

MISSION STATEMENT: “The City of Mound, through teamwork and cooperation, provides, at a reasonable cost, quality services that respond to the needs of all citizens, fostering a safe, attractive and flourishing community.”

**MOUND PLANNING COMMISSION REGULAR MEETING AGENDA
TUESDAY, JULY 2, 2024, 7:00 P.M.
COUNCIL CHAMBERS, MOUND CENTENNIAL BUILDING
5341 MAYWOOD ROAD, MOUND, MN**

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1. Call to Order	
2. Roll Call	
3. Approval of Agenda, with any Amendments	
4. Approval of Meeting Minutes	
A. June 4, 2024 regular meeting minutes	1
5. Board of Adjustment and Appeals	
A. Planning Case No. 24-06 Review/ recommendation - variance application for deck/stair project at 2152 Ashland Lane Applicant: JBrothers Design for Zac and Erika Kallas (owners)	9
B. Planning Case No.24-07 Review /recommendation - Conditional Use Permit (CUP) for new/replacement Westonka Library project at 2079 Commerce Boulevard Applicant: Gensler for Hennepin County	13
C. Planning Case No. 24-08 Review of proposed ordinance amending City Code Chapter 129 (Zoning) related to cannabis businesses	20
6. Old / New Business	
A. Council liaison and staff report/update	
B. Upcoming meeting dates:	
i. Tues., August 20, 2024 special/rescheduled meeting due to Night to Unite	
7. Adjourn	

The Planning Commission is an advisory body to the City Council. One of the Commission's functions is to hold public hearings and make recommendations to the City Council. The City Council makes all final decisions on these matters. Mound City Ordinances require that certain documents and information be included in applications. The Planning Commission may postpone consideration of an application that is incomplete and may for other reasons postpone final action on an application. For each agenda item the Commission will receive reports prepared by the City staff, open the hearing to the public, and discuss the action on the application.”

QUESTIONS: Call Jen at 952-472-0603 or Sarah at 952-472-0604

MEETING MINUTES
REGULAR PLANNING COMMISSION
JUNE 4, 2024

Chair Goode called the meeting to order at 7:00 pm.

ROLL CALL

Members present: David Goode, Jason Baker, Kristin Young, Jake Savstrom, Kathy McEnaney, Drew Heal, Samantha Wacker

Members Absent: Derek Archambault, Nick Rosener

Staff present: Sarah Smith, Rita Trapp and Jen Estling

Members of the public: None

APPROVAL OF MEETING AGENDA

MOTION by Baker to approve the agenda, as written; seconded by McEnaney. **MOTION** carried unanimously.

REVIEW OF MAY 7, 2024 REGULAR MEETING MINUTES

MOTION by Baker to approve the May 7, 2024 regular meeting minutes as written; seconded by Savstrom. **MOTION** carried unanimously.

BOARD OF ADJUSTMENT AND APPEALS

Review and discussion of 2024 Planning Commission Work Plan Projects

- i. Accessory dwelling unit (ADU) regulations
- ii. Solar regulations
- iii. Electric vehicle chargers
- iv. Introduction and kick off of proposed amendments related to Cannabis
- v. Introduction and kick off of proposed amendments related to City Code Chapter 119 (Signs)

Trapp outlined the topics to be discussed. She began with Accessory Dwelling Units (ADUs). Trapp provided the definitions and the use tables. ADUs would be allowed in the R-1, R-1A, R-2 and in the Mixed-Use districts. The R-3 district is excluded as that district is intended to be townhouses or apartments and the intention is that an ADU would not be allowed with those types of structures. The accessory buildings section of the code would be updated to include a

subsection outlining all of the standards related to accessory dwelling units. Trapp showed the potential language for the number, location, setbacks, height, and design. These elements were written based on previous feedback from the commission. Trapp suggested how the standard for size could be worded.

Smith wondered if the size, rather than 800 sq.ft., should match the smallest allowed for a single-family dwelling of 840 sq.ft. Baker asked if the 800 sq. ft. would be the footprint or the entire ADU. Trapp was intentional about using the language “footprint” so the ADU could not be larger than the principal structure.

Baker noted there is language that a single family home can only have one ADU but there is nothing defined in the Mixed-Use. Trapp stated that single family homes is an allowed use in the mixed-use district. ADUs are allowed in the mixed-use district but only for single family dwellings. It would not be allowed at an apartment or townhouse. Trapp will clarify the language.

Savstrom asked about the 840 sq.ft. size. He wondered if the principal structure was 840 sq. ft. could the ADU be as big. Trapp confirmed.

Young asked if an ADU would have its own PID. Trapp said no. Young asked if they are considered as part of the square footage of the house. Trapp said no. Smith said they would be counted toward hardcover and total square footage of accessory structures. Trapp stated the assessor would most likely identify that parcel as having more than one residential structure on it. From a zoning perspective they would remain two separate elements.

Savstrom asked if a non-conforming structure was below the 840 sq. ft. would an ADU just not be allowed. Trapp clarified they could, it just couldn't be bigger than the principal structure. Baker asked if someone had a 2,000 sq. ft. home they would be allowed a 2000 sq.ft. ADU? Trapp said if the footprint was 2,000, yes. Savstrom asked for clarification if you have a non-conforming structure and you make an ADU that serves as another principal structure, is that what we want?

Baker said it still couldn't be taller than the principal structure. Trapp confirmed. It would be within the principal structure (a basement or top floor) or, if it is a detached accessory dwelling unit, it couldn't be taller than the principal structure. Savstrom said he wondered if allowing non-conformities would make it less of an accessory use. Trapp confirmed it would be less of an accessory if the principal structure is small. Smith stated there aren't that many small houses. Trapp stated if 840 sq.ft. is the minimum, you're only talking about the non-conforming houses. Savstrom stated that was his point, do we want to allow non-conformities to become bigger non-conformities? Smith stated the accessory dwelling unit would have to be conforming.

Baker pointed out the language “no more than 800 sq.ft. or the area of the footprint”, asking if the intent was to eliminate the issue of a larger ADU. Trapp confirmed, that would allow smaller houses to still have something. Trapp asked if the commissioners are concerned that

they will be too large. Goode asked what other cities do. Trapp said every city is different. The most common are minimum/maximum size or 50% of the footprint.

Savstrom would be in favor of writing the standards a bit tighter and then consider variances as they come up. The standards could be loosened later, if the variance requests make sense. Trapp cautioned that a variance would have to have findings and meet practical difficulties, so setting a specific number could make it tough to justify a variance.

Smith pointed out hardcover is going to come into play. Some smaller lots, and even some large lots, are at the upper limit on hardcover.

