City of Oakbrook Terrace
Planning & Zoning Commission Meeting
Tuesday May 6, 2014
Case #15-1

The meeting was called to order by Chairman Noble at 7:00 P.M.

Present: Chairman Noble, Commissioner's Ventura, Myszkowski, Almeroth
Not Present: DeVries, Donoval, Schneider
Also Present: Building and Zoning Administrator Mihaela Dragan, City Attorney Peter Pacione, Planning & Zoning Commission Secretary Janice Coglianese

Chairman Noble said the first order of business was to approve the minutes of April 15, 2014, Case #14-13, One Trans Am Plaza, for NAV Consulting regarding installation of a generator.

Chairman Noble asked if there were any comments from the Commissioners.

There were none.

Chairman Noble asked for a motion to approve the minutes.

MOTION Commissioner Almeroth entertained a motion to approve the minutes of April 15, 2014, Case #14-13, One Trans Am Plaza for NAV Consulting regarding installation of a generator.

The motion was seconded by Commissioner Ventura.

MOTION PASSED UNANIMOUSLY THROUGH A VOICE VOTE.

Chairman Noble said the second order of business was to approve the minutes of April 15, 2014, Case #14-14, 1S240 Summit Avenue, 1S240 Summit Oaks, LLC for variations from the Zoning Ordinance in relation to the parking lot.

Chairman Noble asked if there were any comments from the Commissioners.

There were none.

Chairman Noble asked for a motion to approve the minutes.

MOTION Commissioner Ventura entertained the motion to approve the April 15, 2014, Case #14-14, 1S240 Summit Avenue, 1S240 Summit Oaks, LLC for variations from the Zoning Ordinance in relation to the parking lot.

The motion was seconded by Commissioner Myszkowski.

MOTION PASSED UNANIMOUSLY THROUGH A VOICE VOTE.

Chairman Noble said the third order of business was to approve the minutes of April 15, 2014, Case #14-15, to consider the following text amendment to the Zoning Ordinance of the City of Oakbrook Terrace concerning requirements for public hearing signs.

Chairman Noble asked if there were any comments from the Commissioners.

There were none.

Chairman Noble asked for a motion to approve the minutes.

MOTION Commissioner Myszkowski entertained a motion to approve the minutes of April 15, 2014, Case #14-15, to consider the following text amendment to the Zoning Ordinance of the City of Oakbrook Terrace concerning requirements for public hearing signs.

The motion was seconded by Commissioner Ventura.

MOTION PASSED UNANIMOUSLY THROUGH A VOICE VOTE.

Chairman Noble said the fourth order of business, Case #15-1, to consider the request by the City of Oakbrook Terrace for text amendments to Sections 156.004 and 156.088 of the Zoning Ordinance concerning the regulation of Cannabis Cultivation Centers and Medical Cannabis Dispensaries in the B-4 Business Park District of the City of Oakbrook Terrace, DuPage County, Illinois.

Chairman Noble asked the Petitioner and anyone else who wished to speak to be sworn in.

City Attorney Peter Pacione was sworn in by Planning and Zoning Secretary Coglianese.

Chairman Noble asked the Petitioner to state his case.

City Attorney Pacione took the floor to give a brief overview. He stated as of January 1, 2014 the Compassionate Use of Medical Cannabis Pilot Program Act went into effect; this is a test statute that expires in 2018 in regards to the use of Medical Cannabis. The statute is clear that this must be allowed in the City of Oakbrook Terrace. The City is allowed regulation of the location and the zoning.

He continued to state that the first section defines Cannabis, Medical Cannabis, Medical Cannabis cultivation centers where they can grow it, Medical Cannabis dispensary centers where they can sell it, and Medical Cannabis dispensing organizations, which are businesses that are allowed to sell it. This is all stated in the Zoning Ordinance section 156.004.

He stated under section 156.008 of the Zoning Ordinance is more into the regulation of cannabis. He commented that the City does not want a large amount of dispensaries in the City; therefore, they looked for the most restrictive areas, which is in the B-4 district. The City of Oakbrook Terrace is designating the location where it is to be allowed, and zoned not as a permitted use, but as a special use.

