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CITY PLANNING COMMISSION
MINUTES
AUGUST 4, 2022
5:00 PM

I. Opening

A. Call to Order

Chairperson Hood called the meeting to order at 5:16 pm (when a quorum was achieved)

B. Roll Call

Present: Brenda Goss Andrews, Kenneth Daniels, David Esparza, Ritchie Harrison, Lauren Hood, Gwen Lewis, Melanie Markowicz, Frederick Russell, Donovan Smith (late)

CPC Staff: Marcell Todd, Eric Fazzini, Timarie Szwed, Kimani Jeffrey, Roland Amarteifio, Kim Newby

C. Amendments to and approval of agenda

Chairperson Hood motion to accept the agenda. Commissioner Markowicz moved to accept the agenda. Commissioner Daniels second the motion. Motion approved.

II. Meeting Minutes (will be presented for consideration at the next meeting.)

III. Public Hearings, Discussions and Presentations

A. 5:10 PM PUBLIC HEARING – To consider proposed text amendment to Chapter 50 of the 2019 Detroit City Code, Zoning (Zoning Ordinance), that would modify minimum spacing requirements and applicability for certain medical and adult-use marijuana facilities/establishments, add specific use standards for designated marijuana consumption establishments, and modify the temporary use prohibition for temporary marijuana events. **(EF, RA, TS, JM, MT) 90 mins**

Present: Andrew Brisbo, State of Michigan; Brian Coe, Law Department; and Kim James, Marijuana Ventures and Entrepreneurship, Civil Rights & Inclusion (CRIO) Department; Scott Withington, Health Department; and Bob Watson of Buildings, Safety Engineering & Environmental Department (BSEED).
CPC Staff - Marcell Todd, Eric Fazzini, Roland Amarteifio, Jamie Murphy.

Eric Fazzini, CPC Staff, gave a brief Power Point presentation summarizing the staff report submitted to the Commission, dated August 3, 2022. The report described the history of Michigan and Detroit medical and recreational use marijuana laws, ballot initiatives and ordinances beginning in 2008 with the Michigan Medical Marijuana Act and ending with the April 2022 Ordinance No 2022-11, which established the current set of combined medical and adult use (recreational) marijuana for the city's licensing purposes.

At the last meeting, it was requested that staff provide information on equity in the marijuana industry, a focus of Ordinance No. 2022-11. Part of the purpose statement of that ordinance is specific to social equity, that social equity is required to address the historic disproportionate impact of the prohibition of marijuana on Detroiters. It also recognizes that residents of Detroit have historically been excluded from ownership in the marijuana industry, have a lack of access to means to establish those types of businesses, that 20% of Detroiters live below the Federal poverty level, the conviction rate for marijuana offenses for Detroiters is double the state-wide conviction rate, and lastly that employment opportunities and property ownership are essential for Detroiters.

The licensing requirements for the state and city were discussed in detail as indicated in the staff report, along with the process for limited license applications, non-equity license applications, equity license applications, and the scoring incentives for both.

The first application period where the city was to begin opening applications for the limited licenses was to begin on August 1st, with a 30-day period as the first period and then a 120 day pause, next a second 30-day period with another 120-day pause, then the third 30-day period. The release of the total number of limited licenses is staggered so that they are not all taken up with the first round of applications. As specified in the ordinance, documentation is required to verify that it is an equity applicant. Both non-equity and equity applicants are scored on the 100-point scale. Once an application is submitted, the Marijuana Licensing Review Committee (MLRC), reviews the application and a third-party scores them and then MLRC will provide a recommendation to BSEED of the top scoring applicants. Both equity and non-equity applicants can achieve a maximum of 27 points in addition to the 100 points if they address equity in their application. There are 20 licenses for each (equity and non-equity) that are capped with each period.

No changes to the definitions have been proposed. Four of the uses addressed through the Zoning Ordinance and the Business Licensing Ordinance (2022-11) are:

- The Medical Marijuana Retailer Use
- Marijuana Retailer Establishments or Adult-Use Dispensary Store
- Marijuana Micro-Business
- Marijuana Consumption Establishment

The first amendment deals with the Zoning Ordinance, minimum spacing requirements, which reduce the eligible areas within permissible districts where a business can locate. The general goal is to pursue where we could increase the amount of property that would be eligible through zoning through those space requirements. In addition to the four controlled uses that have the 1,000 ft. spacing, there are ten additional uses. Seven (7) of those come from the drug-free zone definition. Part of this amendment is to eliminate spacing

requirements between certain uses (i.e., the spacing requirements between one marijuana retail provisioning facility and another facility of the same type). It is our understanding through conversations with BSEED is the reduction from 1,000 ft. to 750 ft. uses would potentially open up some applicants that were initially denied. If that amendment is passed, that would open up some applicants for the sites that they have submitted.