Goode asked for suggested changes. Trapp said everything that has been discussed previously is included in what is being presented. Changes can be made but now is the time. The process is either clarify what is there now, based on what's been discussed or bring it back with more information. Trapp felt like there was no passionate opinions in either direction and wondered if the number should be 50%? Baker asked how 50% would read. "The area of the ADU shall be no more than 50% of the primary dwelling footprint." Baker clarified, if you have a 2,000 sq.ft. 2-story house with a 1,000 sq.ft. footprint, the ADU could only be 500 sq.ft. Trapp confirmed and offered it could be 100% of the footprint, then square footage of the entire home doesn't matter and would allow for a basement use. Young asked about the difference between a duplex and ADU. Trapp said it's a fine line. A duplex wouldn't have these tight of restrictions. The provision for ADUs are trying to keep them smaller.

Baker asked about the provision that the ADU have separate utilities. He thought that made it more similar to a duplex. Smith pointed out that the discussion regarding utilities is still being had with the engineers and public works. Baker thought they shouldn't have separate utility connections, forcing the owner to be responsible for both. Trapp stated some cities, based on how they do the billing, wants those two things to be separate.

Savstrom asked about the wording for "full bathroom facilities". He asked if someone installed a half bath, it couldn't be an ADU? Trapp confirmed. Savstrom wondered if that is what we want? Trapp stated it needs to have a shower, sink and toilet. Baker stated a shower is not a full bath. Savstrom thought the wording should be clarified. Trapp asked if having a shower is enough? Wacker thought in a small space, perhaps only a shower would fit. Savstrom's concern is that someone installs just a sink and a toilet and feels it's not an ADU and is exempt from all the other standards. Trapp stated that would be an accessory structure. It would have to have a full bath or it wouldn't be allowed as an ADU. If it comes in with a full kitchen and full bath it starts to look like a new accessory structure and that is not currently allowed in the code. Smith clarified if an accessory structure application came in with a kitchen and full bath, that would not be considered accessory space, and wouldn't currently be allowed for hobby or work space. When ADUs are allowed, that changes.

Baker thinks it should have the same utility connections. Trapp will note that. She asked if the size restrictions, as written, is okay. The commissioners thought that language is okay. Trapp

asked if the commissioners were okay with moving forward with the public hearing and city council consideration or did they want to see it again after the items discussed are adjusted? Goode thought that making the minor language changes is sufficient and it does not need to be brought back.

MOTION by Baker to approve the ADU code changes, as written, with the exception of the utility connection and other minor languages changes regarding bathrooms, number allowed in mixed use districts and the size, as discussed; seconded by Savstrom. **MOTION** carried unanimously.

Trapp presented the Solar Energy Systems standards. She reminded the commission of the major points brought up at the last discussion. Trapp outlined the four definitions and the use table. Baker asked why we would define ground mounted systems if they aren't allowed. Trapp said the code states what is permitted or conditional, not what's not allowed. Baker asked about side wall mounted systems. He wants them not permitted. Trapp will add that language.

Young asked about solar systems on a dock. Trapp wondered if we want that regulated. Goode thought this is a use that wouldn't usually be regulated. Baker wondered if there is anything that states the panel must provide solar for a home. Trapp said she could write an exception.

Goode asked about the provision about the wording regarding "a system be removed and properly disposed of if they are out of production for more than one year". He wondered if that meant if a manufacturer stopped producing a certain type of system it would need to be removed? Trapp agreed the language should be fixed. The intention is, if the system is no longer being used, it must be removed. Heal thought there should be time frame for how soon an unused system should be removed. Trapp will add that language.

Smith thought some exceptions for what is not covered could be added. Trapp summarized what she heard from the discussion regarding definitions, uses and specific provisions. The commissioners agreed. Heal suggested "portable" as language for smaller systems like dock lifts and flag poles. Trapp will look at it. Goode asked if anyone had any other changes. There were none.

MOTION by Baker to approve the proposed code changes for Solar Energy Systems, as written and to include the changes discussed; seconded by Heal. **MOTION** carried unanimously.

Trapp began the discussion on Electric Vehicle Chargers (EVCs). She provided the definitions as written. She outlined the differences in standards for single family and duplexes vs, three or more units. The idea is that single family/duplexes are garage mounted or single pole systems for personal use. Residential structures serving three or more units and non-residential uses have additional standards. Trapp reminded commissioners the items that are included based on the previous discussion. Trapp debated whether or not signage should be required or be left to the discretion of the establishment providing the station. Goode thought it should be signed to specify only electric vehicle parking is allowed.

Goode wondered about the language that a station that is “only for daylight”. Trapp stated that could prevent commercial properties from having people parked there after business hours. Trapp said it can state sight lighting is required. Commissioners agreed.

Baker wondered why the definition of a “Station” is included. Trapp stated calling it a station may not make sense for a single family. Goode thinks calling it a “station” would be fine even if it’s a plug in the wall. Baker wondered if a station is a single public or private parking space. Trapp confirmed. Baker asked would there need to be signage for each station? Trapp stated you could have a sign between two spaces with arrows pointing. Baker wondered if the charging station is no longer operational should there be language that it must be removed within a certain timeframe. Trapp said she can add that language.

Savstrom asked if the building official should be referenced as the governing body in the code. Trapp said we don’t reference it because it is implied and is not related to zoning. Smith said the language can be reviewed by fire chief and electrical inspector.

MOTION by Savstrom to approve the Electric Vehicle Charging Station requirements, as written, with the changes discussed; seconded by Baker. **MOTION** carried unanimously.

Trapp introduced the Cannabis discussion. She said the discussion will move faster than originally intended based on what has happened with the legislature this year. She outlined the timeline of legalization of THC, Cannabis and hemp. Sales were expected to begin in 2025. She pointed out that there was a rule change to allow social equity applicants to apply in July. She is introducing this topic and the commissioners can expect it to come back in July with language written by the attorney. The hope is the commission will adopt it and the council will see it in July.

Trapp outlined the state statute and noted there are things that are state law that can’t be changed by cities. She outlined the types of businesses that could be open. Mound doesn’t have industrial businesses or agricultural fields that can be converted for cannabis production. Trapp cautioned that cities cannot ban it completely. Cities can have reasonable restrictions on time, place, manner of retail, manufacturing and cultivation.

Trapp outlined some of the applicable standards the city can address. She stated registration and licensure will be covered by city council. Trapp stated the Office of Cannabis Management was to have created a model ordinance for cities to follow but that is not created yet.

Heal asked what social equity means. Trapp said that people who were previously convicted of cannabis crimes are being allowed to have early application for it.

Wacker asked if there is any one who has expressed interest. Trapp said there have been inquiries but those folks are probably sending inquiries to many cities to get a read on what may be forthcoming.

City attorney's suggestions will be the leading source for staff direction because this is a legislative act from the state and the city would not want to be in violation of those rules. This is a topic where there is not a lot of discretion.

Baker wondered about the 12,500 residents provision, does that mean we don't have to, since our population is smaller? Trapp clarified we must allow at least one. There can be more.

