cannabis is still governed by the Medical Cannabis Act and has a 1% tax.

Mr. Fell believed that the City of Champaign allows smoking of cannabis in public areas; however, they do not regulate people smoking cigarettes in public. Mr. Garcia explained that he is not familiar with the regulations in the City of Champaign; he would research this to ensure that the City of Urbana does not have any loopholes like this.

Mr. Garcia noted that the Act does allow municipalities to permit businesses where people can smoke cannabis recreationally. However, City staff is not addressing that at this time in the proposed text amendment.

Mr. Fell asked if any of the types of cannabis businesses required to be a certain distance from each other. Mr. Garcia replied that there must be at least 1500 feet between dispensaries and between craft growers and cultivation centers. The State of Illinois does not require any other separation for any other types of cannabis uses. Chair Fitch added that a craft grower could also have a dispensary.

Mr. Fell stated that there have been problems in other areas with large cultivation centers frequently blowing air out of their buildings about every five minutes and upsetting their neighbors. Would this be something that the City of Urbana should address proactively? Mr. Garcia responded that this is something that the City could address. Some towns in Colorado have specific rules for ventilation and to ensure that there is no odor coming from cultivation centers.

Mr. Fell said that he personally did not have a problem with any of the cannabis uses being permitted by right; however, some constituents might have a problem with them. He asked what City staff's reasoning is for allowing some uses to be permitted by right and other uses requiring approval of a conditional or special use permit. Mr. Garcia explained that the State of Illinois has strict rules on cannabis operations. Staff did not know if the City wanted to get into the nuance of covering operations that are already covered under the State statute. Mr. Fell believed that the City should give the residents more of a say on whether they want a use located near them, so some uses should require additional approvals.

Mr. Ackerson said that at some point in the future, people will want a place to go to consume cannabis. He asked if staff anticipates there being places like cannabis bars with edibles or juice drinks infused with cannabis? Mr. Garcia said that the Act defines "public places" beyond what a person would normally think of as public places. It includes essentially anything open to the public, so until the City decides to tackle on-site consumption, it will not be allowed anywhere. This may come up in the future if there is a demand for it. Mr. Ackerson talked about his experience in Juneau, Alaska, where there is a dispensary every two to three blocks in some areas. He said it is no different than seeing a drug store on a corner.

Ms. Yu inquired why a cultivation center in an Agriculture (AG) Zoning District requires approval of a conditional use permit? Why is it treated differently than a craft grower? Mr. Garcia replied that craft growers are small businesses around 5,000 square feet, so he did not anticipate one wanting to locate in an AG Zoning District. Craft growers can be located next to a dispensary so he anticipated them more in business districts. Staff could add craft grower as a conditional use permit in the AG District. Ms. Yu felt the two uses should not be treated differently.

Mr. Hopkins mentioned the irony in how medical cannabis is regulated compared to recreational cannabis. Medical cannabis is still restricted relative to other land uses by distance constraints, but recreational cannabis is not. Now that recreational cannabis will be allowed, why would a person continue to go to a medical cannabis dispensary? Mr. Garcia replied that there is a difference in taxes [medical cannabis is taxed at 1%; non-medical cannabis will be taxed at 3%].

Mr. Hopkins stated that a medical cannabis dispensary could not locate within 1500 feet of a daycare center; however, there is no restriction on a recreational cannabis dispensary. Does this restriction come from the City or the State? Mr. Garcia answered that the City's current medical cannabis regulations mirror what the State of Illinois required [in 2014]. Mr. Hopkins asked if Mr. Garcia knew why there is a difference between medical cannabis and recreational cannabis, or if it is this a political artifact of timing. Mr. Garcia said it could be a timing issue. Mr. Hopkins stated that some residents may want to keep a recreational cannabis dispensary away from their schools more so than a medical cannabis dispensary, and what the City is giving them is the opposite.