Building and Zoning Administrator Dragan proceeded to show the location of the B-4 district, which is north of Roosevelt Road and east of Route 83; Robinette's property, which is the only B-4 location throughout the City.

City Attorney Pacione stated when an applicant applies to the City for a special use permit there's certain criteria they have to meet; some by statute and some by the City's ordinance, which some of the state statutes are being incorporated into the City's ordinance. One (1) of them is that they

have to be in a single building; they cannot share a building or a parking lot with others for either dispensaries or cultivation centers. Under the state law, which the City incorporated, medical cannabis cultivation centers have to be 2,500 square feet from any pre-existing public or private, elementary and secondary school, and pre-existing day care center, day care home, group day care home or part day child care facility, and any preexisting area zoned for residential use. For a dispensary the same criteria applies, for any pre-existing public or private, elementary and secondary school, and pre-existing day care center, day care home, group day care home or part day child care facility, and any pre-existing area zoned for residential use except there was an error made and it should read 1,000 square feet from these areas not 2,500 as stated in the draft ordinance; City Attorney Pacione will make this correction.

A dispensary/cultivation center cannot be located in a house, apartment or condominium. City Attorney Pacione indicated that there are some homes in Oakbrook Terrace that are zoned commercial. Other criteria is complying and being licensed by state law, and placing a number on how many dispensary/cultivation centers that the City will actually allow. Operation hours for dispensaries are 6:00 A.M. to 10:00 P.M. and drive-thrus's are not allowed. There are rules and regulations from the Department of Health, the Illinois Financial Regulations, and Professional Regulations. They have not issued any licenses in the State of Illinois since rules had to be created and currently they are in a 30-day public comment period for all three (3) of these departments to determine the final rules.

City Attorney Pacione asked if the Commissioners had any questions.

Commissioner Ventura inquired if the specified location was the best spot for a cannabis center with Salt Creek being across the street and residents being directly behind it.

City Attorney Pacione stated it was the most restrictive spot.

Building and Zoning Administrator Dragan stated that Commissioner Ventura was correct; there is a school and residents located across the street.

City Attorney Pacione commented that they chose the location that will have the minimal impact on the City since they have to allow them in the City.

Commissioner Ventura asked if there wasn't another area more fitting.

City Attorney Pacione said there are other slim stops.

Commissioner Almeroth commented that you can't be strict and legal.

City Attorney Pacione said the dispensaries have to be allowed. He commented more than likely the City will not have a cultivation center, and there is only one (1) permitted per police district; however, there is a possibility of a dispensary and a limit.

Commissioner Almeroth said he did some homework, and currently only six (6) of these centers are being allowed in DuPage County.

City Attorney Pacione said we are going to have some regulations, but they are saying to these centers, yes they can come in.

City Attorney Pacione mentioned in the General Assembly bills are being proposed to allow the sale of cannabis in a restrictive amount, which will affect the City one way or another if it is passed.

Commissioner Myszkowski questioned the 1,000 square feet from the property line.

City Attorney Pacione stated 1,000 square feet from property line to property line.

Commissioner Myszkowski questioned again if there were to be six (6) different outlets in the area.

City Attorney Pacione stated six (6) in the entire county.

Commissioner Myszkowski asked if all of the six (6) centers were all required to follow the 1,000 square foot law.

City Attorney Pacione commented that the City of Oakbrook Terrace is allowed to say how many were allowed in the City's jurisdiction and would be the Commission's decision on the quantity of centers to be able to open in Oakbrook Terrace.

Commissioner Myszkowski asked once again if all the centers have to follow the 1,000 square foot rule distance to the residential areas and schools.

City Attorney stated there is no specific space on how far the centers are to be distant from each other. This will be determined by the Planning and Zoning Commission.

Commissioner Myszkowski said that she actually meant any of the six (6) that will be allowed in DuPage County if they would all have to follow the 1,000 square foot law.

City Attorney Pacione stated there is no regulation on how far they are to be away from each other.

Commissioner Myszkowski commented then it was only the City of Oakbrook Terrace that is following this rule.

City Attorney Pacione stated it is a criterion if the City grants the special use.

Building and Zoning Administrator Dragan stated that any entity can request a variation; however, they must attend a public hearing, and get a special use permit showing that it would not affect the total zoning district. For instance if there was a request to have a center in the B-3 district, in a one-story business building on the south side of Butterfield Road, there would be different conditions for that property alone, and not for the entire B-3 zoning district.