There will be definitions and use tables for all the types of businesses you can allow. This is similar to adult use. The city will figure out the best course forward based on the legislation. Wacker appreciates the work that will go in to it and she is comfortable with the city attorney taking the lead.

This will be back in July.

Young asked if this will cover only recreational uses, not medicinal. Trapp stated medicinal is included but those rules are different.

Savstrom asked if pop up tents at festivals like Spirit of the Lakes or food trucks would be allowed to sell. Trapp said temporary licenses will be allowed, similar to temporary liquor licenses. She outlined other short term uses.

Goode asked if there were any other comments. Hearing none, he asked Trapp to move to the next topic.

Trapp began the discussion regarding signage; Chapter 119 update. This needs to be updated because it is an old chapter and predates other recent zoning code changes, including the existence of the mixed use districts.

There are currently rules for real estate, garage sale, craft sale...but the code needs to be simplified. It can only be regulated on type, size, height, and lighting. It can't be regulated based on the content of the sign.

Trapp showed examples of the types of signs. Trapp said we can prohibit some signs based on type such as off premise (billboards), motion, obstructing traffic, painted signs on walls, roof or portable signs.

Murals are not signs. That is a separate discussion with different provisions.

Trapp outlined additional considerations. Calculation for size will need to be specified. Trapp said the commissioners will see this again after the code is written. There is no timeline to complete this, like with cannabis. However, it's important that we make these changes because current code is out of date.

OLD/NEW BUSINESS

A. Council liaison and staff report/update

McEnaney said the city council start time changed to 6:00 and that meeting had a great turn out.

The Minnesota Lakes Bank will be holding a shred event on June 13. This is a free event but donations to the bank's scholarship fund is encouraged.

Music in the park begins at Surfside next week.

A Public Works Director has been selected and will be starting in the next couple weeks.

On June 11 the Just Deeds Project will be presenting at a workshop. Trapp stated that covenants on deeds restricted who could purchase the home, based on race or religion. McEnaney said she believes there are a number of properties that have these hidden covenants written into the deeds. Trapp provided an example of the wording on racial covenants and showed a map that indicated parcels around the Twin Cities that had such covenants. She noted these are illegal and not enforceable but because they are part of the deed, they need to be removed.

June 18 is a workshop for the Ehlers financial plan presentation.

June 25 is a workshop to discuss if there is a reason to replace Orono police with Minnetrista.

Staff update:

Smith said the July 2 Planning Commission Meeting will bring the cannabis hearing and some land use applications, as well.

Spirit of the Lakes is in July. Farmers market began in May. Carpfest will be held again by Harrison Bay Association.

Baker asked about the land that is in both Minnetrista and Mound. Smith said there was a council introduction at the last meeting. If there is something proposed, the Mound portion will come to the planning commission. Minnetrista is working through the concept for the Minnetrista side.

Council introduction at the last meeting proposed a project involving parcels on the west side of Commerce at Lost Lake that would be 3 four-unit buildings. The proposed units would have docks at Lost Lake.

Library application has been received and is under review.

Smith reminded July 2 meeting is just before the holiday and wondered if anyone knew they would be absent. No commissioners indicated an absence. August 20 will replace the first Tuesday in August meeting due to Night to Unite.

Young asked about 6 start time for the Planning Commission. The Planning Commission will revisit that topic later in the fall.

ADJOURNMENT

MOTION by Baker to adjourn at 8:35 p.m.; seconded by Savstrom, **MOTION** carried unanimously.

Submitted by Jen Estling



PLANNING REPORT

TO: Planning Commission
FROM: Rita Trapp and Natalie Strait, Consulting Planners
Sarah Smith, Community Development Director
DATE: June 26, 2024
SUBJECT: Consideration of variance request for extension of a deck
(Case No. 24-06)
APPLICANT: JBrothers Design on behalf of owners Zac & Erika Kallas
LOCATION: 2152 Ashland Lane (PID No. 13-117-24-31-0058)
MEETING DATE: July 2, 2024
COMPREHENSIVE PLAN: Low Density Residential
ZONING: R-1 Single-family residential district, Shoreland

SUMMARY

The applicants are requesting the approval of a variance to extend an existing deck into the rear yard setback and construct a staircase down to the yard. The lakeshore property is located at the end of Ashland Lane adjacent to commons. It is a lot of record and zoned R-1 single family residential. The house was constructed in 2014 by a previous owner. The applicants are proposing an addition to the deck that will add some additional usable area and a staircase with two landings and two flights of stairs. The applicants have noted that the proposed project is being sought to address safety concerns as currently they are unable to reach their dock without traversing steep declines. In order to construct the staircase, the applicant is requesting a 2 foot variance from the 10 foot rear deck setback requirement.

REVIEW PROCEDURE

60-Day Land Use Application Review Process

Pursuant to Minnesota State Statutes Section 15.99, local government agencies are required to approve or deny land use requests within 60 days. Within the 60-day period, an automatic extension of no more than 60 days can be obtained by providing the applicant written notice containing the reason for the extension and specifying how much additional time is needed. For the purpose of Minnesota Statutes Section 15.99, "Day 1" is determined to be May 17, 2024 as provided by Minnesota Statutes Section 645.15. The 60-day timeline expires on or around July 16, 2024. The review period can be extended by the City for an additional 60-days if needed. Applicants and owners are advised that the City of Mound will be executing an extension for 60

additional days as described above.

Variance

City Code Section 129-39 (a) states that a variance may be granted to provide relief to a landowner where the application of the City Code imposes practical difficulty for the property owner. In evaluating the variance, the City Council must consider whether:

- (1) The variance proposed meets the criteria for Practical Difficulties as defined in City Code Sub. 129-2.
- (2) Granting of the variance requested will not confer on the applicant any special privilege that is denied by this chapter to owners of other lands, structures or buildings in the same district nor be materially detrimental to property within the same zone.
- (3) The variance requested is the minimum variance which would alleviate the practical difficulty.
- (4) A variance shall only be permitted when it is in harmony with the general purposes and intent of the zoning ordinance and when the terms of the variance are consistent with the comprehensive plan.

According to City Code Sec. 129-2, *"Practical Difficulties"* is defined as follows:

Practical Difficulties, as used in conjunction with a variance, means that:

- (i) The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;
- (ii) The plight of the landowner is due to circumstance unique to the property including unusual lot size or shape, topography or other circumstances not created by the landowner; and
- (iii) The variance, if granted, will not alter the essential character of the locality.
Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

NOTIFICATION

Neighboring property owners of the subject site, per Hennepin County tax records, were mailed an informational letter on June 25, 2024 to inform them of the Planning Commission's review of the variance application at its July 2, 2024 meeting.

