

**MINUTES  
CITY OF ST. CHARLES, IL  
PLANNING AND DEVELOPMENT COMMITTEE  
MONDAY, JANUARY 13, 2020 7:00 P.M.**

**Members Present:** Stellato, Silkaitis, Payleitner, Lemke, Turner, Bancroft, Pietryla, Bessner, Lewis

**Members Absent:** Vitek

**Others Present:** Mayor Rogina, Mark Koenen; City Administrator, Rita Tungare; Director of Community & Economic Development, Russell Colby; Assistant Director of Community & Economic Development, Ellen Johnson; City Planner, Monica Hawk; Development Engineer, Ciara Miller; Econ. Dev. Planner, Mark LaChappell; Building & Code Enforcement Division Supervisor, Bob Vann; Building & Code Enforcement Manager, Fire Chief Swanson, Asst. Fire Chief Christensen

**1. CALL TO ORDER**

The meeting was convened by Chair Payleitner at 7:00 P.M.

**2. ROLL CALLED**

Roll was called:

Present: Stellato, Silkaitis, Payleitner, Lemke, Turner, Bancroft, Pietryla, Bessner, Lewis

Absent: Vitek

**3. OMNIBUS VOTE**

- \*4a. Plan Commission recommendation to approve an Amendment to Special Use for PUD for Meijer Outlot PUD regarding Wahlburger's signage.

**Aldr. Bessner made a motion to approve omnibus item \*4a on the Agenda. Seconded by Aldr. Bancroft. Approved unanimously by voice vote. Motion carried 8-0.**

Chair Payleitner noted there was a full house tonight and she feels it will be in no one's best interest to not allot enough time for all to speak and get information; we will keep things moving but she'd like to set a time limit; as we approach 9p.m. if she sees we won't be wrapping it up she will make the call to postpone until February.

**4. COMMUNITY & ECONOMIC DEVELOPMENT**

- b. Update regarding status of Redevelopment Agreement with STC Arcada, LLC regarding George's building, 107-109 E. Main St.

Mr. Colby presented the Executive Summary posted in the meeting packet.

**Committee concurred with staff's direction to continue working with the developer based on the revised project schedule.**

- c. Update regarding status of Redevelopment Agreement with STC Lot 4, LLC regarding First Street Building #8.

Mr. Colby presented the Executive Summary posted in the meeting packet.

**Committee concurred with staff's direction to continue working with the developer based on the revised project schedule.**

- d. Plan Commission recommendation to approve a General Amendment to Title 17 of the St. Charles Municipal Code (Zoning Ordinance) pertaining to Pet Care Facilities in the CBD-1 District.

Ms. Johnson presented the Executive Summary for items 4d and 4e.

John Karatheodore said the planned improvements to the site follow the Comprehensive Plan; they will be adding plants, trees, shrubs, curbs and earth toned color to the building. The south side of the property would be enclosed with solid fencing and additional curbing and plants for aesthetics and to absorb any noise. He noted that he had some experts with him from their facilities in Boston.

Karen Ray-The Dogfather, Boston-Owner – said they have 4 locations, 3 of which are in apartment complexes, and they offer a full service doggy day-care. She has 20 years' experience and has recently been approached by Boston developers to put their business into their apartment buildings; the first was 5 years ago and it brought a ton of value to the community, it's been a huge success and brings people to want to live in the city because of this amenity/service. As far as the concerns of noise and odor, we have solid fencing and the dogs are always supervised. We have turf which is cleaned daily by an enzymatic cleaner to neutralize odor. We are diligent to remove any waste immediately due to the apartments that are directly above us and we've never had any noise or odor complaints in 5 years. Dogs are there from 8am-7pm, but mostly during work hours. They have done studies on noise and odor and how it's contained and are working on 3 other locations within apartment buildings, in congested areas of Boston.

Mr. Karatheodore noted that there are a couple of concepts they use to address noise, based on reflection and absorption to contain sound, as a solid wall would for a highway. Inside the facilities we have reflective fabric panels that are placed angular to keep the sound inside the play area, as well as calming mechanisms for the dogs like music, water features, etc. Their goal is to keep their neighbors happy.

Chair Payleitner asked if the dogs are from residents within proximity to their other locations. Ms. Ray said the apartment complex was just an example to show how sound and odor is not an issue in such a close proximity. She has a location that's not in an apartment complex and people come from all around; we do pick-up/drop-off and private walking.

