

**Village of Lemont**  
**Planning and Zoning Commission**  
Regular Meeting of December 18, 2013

A meeting of the Planning and Zoning Commission of the Village of Lemont was held at 6:30 p.m. on Wednesday, December 18, 2013 in the second floor Board Room of the Village Hall, 418 Main Street, Lemont, Illinois.

**I. CALL TO ORDER**

**A. Pledge of Allegiance**

Chairman Spinelli called the meeting to order at 6:30 p.m. He then led the Pledge of Allegiance.

**B. Verify Quorum**

Upon roll call the following were:

Present: Kwasneski, Maher, McGleam, Messer, Sanderson, Sullivan, Spinelli

Absent: None

Planning and Economic Development Director Charity Jones, Planner Martha Glas, and Village Trustee Ron Stapleton were also present

**C. Approval of Minutes: November 20, 2013 Meeting**

Commissioner Sullivan made a motion, seconded by Commissioner Kwasneski to approve the minutes from the November 20, 2013 meeting with no changes. A voice vote was taken:

*Ayes: All*

*Nays: None*

*Motion passed*

**II. CHAIRMAN'S COMMENTS**

None

**III. PUBLIC HEARINGS**

**A. Case 13-12 – UDO Text Amendments.**

A public hearing for changes to the text of the Unified Development Ordinance.

Chairman Spinelli called for a motion to open the public hearing.

Commissioner Sanderson made a motion, seconded by Commissioner McGleam to open the public hearing for Case 13-12. A voice vote was taken:

*Ayes: All*

*Nays: None*

*Motion passed*

Mrs. Jones stated each of the Commissioners should have received a sheet in regards to the tree planting specifications.

Chairman Spinelli stated there are 30 foot clear zones on corners.

Mrs. Jones said that none of that is changing, only how you plant the tree and how far down the root ball is.

Chairman Spinelli stated as these trees start to mature Public Works needs to make sure that they are trimming them back so street signs can be seen. He said there are a lot of trees that are obscured due to trees.

Commissioner Messer said in his subdivision what someone did was unscrewed the stop sign and lowered it below the tree branches.

Mrs. Jones asked for the location and wrote it down. She stated she would let Public Works know.

Chairman Spinelli stated there seems to be a discrepancy with the dimensions in the drawing. He said it shows a 30 foot radius, but the text states a 25 foot clear area. He stated Mr. Cainkar needs to look at this and change one of the two. Chairman Spinelli said he thinks the 25 in the text needs to be changed to a 30.

Mrs. Jones said one other thing she forgot to put in the draft amendment that was attached to the staff report was they are proposing to delete appendices A, B, and C and all references throughout the UDO (Unified Development Ordinance). She said appendix A is the fee schedule for all the different applications. Mrs. Jones stated the Village annually adopts a fee schedule so it does not need to be in the UDO. Appendices B and C are application packets which do not need to be in the UDO.

Mrs. Jones stated they will now cover medical marijuana. She said the State has passed legislation allowing the use of medical marijuana. She stated the definitions and regulations that they are proposing are consistent with the State requirements. Mrs. Jones said the State has passed the legislation but they are also going to be coming out with some administration rules regarding these licenses. She stated because of this we may need to revisit some of these regulations in a few months to make changes or revisions. Mrs. Jones said she spoke with the Village Attorney and he advised to go ahead and adopt something now. She stated it would be better to have something in place before someone gets a license and comes here and there is nothing place. She said then they can say that the Village does not allow it so they can put it anywhere. Mrs. Jones stated it is the same issue you run into with adult uses as well. She said if you don't prohibit adult uses within the community, then you run the risk of someone

putting it anywhere. She stated they can say it is unconstitutional for the Village to prohibit the use if nothing is in place to say where it can and cannot go.

Mrs. Jones said what they are proposing is very similar to how they treat the adult uses. She stated adult uses are allowed as a special use in the M-4 zoning district. She said if you look at the zoning map there is no M-4 zoning in the Village. Mrs. Jones stated it is the mineral extraction zoning district. She said with the medical marijuana it could be a special use in just the M-4 or a special use in the M-3 and the M-4. She stated someone could argue that the Village doesn't even have an M-4 district. However, someone can come in and rezone to M-4 and then apply for a special use. She said it could also just be a special use in the M-3.

Chairman Spinelli asked where all the current M-3 zoning districts are.

Mrs. Jones stated along the Sanitary and Ship Canal and Route 83 and Main Street.

Chairman Spinelli asked if they should treat it the same as adult uses and put it in the M-4.