STAFF / CONSULTANT / AGENCY / UTILITIES REVIEW

Copies of the request and supporting materials were forwarded to involved departments, consultants, agencies, and private utilities for review and comment. To date, Staff has received no comments on the requested variance.

DISCUSSION

1. The proposed project includes both a deck expansion and the construction of a set of stairs. Decks are allowed to encroach five feet into the rear setback, while stairs are allowed to encroach into the setback up to two feet from the property line. City code limits stairs and landings to four feet in width. Landings must also not exceed 32 square feet in area.

Staff has reviewed the project in detail to determine what part of the project is a deck expansion and what part can be considered the stairs. The stairs proposed are approximately 3.2 ft wide. The landing for the second story appears to be approximately 3.7 ft wide and about 29 square feet in size. On the third level, the area at the top of the stairs is approximately 52 square feet so a portion of it is considered deck rather than stairs. It is this part of the project that requires a variance from the 10 foot rear yard setback.

The notable setback requirements for this project are listed in the table below:

Direction	Yard Type	Required Setback	Proposed Setback	Variance
North	Lakeshore	50 ft	72.5 ft	-
East	Rear	15 ft (house) 10 ft (deck)	16 ft (house) 8 ft (deck)	2 ft (deck)

2. The maximum percent of impervious surface allowed on a R-1 lot of record is 40%. Proposed hardcover for the project was shown on the updated survey received for the survey was shown at 41 percent. Staff is working with the applicant on adjusting the plans or in other areas to meet the 40% maximum allowance. A deck and staircase can be considered pervious if there is ¼ spacing, no roof and no hardcover underneath. A landing at the bottom of the stairs is required.

PLANNING COMMISSION ACTION

Staff recommends approval of the variance, and proposes the following conditions:

1. Hardcover for the lot must not exceed 40% as a result of the project. The applicant shall work with Staff to determine what site improvements are needed and revise the survey to demonstrate compliance as part of the building permit process.

2. The applicant shall be responsible for recording the resolution with Hennepin County. The applicant is advised that the resolution will not be released for recording until all conditions have been met and all fees for the waiver application have been paid and the escrow account is in good standing. The submittal of additional escrow may be required.
3. No building permit will be issued until evidence of recording of the resolution at Hennepin County is provided.
4. Applicant shall be responsible for procurement of any and/or all public agency permits including the submittal of all required information prior to building permit issuance.
5. Additional comments and/or conditions from the City Council, Staff, consultants, and public agencies.

Staff recommends Planning Commission recommend approval of the variance based on the following findings of fact:

1. The criteria of City Code Section 129-39 Variance are being met.
2. The request to add a staircase to a single-family home is in harmony with other uses in the area and fits the character of the neighborhood and R-1 district.
3. The construction of a staircase from the deck is a reasonable use and will improve the overall safety for residents on the lot.
4. The location of the existing home on the lot makes the proposed staircase location the most practical so as to not block views of the lake from inside of the home.

CITY COUNCIL REVIEW

In the event a recommendation is received from the Planning Commission, it is anticipated that the variance request will be considered by the City Council at its July 23, 2024 meeting.



PLANNING REPORT

TO: Planning Commission
FROM: Rita Trapp and Natalie Strait, Consulting Planners
Sarah Smith, Community Development Director
DATE: June 26, 2024
SUBJECT: Consideration of a Conditional Use Permit for the construction of a new library building and site improvements (Planning Case No. 24-07)
APPLICANT: Jessie Bauldry from Gensler on behalf of Hennepin County
LOCATION: 2079 Commerce Blvd (PID No. 14-117-24-41-0005)
MEETING DATE: July 2, 2024
COMPREHENSIVE PLAN: Public or Institutional
ZONING: R-2 Two-Family Residential District

SUMMARY

The applicant is requesting the approval of a Conditional Use Permit (CUP) to reconstruct the Westonka Library at 2079 Commerce Boulevard. While the current library is proposed to be demolished and reconstructed, some elements, including part of the existing parking lot and the landscaping between the two existing parking areas, are planned to be retained. A CUP is requested as a local government building is a conditional use within the R-2 district. In addition, a CUP for a Planned Unit Development (PUD) is requested to allow flexibility for certain standards due to the reuse of portions of the site as provided in City Code Sec. 129-195.

The submitted CUP application materials can viewed on the below link:

<https://www.cityofmound.com/hennepin-county-new-library-reconstruction-project>

The existing Westonka Library was constructed in 1972. Reconstruction of the existing library is proposed to meet modern community needs and will include two study rooms, a video conference room, flexible teen and children's areas, a meeting room, and staff workrooms. The new facility and site improvements are being constructed to meet Hennepin County's green initiatives. Notable features of the proposed site plan include:

- 1) A net-zero energy library with geothermal and solar energy. A net-zero facility is designed to produce at least 100 percent of the energy it consumes through renewable energy sources generated on the site
- 2) Reduction in the amount of impervious from 0.78 acres to 0.77 acres
- 3) Green roof
- 4) Removal of the north parking lot and access to Bellaire and replacement with a biofiltration system with a vegetated swale and tree trench
- 5) Interpretive signage and a floating walkway to educate visitors about stormwater facilities
- 6) Retention of mature trees

REVIEW PROCEDURE

60-Day Land Use Application Review Process

Pursuant to Minnesota State Statutes Section 15.99, local government agencies are required to approve or deny land use requests within 60 days. Within the 60-day period, an automatic extension of no more than 60 days can be obtained by providing the applicant written notice containing the reason for the extension and specifying how much additional time is needed. For the purpose of Minnesota Statutes Section 15.99, "Day 1" is determined to be May 29, 2024 as provided by Minnesota Statutes Section 645.15. The 60-day timeline expires on or around July 28, 2024. The review period can be extended by the City for an additional 60-days if needed. The applicant is advised the City will be executing a 60-day extension.

PUBLIC HEARING

Planning Commission

The Planning Commission is not required to hold a public hearing for a conditional use permit request. As a courtesy, Staff did send out an informational letter to property owners within 350 feet of the property on June 25, 2024 of the Planning Commission's consideration of the request.

City Council

According to City Code, the City Council is required to hold the public hearing for review of the conditional use permit (Sections 129-39) after completion of the required publication and notification requirements.

STAFF / CONSULTANT / AGENCY / UTILITIES REVIEW

Copies of the request and supporting materials were forwarded to involved departments, consultants, agencies, and private utilities for review and comment. To date, the only comment Staff received in advance of packet distribution was from Chris Remus of Metropolitan Council Environmental Services (MCES), who noted that as there are no facilities in the vicinity of the library, MCES has no concerns.