Mr. Hopkins stated that the City is not allowed to be more restrictive in the cannabis use regulations with regards to time than the State of Illinois; however, we can restrict the distance. From a business' point of view, it would be more restrictive to increase the distance, but from a neighbor's point of view, it would be more restrictive to decrease the distance requirement. He felt that the City should think about whether 1500 feet is too far apart because it would restrict where a dispensary could be located.

Mr. Hopkins expressed concern about the use of "pre-existing" in Section V-13.B. He felt it should say "existing" for both 1 and 2 to be consistent. Mr. Garcia agreed with the idea that they should be consistent between the two sections. However, staff took the language verbatim from the Act, so he would be hesitant to change "pre-existing" to "existing".

Chair Fitch noted a typo error in Table V-1. Table of Uses. It lists "Cultivation Center (Non-" but does not have anything after it. Mr. Garcia said it should say, "Cultivation Center (Non-Medical)".

Chair Fitch asked if they are allowed to regulate location in relation to other uses through the conditional use process even though it is more restrictive than what the Act specifies. Mr. Garcia said yes.

Mr. Allred noticed that the general approach is to treat recreational cannabis uses as other retail uses. Has this been the approach in other states as well? Mr. Garcia stated that he was not familiar with how other states regulate non-medical cannabis uses.

Chair Fitch understood that Champaign County would get 3 of the 75 licenses for dispensaries for the first year. Eventually, more licenses will be available, which could mean more for Champaign County. By his estimation, he thought there could be up to 20, since there will ultimately be 500 dispensaries allowed statewide. Mr. Garcia said that based on his calculation, he thought there would be 5-7 dispensaries, but he would research it further and report back. Mr. Fell asked if a conditional use permit or special use permit stays with the property or the business. Mr. Garcia said it stays with the use. As long as the use continues, even through a change in ownership the permit continues.

Ms. Billman inquired about a 3% tax being “voluntary” [as Mr. Garcia had stated previously]. Mr. Garcia explained that unlike property tax, where every owner has to pay their taxes, the City is not going to make everyone buy cannabis. For those that buy cannabis voluntarily, they would pay a 3% tax.

Ms. Billman wondered if Champaign County was planning to regulate recreational cannabis. Mr. Garcia said he believed that they might; however, he has not heard anything as of yet.

Regarding cultivation centers and dispensaries being required to locate so many feet away from public and private preschools, Ms. Billman asked if the regulations for daycares would need to be changed or whether they would get special preference. Mr. Garcia stated it has to do with existing daycares. If a medical cannabis dispensary already existed and a person wanted to locate a daycare next door, they could do that, but they would not be allowed to complain about the medical cannabis dispensary that they moved next to.

Ms. Billman asked if the City should regulate the cultivation of cannabis being grown outdoors. Mr. Garcia explained that a business would either have to be licensed by the State of Illinois as a craft grower or a cultivation center. While they could grow cannabis outdoors, it would be less likely to happen. When talking with one of the owners of NuMed (the existing medical cannabis dispensary in the City of Urbana), he learned that you can get six times the amount of cannabis out of an indoor facility than from growing it outdoors, so he did not believe that there would be many, if any cannabis grown outdoors in this area. The State of Illinois regulations are strict and may have addressed this issue. He could research this more.

Ms. Billman asked about the possibility of having 5-7 dispensaries in the City of Urbana. Mr. Garcia said no, that it would be throughout the Champaign-Urbana region. He then explained his calculations to come up with 5-7 potential dispensaries.

Mr. Allred asked staff to explain the logic for not including Section V-13.A of the medical cannabis regulations in the recreational cannabis regulations. Mr. Garcia responded that staff felt it added some level of stigma. It seemed unnecessary to include it since the City has no evidence that the existing medical cannabis dispensary has any negative moral impact or property value impact.

There was no public present for public input. Chair Fitch opened the hearing for Plan Commission discussion and/or motion(s).

Mr. Ackerson stated that he did not believe there would be any outdoor growers because of the amount one could grow inside a facility and the lack of security to keep people from stealing it. In addition, the growing season in this area is much shorter. He noted that people with medical marijuana cards can grow their own; however, it must be grown inside a locked room where kids cannot get to it. So, the only people who could grow cannabis outdoors are the larger, licensed, and heavily regulated craft growers and cultivation centers.