Mr. Karatheodore said the world is changing regarding dogs and dog facilities. He lives in the area and owns a pet and it'd be nice to run errands in the city or to go out to dinner and have a place that is easily accessible. It would add a great opportunity to the community to be forward-thinking and would benefit the town and its businesses. He said the proposed location is surrounded by 3-4 commercial buildings, and he's studied their concerns and he wants to address those issues and assure them that they promote a healthy, clean, organic facility with a fairly quiet environment.

Rebecca– General Manager for Fetch and The Dogfather, Boston- explained that the dogs are monitored constantly and they do not allow a dog to be consistently barking; they would remove a troublesome dog from the outside and move them indoors. The dogs are pretty happy and peaceful when they are outside and she doesn't feel noise is an issue and they haven't had any complaints at any of their facilities, all located in downtown Boston.

Mr. Karatheodore noted that if in time there were additional concerns from neighbors, he has spoken to the owner, Joe Salas, and we would be willing to enclose the outdoor space and facilitate the necessity of sprinklers, etc. to contain the dogs to eliminate any sound.

Aldr. Bancroft said he envisioned that from the last meeting to today that Mr. Karatheodore would have had meetings with the neighbors to make them happy so they would show up here to support this. Mr. Karatheodore said Mr. Salas has reached out to the neighbors.

Joe Salas- St. Charles- said he trusts the information shared from the experts and applicant. It's important they coexist with their neighbors. This is something new and he wants to try it. The noise issue is the most important thing for the surrounding community and the neighbors but he feels this can add a lot of value within the community. If needed, we will enclose the outdoor area and if given the opportunity that would be his responsibility to do what it takes. This is a commercial service that has some demand and this would be a great pilot. He added that maybe there is a way for the veterans to collaborate with them to be a part of the service that we can offer; we're very open and want to collaborate and will do what it takes to be compliant.

Aldr. Bessner asked if the location of this property being an island is creating an obstacle in the methods of controlling noise or odor. Mr. Karatheodore said he thinks the distance is the benefit; it is 150-200 yards away from other businesses so they would barely hear any barking.

Aldr. Lewis clarified that it's not this particular business; it's whether we want this type of business within downtown. Chair Payleitner said this is just an opportunity for the applicant to tell us how the possibility could be applied; this is not unique, another doggy day care could seek a Special Use. Mr. Karatheodore said he has scoured the city and hasn't seen any other areas in the downtown area that could qualify; the proposed property is unique and why not give people a place close to downtown to drop-off/pick-up their dogs while they run errands or a weekend trip. He thinks other day cares are out of reach and he feels this business will set the bar and set us apart from the competition.

Tom Anderson-owns property immediately to the south- asked for clarification regarding allowing pet care facilities in downtown; is that inside or outside as the zoning change. We already allow these outside of downtown; you don't need both.

Brent Lindberg-309 N. 2<sup>nd</sup> St. and 220 N. 4<sup>th</sup> St., adjacent properties- said there aren't any properties that fit this bill downtown and if this property doesn't work for the use, then none of them do. So many properties are adjacent to residential properties which are out; he doesn't feel there's enough properties downtown to justify a change.

Vanessa Bell-Lasota-1610 Howard St.- representing 311 N. 2<sup>nd</sup> St., unit 109, Veteran Center- said the proposed business comes from the Boston metropolitan area, that is not a fit for the Charleston Center community of businesses nor our Veteran Center. The kennel is not 150 yards away as stated by the applicant, it's exactly 51 ft. away from the front door of the Veteran Center. This use would be incongruous with the current uses of our building. The property owner has every right to lease/sell his building for use in compliance with current zoning. It would have been prudent for him to visit our Veteran Center before selecting the business use of the property. In doing so he would have learned that the veterans are a special population needing special consideration. She didn't receive a call from Mr. Salas until this very afternoon. The Veteran Center enjoys an atmosphere of peace and quiet. In October we consulted with a local psychiatrist who specifically treats first responders and PTSD and abrupt, sudden and random sounds are intrusive and elicit physiological reactions from those affected

by PTSD. She then read the violations/rules listed in Section 17.20.030 for “Kennels”. Ms. Johnson clarified that this business would be termed a “Pet Care Facility”, different than a Kennel, but the animal noise regulations still apply.

Ms. Bell-Lasota said many of our veterans are disabled and are in their mid-70s, walk with assisted devices and suffer with PTSD and related conditions and we ask that the exception to the current zoning not be approved. Chair Payleitner said these are all great arguments should we consider the Special Use. Rebecca noted that a dog would never be barking outside the facility for 7 minutes straight without being corrected; regardless of the noise ordinance, that would never happen.