DISCUSSION

- 1) **Lot and Site Dimensions** - The lot is a through lot with frontage and access on two roadways, Bellaire Lane to the west and Commerce Boulevard to the east. The PUD will establish the setbacks for the project. Parking areas are required to be at least five feet from adjacent residential properties. The existing parking lot, which is to remain, is only one foot from the property line. The PUD is requested to address this existing site condition.
- 2) **Building Height** – Information from the applicants is that the height of the building will be 34 feet, 8.5 inches, which is under the maximum allowable of 35 feet in the R-2 district.
- 3) **Parking** - The proposed site design reduces the number of accesses to the site from three to two. The access being removed is the northern access on Bellaire Lane as the entire northern parking area is being removed and converted into a stormwater treatment facility. The site plan proposes to extend the parking across the site from Bellaire to Commerce and convert the existing drive aisle to two-way for the entire distance. The City Code requires the drive aisle to be 25 feet in width. However, the existing and proposed width of the drive aisle is about 22 feet. The applicant explored expanding the parking lot to the north, but such an expansion would require additional retaining walls due to site topography and the removal of a large oak tree.

In addition to the drive aisle, the existing/proposed ADA parking stalls do not meet current City Code standards. The existing/proposed ADA parking stalls are only 12 feet wide by 18 feet in length, while the City Code requires 12 feet in width and 20 feet in length. The existing/proposed ADA stalls and arrangement need to be evaluated by the Building Official and has been requested. The PUD is requested to address this existing site condition.

The applicant is proposing slightly more parking spaces than required by code. The City Code requires one space for every 400 square feet. With 10,124 square feet of floor area that is not restrooms, mechanical spaces, entry vestibules or exit hallways, the library would require 25 spaces. The parking lot proposed has 29 spaces.

- 4) **Landscaping** - The landscaping plan provided proposes to maintain a majority of the existing mature trees on the site. Trees that are proposed to be removed include several ash, spruce, and crab apple trees. Section 129-317(b)(1) of the code indicates the required number of overstory trees is one tree per 50 lineal feet (lf) of site perimeter. Based on the survey site perimeter of 1,291 lineal feet, the site would need to have 26 trees. The plan shows 29 trees, with 15 overstory trees that will be planted and 14 trees that will be preserved.

Section 129-317(d)(3) of the code requires a minimum of 25% of the trees be coniferous. The plans indicate that the applicant will meet this requirement as 7 of the existing coniferous trees will be preserved and three additional will be planted, for a total of 10 coniferous trees (42% of the trees).

The applicant should provide a list of the number and type of trees being preserved. The applicant is also asked to confirm that the ash trees are currently healthy and being treated for emerald ash borer, and that the oak trees are not showing signs of oak wilt.

Section 129-317(c) of the code requires the caliper of new trees to be 2.5 inches, however the size proposed is only 2 inches. The applicant is requesting a PUD to allow for the smaller caliper trees. Staff notes that it has become more common to use 2 inch caliper trees given supply availability and potential survivability.

- 5) **Impervious surface** - The maximum hardcover requirement for this site is 40%. The applicant is proposing a hardcover of 44%, which is less than the existing conditions impervious surface of 47%. The reduction in hardcover primarily comes from reducing the total number of parking spaces and elimination of the northern drive aisle and access. It should also be noted that the proposed design includes a green roof which will contribute to reducing the overall impact of the impervious surfaces on the site.
- 6) **Screening / Fencing** - Screening is required between the parking lot and the residential home to the south that is on Bellaire. The plans shows a concrete and wood slat fence across the majority of the southern property line. There are only plantings shown near Bellaire and Commerce for sightlines. The applicant has noted that the residential home fence near Bellaire will remain.

- 7) **Lighting** - All existing lighting structures are planned to be removed. New lighting fixtures will be added along the edges of the parking lot as well as along pedestrian pathways. The lighting plan notes that any proposed lighting will not cast light on the adjacent residential property or adjacent roadways.
- 8) **Utilities** -The applicant has indicated that a new water and sewer service will need to be extended from Commerce Boulevard. Standard requirements for such construction will need to be met by the applicant to include all requirement permitting and fees.
- 9) **Signage** - One monument sign with a small illuminated open/closed informational LED display is proposed to be located 10 feet the property line on Commerce Boulevard. With a height of 5.5 feet and 38 square feet in area, the monument sign will meet the requirements of the R-2 district.

PLANNING COMMISSION ACTION

Staff recommends that the Planning Commission recommend approval of the Conditional Use Permit for a Planned Unit Development and a local government building in the R-2 district with the following conditions:

1. The applicant shall provide a list of the number and type of trees being preserved. In addition, the applicant shall confirm that the ash trees are healthy and being treated for emerald ash borer, and that the oak trees are not showing signs of oak wilt.
2. Any curb, gutter and streets which are disturbed because of construction, including, but not limited to, installation of the water service, sewer service and small utilities, shall be the responsibility of the permit holder.
3. An updated survey is provided as part of the building permit process to depict the site and building plan layout as shown on the Proposed Site Plan prepared by Gensler.
4. Storage of construction materials shall meet the applicable requirements of the City Code. Any work in public ROW requires permission and coordination with the Public Works Department.

5. The MCES Sewer Availability Charge as identified in the MCES SAC determination letter dated June 5, 2024, which requires the payment of 1 additional SAC fee, shall be paid with the future building permit. The amount due shall be the current rate in place at the time of building permit issuance. The 2024 MCES Sewer Availability Charge is \$2485.00.
6. The applicant shall be responsible for recording the resolution with Hennepin County. The applicant is advised that the resolution will not be released for recording until all conditions have been met and all fees for the waiver application have been paid and the escrow account is in good standing. The submittal of additional escrow may be required. No building permit will be issued until evidence of recording of the resolution at Hennepin County is provided. The applicant may request the City record the resolution with the involved fee to be taken out of the submitted escrow/
7. Applicant shall be responsible for procurement of any and/or all public agency permits including the submittal of all required information prior to building permit issuance.
8. The MCWD is the regulatory and permitting authority for Rule B (Erosion Control), Rule C (Floodplain Control), Rule D (Wetland Protection) and Rule N (Stormwater Management); also Shoreline Alteration (i.e. rip rap, etc.).
9. Additional comments and/or conditions from the City Council, Staff, consultants, and public agencies.

Staff recommends Planning Commission recommend approval of the conditional use permit based on the following findings of fact:

- (1) The use of the site as a library is in keeping with the 2040 Comprehensive Plan guidance of Public or Institutional.
- (2) The site's continuing use as a library is compatible with the surrounding neighborhood.
- (3) The proposed flexibility requested through the planned unit development allows for a portion of the site to be reused, enable the preservation of mature trees, and supports the projects' green initiatives, including a green roof, solar panels, biofiltration, and education of library patrons about stormwater management.

CITY COUNCIL REVIEW

If a recommendation from the Planning Commission at its July 2nd meeting, a tentative date for the City Council meeting for consideration of the request is July 23, 2024 meeting but is subject to change. Members are advised that a City Council public hearing is required for the review of the CUP request.