Mr. Allred asked if security precautions are part of the licensing process and requirements through the State of Illinois. Mr. Garcia said that the requirements of the State are very specific and the facilities are very secure. It is similar to that required for medical cannabis growers.

Mr. Fell said he did not feel comfortable allowing cannabis uses to be permitted by right except in the business zoning districts. Mr. Allred suggested that City staff research other communities in other states because the City does not have a good sense of what the constituents' opinions would be.

Mr. Hopkins pointed out that one potential parallel is liquor. While there are State regulations governing liquor, the City does have additional constraints on where alcohol can be sold, where it can be consumed, and how these relate to other uses and facilities. He expressed concern about cannabis uses being located near middle schools and high schools. Discussion ensued about Exhibits E through I on where proposed locations for cannabis uses would be allowed and their proximity to different schools.

Mr. Ackerson agreed that they should treat cannabis similar to alcohol and tobacco. None of it is good for a person, but people do consume them. There are certain areas where there needs to be restrictions such as schools and residential areas. Chair Fitch noted that there was a consensus of the Plan Commission members to limit where cannabis uses could be located. The Plan Commission further discussed how many feet they should recommend to provide a buffer from schools, which cannabis uses should require buffers, and which cannabis uses should require a conditional or special use permit. Mr. Garcia stated that the Act only specifies conditional use permits. Lorrie Pearson, Deputy Director of Community Development, pointed out that there are certain uses such as gaming halls and adult uses that have distance requirements, which are permitted by right in certain zones. Mr. Hopkins felt that some uses could be allowed by right so they would not overload the Zoning Board of Appeals with unnecessary activity.

Mr. Garcia recommended listing dispensaries in Table V-1. Table of Uses as P/C. Dispensaries would be permitted by right in the B-3 (General Business) Zoning District. However, they would require a conditional use permit if they want to locate within a given distance of a school or daycare. This offers some flexibility, he said.

Ms. Pearson asked for some clarity about dispensaries having a distance requirement from schools and daycares. Mr. Fell suggested basing the requirements for recreational cannabis on what the requirements are for liquor uses. He would be in favor of recreational cannabis dispensaries being permitted by right in certain zoning districts as long as they meet the distance requirements from schools. In other zoning districts, they would require a conditional use permit.

Mr. Hopkins stated that the most crucial are schools with Kindergarten through 12th grades and the paths that kids travel to and from school. He was less concerned about daycares. Chair Fitch expressed concern about students at the University of Illinois. Mr. Ackerson pointed out that the University High School would knock out a chunk of the University of Illinois. His main concern is with paths to middle schools and high schools; not with K-5th elementary schools. Mr. Fell added that the Child Development Laboratory (CDL) would also prevent recreational cannabis uses from locating in another area of campus.

Ms. Pearson asked if the Plan Commission had any concerns with uses other than dispensaries. Some of the members expressed concern about the impact of craft growers and cultivation centers on their neighbors. The Plan Commission could ask for distance regulations from

residential zoning districts because of exhaust [odor] effects. They preferred craft growers and cultivation centers to be located in industrial zoning districts. The members recommended that City staff research other communities where recreational cannabis has been allowed to see if there are any complaints regarding odor nuisance.

Mr. Hopkins moved that the Plan Commission continue Plan Case No. 2385-T-19 to the next regular meeting scheduled for October 10, 2019. Mr. Ackerson seconded the motion. The case was continued by unanimous voice vote.

Ms. Pearson noted that the City Council agenda for September 23rd included a presentation on the proposed cannabis text amendment. She will get more guidance on whether to hold the presentation or postpone it.

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DATE: Monday, October 21, 2019
TIME: 7:00 P.M.
PLACE: Urbana City Council Chambers, 400 S. Vine St, Urbana, IL 61801

The City Council of the City of Urbana, Illinois, met in regular session October 21, 2019 at 7:00 p.m. in the Council Chambers at the Urbana City Building.