Aldr. Stellato clarified that if the General Amendment is not approved then the Special Use is moot. Chair Payleitner said because it’s on the Agenda we still technically have to vote on it.

**Aldr. Stellato made a motion to approve a General Amendment to Title 17 of the St. Charles Municipal Code (Zoning Ordinance) pertaining to Pet Care Facilities in the CBD-1 District. Seconded by Aldr. Silkaitis**

**Roll was called:**

**Ayes: Stellato**

**Absent: Vitek**

**Recused:**

**Nays: Bessner, Lewis, Silkaitis, Lemke, Turner, Bancroft, Pietryla**

**Motion failed 1-7**

**Aldr. Pietryla made a motion to deny the General Amendment to Title 17 of the St. Charles Municipal Code (Zoning Ordinance) pertaining to Pet Care Facilities in the CBD-1 District. Seconded by Aldr. Bancroft.**

Mr. Karatheodore clarified that enclosed or non-enclosed, it is not the Committee’s desire to bring a pet care facility anywhere near downtown because it will be a negative reflection upon the city of St. Charles. It’s not the noise or the smell; the business itself cannot conduct business anywhere close to the downtown district. Chair Payleitner said correct, we are prohibiting Pet Care Facilities within the CBD-1 district. Mr. Karatheodore noted that the Comprehensive Plan is laid out for businesses just like this to bring people downtown, and businesses that people need and want; we are one of those businesses. He moved here 3 years ago because he felt the area was up and coming and in touch with new things and technology; he doesn’t understand. We want to be conducive to our landlords and live in peace. As it is, the landlords surrounding the space have 50% access to the entire lot through an egress easement. There are very few tenants that Mr. Salas will be able to bring in. He said he flew in an expert for this meeting and by agreeing with surrounding neighbors and residents what are we really promoting in the city when 75% of the people in this room probably have pets; what specifically is it? Aldr. Bancroft said we extended this a month ago with the idea that the applicant would meet with all the neighbors and come back with a plan that had everybody happy; that didn’t happen. All of their businesses exist; you’re the one who is asking for something.

Aldr. Bessner said someday he could allow this use, he does think there could be a need for it, but this property is just not appropriate being right in the middle of the commercial district. Regardless of being able to lessen the odor and sound, he’s not willing to take that chance yet with his perception being that this is right in the middle of this entire area.

Mr. Karatheodore asked if he were to enclose the building would the noise and smell still be a concern. Chair Payleitner explained that he would have to come back, that's not the plan we are looking at tonight.

Aldr. Lewis said we are not a large town and there is a pet care facility 12 blocks away. She doesn't feel that's an unrealistic distance for someone to drop their pet off. She goes along with the zoning that is currently in place for the downtown. Mr. Karatheodore said wouldn't that be the same as a coffee shop opening on every corner for people to walk to. Aldr. Lewis said that's not a Special Use.

**Roll was called to deny the General Amendment:**

**Ayes:** Bessner, Lewis, Silkaitis, Lemke, Turner, Bancroft, Pietryla

**Absent:** Vitek

**Recused:**

**Nays:** Stellato

**Motion passed 7-1**

- e. Plan Commission recommendation to approve a Special Use for a Pet Care Facility for K-9 Country Club of St. Charles, 305 N. 2<sup>nd</sup> St.

**Aldr. Lemke made a motion to deny the Special Use for a Pet Care Facility for K-9 Country Club of St. Charles, 305 N. 2<sup>nd</sup> St. Seconded by Aldr. Silkaitis.**

**Roll was called:**

**Ayes:** Bessner, Lewis, Stellato, Silkaitis, Lemke, Pietryla, Turner, Bancroft

**Silkaitis,**

**Absent:** Vitek

**Recused:**

**Nays:**

**Motion passed 8-0**

- f. Plan Commission recommendation to approve a General Amendment to Title 17 of the St. Charles Municipal Code (Zoning Ordinance) to add Recreational Cannabis Dispensing Organizations as a Special Use in the M-2 District.
- g. Plan Commission recommendation to approve a Special Use for a Recreational Cannabis Dispensing Organization for Zen Leaf St. Charles, 3714 Illinois Ave.

Ms. Tungare suggested taking items 4f and 4g together since they are interrelated, but we will need two separate votes.

Ms. Johnson presented the Executive Summary for items 4f and 4g.

