



Approved: September 6, 2023

**CITY OF ARDEN HILLS, MINNESOTA
PLANNING COMMISSION
WEDNESDAY, AUGUST 9, 2023
6:30 P.M. - ARDEN HILLS CITY HALL**

CALL TO ORDER/ROLL CALL

Pursuant to due call and notice thereof, Chair Paul Vijums called to order the regular Planning Commission meeting at 6:30 p.m.

ROLL CALL

Present were: Chair Paul Vijums, Commissioners Brad Bjorklund, Shelley Blilie, Joshua Collins, Kurtis Weber, and Jonathan Wicklund.

Absent: Commissioner Arlene Mitchell.

Also present were: Community Development Director Jessica Jagoe, Senior Planner Elena Fransen and Councilmember Emily Rousseau.

APPROVAL OF AGENDA – AUGUST 9, 2023

Commissioner Wicklund moved, seconded by Commissioner Weber, to approve the August 9, 2023, agenda as presented. The motion carried unanimously (6-0).

APPROVAL OF MINUTES

June 7, 2023 – Planning Commission Regular Meeting

Commissioner Weber moved, seconded by Commissioner Wicklund, to approve the June 7, 2023, Planning Commission Regular Meeting as presented. The motion carried unanimously (6-0).

PLANNING CASES

- A. Planning Case 23-013; Zoning Code Amendment to Chapter 13, Section 1325.05, Design Standards – Fences – *Public Hearing***

Senior Planner Fransen stated at their February 21st work session, the City Council had a preliminary discussion on if, or how, City ordinances may be restrictive to residents wanting to remodel or add-on to their home. City staff was directed to survey neighboring cities to compare Arden Hills' residential setback requirements. Additionally, city staff was asked to assemble a list of previously identified code amendments to allow for further Council discussion to occur on

the prioritization of amendment reviews. City staff brought back the requested information to the City Council at their April 17th meeting. Staff provide a list of ordinance amendments that were previously tasked to proceed directly to the Planning Commission for the first review once a Senior Planner was onboard and as staff time allowed. While others would need to be brought back to the City Council for further discussion and direction at a future work session. Staff reviewed the proposed list of ordinance amendments that were part of the City Council work session discussion.

Senior Planner Fransen explained the City Council consensus was to proceed with the proposed amendments as outlined. Staff was directed to bring forward the fence ordinance amendments to the Planning Commission for the first review and to hold a public hearing. Following the public hearing, the draft ordinance language with recommendation of the Planning Commission would be brought to the City Council for subsequent discussion and adoption.

Senior Planner Fransen reviewed the Overview of Ordinance Amendments and provided the Findings of Fact for review:

1. The City of Arden Hills is proposing to amend ordinance language to create design and materials standards for fences in residential zoning districts.
2. The proposed ordinance would create language for evaluating a temporary fence in all zoning districts.
3. The proposed ordinance will add a maximum height design standard for fences in the business and industrial zoning districts.
4. The proposed ordinance will include amendments to the language of the City Code to Chapter 13 – Zoning Code within Section 1325.05, Subd. 4 for Fences.
5. Amendments to the Zoning Code regulations require a public hearing prior to action by the City Council.

Senior Planner Fransen reviewed the options available to the Planning Commission for Planning Case 23-013 for Zoning Code Amendments to Chapter 13 Section 1325.05 – Subd. 4D of the Arden Hills City Code for Fences:

1. Recommend Approval
2. Recommend Approval with Amendments
3. Recommend Denial
4. Table

Chair Vijums opened the floor to Commissioner comments.

Commissioner Bjorklund commented on the language regarding allowed building materials and asked why shrubbery, concrete, brick, stucco or masonry fencing was not allowed.

Community Development Director Jagoe explained staff did look at adjacent communities ordinances to see what community standards they had in place for fences. She explained she did not exclude any building materials, but rather those were less commonly seen fencing options and could be reviewed by staff on a case by case basis. She noted if there were fencing options the Planning Commission did not want to see, the Commission could make this known to staff and the City Council.