Mrs. Jones said it can be treated just like the adult uses and she feels a lot of the other communities will be doing that.

Chairman Spinelli stated he does not see a problem with it as long as it does not put the Village in a bad place.

Mrs. Jones said the Village Attorney is comfortable defending that position. She stated the cultivation centers will never go in Lemont. She said they will need much more space than the Village can provide. Mrs. Jones stated the only thing they could possibly get is a dispensary and there will be 60 of them licensed throughout the State of Illinois. She said cultivation centers have to be 2,500 feet away from daycare centers, schools, and any area zoned as a residential use. Due to those requirements it basically zones them out of Lemont. Mrs. Jones stated the dispensaries have to be 1,000 feet from a school or daycare. However, it does not have to be 1,000 feet away from an area zoned for residential use. She said it just can not be in residential zoning.

Commissioner Sullivan asked if staff had heard how other communities from other States were dealing with this issue. He asked if there are any negatives or positives.

Mrs. Jones stated every State does it differently. She said in Iowa for example you go to your local Walgreens for dispensing. She stated in California they have separate dispensaries.

Commissioner Sullivan stated it seems it is being presented to them in a negative way. He said he wanted to know if there was a reason why.

Mrs. Jones said she does mean to be presenting it that way. She stated the reason why she presented it as an M-3 or M-4 with a special use, is because you would want to have a discretionary review process just like any other sensitive use. She said if the Commission does want to potentially allow it in the community; the M-3 is probably the most reasonable zoning district for it giving the statutory requirements for separation from parks and schools. Mrs. Jones stated also you would not want to put it in your commercial zoning districts, because it would not generate the same kind of sales tax revenue or volume as a regular retail use would.

Commissioner Kwasneski asked with the 1,000 square feet restriction does it fit anywhere in the M-3 zoning district.

Mrs. Jones stated it could go anywhere in the Maley Industrial complex where Maley Road is located or in the new industrial park on New Avenue.

Commissioner Sullivan said the reason why this was brought forward is so they can assign a zoning district and so there is not a loophole where one can be put anywhere. He asked why they would then go and expose themselves by putting it in a zoning district that doesn't exist. He said the reason for the special use is so they have to come before the Boards. He stated there are some Villages were almost everything is a special use. Commissioner Sullivan said he feels they should put it in a district in which they have that fits within the Village and make it a special use. He stated he feels that this would be much more in compliance with the State recommendations.

Commissioner Maher stated this is a hot topic and he does not want to spend a ton of time with their Commission if the Village Board is in favor of it a certain way. He said he feels it is not right putting it in a Manufacturing District. He stated he does not have an issue with having a dispensary in town unless they see there is some type of violence associated with having a dispensary. Commissioner Maher said he feels it is not right to not have the Village Board's position when trying to set up this ordinance. He stated the Board's opinion is really what matters. He said it is a hot topic and they should be coming together on a position that makes sense rather than trying to hash it out. Commissioner Maher stated he does not want to see someone having to drive through all the trucks in an industrial parkway or down by the canal. He said if they are all in agreement on this then it should be in a position where it makes sense.

Commissioner Sanderson said if they put in an M-3 which is allowed then they meet the State's requirements. He stated someone can come in apply for a text amendment and request to be in a different zoning district. He said right now he would want it as far away as possible because they do not know anything about it or what it looks like.

Mrs. Jones stated they can always amend the code later and they probably will have to after the administrative rules are all written. She said for now this is the minimum that needs to be done to be in compliance with the State requirements.

Discussion continued in regards to whether it should be in an M-3 district.

Chairman Spinelli said he has no issue with allowing it in the M-3 and M-4 districts as a special use. He stated he agreed with Commissioner Maher that if it is legally controlled and done legally then they could consider maybe a text amendment for another zoning district.

Commissioner Maher stated he feels they should vote on this separately. He said he feels dispensaries should be in the commercial zoning district and not the manufacturing district, unless they get other information from their attorney in regards to whether this will increase crime.

Commissioner Kwasneski asked because this is such a hot topic if they should have a joint meeting with the Village Board to get their opinion.

Mrs. Jones said they are getting a good discussion here and this will go before the Committee of the Whole next month. She stated the Village Board will take a look at it and they will get an idea whether they have some of the same thoughts or if they are viewing it like some of the other communities and be more restrictive.

Chairman Spinelli stated he agreed with Commissioner Maher in regards to the distribution. However, he does not like the idea of possibly having a distribution center next to a Nancy's pizzeria. He said he agrees with it being at a pharmacy location.