The second amendment is the need to add specific use standards for designated marijuana consumption establishments. Staff is still discussing this with the Law Department. The first part of the proposed language prohibits marijuana consumption establishments to operate as an accessory use or to include an accessory use. The second part is to address what that relationship should be between marijuana and non-marijuana uses and examples were discussed in detail.

There is conflicting language between the 2022-11 Ordinance, which states you can have a temporary marijuana event, and the Zoning Ordinance, that says you cannot have any type of temporary marijuana use. Staff could add exception language referencing the 2022-11 Ordinance. The two-step process would be that when you are licensed as a marijuana event organizer, then you can pursue the second license for the temporary marijuana event.

Staff will be sending an updated report, including recommendations incorporating the results of this hearing and a future meeting in September. CPC may wish to continue a public hearing to receive additional public comments relating to the new information/research which we will have for the Commission.

Marcell Todd, CPC Director, added that Council President Pro Tem Tate continues to take the lead on marijuana issues on behalf of the City Council and is the ultimate requester of the primary amendment and the reduction of the spacing requirement for controlled uses.

Commissioner Markowicz noticed that some of the centers are inspected every two years for property maintenance, which allows them to get their certificate of compliance so they can get their business license. Don't they have to apply for their business license each year?

Bob Watson, BSEED, replied that the inspections they are referring to are the annual inspections, which are for the building, and they would be every two years. The licensing is through Kevin Jones, in the Licensing Department, and that would be yearly.

Commissioner Markowicz asked, how often are consumption lounges inspected by the Health Department?

Scott Withington, Health Department, responded the current plan is for annual inspections with, of course, potential complaint investigations and follow-up inspections. We currently do not have any consumption lounges.

Kim James, CRIO, commented on Mr. Fazzini's presentation where he mentioned 235 potential limited license sites. She wanted the Commission to be aware that some of the medical marijuana sites and the adult-use retailer sites would be in the same place; therefore, it may not be that many locations.

Commissioner Esparza asked that with the one use that would allow for consumption on site, would that be restricted to an enclosed space or is an outdoor patio allowed?

Eric Fazzini, CPC Staff, responded that he does not believe that, under Ordinance 2022-11 or the Zoning Ordinance, there are restrictions, but he would have to check.

Scott Withington, Health Department, remarked on the issue related to food code location, it is not the state marijuana law that creates problems, it is the fact that no ingredient from the hemp plant or the cannabis plant other than the whole seeds are approved to be used in food. The Health Department would object to allowing food service in a consumption lounge, but they could be next door with complete separation.

Andrew Brisbo, State of Michigan, said that, regarding state regulations for designated consumption establishments, we don't have specific criteria that would prohibit outdoor areas.

Eric Fazzini, CPC Staff, added that the current provisions only address outdoor operations for grower facilities.

Commissioner Andrews asked if law enforcement had an opportunity to review or weigh in on any of this and, if so, what was their feedback?

Kim James, CRIO, responded she doesn't have the answer to what law enforcement feels about this particular amendment, but they are a member of the Marijuana License Review Committee (MLRC), review each security plan of every license applicant, and make sure that the State's background check is complete for every applicant. There are currently 109 sites that are zoned for retail which could either be a medical marijuana provisioning center or an adult-use retailer.

Commissioner Andrews requested staff obtain additional public comment and for staff get in touch with business to see what they feel about this amendment.

Eric Fazzini, CPC Staff, responded that after this meeting we plan two (2) additional public engagement efforts. One will be a DON (Department of Neighborhoods) CAST presentation and the other a public forum with CPC Staff to discuss the changes. Staff will work with BSEED and the Law Department to identify mailing addresses for current marijuana businesses and send them the public hearing notice and information on the amendment for them to give feedback. As far as law enforcement, if this is continued to the September meeting, we are planning to have a Lieutenant with the Detroit Police Department (DPD) that we have been working with available at that meeting. Our conversations with them had been more focused on ongoing or previous enforcement efforts related to legal operating marijuana facilities and not specifics on the ordinance changes.

