



PLANNING & ZONING COMMISSION MEETING

HELD AT THE BALLWIN GOVERNMENT CENTER
1 GOVERNMENT CENTER ~ BALLWIN MISSOURI 63011

August 5, 2019
7:00 P.M.

AGENDA

1. Call to Order
2. Approval of Minutes
3. Z 19-03 – Zoning Ordinance Change
Adult Oriented Businesses
4. Election of Officers
5. Adjournment

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**MINUTES OF THE
PLANNING AND ZONING COMMISSION MEETING
1 GOVERNMENT CTR ♦ BALLWIN MO 63011
JUNE 3, 2019**

In the absence of Chairman Weaver, the meeting was called to order by Mayor Pogue at 7:10 p.m. Chairman Weaver arrived at Members in attendance were:

PRESENT

Chairman Mark Weaver
Commissioner Grant Alexander
Commissioner Tracy Bolte
Commissioner Gary Carr
Commissioner Olivia Pieknik
Commissioner Victoria Winfrey
Alderman Kevin Roach
Mayor Tim Pogue

Assistant City Administrator Andy Hixson
City Attorney Robert E. Jones

ABSENT

Secretary Lisa Zimmerman
Commissioner Chad Silker

Approval of Minutes

A motion was made by Commissioner Alexander to accept the minutes as submitted. Commissioner Bolte seconded the motion, which received unanimous approval from the Commission members present.

Swearing in of New Member

Mr. Gary Carr, 304 Portwind Place (Ward 1) was sworn in by Assistant City Administrator Andy Hixson. Mr. Carr replaces Mr. Michael Utt, who was elected to the position of Ward 1 Alderman.

SUB 19 - 02 – Lot Consolidation/Replat Approval

15401-15425 Manchester Road

Petitioner: Viking Partners, 4901 Hunt Rd, Cincinnati OH 45242

Mr. Clay Vance of Vance Engineering addressed the Commission, requesting approval for the lot consolidation. The petitioner would like to consolidate the six lots into three parcels, which would be governed by a real estate agreement among three different investors.

Mayor Pogue asked City Attorney Jones if he sees any issue with this consolidation regarding maintenance of the facility and parking lot. City Attorney Jones said he does not, provided there are sufficient indentures that describe the rights and responsibilities of the three lot owners and grants cross-access easements across the entire site. Mr. Vance said that is the intention.

Chairman Weaver opened the public hearing and asked if anyone wished to speak in favor of petition SUB 19-02. No one came forward, and Chairman Weaver asked if anyone wished to speak in opposition to the petition. No one came forward and Chairman Weaver closed the public hearing.

A motion was made by Mayor Pogue to recommend approval of petition SUB 19-02 to the Board of Aldermen. Commissioner Pieknik seconded the motion, which received unanimous approval from the Commission members present.

Adoption of the Comprehensive Plan

Mr. Steven Ibendahl of the I-5 Group gave highlights of the draft plan that was presented at the April Planning & Zoning Commission meeting.

Mayor Pogue made a motion to strike the connection of Spring Oaks to Manchester Road from the plan before the Planning & Zoning Commission adopts it. Commissioner Alexander seconded the motion, which received unanimous approval from the Commission members present.

Alderman Roach thanked and commended the I-5 Group for their work on this project.

Chairman Weaver opened the public hearing and asked if anyone wished to speak in favor of the adoption of the Comprehensive Plan.

Eric Olliff, 247 Oak Pass, said he appreciates the motion to strike the connection of Spring Oaks and Manchester.

No one else came forward, and Chairman Weaver asked if anyone wished to speak in opposition to the petition. No one came forward and Chairman Weaver closed the public hearing.

A motion was made by Commissioner Pieknik to approve the Resolution adopting the Ballwin 2019 Comprehensive Plan. Mayor Pogue seconded the motion, which received unanimous approval from the Commission members present.

Z 19-02 – Zoning Ordinance Change

Medical Marijuana Land Uses

City Attorney Jones gave an overview of the ordinance for medical marijuana land uses and how it relates to the state statute. It is up to each city how they are placed into existing zoning classifications.

City Attorney Jones said that the state amendment allows cities to create up to a 1,000 feet spacing limitation between the various uses and any school, child day care center, or church; however, that distance would effectively space the facilities out of the city, so in order to accommodate the use, he and City staff are suggesting a 300 ft. spacing.