PLANNING REPORT

TO: Planning Commission
FROM: Rita Trapp, Consulting Planner
Sarah Smith, Community Development Director
DATE: June 27, 2024
SUBJECT: Proposed Amendment to City Code Chapter 129
(Zoning) – Cannabis Businesses (Planning Case No. 24-08)
MEETING DATE: July 2, 2024

Summary. As was previewed at the June Planning Commission meeting, a draft of a zoning code amendment related to cannabis businesses has been prepared for consideration at the July meeting. The ordinance amendment was prepared in consultation with the City Attorney. This amendment will ensure that the City has zoning regulations in its code prior to the ability of social equity applicants to apply to the Office of Cannabis Management for a license for cultivation. Minnesota State Statutes 324.17 provides a number of ways that an individual can qualify as a social equity applicant. The most general of these is that it is an individual, or family members of an individual, who was convicted of an offense involving the possession or sale of cannabis or marijuana prior to May 1, 2023.

The proposed ordinance amendment includes changes to the following areas of the zoning code:

1. **Definitions** – the proposed ordinance will add a number of definitions related to cannabis businesses.
2. **Allowable uses** – the proposed ordinance will update the use table to show where cannabis businesses are allowed. Generally, retail type activities are proposed to be allowed in the Mixed Use Downtown (MU-D) and Mixed Use Corridor (MU-C) districts, while more industrial type uses are proposed to be allowed in the Industrial District (I-1).
3. **Use specific standards** – a new section of the zoning code is proposed to include standards for the operation of the cannabis businesses.
 - a. One standard would limit the number of cannabis businesses to the cannabis retail limit. The cannabis retail limit is proposed to be defined as “*Cannabis business retail limit* means that cannabis businesses with a retail endorsement, including cannabis retailers, cannabis mezzobusinesses, and cannabis microbusinesses, shall be limited to one business per 12,500 residents.” The definitions of cannabis retail limit is established by state statute and is not able to be modified by the City.

- b. The second standard limits where cannabis businesses can be located within the MU-D, MU-C and I-1 districts based on the cannabis business buffer. Cities are allowed, but not required, to establish a buffer to separate cannabis businesses from specific uses. The City is allowed to establish up to a 1,000 foot buffer from public and private schools, and up to a 500 foot buffer from a day care, residential treatment facility, public parks, or athletic field.

As shown in the attached map, Staff is recommending that if a buffer limit is set it be no more than 500 feet. This limit is recommended as it is simpler to have the same buffer for all uses and the 1,000 foot buffer eliminates most of the City for cannabis businesses. While the City can restrict locations, it cannot establish standards that prohibit cannabis businesses throughout the entire City. Commissioners are advised that in preparing the map, Staff did search for licenses with the State of Minnesota. Only three day cares were identified as having a license in the City and no residential treatment facilities were identified. Staff is requesting Planning Commission discussion about whether a buffer should be established and what distance it should be.

Review and Recommendation. After review and discussion, the Planning Commission is asked to make a recommendation to the City Council relative to the proposed ordinance amendments. A public hearing has already been noticed for the July 9, 2024 City Council meeting as the zoning code amendment should be in place as soon as possible given the opening of social equity applications in July. Commissioners are reminded that the other cannabis business licenses will not be issued until 2025 so the City will have an opportunity to make further ordinance revisions if necessary later this year.

Attachments.

1. Draft ordinance amending zoning ordinance related to cannabis businesses
2. 500 foot buffer map for cannabis businesses
3. OCM Guidance on Local Zoning
4. Cannabis businesses slide presentation from June 4, 2024 Planning Commission meeting.

**CITY OF MOUND
ORDINANCE NO. ____**

**AN ORDINANCE AMENDING CHAPTER 129 OF THE MOUND CITY CODE
REGARDING ZONING RELATED TO CANNABIS BUSINESSES**

THE CITY COUNCIL OF THE CITY OF MOUND DOES ORDAIN:

SECTION 1. AMENDMENT. Mound City Code Chapter 129 is hereby amended as set forth below to add the underlined language as follows:

Sec. 129-2. Definitions

Camping trailer means a folding structure, mounted on wheels and designed for travel, recreation, and vacation uses, also commonly called a pop-up camper.

Cannabis business means a business involved with cannabis.

Cannabis business buffer means a 500-foot buffer from public and private schools and a 500-foot buffer from a day care, residential treatment facility, public park, or athletic field for cannabis retailers, cannabis microbusinesses with a retail endorsement, cannabis mezzobusinesses with a retail endorsement, medical cannabis retailers, and medical cannabis combinations businesses.

Cannabis business retail endorsement means a cannabis business that may sell cannabis products directly to the public as regulated by state statute.

Cannabis business retail limit means that cannabis businesses with a retail endorsement, including cannabis retailers, cannabis mezzobusinesses, and cannabis microbusinesses, shall be limited to one business per 12,500 residents.

Cannabis cultivator means a cannabis business as defined in state statute.

Cannabis delivery service means a cannabis business as defined in state statute.

Cannabis event organizer means a cannabis business as defined in state statute.

Cannabis manufacturer is a cannabis business as defined in state statute.

Cannabis mezzobusiness means a cannabis business as defined in state statute.

Cannabis microbusiness means a cannabis business as defined in state statute.

Cannabis retailer means a cannabis business as defined in state statute.

Cannabis testing facility means a cannabis business as defined in state statute.

Cannabis transporter means a cannabis business as defined in state statute.

Cannabis wholesaler means a cannabis business as defined in state statute.

Carport means an automobile shelter having one or more sides open.

Lot width means the maximum horizontal distance between the side lot lines of a lot measured at the setback line.

Lower-potency hemp edible manufacturer means a cannabis business as defined in state statute.

Lower-potency hemp edible retailer means a cannabis business as defined in state statute.

Manufactured home park means any site, lot, field or tract of land upon which two or more occupied manufactured homes are located, either free of charge or for compensation, and includes any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of the manufactured home park.

Membrane structure means a structure usually consisting of an aluminum, steel or plastic frame which is covered with a plastic, fabric, canvas or similar nonpermanent material and is used to provide for the storage of vehicles, boats, recreational vehicles or other personal property. The term "membrane structure" shall also apply to structures commonly known as hoop houses, canopy-covered carports and tent garages and can be fully or partially covered but shall not apply to boat lifts and canopies which are placed in public waters.

Medical cannabis combination business means a cannabis business as defined in state statute.

Medical cannabis cultivator means a cannabis business as defined in state statute.

Medical cannabis processor means a cannabis business as defined in state statute.

Medical cannabis retailer means a cannabis business as defined in state statute.

Metes and bounds means a method of property description by means of their direction and distance from an easily identifiable point.

Sec. 129-135. – Allowable uses.