Mrs. Jones said she agrees, but the State is giving out 60 licenses and the way she understands it is that those facilities will be limited to just dispensing medical marijuana. She stated all the rules have not been written just yet so they have limited knowledge.

Chairman Spinelli stated if the rules have not been finalized then he would find it hard to allow it in a business district.

Commissioner McGleam asked if they could vote on the cultivation centers and table the dispensaries.

Mrs. Jones stated that is fine and they could table it till the January or February meeting.

Commissioner Messer asked if the State had a timeline.

Mrs. Jones said per the Village Attorney the rules are supposed to come out in April, but they don't know how fast they will move after that.

Discussion continued in regards to tabling the dispensary or voting right away.

Commissioner Sanderson said he would want to vote on the cultivation center and the dispensaries separately and he would like to vote tonight.

Chairman Spinelli then called for a motion on the cultivation center.

Commissioner Maher made a motion, seconded by Commissioner Kwasneski to recommend to the Mayor and Village Board approval for a cultivation center for medical marijuana as a special use in the M-3 or M-4 zoning district according to the guidelines written in the staff report dated December 13, 2013. A roll call vote was taken:

*Ayes: McGleam, Kwasneski, Sanderson, Maher, Messer, Sullivan, Spinelli*

*Nays: None*

*Motion passed*

Commissioner Sanderson made a motion, seconded by Commissioner Messer to recommend to the Mayor and Village Board approval for a dispensary center for medical marijuana as a special use in the M-3 or M-4 zoning district according to the guidelines written in the staff report dated December 13, 2013. A roll call vote was taken:

*Ayes: McGleam, Kwasneski, Sanderson, Messer, Spinelli*

*Nays: Maher, Sullivan*

*Motion passed*

Mrs. Jones stated the next topic is construction contractor office/yard. She said this issue has come up several times including just recently at last month meeting. She stated the UDO does not differentiate between construction offices, which are primarily office space and those where fabrication is happening or storage. Mrs. Jones said they are hoping to separate those two and have a definition for construction contractor office and another for construction contractor yard. She then read each of the definitions.

Mrs. Jones said they would amend the table to allow construction contractor office in the B-1, B-3, DD and M-1 zoning districts. Then construction contractor office with yard, presuming there is an outdoor component to it, would be allowed in B-3, M-1, M-2, and M-3 zoning districts. She stated there would be a new section within the use chapter of the UDO that would talk about construction contractor office and office requirements in the DD and the B-1. Mrs. Jones then read those requirements.

Mrs. Jones stated what they are trying to do is strike a balance between what has been allowed at the staff level and ensuring there are no significant impacts. She said this is a starting point for open discussion and she welcomes any comments from the Commissioners.

Commissioner Maher said he would like to get rid of the three car limit. He stated he feels it should be based on the number of parking spaces.

Mrs. Jones stated it is more of the B-1 and DD district they are concerned about, so maybe it should not be an issue with the B-3 and the M zoning districts.

Commissioner Sanderson said you would not want a fleet of trucks or cars next to a residential area. He stated this was one of the concerns from residents at last month's meeting.

Commissioner Maher stated there are homeowners that have six cars parked in their driveway. He asked what the difference was. He said if their property has the space for it then they should be allowed to park there. Commissioner Maher stated he could see limiting the type of vehicle that could park there.

Chairman Spinelli said he agreed that if they have the parking stalls then they should be able to park there.

Commissioner Sanderson stated he liked the idea of restricting the type of vehicle.

Mrs. Jones said they would be able to that and most construction businesses usually have a van or truck, which have B plates.

Chairman Spinelli asked if the no fabrication allowed on the property included inside the building and if so what was the intended purpose.

Mrs. Jones stated it is not a manufacturing district. She said it is a light commercial business district so it is intended for office and limited storage.

Commissioner Sullivan said he agreed that the outdoor parking of vehicles should be limited. He stated if you have a plumbing contractor and they put an elbow on a piece of pipe in the shop so they don't have to do it on the job that is considered fabrication. He said also his building has a beautiful showroom and bathrooms, however his might possibly be 60% indoor parking and storage and 40% showroom. Commissioner Sullivan stated he feels you have to tread a little bit lightly with this.

Mrs. Jones stated you want to ensure that there is an office or retail storefront especially in the downtown district.

Chairman Spinelli said you can do that at 30%. He stated you can have the storefront be the majority of the showroom but have it partitioned to have vehicles parked inside or materials. He said as long as you keep the front presentable.