Commissioner Weber believed a brick or masonry fence would be addressed under the wall portion of City Code.

Community Development Director Jagoe reported this was the case.

Commissioner Weber noted living hedges were addressed within the proposed ordinance. He asked if a chicken wire fence around a garden was guided by this ordinance.

Community Development Director Jagoe stated chicken wire fencing would be allowed as a temporary fence.

Commissioner Weber supported chicken wire fencing being in place for more than 120 days because a garden's growing season was closer to five or six months.

Community Development Director Jagoe reported this portion of the code language could be amended.

Commissioner Bjorklund stated he was concerned with the cost for a fence permit. He believed that his existing chicken wire fence for his garden was not off putting to his neighbors. He feared that other types of fences would be exclusionary.

Senior Planner Fransen explained a fence permit would cost residents \$65.

Commissioner Bjorklund supported the City having fee waivers in place for existing permanent chicken wire fences that are in place around gardens.

Chair Vijums suggested permanent fencing be discussed at a future date. He noted this ordinance addressed temporary fencing. He asked how staff came about with the 120 day time limit for temporary fencing.

Community Development Director Jagoe stated staff set this parameter based on the seasonality of the described temporary fencing types.

Chair Vijums supported the length of time for temporary fences being closer to six months than 120 days. He believed this made more sense for garden fencing and snow fencing.

Commissioner Weber commented on the seasonality of snow fencing and how they may be in place longer than 120 days. He supported snow fences being taken down when the snow melts.

Chair Vijums suggested temporary fences be allowed for 150 days. The Commission was in agreement with this recommendation.

Commissioner Bjorklund recommended staff consider drafting language on how to address temporary fencing that surrounded major construction sites.

Community Development Director Jagoe commented on how the ordinance language could be amended to allow for temporary fencing to be in place for grading projects and major construction sites. She reported the last sentence in the third bullet point could read: silt and or construction fencing associated with a permit issued by the City is exempt from a zoning permit as a temporary fence.

Chair Vijums supported this language change.

Chair Vijums opened the public hearing at 6:57 p.m.

Chair Vijums invited anyone for or against the application to come forward and make comment.

There being no comments Chair Vijums closed the public hearing at 6:57 p.m.

Commissioner Weber moved and Commissioner Bjorklund seconded a motion to recommend approval with amendments of Planning Case 23-013 for Zoning Code Amendments to Chapter 13 in Section 1325.05- Subd. 4.D of the Arden Hills City Code to add language in the city code establishing criteria for a temporary and permanent fence in all zoning districts as well as set a maximum height for fences in the Business and Industrial Zoning Districts as presented in the August 9, 2023 Report to the Planning Commission with draft ordinance language changes to allow temporary fencing to be in place for 150 days and for the last sentence of the third bullet point to read: silt and or construction fencing associated with a permit issued by the City is exempt from a zoning permit as a temporary fence. The motion carried unanimously (6-0).

B. Planning Case 23-014; Zoning Code Amendment to Chapter 13, Section 1325.02, Accessory Uses – Lower-Potency Hemp Edible Sales – *Public Hearing*

Community Development Director Jagoe stated that on July 1, 2022, the Minnesota Legislature adopted an amendment that permits the sale of edible cannabinoid products that contain no more than 0.3% of tetrahydrocannabinol (a derivative of hemp). The amendment was enacted with very few regulations in place. Several cities adopted a moratorium in order to allow adequate time to study the matter. On August 22, 2022, the City of Arden Hills adopted Interim Ordinance 2022-006 establishing a one-year moratorium prohibiting the sale, testing, manufacturing, and distribution of products containing tetrahydrocannabinol (THC). It is important to note this moratorium does not apply to products containing THC related to the Medical Cannabis Program as administered by the Minnesota Department of Health, provided the activity is conducted in accordance with state law regarding medical cannabis. Interim Ordinance 2022-006 will expire on August 22, 2023.