Chuck Hanlon-WBK Engineering-116 W. Main St.- shared a presentation stating that M-2 is the most appropriate zoning for a cannabis dispensary because there is already an existing use there and St. Charles has set a precedent by the fact that this has been operating successfully for four years in that location. Uses, operations, safety mechanisms and screening are really similar; the only difference is the access and credentials needed as to whether you are able to use the medical cannabis versus the

recreational cannabis. This will allow for regional economic activity and their distances apart from other dispensaries will become a regional draw here for a newly established industry for the recreational side of the business. There will be increased sales tax revenue to the city and these amendments as proposed will support the city's intent to allow two dispensaries, one on each side of the river. The proposed amendment supports the purposes listed in Ch. 17.02 of the Zoning Ordinance to maintain businesses in industrial areas that are attractive and economically viable. It will provide new economic activity with a newly established industry and a comparable use is already permitted by right, operating currently in the M-2 district; with this proposal being within the same facility. These amendments align with the Title and State of Illinois Recreational Cannabis Regulation and Tax Act and a change in City policy to add recreational cannabis dispensary organization. This is comparable to uses in the district and will be subject to the use standards approved by the City. Both of these applications were supported by the Plan Commission.

Anthony Marsico-Executive Vice Pres. of Retail-Zen Leaf-3714 Illinois Ave.- said the compatibility of use was mulled over quite a bit during Plan Commission and he believes there is no better fit than M-2 because this is the only district a cannabis dispensary currently exists. While BC and BR are inclusive in the Zoning Ordinance, they are not proven. He feels they have proven themselves to St. Charles, the residents and the community by operating a successful, compliant, secure, and without incident facility for the past 4 years. There is a statement by the Police Chief endorsing those facts. From an operational standpoint the two businesses are virtually identical; we report to the same governing body, products are the same and customer flow. The difference is credentials to enter the facility. Currently you need a state-issued Illinois valid medical card, accompanied by a valid state or federal I.D. Under an adult use dispensary only the valid state or federal I.D. would be needed. As a precaution, not a requirement, one of the protections put in place is to purchase scanners that have the ability to validate I.D.s from all 50 states as well as passports to be sure they're valid and that those entering the facility are 21+. There are no minors, we don't market to minors, they are not allowed in the facility; this is a non-issue for us. We have taken precautions and heard the concerns from neighbors and consulted with all of them and have made it clear that it's our goal to be a good partner, have a good working relationship and be sure we don't negatively impact any of the neighboring businesses. The most voiced objections had to do parking, traffic and access. We have secured additional parking to exceed the ordinance, as well as offered improvements to lighting and surveillance at our expense. If there's any other concerns we are going to work through it with the owners' association to have a happy environment for all. The conditions recommended by the Plan Commission will be up to the association's approval; something to keep in mind with respect to improvements to the common elements.

Chair Payleitner asked if they have approval from the association for additional lighting. Mr. Marsico said it was brought up at the last association meeting for specifics on what the lighting requirements would be. We've already added the verbiage on all of the parking signs to state on-site consumption is strictly prohibited. There hasn't been a call to service in 4 years of operation. It is a cannabis dispensary and he understands the concerns of increased access but the operation really doesn't change; we've experienced this in other markets. We are waiting for association board approval and specifics for the lighting, we would then have a proposal, but we are prepared to do that on the west side of the building as well as additional exterior cameras. Currently we do have exterior surveillance cameras and every inch of the interior has camera's that IDFP and Illinois State Police have 24-hour access to and can go back as far as 90 days; this is a requirement of Illinois. We are heavily regulated with respect to compliance. He noted that the security company and the traffic engineer were present for any questions.

Aldr. Lewis asked if they own their particular unit. Mr. Marsico said essentially yes; a common entity owns it.

Aldr. Bessner asked if they opened a facility anywhere else since January 1, because he has driven by the facilities in North Aurora and Addison. How would they control all the long lines and people to not disturb or block the neighboring businesses? Mr. Marsico said they have not opened another facility, but he does think January 1 was a bit of an anomaly and New Year's Day probably wasn't the best day to roll this out, due to everyone being off of work and the extreme excitement for the legalization. Driving by since January 1 crowds are extremely diminished. Some precautions we've put in place are increasing the point-of-sale stations to 9, as well as possibly purchasing the unit next to us which is currently up for sale, as well as secured additional parking.