ELECTED OFFICIALS PHYSICALLY PRESENT: City Council Members (CM) Maryalice Wu (Ward 1), Eric Jakobsson (Ward 2), Bill Brown (Ward 4), Dean Hazen (Ward 6), Shirese Hursey (Ward 3), Jared Miller (Ward 7), Dennis Roberts (Ward 5), Charles A. Smyth (City Clerk), Diane Wolfe Marlin (Mayor)

ELECTED OFFICIALS PRESENT VIA TELECONFERENCE: none

ELECTED OFFICIALS ABSENT: none

STAFF PRESENT: Carol Mitten, Jim Simon, Bryant Seraphin, Charles Lauss, Sheila Dodd, Lily Wilcock, Kevin Garcia, Marcus Ricci, David Smysor

OTHERS PRESENT: News Media (News-Gazette), Esther Patt, Michael Plewa, John Hall, Dan Gordon

A. CALL TO ORDER AND ROLL CALL

There being a quorum present, Mayor Marlin called the meeting of the Urbana City Council to order at 7:00 p.m.

B. APPROVAL OF MINUTES OF PREVIOUS MEETING

City Council Member (CM) Hursey made a motion to approve minutes from the October 7, 2019 regular meeting and October 7, 2019 Special Meeting, seconded by CM Miller, and passed by unanimous voice vote.

C. ADDITIONS TO THE AGENDA

There were none.

D. PRESENTATIONS

There were none.

E. PUBLIC INPUT

There was none.

F. UNFINISHED BUSINESS

There was none.

G. REPORTS OF STANDING COMMITTEES

1. Committee Of The Whole – (Council Member Eric Jakobsson)

a. Resolution No. 2019-10-041R: A Resolution Accepting a Midwest Grows Green Grant from the IPM Institute of North America, Inc.

For the committee, CM Jakobsson moved passage of Resolution 2019-10-041R, seconded by CM Brown. With no discussion, the motion passed by roll call vote (7-0): Brown – Aye; Hazen – Aye; Hursey – Aye; Jakobsson – Aye; Miller – Aye; Roberts – Aye; Wu – Aye.

b. Ordinance No. 2019-10-056: An Ordinance Amending Schedule H of Section 23-92 of the Urbana Local Traffic Code Requiring Stop Signs at a Certain Intersection (Cyprus Pointe at Stillwater Landing)

waivers goes against the intent of R2 and thought this would set precedent. He indicated he would support the defeat of this ordinance.

CM Hursey addressed Mr. Gordon saying she was sorry he had go through this and could not get past the illegal aspect, but respected his willingness to try to fix it.

With no further discussion, the motion to defeat the ordinance passed by roll call (6-1): Brown – Aye; Hazen – Aye; Hursey – Aye; Jakobsson – No; Miller – Aye; Roberts – Aye; Wu – Aye.

5. Ordinance No. 2019-10-058: An Ordinance Approving a Major Variance for Lot Width (308 West California Avenue / ZBA Case No. ZBA-2019-MAJ-10)

Mayor Marlin introduced Ordinance 2019-10-058 and asked Planner Wilcock if she had further input. CM Miller moved to defeat Ordinance 2019-10-058, seconded by CM Wu.

Questions followed. In response to CM Jakobsson about implications for defeating this ordinance, Planners Garcia and Wilcock indicated that the petitioner would have to remove the second dwelling units from the garage as well as the mechanical room, leaving just the garage.

CM Wu addressed those who supported these variances, in particular the comment that there is opposition to students living in the neighborhood. CM Wu, noting that Ms. Patt has a long history of supporting students at the Tenant Union, stated that she is not against having more student, that we wouldn't be the rich cultural neighborhood without students and tenants, and noted that her block is mostly many big houses that are rentals. She noted many rentals, some available for months, for one and two bedrooms on her block and adjacent. She indicated that there is plenty of housing in the neighborhood. The question is it appropriate for our neighborhood and is being addressed here. Mayor Marlin noted the compelling arguments made by both sides to the ZBA. There is going to be a greater community conversation about this and much more when we begin the complete and long overdue rewrite of the comprehensive plan. This will be an opportunity for all these viewpoints to be discussed and we can talk about neighborhoods of the future. She encouraged people to write down their thoughts as there will be community opportunities starting next year.