Community Development Director Jagoe reported as of May 31, 2023, there has also been a recent state law change relating to adult use marijuana/cannabis. This state law includes language for cities to have the authority to impose a moratorium on the sale of full-strength products until January 1, 2025 in order to allow further review and future discussions as the new law continues to be interpreted. The Office of Cannabis Management (OCM) is still taking shape and they will license retailers. Cities will be required to register local adult cannabis retailers and conduct compliance checks. Eventually, the OCM will have sample language and forms to provide to cities. The City Council directed city staff at their work session on July 17, 2023, to work with the City Attorney's Office to prepare the ordinance language for a moratorium prohibiting the sale of Adult Use Cannabis products as allowed under the state law. Staff anticipates this discussion will be reviewed by the City Council at their second regular meeting in August. For this discussion, the Planning Commission is being asked to review and consider ordinance language as it relates solely to lower-potency THC products.

Community Development Director Jagoe explained under new State law lower-potency THC hemp products in the form of edibles or beverages could be sold anywhere in the city, including exclusive liquor stores. Without any changes to the city code after August 22, 2023, a business could begin selling lower-potency hemp products as part of their retail operations. Staff reviewed the lower-potency edible cannabinoid products (per the Minnesota Department of Health).

Community Development Director Jagoe stated at their June 20th and July 17th work sessions, the City Council discussed options for how the City may move forward with regulating the sales of lower-potency hemp edibles when the moratorium expires. The general consensus of the City Council was to establish a new land use classification specific to the sale of lower-potency hemp edibles in our commercial zoning districts mainly along Lexington Avenue at the initial onset with a separation of land use from schools, day cares, parks, etc. as allowed by State Statute. Staff worked with the City Attorney's Office to prepare a draft ordinance reflective of their comments.

Community Development Director Jagoe reported the City Council reviewed the first draft ordinance at their July meeting. During that discussion, the Council considered other types of land uses in addition to Retail Sales and Service that might have the potential of selling lower-potency hemp products such as a gas station or a restaurant. Staff confirmed that the draft ordinance as written would not include these types of businesses since they are a separate land use type. However, a liquor store may qualify as a retail land use. Staff provided an overview of existing retail businesses along Lexington Avenue within the B-3, General Business District as well as the area along County Road E between Lexington Avenue and Snelling Avenue that falls under the B-2, General Business Zoning District. Under the city code, Retail Sales and Service is a permitted use in the following zoning districts: B-2 - General Business, B-3 - Service Business, and B-4 - Retail Center. For the Planning Commission, staff has included with this report several maps identifying the parcels located within each of these zoning districts. The new State law and any future ordinance change would apply to both existing and new businesses in Arden Hills.

Community Development Director Jagoe stated the main topics of discussion during the work session were the delineation of where lower potency hemp sales would be allowed (ex. B-2 and/or B-3 zoning districts) and regulating solely as an accessory use to a retail business. The City Council directed staff to bring forward the proposed ordinance to the Planning Commission for the first review and to hold a public hearing in order to solicit your recommendation on this language. Following the public hearing, the draft ordinance language with the recommendation of the Planning Commission would be brought to the City Council for subsequent discussion and adoption. If the Commission has any suggested change(s) to the draft language that should be brought forward as part of the motion language. It should be noted that at the subsequent regular City Council meeting, a Councilmember commented that the upcoming lower-potency hemp discussions should also consider allowing the ability to sell as an accessory use for Service Stations and potentially within the Gateway Business District.

Community Development Director Jagoe reviewed the Overview of Ordinance Amendments and provided the Findings of Fact for review:

1. The City of Arden Hills is proposing to amend ordinance language to allow for lower potency hemp edible sales in the zoning code as a conditional accessory use within the B3 Zoning District.

