

**City of Prospect Heights
Plan/Zoning Board of Appeals
June 25, 2020**

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. Meeting held on Zoom Call

II. ROLL CALL:

Present: Commissioners Kempa, DeGraf, Tammen (technical difficulties), Patel, Mellen, Saewert & Chairman Dash

Absent:

Quorum is present.

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

III. APPROVAL OF April 23, 2020 MINUTES

Motion made by Commissioner Kempa, seconded by Commissioner Saewert to approve the meeting minutes as corrected.

ROLL CALL VOTE:

AYES: Commissioners Kempa, DeGraf, Patel, Mellen, Saewert & Chairman Dash

NAYS:

ABSENT:

ABSTAIN: Commissioner Tammen

Motion carried.

IV. OLD BUSINESS - NONE

V. NEW BUSINESS

1. PZBA – Zoning Public Hearing: Case No. ZBA 20-10 SU

Applicants: Chris Fotopoulos, Prospect Heights RE, LLC

Address: 1434 N. Rand Road, Arlington Heights, IL 60004

Description of Request:

Applicant is seeking a Special Use to operate an Adult-Use Cannabis Dispensing Organization in the B-2A General Commercial District.

Chairman Dash states for the record the purpose of the Planning and Zoning Board is to determine if the application before the board meets the required standards for special use. The recommendation made by the board is based on findings of fact. The purpose of this evening is not to debate the adult use of cannabis; it is not to debate State Ordinances that jurisdiction the adult use of cannabis; it is not to debate the City's Ordinances that were approved to include adult recreational cannabis use.

Chairman Dash requests a motion to open the public hearing for 20-10 SU at 7:03 pm

Motion by Commissioner Mellen

Second by Commissioner DeGraf

VOICE VOTE:

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

NAYS:

ABSENT:

ABSTAIN: Commissioner Tammen

Chairman Dash will swear all parties presenting testimony in individually.

Director Peterson states a summary of the case 20-10 SU for an adult recreational cannabis dispensary organization.

Presenting for Prospect Heights LLC

Adam Rak WBK Engineering 116 W. Main St. Ste. 201 St. Charles, IL 60174

Anthony Marsico Zen Leaf 415 N. Dearborn St. Chicago, IL 60654

Chris Fotopoulos Zen Leaf 415 N. Dearborn St. Chicago, IL 60654

Adam Rak presents the case for Prospect Heights, LLC.

Anthony Marsico presents further details in regard to the adult recreational cannabis dispensary operation including but not limited to the floor plan, business model, department recommendations from the City of Prospect Heights, facility security program and local impact.

Daniel Farrell of Silver Star Protection Group 700 N Sacramento Chicago, IL 60612 speaks in regard to the security program for adult cannabis dispensaries.

Michael W from KLOA Traffic Consultants

Director Peterson reads into the record the written testimony received by residents which have been added into the record as Exhibit 12.

- Ms. McGrath Arlington Heights residents - opposed
- Mr. Hosain 1105 N Windsor Unit 303 - opposed
- Ms. Meiling Shi 1052 E Jules Arlington Heights 60004 - opposed
- Mrs. Diane Mulheim 1315 Watling Arlington Heights 60004 – opposed
- Mrs. Patsy Crawford 1206 Watling Arlington Heights 60004 - opposed
- Dr. Aurelian Ivan - opposed
- Mrs. Jini Han 1902 Avon Lane Arlington Heights 60004 - opposed
- Mr. Robert Cataldo 1314 N Hickory Arlington Heights 60004 - opposed
- Mrs. Amy Cataldo 1314 N Hickory Arlington Heights 60004 - opposed
- Mrs. Ann Wiewel 1931 N Dunhill Ct Arlington Heights 60004 - opposed

Public Testimony at hearing.