Commissioner Sullivan stated he knew he was going in a downtown district that he hoped was going to get more developed. He said he wanted his vehicles on-site and wanted it to be where they can be pulled into the building and looks nice. He stated he thinks there is a way they can do this without making a blanket statement.

Commissioner Sanderson said he would love to see the cars tucked away especially in the downtown district, however he would not like to see someone having 70% warehouse down there. He stated the downtown area is not a warehouse district.

Discussion continued in regards to the percentage of warehousing or storage that can be allowed in the downtown district and B-1 district.

Mrs. Jones stated they can have warehouse or storage be limited to 50%, but indoor vehicle parking does not count toward the 50% for warehousing.

All Commissioners agreed.

Mrs. Jones then asked if they agreed with the fabrication.

All Commissioners agreed to leave as is.

Mrs. Jones asked the Commissioners for clarification if they wanted to restrict the number of vehicles in the B-3 and M zoning districts.

Chairman Spinelli stated in Section A – Offices in the DD and B-1 district, they were restricting it to no larger than a “B” plate vehicle and as long as there is sufficient parking they are not restricting the quantity. He said also they agreed with no fabrication in those districts. He stated in Section B – Offices in Other Districts, they are striking the number of vehicles as long as they have enough legal vehicle parking stalls, but they are not restricting the vehicle size because it would negatively impact the M district. Chairman Spinelli said if they already have parking restrictions that protect shopping center parking lots then there is no need to duplicate that text.

Mrs. Jones said the next amendment would be to deck setbacks in R-4. She stated currently the R-4 allows for side setbacks for buildings that are less than 15 feet if the width of the lot is less than 90 feet. She said it is based on a percentage of the lot width, but the deck setbacks do not accommodate this. Mrs. Jones stated the deck setbacks are set at 15 feet. She said they are proposing to make R-4 just like R-4A, R-5 and R-6, to make it 10 feet from lot lines or equal to the setback of a conforming principal structure, whichever is less.

Chairman Spinelli asked if they are defining it as side-lot lines. He said the way it reads is all lot lines. He asked could someone then put a deck in the front yard.

Mrs. Jones stated they do not allow decks in front yards at all. She said a porch is defined differently. She stated a porch has to have a roof and a deck does not have a roof.

Chairman Spinelli asked if they looked at rear or side yard utilities.

Mrs. Jones said there is a blanket prohibition on putting any structure in an easement unless otherwise approved by the Village Grading Technician.

Chairman Spinelli asked if that would trump this 10 foot dimension.



Mrs. Jones stated if the Village Grading Technician felt that it would be problematic or negatively impact the easement. She said next would be portable storage containers/pods. She stated this would address products that people would use when they are moving. Mrs. Jones said it changes their definition from storage container to cargo container. She stated then they created a definition for self-storage container, which would be exclusively for the storage of personal property designed to be delivered to a customer's house and subsequent pick-up and delivery to a storage facility.

Chairman Spinelli asked if there was any time limit on these.

Mrs. Jones said what they are proposing is to allow self storage containers in any residential zoning district for periods of less than 15 days.

Commissioner Sullivan stated more and more people are using these pods during a remodeling to put their furniture in while the work is being done. He said sometimes this work can last more than two weeks.

Mrs. Jones said there is nothing stopping them from having it hauled off and then brought back.

All Commissioners agreed with the two week or 15 day limit.

Commissioner Messer asked what about the pod used for the football practice for the Celtics Football League on 127<sup>th</sup> and Covington Drive.

Mrs. Jones stated they should either be transporting their gear or building a permanent structure on the Park District lot across the street.

Mrs. Jones said the next section is a simple scrivener's error that references a section that just does not exist. She said next is the section covering fences. She provided a diagram on the overhead showing the current diagrams of where fences are allowed. She stated just recently they had a variation at 706 Hickory in regards to fencing where the house had a simple jut out. Mrs. Jones showed a picture of the fence at 706 Hickory as what it looks like today and what it could have looked like with a six foot privacy fence. She then provided more visuals of other homes with jut outs showing the different types of fencing.

Chairman Spinelli stated there has to be a way they could write the text in a manner to restrict the height if the fence was attached to the front façade facing the street. He said the four foot high fence across the front of the house does not look bad, however when you showed the six foot high fence on the same house it does. He stated if they moved the six foot high fence back from the front of the house it would not be so bad.

Mrs. Jones said she suggest that if they wanted that then they should just change the current regulations that allow three foot decorative fences in the front yard to allow four foot open style fences in front yards.

All Commissioners agreed.