2. The proposed ordinance will include amendments to the language of Chapter 13 – Zoning Code, Sections 1305.04 - Definitions, 1320.05 – Land Use Chart, and 1325.02 – Accessory Uses of the City Code.
3. The proposed ordinance amendments will allow lower-potency hemp edible sales as a conditional accessory use where the principal use is Retail Sales & Service.
4. The proposed ordinance amendments are consistent with State law for the City’s authority to regulating the sale of lower-potency hemp edibles under the zoning code.
5. Amendments to the Zoning Code regulations require a public hearing prior to action by the City Council.
6. If the zoning amendments were approved, an Applicant would be required to submit a land use application that would be subject to the formal review process.

Community Development Director Jagoe reviewed the options available to the Planning Commission for Planning Case 23-014 for a Zoning Code Amendment to Chapter 13 of the Arden Hills City Code to allow the Sale of Lower-Potency Hemp Edibles:

1. Recommend Approval
2. Recommend Approval with Amendments
3. Recommend Denial
4. Table

Chair Vijums opened the floor to Commissioner comments.

Commissioner Weber supported the ordinance being opened up a bit more. He believed residents should be able to have an edible at eating establishments that have a liquor license. He feared that limiting the location for these shops should be reconsidered by the City because a lot of money could come to the City through the sales of THC products.

Commissioner Wicklund questioned if B-2 and service stations could be added to the allowed zoning districts.

Community Development Director Jagoe stated this could be recommended as part of the ordinance language if the Commission was in agreement. She explained the Commission should discuss what other type of land uses would allow this use as an accessory use.

Commissioner Wicklund inquired if the 500 feet was measured from property line to property line.

Community Development Director Jagoe reported this was the case.

Chair Vijums questioned how the B-3 district was chosen for this use.

Community Development Director Jagoe stated this recommendation came out of discussions at several Council Worksession meetings.

Commissioner Collins asked if this ordinance would allow restaurants with a liquor license to serve low potency THC beverages.

Community Development Director Jagoe explained this would not be allowed under the proposed ordinance as drafted.

Commissioner Collins questioned why the Council would be more restrictive with THC products than liquor sales. He supported the City having the THC language be more in alignment with liquor sales.

Community Development Director Jagoe commented further on the Council’s discussion regarding this topic and she recalled the Council wanted to start out slow with THC sales and this could be expanded over time. She commented further on the requirements per State Statute with respect to the sale of full-strength cannabis and noted the City would have to issue one license.

Further discussion ensued regarding the licensing of full cannabis products and staff reported the Council would be having more conversations about the use and sale of full-strength cannabis products. It was noted the sale of cannabis products would be administered by the Office of Cannabis Management.

Chair Vijums asked why the B-2 zoning district was excluded from the sale of THC products.

Community Development Director Jagoe reported staff was directed by the City Council to draft the language including the B-3 zoning district. She understood the City Council was interested in hearing feedback from the Planning Commission.

Chair Vijums believed the City was restricting THC sales and he supported THC sales in the B-2 zoning district and restaurants. He commented on how prevalent these products would be in the next five years. He recommended the City make the language less restrictive versus more restrictive.

Commissioner Wicklund asked if the Commission should be amending the language to include THC sales in the B-2 zoning district, gateway business district with service stations and eliminate item 3 on page 5 for a 500 foot distance separation from certain land uses.

Chair Vijums noted he supported the distance restrictions as written in the drafted ordinance, but he did support the sale of THC products at service stations and restaurants.

Commissioner Weber recommended the ability to sell lower-potency hemp edibles as a principal use also be considered by the City. He commented further on how he was concerned with the fact the City waited an entire year to get this language in place.

Commissioner Bjorklund appreciated the fact the City did not have to reinvent the wheel with this ordinance. He asked staff to see how adjacent cities were regulating this use. He suggested the City draw circles based on the proposed distances for these businesses and see how many properties would be impacted. He understood some distance was necessary, but he feared 1000 feet or 500 feet was too high.

Commissioner Blilie agreed that THC products should be allowed to be sold at restaurants if alcohol is also served. She supported this ordinance being more broad versus more restrictive.

Chair Vijums opened the public hearing at 7:43 p.m.

Chair Vijums invited anyone for or against the application to come forward and make comment.

There being no comments Chair Vijums closed the public hearing at 7:44 p.m.