City Attorney Jones and staff determined that such uses would be allowed only by special use exception in the commercial C1, C2, C3, and S-1 zoning districts. They would not be allowed in residential or other planned districts.

Alderman Roach asked if the state law allows for restrictions on hours of operations for the dispensaries. City Attorney Jones said the amendment refers to time, space, and manner restrictions, which he interprets to mean the city can make restrictions. Mr. Jones said those restrictions are in place in the City of O'Fallon's ordinance. Mayor Pogue said that the proposed ordinance mirrors what has been adopted by the City of Ellisville.

Mayor Pogue said it is his understanding that only 24 dispensaries are allowed per congressional district, so there will not be an overwhelming amount of these facilities. City Attorney Jones agreed, saying that the state's permitting process is strenuous as well.

Commissioner Alexander asked if it would be prudent to include a clause in our ordinance regarding recreational distribution. City Attorney Jones said he does not recommend this, as it is unknown what circumstances or issues may come up that would apply to recreation use as opposed to medical use. If that were to happen in the future, it would have to come before the Planning & Zoning Commission.

Commissioner Pieknik said she would prefer to have a 500 ft distance rather than 300 ft. Assistant City Administrator Hixson said that even 500 ft would space the facilities out of the commercial districts. Commissioner Pieknik said that she would not be comfortable having one of these facilities close to a family oriented business such as an ice cream parlor. City Attorney Jones said that this would be considered as part of the SUE on a case-by-case basis.

Commissioner Pieknik asked about the definition of “premises” as it applies to those under 18. City Attorney Jones said that the parking lot does not comprise the premises; it only includes inside the facility. Commissioner Alexander said that loitering will not be allowed. Alderman Roach agreed and said the police department will handle that situation.

Commissioner Alexander said it is his understanding that these facilities will look like pharmacies. Assistant City Administrator Hixson said that is correct.

Alderman Roach asked if there are any noise issues associated with the manufacturing facilities. City Attorney Jones said he is not aware of any. Assistant City Administrator Hixson said if there’s any question when it comes before the Planning & Zoning Commission, the petitioner can be required to provide a noise study.

Chairman Weaver opened the public hearing and asked if anyone wished to speak in favor of petition Z 19-02.

Martin Schnipper, 163-A Rock Trail Dr., said he used to live in Denver, Colorado, and noted the issues that came up there. He said the exterior of some dispensaries in Denver became gaudy in appearance and signage. He noted that federal banking is an issue, and the facilities became cash businesses. Regarding cultivation, the issue was private cultivation. Noise was not an issue, but the pungent aroma, and heavy use of water and electricity were.

Mayor Pogue stated that he and Assistant City Administrator Hixson attended a seminar on medical marijuana, and banking regulations have opened up to handle those transactions.

No one else came forward, and Chairman Weaver asked if anyone wished to speak in opposition to the petition. No one came forward and Chairman Weaver closed the public hearing.

Commissioner Bolte asked if there is any commercial property large enough to accommodate a cultivation facility. City Attorney Jones said possibly in the southern portion of the city, where annexation is being considered.

Larry Stiffelman, 110 Meadowbrook Country Club Estates Dr., said he feels the Planning & Zoning Commission would be concerned about personal cultivation.

Commissioner Bolte said his question was specifically about commercial cultivation.

A motion was made by Mayor Pogue to recommend approval of petition Z 19-02 to the Board of Aldermen. Commissioner Bolte seconded the motion, which received unanimous approval from the Commission members present.

Election of Officers

Mayor Pogue nominated Mark Weaver as Chairman. Mr. Weaver accepted the nomination. Commissioner Bolte seconded the nomination, which received unanimous approval from the Commission members present. Because Secretary Zimmerman was not in attendance, the nomination and vote for secretary will be held over to the next meeting of the Planning & Zoning Commission.

Other Business

Assistant City Administrator Hixson stated that no meeting will be held in July.

Adjournment

Mayor Pogue made a motion to adjourn the meeting. Commissioner Pieknik seconded the motion, which received unanimous approval from the Commission members present. The meeting was adjourned at 7:55 p.m.

Mark Weaver, Chairman
Planning & Zoning Commission



ZONING ORDINANCE CHANGE PETITION REVIEW REPORT

Petition Number: Z19-03

Petitioner: City of Ballwin
1 Government Center
Ballwin, MO 63011

Commission Review Date: August 5, 2019

Requested Action: Zoning Ordinance Regulation Change

Code Section: Zoning Ordinance: Chapter 14, Article IX. Adult Oriented Business and Adult Services Providers

Background:

In 2008 the City adopted language regarding the operations of Adult Oriented Businesses and Adult Service Providers. Over the course of the past year City Officials has been reviewing the Zoning Code and updating it as needed. The proposed additions to the existing provision in Chapter 14, Article IX is the next step in our process.