Aldr. Lewis said she took a trip to the North Aurora facility to observe the cars and she counted 3-4 every minute. There wasn't much back-up on Rt. 31, but there was a man standing at the driveway stopping everyone coming in and they would then circle out. She found out the parking in front is only for medical patients, all others can park a few blocks away. She did notice that all surrounding businesses had signs restricting parking for their business only. There was a lot of activity and she's not sure it's died down; maybe since New Year's Day. Mr. Marsico said definitely since New Year's Day and he admits there were lines by both of those dispensaries on New Year's Day. He doesn't think there's any denying that there is going to be increased activity but we do have a traffic study prepared by our engineer, and with the experience of our other markets they are not seeing those large numbers anymore; it has significantly diminished since January 1.

Aldr. Bessner said he went by the Addison facility a couple days after January 1 and the line was down the street and around the corner; it wasn't chaos though. He asked how long the check-in process takes for the recreational side. Mr. Marsico said they scan in the I.D. and then allow them to come through. Aldr. Bessner said in Addison it seemed they were letting them in 10 at a time; again it will probably die down to a point, but it's still an unknown because currently Zen Leaf serves about 200 medical patients a day. Mr. Marsico said on a busy day, yes, but they do plan to extend their hours to dilute traffic, even with the medical base, and if you look at populations some of the areas where you're seeing lines are different because we do have competition. A lot of people going to North Aurora may be from the St. Charles area, so you're diminishing that demand for a specific market quite a bit. Same with those who are further east, they might be going to Addison. As more stores open we are diluting the area's market down. With respect to parking and traffic we have explored securing the location directly next to us whether we decide to expand there or not it does add parking. We also have an agreement in place for an extra parking lot directly to the south of us that has 56 spaces. He's just thinking proactively because we don't want to be reactive; if we do see that type of demand we want to be prepared for it. He's also seen people do a valet service for drop-off and pick-up to limit cars in the parking lot. It's a similar type situation at the dance school with the drop-off and pick-up and it seems to work, with 200 kids going through there a day from 10am-3pm. We're taking a proactive approach to not be reactive. That's a worst case scenario if people come out in the masses.

Aldr. Silkaitis asked if there is any other place this can go in town. Ms. Tungare said from a zoning standpoint the City has allowed recreational cannabis facilities in the BC and BR districts. Aldr. Silkaitis said can't they open a separate recreational facility, away from the medical. Mr. Marsico said that is possible, but their intent is to operate a medical and recreational facility at the current location. Aldr. Silkaitis said there are options in town, granted you'll have to spend more money, but he believes

this business is going to make a lot of money, therefore it's a compromise to put it where it's allowed instead of asking for an exception. Mr. Marsico said no matter where we go we are going to face opposition based on the opposition we've seen from the public. Aldr. Silkaitis said it's an opposition because it's a Special Use, if it's zoned for it we can't do anything about it as long as it meets all the zoning requirements. You don't have to come before this body, you can build and move in. Mr. Marsico said we'd still have to go through this process because it's permitted by a Special Use; it's not a permitted use. Aldr. Silkaitis said the problem is the zoning change. Put it where it's allowed and you'd make most people happy. Mr. Marsico said we do have an issue with IDFPR that if we move the medical facility we lose the opportunity to co-operate forever. Aldr. Silkaitis said he's not asking them to move the medical, he's asking them to have a satellite facility to sell just recreational. Mr. Marsico said from an entrepreneurial standpoint, by having a medical facility we have an opportunity to co-operate medical and adult use at the current location and are allowed to open an additional +1 recreational dispensary. It's been a struggling business; the medical in Illinois didn't take off under Rauner. It's opened up since Pritzker but it's a very difficult and capital intensive business and he has his entire life leveraged and everything on line; he's not living lavishly. From a business standpoint we have an opportunity to co-operate a medical and adult use facility, as well as opening an additional adult use facility. If we just keep medical where it's at we lose out on the opportunity to operate two adult use facilities; that's a drastic blow to our business model. Aldr. Silkaitis said from a business standpoint he agrees and he would be doing the same thing, but as a compromise, since this is a hot button issue, he asks that they put it in a place that's zoned for it and then apply for a Special Use before this board and he suspects it will pass. The reality of this conversation is who they are close to; they were there first so he gives them a little more leverage; he's just asking for a compromise. Mr. Marsico said we've been there almost the same amount of time, a little over 4 years, and they've been there 5-6 years. The reality is that St. Charles set the precedent to put and allow dispensaries as a permitted use in M-2, we otherwise wouldn't be there. Aldr. Silkaitis said we didn't set the precedent, we were told by the State of Illinois that we had to allow it, we could not refuse you, but we could zone it within reason but not make it so restrictive that they couldn't build. That's why you're at where you're at, we had no choice and we were forced to accept it. But now you're asking for something different. If you want to be a good steward of St. Charles consider a different spot because there are other options. Mr. Marsico said from a business perspective it's not a realistic option, no one in our shoes would look at that as a viable option; he doesn't feel it's a reasonable compromise. With respect to the objector, Fowler School of Dance, there's nothing in the BC or BR or in the ordinance that says we can't open a dispensary in those districts right next to another dance school because they are not a part of what you put in the buffer zone. Aldr. Silkaitis said specifically yes, you're right, but that's not being a good steward. Mr. Marsico said he completely agrees but you brought up the fact that it can be put in there and no one can object or say anything. The reality is cannabis is something that we have to deal with and St. Charles has taken the approach to accept it in the community. He's a father of two and he has to have these conversations with his children and depending on his values he has to educate them on things like alcohol, cigarettes, cannabis and other illicit drugs. Chair Payleitner said we know; this is not a vote to repeal it, we accept it.

