

**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

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**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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**1. CALL TO ORDER, ROLL CALL AND DECLARATION OF QUORUM**

Chair Fitch called the meeting to order at 7:02 p.m. Roll call was taken, and there was a quorum of the members present.

**2. CHANGES TO THE AGENDA**

There was none.

**3. APPROVAL OF MINUTES**

The minutes of the July 18, 2019 regular Plan Commission meeting were presented for approval. Mr. Fell moved that the Plan Commission approve the minutes as written. Ms. Yu seconded the motion. The minutes were approved by unanimous vote as written.

**4. COMMUNICATIONS**

There were none.

## 5. CONTINUED PUBLIC HEARINGS

**Plan Case No. 2359-T-18 – An application by the Urbana Zoning Administrator to amend the Zoning Ordinance with changes to Article II (Definitions), Article V (Use Regulations), Article VI (Development Regulations) and other relevant section, to facilitate solar energy system installation.**

Chair Fitch continued this case to the October 24, 2019 regular meeting of the Plan Commission.

**Plan Case No. 2360-M-18 and Annexation Case No. 2018-A-03 – A proposed annexation agreement between the City of Urbana and Henri Merkelo, including rezoning from County R-5, Manufactured Home Park, to City R-1, Single Family Residential, for a 1.01-acre parcel located at 2218 East University Avenue, Urbana, Illinois 61802.**

Chair Fitch continued these two cases to the December 5, 2019 regular meeting.

**Plan Case No. 2383-T-19 – An application by the Urbana Zoning Administrator to amend the Subdivision and Land Development Ordinance and create the Manual of Practice.**

Chair Fitch continued this case to the October 10, 2019 regular meeting.

## 6. OLD BUSINESS

There was none.

## 7. NEW PUBLIC HEARINGS

**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 12<sup>th</sup> 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-5<sup>th</sup> 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 23<sup>rd</sup> included a presentation on the proposed cannabis text amendment. She will get more guidance on whether to hold the presentation or postpone it.

**8. NEW BUSINESS**

There was none.

**9. AUDIENCE PARTICIPATION**

There was none.

**10. STAFF REPORT**

Lorrie Pearson, Deputy Community Development Director / Planning Manager, announced that effective October 17, 2019, she will become the Director of Community Development Services Department. This means that she will not be attending as many meetings of the Plan Commission; however, she will still attend as needed. Kevin Garcia, Planner II, will begin serving as Secretary for this Commission.

**11. STUDY SESSION**

There was none.

**12. ADJOURNMENT OF MEETING**

The meeting was adjourned at 8:56 p.m.

Respectfully submitted,

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Lorrie Pearson, Secretary  
Urbana Plan Commission