- Ms. Meiling Shi 1052 E Jules Arlington Heights 60004 - opposed
- Dr. Aurelian Ivan - opposed
- Mrs. Jini Han 1902 Avon Lane Arlington Heights 60004 - opposed
- Mr. Rich Olejniczak 1314 W Watling St Arlington Heights 60004 - opposed
- Mr. Kevin Bethyo 311 Linden Rd N Prospect Heights 60070 - pro

- Mrs. Lori Naumowicz 10 Edward Cul De Sac S Prospect Heights 60070 - opposed
- Mr. Louis Lambros 205 E Circle Ave Prospect Heights 60070 - pro
- Mrs. Stacy Hineline 1028 E Jules St Arlington Heights 60004 - opposed
- Mrs. Madalina Ivan 1051 E Jules St Arlington Heights 60004 – opposed

Mr. Marsico informs about the cannabis programs in Illinois versus Colorado and California and the process of legalization and potential to crush the black market. He informs the product sold at dispensaries are tested at third party labs which are subject to pesticide, fungicide and microbial testing. He speaks about the reduction of opioid use due to cannabis use. In regard to crime, crime should decrease due to the 24-hour surveillance and lighting that will be supplied.

Chairman Dash paraphrases the memorandum from City of Prospect Heights Police Chief Jim Zawlocki and states he requests the opening time be changed from 8am to 9am to alleviate traffic during rush hour to work and start time for the schools. This memorandum has been added into the record as Exhibit 11.

Chairman Dash opens the discussion to the commissioners and no further public testimony will be taken.

Chairman Dash states the application is in full compliance with the ordinance and there have been no additional requests for variation for business operation. The location chosen is highly commercial and will utilize an empty commercial building.

Commissioner Kempa asks if there are any other locations in close proximity or within view to schools.

Mr. Marsico states there are no other locations near schools however there is a location in St. Charles IL that is in a commercial condominium complex which is located two doors away from a dance studio. There was initially great concern from the community as well as the instructor and the parents for operating a medical and recreational adult use dispensary near a dance studio. Zen Leaf worked closely with all involved in the community to make all comfortable in having a dispensary in close proximity to a dance studio.

Commissioner Saewert presents the following questions:

- The traffic study states this is a medical and recreational facility and she asks for clarification that this location will not be a medical dispensary but solely recreational and how that would affect the traffic study.
- Are there any future plans for use of the drive-thru lanes on the south side of the building?
- Have any other locations been evaluated?

Mr. Marsico replies:

- This is solely a recreation al facility. The reference to both medical and recreational is a typographical error as their other locations do service both medical and recreational.
- Illinois does not allow any drive-thru service so the lanes will be blocked off.
- In regard to other locations in Prospect Heights there are few spots that support this business in accordance to the zoning codes with exception to the east side of town. Prospect Heights is largely residential therefore there will be issues no matter which location is chosen. This location has been chosen because it is a main thoroughfare

and can easily support any traffic concerns and vacant property that fits the business model and the stand alone building with sufficient parking and is well lit.

Commissioner Mellen states he was able to visit the St. Charles site and he was impressed with how professional the operation is and the flow of the customers moving through the site as well as the security. Commissioner Mellen states he would like to see the hours of operation be pushed back to 9:00 am.

Commissioner DeGraf asks if there have ever been any issues with customers using product on the property or in the parking lot and if yes, how that is handled.

Mr. Marsico states he has not had any experience with that situation but that type of behavior is not tolerated, there is a no loitering policy and it is illegal.

Mr. Farrell states the interior and exterior are patrolled and if anyone uses cannabis on the premises they are immediately reported to the ownership and the police as that is not allowed by law.

Mr. Marsico states product purchased at the store is place in a sealed bag. He further states all of the product that arrives on the facility is in finished childproof packaging with a unique barcode tied to the store and cultivator.

Commissioner Saewert makes reference to the City of Prospect Heights Ordinance 5-3-19 section C: and states that even though the applicant has not asked for any variation and has met the other criteria the board still has the opportunity to look at this particular location and the impact on the other facilities in this location and to consider the resident testimony in regard that this is a thoroughfare to students this may not be the best location for the facility in consideration of this public concern.

C. Adult-Use Cannabis Facility Components: In determining compliance with Section 5-10-9 (Special Uses) of this Title, the following components of the Adult-Use Cannabis Facility shall be evaluated based on the entirety of the circumstances affecting the particular property in the context of the existing and intended future use of the properties:

1. Impact of the proposed facility on existing or planned uses located within the vicinity of the subject property.

Chairman Dash states she is not sure on how this is different for the stores nearby that sell cigarettes, liquor or lottery tickets to those of legal age. However, the State of Illinois has determined the adult use of cannabis is legal.