Aldr. Stellato said we're talking about two different issues: one, is this use okay in the M-2 district, not the location they're proposing; that's a separate discussion. Plan Commission recommended M-2 and we felt in the beginning that it was okay. He said in discussing them together they really are not connected because we need to discuss whether M-2, an industrial center setting, is okay for a recreational cannabis dispensary, if it was not next to a dance school. If this is a standalone building in the middle of the east side industrial park, is this okay. He doesn't want to get off track here; let's get

through one first because if it's a no, then it's a moot point for the next item. Chair Payleitner said she honors that request.

Aldr. Bancroft said he agrees with Aldr. Stellato and Silkaitis. Should we allow this in M-2, is it with all the same restrictions such as the allowed distance away from a school. He understands the safeguards in place but he's not there as far as medical and recreational being the same thing because the sale of recreational marijuana and the sale of alcohol have a whole lot of similarities and we wouldn't allow the sale of alcohol next to a school. Why should we allow the sale of recreational cannabis next to this school. He'd probably be in support of it going into M-2 but only if there's a bunch of restrictions going against the school. Mr. Marsico said Plan Commission, Committee and Council, none of which defined the definition of schools included in the ordinance, included are primary and secondary. The reason for that and the reason the State of Illinois has done that is because when you start to get into dance schools and daycares there is quite a few of these specialized businesses in a lot of municipalities. We are not next to a primary or secondary school which is the first definition of school, we are also not next to the second definition of school which is something along the lines of special education. Dance school is specifically stated in the third definition of school, which isn't included in the ordinance. If they went with the same restriction put in the ordinance, and no disrespect to the Fowler school, but they don't fall under the definition.

Aldr. Lewis said her feeling is that if we feel the need to start allowing retail in the very large M-2 district that is something that needs a little more planning to go back and decide instead of just changing it for one entity that has asked us to change it. I think it merits a discussion if we think our 16-year-old zoning map needs to be looked at to allow different things and she's not sure this is the meeting to make that decision to go forward to allow retail and other adult activity industries to be involved out there. Mr. Marsico said that exact point was made at Plan Commission about the many uses, he believes there's about 14 allowed uses in M-2, and there are retail uses allowed in M-2. Aldr. Lewis said she believes the retail uses are secondary to their original businesses. Aldr. Stellato said it's in our packet, we do have things like daycare center, hotel, motel, medical, dental, veterinary clinic. He said it wouldn't be a shopping center but there are uses that the public does go into. Mr. Marsico added outdoor equipment centers, plant nurseries and indoor amusement centers. Aldr. Lewis said she doesn't feel a veterinary clinic is a retail establishment. Aldr. Stellato said he gets that we wouldn't put a store like Jeans and Cute Top Shop in M-2 but there are uses that deal with the public. Aldr. Lewis said I get that but Zen Leaf could be considered a Jeans and a Cute Top Shop because they're just selling stuff, maybe not the medical side. Mr. Marsico said it's the same business just different customer base; it's the exact identical business with the difference of credentials to enter the facility. Aldr. Lewis said she thinks it's worthy of a conversation but not because one person has asked us.

Chair Payleitner said she knows that they consider their current business as retail, but she cannot go in to their place and buy anything so it is very limited retail. Mr. Marsico said we do call it retail. Chair Payleitner said it's very specific, but you do exchange money which I guess would make it retail. Aldr. Lewis said there's no sales tax for the City.