Use	MU-D	MU-C	C-1	I-1 ¹

Non-Residential Uses				

Brewpub	P	P	C	P
<u>Cannabis Cultivator</u>	-	-	-	<u>P</u>
<u>Cannabis Delivery Service</u>	<u>P</u>	<u>P</u>	-	<u>P</u>

<u>Cannabis Event Organizer</u>	-	-	-	<u>P</u>
<u>Cannabis Manufacturer</u>	-	-	-	<u>P</u>
<u>Cannabis Mezzobusiness</u>	-	-	-	<u>P</u>
<u>Cannabis Microbusiness</u>	-	-	-	<u>P</u>
<u>Cannabis Retailer</u>	<u>P</u>	<u>P</u>	-	<u>P</u>
<u>Cannabis Testing Facility</u>	-	-	-	<u>P</u>
<u>Cannabis Transporter</u>	-	-	-	<u>P</u>
<u>Cannabis Wholesaler</u>	-	-	-	<u>P</u>

Local Government Buildings & Institutional Buildings	P	P	P	P
<u>Lower-Potency Hemp Edible Manufacturer</u>	-	-	-	<u>P</u>
<u>Lower-Potency Hemp Edible Retailer</u>	<u>P</u>	<u>P</u>	-	-
Medical and Dental Clinics	P	P	P	P
<u>Medical Cannabis Combination Business</u>	-	-	-	<u>P</u>
<u>Medical Cannabis Cultivator</u>	-	-	-	<u>P</u>
<u>Medical Cannabis Processor</u>	-	-	-	<u>P</u>
<u>Medical Cannabis Retailer</u>	<u>P</u>	<u>P</u>	-	-
¹ Except as specified Sec. 129-43 Planned industrial area (PIA), uses in the I-1 District require an operations permit.				

Sec. 129-206. – Cannabis business.

- (1) In the Mixed Use Downtown District (MU-D) and the Mixed Use Corridor District (MU-C), cannabis businesses with a cannabis business retail endorsement are subject to the cannabis business buffer and cannabis business retail limit.
- (2) In the Light Industrial District (I-1), cannabis microbusinesses, cannabis mezzobusinesses with a cannabis businesses retail endorsement, and medical cannabis combination businesses are subject to the cannabis business buffer and cannabis business retail limit.

SECTION 2. PUBLICATION BY SUMMARY. This Ordinance becomes effective on the first day following the date of its publication, or upon the publication of a summary of the Ordinance as provided by Minn. Stat. § 412.191, subd. 4, as it may be amended from time to time, which meets the requirements of Minn. Stat. § 331A.01, subd. 10, as it may be amended from time to time.

Adopted by the City Council of the City of Mound this 9th day of July, 2024.

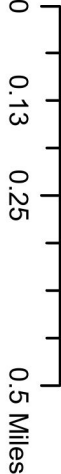
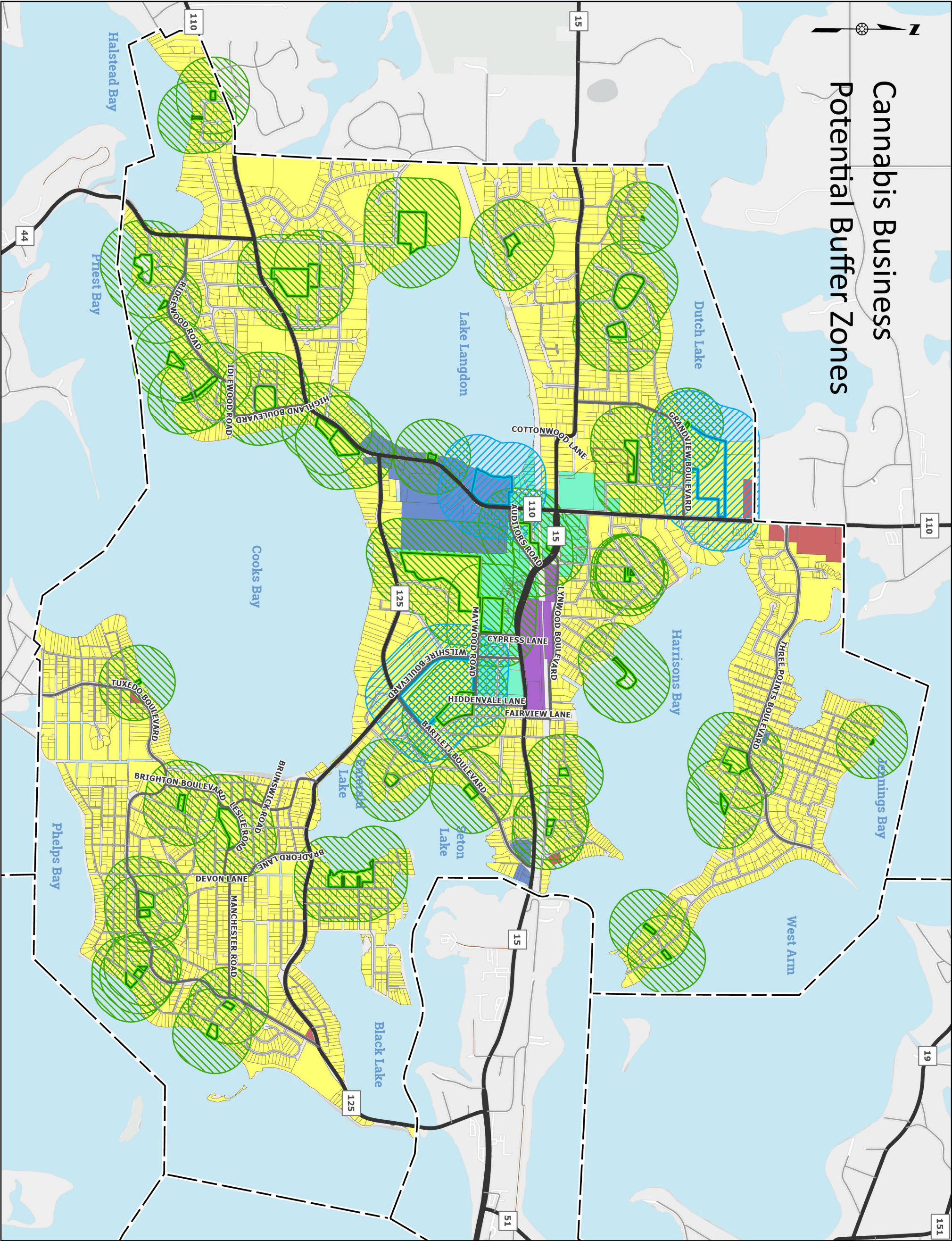
Jason R. Holt, Mayor

ATTEST:

Kevin Kelly, City Clerk

Published in the _____ on _____, 2024

Cannabis Business Potential Buffer Zones



Legend

- Public and Private Schools
- Public Park and Day Care
- Public and Private Schools
500 ft Buffer
- Public Park or Day Care
500 ft Buffer
- Zoning**
- Residential (simplified)
- MU-C Mixed-Use
- MU-D Mixed-Use
- C-1 Commercial
- I-1 Industrial

Zoning and Land Use

Buffer Guidelines (342.13)

State law does not restrict how a local government conducts its zoning designations for cannabis businesses, except that they may prohibit the operation of a cannabis business within 1,000 feet of a school, or 500 feet of a day care, residential treatment facility, or an attraction within a public park that is regularly used by minors, including playgrounds and athletic fields.