Discussion continued in regards to corner lots.

Mrs. Jones stated the next changes would be to HPC Procedure/Certificate of Appropriateness procedures. She said currently the public notice requirement says they have to do a newspaper notice seven days in advance of the meeting and give notice to the applicant. She stated it does not say how the notice is provided to the applicant. She said they are going to change this to no newspaper notice except for demolitions. Mrs. Jones stated this is because of how often our newspaper publishes and how often the HPC meets. She said this will also match past practices. She said notice to the applicant would be by certified and registered mail within seven days.

Mrs. Jones said in regards to appeal process, minor Certificate of Appropriateness are reviewed by staff as part of the building permit process but there was no appeal process. She stated there has to be an appeal process and the appeal would be to the Village Board. She said since there is no public hearing for the minor Certificate of Appropriateness, the Village Board appeal would be the public hearing. Mrs. Jones stated the HPC conducts a public hearing for the major Certificate of Appropriateness.

Mrs. Jones stated minor Certificate of Appropriateness is currently defined as nonstructural alteration to a building or structure, addition or removal of paint, gutters downspouts, or re-shingling, and any interior remodeling that does not affect the exterior of building. She said major would be everything else and there is a list provided in the staff report. Mrs. Jones stated they are expanding what they think is minor. She said what they are proposing as minor would be the construction, demolition, and alterations of accessory structures, except those otherwise defined as major alterations. Second the addition or removal of paint, re-shingling, and installation or removal of gutters and downspouts. Mrs. Jones stated major would be defined as everything else including construction, demolition and alterations of principal structures; or construction and alterations to detached garages, decks, awnings, and signs; or demolition of detached garages and removal of awnings.

Mrs. Jones said Mrs. Glas and her would be able to review fences, sheds, removal of decks, patios, or accessory structure.

Commissioner McGleam asked if there were minor alterations for the primary structure.

Mrs. Jones stated it does include addition or removal of paint, re-shingling, and installation or removal of gutters and downspouts.

Commissioner McGleam said you need to add “of any structure, principal or accessory” to number two, under section B for minor alterations.

Mrs. Jones stated they did bring this to the HPC last month to review. She said this would conclude all the changes.

Chairman Spinelli called for a motion to close the public hearing.

Commissioner Kwasneski made a motion, seconded by Commissioner Sanderson to close the public hearing for Case 13-12. A voice vote was taken:

*Ayes: All*

*Nays: None*

*Motion passed*

Chairman Spinelli then called for a motion to recommend approval of the UDO text amendments.

Commissioner Maher made a motion, seconded by Commissioner McGleam to recommend to the Mayor and Village Board approval of Case13-12, UDO text amendments, as discussed, excluding the medical marijuana cultivation centers and dispensaries, which were already voted on. A roll call vote was taken:

*Ayes: McGleam, Kwasneski, Sanderson, Maher, Messer, Sullivan, Spinelli*

*Nays: None*

*Motion passed*

#### **IV. ACTION ITEMS**

None

#### **V. GENERAL DISCUSSION**

##### **A. Comprehensive Plan Update Workshop Dates**

Mrs. Jones stated they are going to be doing some public workshops for the Future Land Use Map. She said they will be held on Tuesday, January 28, 2014, at 6 p.m. and also on Monday, February 3, 2014 at 7 p.m. She said they are nearing the end of the Comprehensive Plan Update. She stated their goal is to have everything done by the spring. Mrs. Jones said the workshops will be identical and would like the Commissioners to attend at least one of the workshops.

Commissioner Messer asked if the workshops would be held at the Village Hall.

Mrs. Jones stated yes they would.

##### **B. Ethics training (time permitting)**

Mrs. Glas said they have the presentation printed if they want to take it home with them or she can email it to them. She stated there are some additional resources that printed on the last slide.

All Commissioners agreed to have it emailed to them.

Chairman Spinelli asked if there were any more questions for staff. None responded. He then asked if staff had made any progress in regards to public notice signs that have been left up. He said there is one at Parker and 131<sup>st</sup>. He stated they need to finalize some type of method so that the Village can get paid and these signs can be taken down.

Mrs. Jones said to let her know of any other public notice signs that he sees still up in the Village.

## **VI. ADJOURNMENT**

Chairman Spinelli called for a motion to adjourn the meeting.

Commissioner Messer made a motion, seconded by Commissioner McGleam to adjourn the meeting. A roll call vote was taken:

*Ayes: All*

*Nays: None*

*Motion passed*

*Minutes prepared by Peggy Halper*