Aldr. Pietryla asked if it's fair to say that if the state hadn't made the decision to promulgate rules that existing medical cannabis dispensaries could not relocate to offer recreational cannabis we wouldn't be having this discussion right now. Mr. Marsico said it's possible, and with respect to the clarifications and omissions he doesn't think it has to do with the state's ruling, but more the fact that it's already a permitted use in M-2 and that is where the City has allowed them and we don't see them as different businesses outside of access. Also the Council directed staff or an applicant to add M-2 as a text

amendment to the ordinance, which was also suggested by Plan Commission, but staff directed them not to because expanding would have required notice. It was recommended by Plan Commission and Committee to look into adding M-2 because most people here are comfortable with our business and how we've operated for 4 years without any negative impact on the city or the neighbors, and he thinks it makes sense, especially with a new industry, to do business with a company you're comfortable with and have a history with, as opposed to someone who you may not know how they're going to operate.

Aldr. Bancroft said when we went through the vote on cannabis he was a proponent of it because he wanted to protect the existence of the medical facility because he believes the narrative that a medical facility and a recreational facility are different. He understands that physically the check-in/check-out procedure and the security measures are the same, with the exception that one has a prescription from a physician and one doesn't, but at the end of the day he doesn't view them as the same business. He thinks of one like a pharmacy and the other like a liquor store. Mr. Marsico said Illinois has quite a restrictive list of qualifying conditions to be a qualifying patient. There are people who suffer from ailments that cannabis helps and is a very strong alternative to painkillers and opioids. Chair Payleitner said that's a different conversation. Mr. Marsico said there are people that will walk in that don't have access under the medical act that are looking for relief from back pain, anxiety, migraines, etc. He understands what they're saying because there are some people that will walk in because they just want to have a good time. Aldr. Bancroft said people walk into liquor stores looking for some kind of relief too.

Chair Payleitner said when Council approved the zoning for BR and BC it's because those zones are more conducive to the parking needs and proximity needs. Mr. Marsico said we exceed the ordinance. Chair Payleitner said technically, not practically, as Aldr. Lewis and Bessner mentioned regarding other facilities. She thinks things have toned down now due to product depletion not because there's a lack of enthusiasm; she feels we will have long lines and parking issues for a long time. Mr. Marsico said if parking is the concern and the ordinance states that per our square footage we need 15, from a practical standpoint what would be an acceptable amount of spaces. Aldr. Lewis said she also looks at them as two different businesses; would they need parking for both. Mr. Marsico said if we are going to co-operate of course; but we've done the traffic study and we have data on what the average time that someone spends inside, so if we needed 100 parking spaces per hour, we handle that right now with the current space. Chair Payleitner said she is speaking to the M-2. Right now what you have is conducive to an M-2 zoning. The parking restrictions and zoning are very compatible, and to throw in a new big retail business in the mix of the M-2 that isn't conducive; she can't put a number on it. Mr. Marsico said if we had a facility in the BC or BR with the exact same number of parking spaces would that be okay. Chair Payleitner said they'd have a lot more spaces. Mr. Marsico said there are plenty of stores in BC or BR that have less parking. Ms. Tungare clarified that the parking ratio for recreational cannabis is similar to any other retail establishment, even within commercial zoning districts, it is 4 spaces per 1,000 sq. ft. Chair Payleitner said she concurs that they probably are hitting the letter of the law when it comes to zoning and parking. Mr. Marsico said if we're in the BC or BR with only 15-20 spaces, if parking is the concern, what's the number. Chair Payleitner said that's not the only concern. Mr. Marsico said that's one of the concerns and their goal is to satisfy all concerns and we're willing to do that and are confident that we could do that.

Aldr. Lewis said as the Planning & Development Committee we spoke briefly about the M-2 zoning but we did not add it into our recommendation that we sent to the City Council. Aldr. Stellato said it was the Plan Commission that recommended it to us. Aldr. Lewis said it was also talked about with Committee and we decided not to send it. Aldr. Pietryla said it was just in the notes, it wasn't formal.

Chair Payleitner said but we did discuss it. Mr. Marsico said he thinks at City Council after the vote happened there was direction to say staff or an applicant could apply for this, but maybe there was no clear direction given.