With no further discussion, the motion to defeat the ordinance passed by roll call vote (4-3): Brown – No; Hazen – No; Hursey – Aye; Jakobsson – No; Miller – Aye; Roberts – Aye; Wu – Aye.

6. Ordinance No. 2019-10-059: An Ordinance Amending the Urbana Zoning Ordinance (Cannabis Text Amendment – Plan Case 2385-T-19)

Mayor Marlin introduced the ordinance and Planner Kevin Garcia spoke to the staff memo. Mr. Garcia noted that he would be brief since he spoke extensively at the Committee of the Whole meeting. He summarized the case with respect to changes by the state allowing use of cannabis by adults for non-medical purposes allowing for certain local provisions for minimum distance requirements and zoning controls.

Mr. Garcia reviewed Plan Commission action stating that they had accepted staff recommendations and no public input was received. He noted that the state defines six types of businesses as described in memo and exhibit A. He summarized the general changes in Article 2, Article 5, and the referencing of the State act. He also noted that the city requires at least 100 feet between schools and liquor stores and conditional use in B2 arterial is proposed as that aligns with liquor store requirements. Because cultivations centers could emit odors a suggested minimum feet from residences is included and the mitigation of odors is suggested as well.

Mr. Garcia reviewed permitting by right in Industrial and higher business districts with cultivation as conditional or special use in AG zoning. He showed a series of maps for where different businesses could be located given present zoning. He finished his remarks reviewing council options and reviewing changes in the ordinance. He also explained special versus conditional use permits. Questions followed.

In response to CM Brown referencing City of Aurora, CO best practices as discussed in the memo, Mr. Garcia thought that they are using a blanket 300 foot buffer for all businesses but that

staff propose to follow state code which requires only 100 feet. Mr. Garcia also agreed that Section 5.13.A.2 could be removed as this part of state law has been repealed and the desire is to match the state.

CM Wu had three questions asking for clarification of the dispensary issue, distance requirements, and special uses. Mr. Garcia noted where Craft growers could locate and they would grow indoors, out of sight. He noted that the state doesn't require any minimum distance from schools but that the Plan Commission thought we should have the same requirements as liquor stores with a larger buffer being arbitrary. He also stated that the B2 conditional use is a carryover from earlier thinking and that having it be a special use would be consistent. He clarified conditional versus special use for council noting that the big difference is that Conditional Use goes to ZBA while Special Use goes to PC and City Council.

In response to CM Miller about any police concerns with these changes, Chief Seraphin stated that police involvement will be more about violating the changes in statutes. CM Wu conducted a straw poll of council on the use of special versus conditional in B2 zoning which suggested council favored Special Use.

CM Wu then made a motion to approve Ordinance 2019-10-059 with three changes: striking Paragraph 2 of Section 13, adding the wording "non-medical" in several places as suggested by Legal, and choosing Option 3 from the staff memo changing all four Conditional Uses in Table V-1 Table of Uses to Special Uses. The motion was seconded by CM Miller.

CM Brown expressed concerned about dispensaries being too close to residential but was not sure if we need to worry about this. CM Miller indicated that he was looking at this issue in a manner similar alcohol to which CM Brown indicated that we are likely to have only a few since we are restricting by distances. With no further discussion, the motion passed (7-0): Brown – Aye; Hazen – Aye; Hursey – Aye; Jakobsson – Aye; Miller – Aye; Roberts – Aye; Wu – Aye.

K. ADJOURNMENT

With no further business to come before the council, Mayor Marlin adjourned the meeting at 9:55 p.m.

Charles A. Smyth
City Clerk

This meeting was video recorded with website link (viewable on demand):

<https://www.urbanailinois.us/node/7686>

This meeting was broadcast on cable television (UPTV) and streamed live:

<http://urbanailinois.us/upty>

Minutes Approved: November 4, 2019