Zoning Guidelines

While each locality conducts its zoning differently, a few themes have emerged across the country. For example, cannabis manufacturing facilities are often placed in industrial zones, while cannabis retailers are typically found in commercial/retail zones. Cannabis retail facilities align with general retail establishments and are prohibited from allowing consumption or use onsite, and are also required to have plans to prevent the visibility of cannabis and hemp-derived products to individuals outside the retail location. Industrial hemp is an agricultural product, and should be zoned as such.

Cannabis businesses should be zoned under existing zoning ordinances in accordance with the license type or endorsed activities held by the cannabis business. Note that certain types of licenses may be able to perform multiple activities which may have different zoning analogues. In the same way municipalities may zone a microbrewery that predominately sells directly to onsite consumers differently than a microbrewery that sells packaged beer to retailers and restaurants, so too might a municipality wish to zone two microbusinesses based on the actual activities that each business is undertaking. Table 1, included on Pages 13 and 14, explains the types of activities that cannabis businesses might undertake, as well as, some recommended existing zoning categories.

Zoning and Land Use (cont.)

Table 1: Cannabis and Hemp Business Activities

Endorsed Activity	License Type Eligible to Do Endorsed Activity	Description of Activity	Comparable Districts	Municipal Considerations
Cultivation	Cultivator Mezzobusiness Microbusiness Medical Cannabis Combination	"Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis plants, cannabis flower, hemp plants, or hemp plant parts.	Indoor: Industrial, Commercial, Production Outdoor: Agricultural	Odor Potential need for transportation from facility Waste, water, and energy usage Security
Cannabis Manufacturing, Processing, Extraction	Manufacturer Mezzobusiness Microbusiness Medical Cannabis Combination	This group of endorsed activities turn raw, dried cannabis and cannabis parts into other types of cannabis products, e.g. edibles or topicals.	Industrial, Commercial, Production	Odor Potential need for transportation from facility Waste, water, and energy usage Security
Hemp Manufacturing	Lower-Potency Hemp Edible (LPHE) Manufacturing	These business convert hemp into LPHE edible products.	Industrial, Commercial, Production	Odor Waste, water, and energy
Wholesale	Wholesale Cultivator Manufacturer Mezzobusiness Microbusiness Medical Cannabis Combination	This activity and license type allows a business to purchase from a business growing or manufacturing cannabis or cannabis products and sell to a cannabis business engaged in retail.	Industrial, Commercial, Production	Need for transportation from facility Security

Zoning and Land Use (cont.)

Table 1: Cannabis and Hemp Business Activities (continued)

Endorsed Activity	License Type Eligible to Do Endorsed Activity	Description of Activity	Comparable Districts	Municipal Considerations
Cannabis Retail	Retail Mezzobusiness Microbusiness Medical Cannabis Combination	This endorsed activity and license types allow a business to sell cannabis and cannabis products directly to consumers.	Retail, Neighborhood Shopping Districts, Light Industrial, Existing districts where off-sale liquor or tobacco sales are allowed.	Micros may offer onsite consumption, similar to breweries. Micros and Mezzos may include multiple activities: cultivation, manufacture, and/or retail.
Transportation	Cannabis Transporter	This license type allows a company to transport products from one license type to another.		Fleet based business that will own multiple vehicles, but not necessarily hold a substantial amount of cannabis or cannabis products.
Delivery	Cannabis Delivery	This license type allows for transportation to the end consumer.		Fleet based business that will own multiple vehicles, but not necessarily hold a substantial amount of cannabis or cannabis products.
Events	Event Organizer	This license entitles license holder to organizer a temporary event lasting no more than four days.	Anywhere that the city permits events to occur, subject to other restrictions related to cannabis use.	On site consumption. Retail sales by a licensed or endorsed retail business possible.

Cannabis - State Statute

- 2023 Minnesota legislature approved expanded legalization of THC, cannabis products and cannabis businesses (including hemp)
- Established a new Office of Cannabis Management (OCM)
- New licensing and zoning requirements for cities to accommodate
- Sales expected to begin 2025
- Starting August 1, 2024 Minnesota residents 21 years+ can use cannabis flower and products on their private property and at events licensed for on-site consumption
- Individuals may also cultivate up to 8 cannabis plants inside their residences

Cannabis – Other Business Types

- Cannabis microbusiness
- Cannabis mezzobusiness
- Cannabis cultivator
- Cannabis manufacturer
- Cannabis wholesaler
- Cannabis retailer
- Cannabis transporter
- Cannabis test facility
- Cannabis event organizer
- Cannabis deliver service
- Lower-potency hemp edible manufacturer
- Lower-potency hemp edible retailer
- Medical cannabis cultivator
- Medical cannabis retailer
- Medical cannabis combination business

Cannabis – Local Zoning

- Cities cannot de facto ban cannabis or hemp businesses
- Cities may set reasonable restrictions on time, place, and manner of retail, manufacturing and cultivation
- Applicable standards to address
 - Zoning districts
 - Setbacks
 - Buffers
 - Signage
 - Odor
 - Hours of operation etc..

Cannabis – Local Zoning Continued

- Can require setbacks
 - Up to 1,000 ft from schools
 - Up to 500 ft from day cares, playgrounds, athletic fields, youth-oriented park facilities, and residential treatment centers
- Hours of operations
 - Retail may operate within the range of 10 am to 9 pm
 - Retail may not operate within 2 am and 8 am (10 am on Sundays)

Cannabis – Licensing

- Currently cities can license edible cannabinoid products until 2025
- January 1, 2025 licensing will transition to the OCM and cities may transition to registration process
- Cities must allow 1 business per 12,500 residents
- Can stop issuing registrations if threshold is met countywide
- For Hennepin County, that is approximately 102 cannabis businesses, it may be likely Mound will have to permit at least one cannabis business
- Cities may operate a municipal cannabis store, which does not count against license caps
- Social equity applicants can begin early cultivation this summer so the City will need to adopt some regulations in July

Cannabis – Zoning Code Considerations

- Consider applicable zoning districts
- Buffer restrictions
- Signage regulations
 - Statute restricts cannabis or hemp edible consumer products on signage
 - Limit to two free standing or wall signs for businesses
- Registration process