Beth Fowler-owner-Beth Fowler School of Dance for 37 years- She started dancing professionally and teaching at 13 and started her own school when she was 15; she worked very hard at a young age. 10 years later after opening her original location, she then had three going at one time when she was 25 and was doing this to reach out to the community to let them know who I was, my services and how much passion I have for children. It went so successfully that I was able to purchase my own 8,000 sq. ft. facility and consolidate all three locations together. When I spoke to the builder I told him this was going to be long term because my daughter will be taking it over after me; she is now 25 years old and purchased a home in the area. When we started our location at 3720 Illinois Ave. it was a very big move, very expensive, very committed to St. Charles. The first five years we were here we were in a strip mall on the corner of Rt. 64 and Dunham and the school grew very fast, that's why we decided we should invest in St. Charles and stay here more than a lifetime; generations of our family business. The location at the strip mall had a bar a couple doors down and parents were concerned because the dancers would walk past the bar on dinner breaks to 7-Eleven and would get hollers from people at the bar, so parents wanted them to stay in the studio and not leave. Yesterday we were at the studio from 10am-10pm, Saturdays the kids are there for 8 hours. These kids are so dedicated and amazing I just don't think that they should be exposed to this on a regular basis. The families are very conservative and want their kids to be in activities where they're disciplined and busy. We teach our kids about building great characters, work ethics, evaluations, they're not entitled to anything; they have to work for everything they get; that's the characters we are building. We have a mentor program, a big sister program; we are more than about just dance. She said she thinks it's a great idea that the dispensaries need to be a certain distance away from churches, but why not dance studios, because we are literally 90 ft. away. She thinks it was never talked about because it was never requested, and she does request that it be something to consider. She said they are the go-to studio in town, as well as being selected to train the St. Charles East dance team who qualified for state and won 1<sup>st</sup> place at sectionals. We are good for the community and we want to protect our children from being exposed to this on a regular basis. She noted that her and Mr. Marsico have a great relationship; he's very open-minded and easy to talk to. It's kind of like a failed marriage, we are trying so hard to make it work, but it doesn't. He tried to bring in security and then she gets a call from parents asking why there's a guy in the parking lot with a gun. The more he tries to help the more it hurts. We have rainbows and butterflies over here and marijuana and security guards on this side; it's not a marriage that works.

Chair Payleitner said that addresses the concern for granting the Special Use. Ms. Fowler said in regard to zoning she purchased her location because it was not retail due to the experience at her prior place in the strip mall by the bar, so she is opposed to it being changed to retail for that reason.

Linda Reilly Murphy-President of the association of St. Charles Commons-she's owned two units since 1998 and a business in the building- Our liability insurance is held by CNA and were advised by the executive V.P. of Rockwood that we should pursue, as an additional insured with Zen Leaf's insurance, a \$5 million policy for the association, which we were doing late last week. Then today we were advised that CNA would not renew our insurance in March. She then read an email explaining the reasons why: Not only is recreational federally still legal, the increase in exposure due to the high traffic presence of armed security are not what CNA is looking to cover in any commercial condo or even in a rental situation. They expect most standard carriers will deny coverage for recreational facilities for some time, but they will watch how claims in court go on this, for now there could be an

increased property exposure, the property could be damaged accidentally, or even deliberately, and also general liability; the association could be sued for numerous oversights and safety or law. CNA did state they were fine with medical-only facilities; they feel they are totally different. We do need insurance and we definitely need liability insurance as an association, so this is a big concern. Even if CNA was accepting recreational facilities per an underwriting review they don't think St. Charles Commons would get the okay once they did underwrite simply because the location can't handle the traffic that would be expected, even if parking were elsewhere it would be drop-off/pick-up and a lot of people waiting outside at least for a while. They'd like to see recreational at a different type of location, maybe a single building or even a strip mall.

**Aldr. Stellato made a motion, based on the hour, to postpone this to the next Planning & Development Committee Meeting on February 10, 2020. Seconded by Aldr. Turner.**

**Roll was called:**

**Ayes: Bessner, Lewis, Stellato, Silkaitis, Lemke, Turner, Bancroft, Pietryla,**

**Absent: Vitek**

**Recused:**

**Nays:**

**Motion passed 8-0**

**5. ADDITIONAL BUSINESS - None**

**6. EXECUTIVE SESSION - None**

**7. ADDITIONAL ITEMS FROM MAYOR, COUNCIL, STAFF OR CITIZENS-None.**

**8. ADJOURNMENT - Aldr. Lemke made a motion to adjourn at 9:05pm. Seconded by Aldr. Bancroft. Approved unanimously by voice vote. Motion Carried.**