Commissioner Saewert states the opinion that this location is solely for the use of cannabis and the sale of that substance is not a secondary use.

Commissioner Patel states there is a liquor store next to the car wash within walking distance.

Chairman Dash states even though everyone has an opinion on each substance this is not a debate on the usage.

Commissioner Patel states he has daughters at Hersey High School right now and he would prefer to have the location in a visible location so that inappropriate or illegal behavior is in the open and more easily noticed.

Chairman Dash states the market guidelines for the cannabis industry are stricter than those of the liquor industry or gambling.

Chairman Dash requests a motion to close the public meeting for 20-10 SU at 9:09 pm

Motion by Commissioner Mellen

Second by Commissioner Kempa

VOICE VOTE:

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

NAYS:

ABSENT:

ABSTAIN: Commissioner Tammen

Chairman Dash requests a motion to receive into the public record the staff review of the zoning compliance for the application 20-10 SU 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 DeGraf

Second by Commissioner Mellen

VOICE VOTE:

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

NAYS:

ABSENT:

ABSTAIN: Commissioner Tammen

Chairman Dash requests a motion to receive into the public record the additional evidence presented this evening for application 20-10 SU, exhibit 6 Affidavit of Compliance in accordance to Ordinance O-19-42, exhibit 7, the traffic report prepared by KLOA Incorporated, exhibit 11, memorandum from Police Chief Zawlocki, exhibit 12 combined written testimonies as read at this hearing.

Motion by Commissioner DeGraf

Second by Commissioner Saewert

VOICE VOTE:

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

NAYS:

ABSENT:

ABSTAIN: Commissioner Tammen

Chairman Dash requests a motion to recommend to City Council the approval of the applicants request for a Special Use to operate an Adult-Use Cannabis Dispensing Organization in the B-2A General Commercial District.

Motion by Commissioner Mellen

Second by Commissioner Patel

VOICE VOTE:

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

NAYS: Commissioner Saewert

ABSENT:

ABSTAIN:

Chairman Dash requests a motion to withdraw the original motion and requests a motion to recommend to City Council the approval of the applicants request for a Special Use to

operate an Adult-Use Cannabis Dispensing Organization in the B-2A General Commercial District with the condition that the hours of operation are Monday – Saturday 9:00 am – 10:00 pm and Sunday 9:00 am – 6:00 pm.

Motion by Commissioner Patel
Second by Commissioner Mellen

VOICE VOTE:

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

NAYS: Commissioner Saewert

ABSENT:

ABSTAIN:

Chairman Dash the recommendation is approved 6:1

This case will appear before City Council on July 13, 2020.

2. PZBA – Zoning Public Hearing: Case No. ZBA 20-08 MA, SU, Subdivision

Applicant: Nate Wynsma, Vice President, Lexington Homes

Address: 1731 N. Marcey St., Suite 200, Chicago, IL 60614

Description of Request:

Applicant is seeking following approvals: 1) Map Amendment to rezone the property from R1 Single Family to R2 General Residential District; 2) Special Use for a Planned Unit Development; 3) Preliminary Plat –Subdivision & Preliminary Engineering.

Chairman Dash requested a motion to open a public hearing on ZBA Case #20-08 at 9:30 p.m. Commissioner Saewert moved to open the public hearing. Second by Commissioner DeGraf.

VOICE VOTE:

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

NAYS:

ABSENT:

ABSTAIN:

Chairman Dash requested a motion to continue the public hearing on ZBA 20-08 at a special meeting on 7/9/2020 at 7:00pm. Motion made by Commissioner Kempa, Seconded by Commissioner Saewert

VOICE VOTE:

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

NAYS:

ABSENT:

ABSTAIN:

**** Minutes will be prepared upon completion of the entire public hearing.**

VII. Adjournment: 10:55 pm

Motion to Adjourn: Commissioner DeGraf
Second: Commissioner Mellen
Voice Vote: Unanimous