Proposal Description:

The sections in the proposed ordinance will provide additional regulations and clarification as to where and how Adult Oriented Businesses and Adult Service Providers can locate and operate their establishments.

Respectfully Submitted,

A handwritten signature in blue ink that reads "Andy Hixson". The signature is written in a cursive, flowing style.

Andy Hixson
Assistant City Administrator



Bill No. _____

Ordinance No. _____

INTRODUCED BY

ALDERMEN UTT, FINLEY, STALLMANN, ROACH, FLEMING, LEAHY, KERLAGON, BULLINGTON

AN ORDINANCE PROVIDING FOR THE ZONING AND REGULATION OF ADULT ORIENTED BUSINESSES AND ADULT SERVICE PROVIDERS.

WHEREAS, the Board of Aldermen of the City of Ballwin has determined that public health and safety require specific zoning and regulation of Adult Oriented Businesses and Adult Service Providers; and

WHEREAS, The Board of Aldermen previously adopted Chapter 14, Article IX with respect to the regulation of Adult Oriented Businesses and Adult Service Providers; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BALLWIN, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

Section 1. Appendix A, Article IX, Section 2 of the Code of Ordinances of the City of Ballwin shall be amended by adding a new Subsection (1)(33) thereto, as follows:

(33) Adult Oriented Businesses and Adult Service Providers, as defined in Chapter 14, Article IX of this Code. No adult oriented business or adult service provider shall be operated or maintained within 300 feet of any school property, child daycare center property or church property and may not be operated or maintained within 1,500 feet of another Adult Oriented Business or Adult Service Provider.

Section 2. Chapter 14, Article IX of the Code of Ordinances of the City of Ballwin shall be amended by repealing Subsection 14-612(1) and adding a new Subsection 14-612(l) thereto, as follows:

(l) A patron may not place any money on the person or in or on the costume of an adult service provider while the adult service provider is nude or semi-nude. No patron may directly tip or provide a gratuity to an adult service provider, at any time.

Section 3. Chapter 14, Article IX of the Code of Ordinances of the City of Ballwin shall be amended by adding new Subsections 14-612(o) and 14-612(p) thereto, as follows:

(O) The sale or consumption of alcohol within an adult oriented business or the premises of an adult service provider is prohibited.

(P) With the exception of the cashier, employees and contractors of an adult oriented business or adult service provider must remain a distance of four (4) feet away from all customers.

Section 4. Chapter 14, Article IX, Section 14-601 of the Code of Ordinances of the City of Ballwin shall be amended by adding a new definition of Adult Retail Store, as follows:



Bill No. _____

Adult Retail Store as used in this Article, means a commercial establishment which devotes more than 1/3 of its total retail sales floor area to any of the following:

- (1) The sale or rental, for any form of consideration, books, magazines, periodicals, photographs, films, motion pictures, video cassettes or video reproductions, slides, or other printed or visual matter that predominantly depict or describe "specified sexual activities" or "specified anatomical areas";
- (2) The sale or rental of instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities", excluding condoms and other birth control and disease prevention products;
- (3) The regular exclusion of all minors from the premises because of the sexually explicit nature of the items sold, rented or displayed therein.
- (4) For the purpose of determining one-third (1/3) of the total retail sales floor area, display items shall be clearly separate from the remaining merchandise and shall not be visible from the remaining two-thirds (2/3) of the retail sales floor area, separated by a solid non-transparent partition, and shall not be visible from the exterior of the business.

An application for a business license for an Adult Retail Store shall include an accurate, to scale floor plan or diagram of the business premises clearly showing the configuration of the premises, including a statement of total floor space occupied by the business, the place at which the license will be conspicuously posted, if granted, the location of all manager's stations and overhead lighting fixtures, and clearly designating all portions of the premises in which patrons will not be permitted. Each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The licensing officer may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared;

Section 5. This ordinance shall take effect and be in full force from and after its passage and approval.

PASSED this ____ day of _____, 2019.

TIM POGUE, MAYOR

APPROVED this ____ day of _____, 2019.

TIM POGUE, MAYOR

ATTEST: _____
ROBERT KUNTZ, CITY ADMINISTRATOR