Chair Vijums summarized the comments from the Commission noting it appeared the Commission supported expanding this use beyond B-3 to the B-2, B-4 and the Gateway Business District. In addition, the Commission supported the sale of THC products in restaurants.

Community Development Director Jagoe asked if the Commission supported a standalone business or just an accessory use.

Commissioner Wicklund stated he preferred to have only accessory uses at this time until the Office of Cannabis Management has more regulations in place.

Community Development Director Jagoe reported the sales of full- strength cannabis would be addressed through an entirely different ordinance.

Commissioner Weber supported the City allowing THC sales as a principal use because these businesses would come into the community.

Commissioner Collins recommended the City not be any more restrictive with THC products than the City was with alcohol sales.

Chair Vijums commented he may not be on the same page, nor was he ready for Arden Hills to be the primary place for cannabis products to be sold. He supported the City allowing THC sales as an accessory use at this time with allowing as a principal use being addressed in the future.

Commissioner Wicklund recommended the Commission focus their conversations on low potency hemp/THC sales at this time. He stated the City had time to address full strength cannabis sales. He believed the City had time to address this matter, or to push pause, in order to fully consider how to regulate these businesses.

Commissioner Weber completely disagreed with this tactic. He explained there was a broader scope and this needs to be considered.

Commissioner Wicklund asked staff for further information on the moratorium that was being considered by the Council.

Community Development Director Jagoe explained the moratorium the Council was considering was on the full strength adult use cannabis and noted if adopted the moratorium would be in place through January 1, 2025.

Chair Vijums explained there was a split on this issue. He asked if the Commission supported opening low potency sales in the B-2, B-4 and Gateway Business District. The Commission supported this recommendation.

Chair Vijums questioned if the Commission supported the sales of low potency products in restaurants and service stations. The Commission supported this recommendation.

Chair Vijums indicated the Commission was split when it came to principal versus accessory use. He explained he supported moving this ordinance forward in order to allow the City to get

started and to provide opportunities for lower potency sales. He commented he did not want to participate in full strength conversations at this time because this would be addressed through a separate ordinance.

Commissioner Bjorklund asked if the Commission should further discuss the proposed distances for the sales of low potency products.

Community Development Director Jagoe reported the proposed distances were based on language allowed for in the State guidelines.

Commissioner Blilie recommended the City Council be informed that the Planning Commission was split on the principal/accessory use issue when it comes to low potency sales.

Chair Vijums moved and Commissioner Wicklund seconded a motion to recommend approval with amendments of Planning Case 23-014 for a Zoning Code Amendment to Chapter 13 of the Arden Hills City Code to allow the Sale of Lower-Potency Hemp Edibles as a Conditional Accessory Use in the B-3, Service Business Zoning District, based on the findings of fact and as presented in the August 9, 2023 Report to the Planning Commission with draft ordinance language changes to allow lower potency product sales in the B-2, B-4 and Gateway Business Zoning Districts, allowing lower potency hemp sales as an accessory use in restaurants and service stations, and recommending the Council further review the consideration of allowing as a principal or accessory use as well as the distance separations as recommended in the ordinance. The motion carried unanimously (6-0).

UNFINISHED AND NEW BUSINESS

None.

REPORTS

A. Report from the City Council

Councilmember Rousseau provided the Commission with an update from the City Council. She explained a youth commission position was added to the Economic Development Commission and PTRC. She stated a youth commission role may be considered for the Planning Commission in the future. She reported the EDC would be holding their first meeting on Wednesday, August 23. She then provided the Commission with a high level update on TCAAP.

B. Planning Commission Comments and Requests

Commissioner Bjorklund stated he was very interested in the TCAAP development and noted he attended the Primer Tracer tour. He explained it was his understanding the Army would not have any other land available for sale.

ADJOURN

Chair Vijums moved, seconded by Commissioner Weber, to adjourn the August 9, 2023, Planning Commission Meeting at 8:17 p.m. The motion carried unanimously (6-0).