Commissioner Ventura commented that would be a great area for a cannabis distribution center for driving in and out.

Building and Zoning Administrator Dragan said she had discussed this with City Attorney Pacione for allowing the B-3 district to house a cannabis distribution center. It was stated that they would have to open the entire B-3 district and not only for one (1) building. It couldn't just be for one (1) particular property.

City Attorney Pacione specified that state law prohibits a distribution center 1,000 square feet and 2,500 square feet as stated above. A center could not get a permit from the state to operate.

Commissioner Almeroth commented that this contradicts what Commissioner Myszkowski asked for in the first place.

City Attorney Pacione stated that the 1,000 square feet was a state law incorporated into the City's local law.

Commissioner Almeroth alleged earlier City Attorney stated this was a local law not a state.

City Attorney Pacione specified it was both; the distances are both, but are incorporated in the City's local ordinance.

Commissioner Almeroth said that the City then could not change it to 500 square feet.

City Attorney Pacione said he was correct in saying that and the state would not give them a license.

Chairman Noble stated the B-4 district is mostly a storage facility and the Go-Cart. He also stated that you can access this lot off of Roosevelt Road and the entrance by Walmart.

Commissioner Almeroth said he didn't think there was an access off of Roosevelt Road to the Jus-for-Fun lot.

Chairman Noble said the access was by the public storage facility going north.

City Attorney Pacione asked if there were any other questions in regards to text amendments.

There were none.

Chairman Noble asked if there were any other questions from the Commissioners.

Commissioner Noble said then no matter what they had to come before the Planning and Zoning Commission for any special use.

City Attorney Pacione said that was correct even if they came a second, third or fourth time, they would have to go before the Planning and Zoning Commission to get a special use.

Chairman Noble stated since there was no audience in attendance; he closed the audience participation portion of the hearing.

Chairman Noble asked if there were any other questions from the Commissioners.

There were none.

Chairman Noble asked if there were any other questions or comments from the City Attorney.

There were none.

Chairman Noble asked for a motion to approve Case 15-1.

MOTION Commissioner Ventura entertained a motion to approve Case 15-1, to consider the request by the City of Oakbrook Terrace for text amendments to Sections 156.004 and 156.088 of the Zoning Ordinance concerning the regulation of Cannabis Cultivation Centers and Medical Cannabis Dispensaries in the B-4 Business Park District of the City of Oakbrook Terrace, DuPage County, Illinois.

Commissioner Myszkowski seconded the motion.

Chairman Noble asked if there was any final discussion.

There was none.

Chairman Noble asked for a roll call.

Ayes: Ventura, Myszkowski, Almeroth, Chairman Noble
Nays: None
Absent: DeVries, Donoval, Schneider

MOTION WAS PASSED.

Chairman Noble asked Building and Zoning Administrator Dragan when the petition would be presented to the City Council.

Building and Zoning Administrator Dragan stated that the Letter of Recommendation will be placed on the agenda for the May 27, 2014 City Council meeting and asked to cancel the May 20, 2014 Planning and Zoning meeting since there were no cases scheduled. The next meeting is scheduled for June 3, 2014 for two (2) proposed restaurants; Twin Peaks and another to be determined at a later date, to occupy the former Pompei location.

Chairman Noble asked for a motion to cancel the May 20, 2014 Planning and Zoning meeting.

MOTION Commissioner Myszkowski entertained a motion to cancel the May 20, 2014 Planning and Zoning Commission meeting.

Commissioner Almeroth seconded the motion.

MOTION PASSED UNANIMOUSLY THROUGH A VOICE VOTE.

Chairman Noble asked for a motion to adjourn the meeting.

MOTION Commissioner Almeroth entertained a motion to adjourn the meeting.

Commissioner Myszkowski seconded the motion.

Chairman Noble asked for a vote.

MOTION PASSED UNANIMOUSLY THROUGH A VOICE VOTE.

Chairman Noble adjourned the meeting at 7:22 P.M.

Respectfully submitted by,

Janice Coglianese

Janice Coglianese
Planning and Zoning Secretary