Commissioner Harrison asked, on an annual basis will there be a process of reviewing and assessing?

Kim James, CRIO, responded that CRIO does have investigators on staff to measure this type of compliance. There is a good neighbor plan that's required by the Licensing Ordinance where they are required to pick one of five (5) selections of community support. We must

verify that was done. There is also the community leadership component that must be verified. We would also verify the social equity status remains.

Commissioner Harrison asked what does the public engagement and input process look like for licensing?

Kim James, CRIO, said that every applicant on the adult-use side must do a community engagement process and a community engagement notification. In the application process they do a notification that says where they will be located and what jobs will be offered and where those job postings will be found. We are in the process of revising our web site to include links to those jobs. It goes to the DON where they are issued electronically to the particular district where that business will be located.

Commissioner Lewis asked for clarity on how the amendments will improve the position of the equity participants as it relates to the modification of to the minimum requirement.

Kim James, CRIO, said that a technical assistance provider provides business training. It began with about 500 and now there are 70 applicants that still participate. They were trained in preparing a business plan, how to run a business, taxes, etc. They are ready to apply, but because our landscape of medical marijuana is already mature and people have bought so many properties there is scarcity and people have difficulty in finding land, partially because of zoning restrictions. The joint venture and the leasing in the social equity rules address some of these issues that social equity applicants face.

Commissioner Hood asked where did the designation of equity applicant come from? Could an applicant not be living under the poverty level but in a place adjacent to people that do?

Kim James, CRIO, answered it is not the income of the applicant itself, it is where the applicant lives and the poverty level (20%) of the community that they come from, and also the rate of convictions for marijuana crimes has to be higher than the State of Michigan average. The State of Michigan has defined these areas and they are on the State of Michigan's website. We wanted to make the definition as broad as possible because there are equity applicants everywhere and we need to be able to defend it in court. We have been challenged, but not on that issue.

Commissioner Daniels asked if the state is looking at eliminating medical marijuana and the caregiver license eventually?

Andrew Brisbo, State of Michigan, responded the caregiver and patient registry and the medical facility licensing program and the adult-use establishment licensing program are all governed by different statutes. As those statutory frameworks stay in place, the agency has a responsibility to administer all of them continuously; however, we have developed a regulatory program on the commercial side for both medical facilities and adult-use establishments that have a single set of rules. By in large the same standards are applied administratively from the agency level.

Commissioner Daniels said that the medical person can go to a facility. The person that does not have a medical card can only go to the recreational.

Andrew Brisbo, State of Michigan, said that provisioning centers can only sell to medical patients or caregivers on behalf of medical patients. Adult-use establishments can sell to any adult but would be responsible for remitting the excise tax on any of those purchases. We see facilities on the retail side that are not renewing provisioning center licenses and only maintaining retail licenses and many of them will sell to registered patients and reduce the costs of the products that offset the tax requirement.

PUBLIC COMMENT

Renata Miller: Parents bought into the notion of social equity and applied as legacy applicants last year. They have spent over \$40,000 in rent on a building they have acquired since last April and spend \$8,000 every three months. They have also spent a total of \$70,000 on utilities, snow removal, lawn maintenance, an architect, contractors, and all that goes with the licensing from the State of Michigan they have already applied and have been successful to receive. We are 993 feet from the back end of a park where no one visits. The City Council promised they would change it to 750 ft., and they haven't changed it yet. Parents (ages 72 and 73) are using their retirement funds because they want the legacy that we're talking about, now called social equity. We support the 750 ft.

Claud Greiner: Is there only certain areas set by the city that are going to be designated to open a facility or is it anywhere in the city if it is within the spacing requirements? How are you measuring that, from door-to-door or the edge of the property? If you have a facility that you can sell from, can you grow at the same retail space, or does it need to be at a different location?

Eric Fazzini, CPC Staff, responded you must have an eligible zoned property (B2, B4-M4 or SD2). If you have eligible zoning, you also must meet the spacing requirements that are being discussed. We are not designating specific areas within the city rather than responding to applicant requests based on the location they submit. For the spacing, we measure from property line to property line. If you have both the appropriate state licenses and the city licenses, the medical grow and the medical retailer are often uses that are combined, that is permitted.

Yolanda Massey: Asked is there a list of the areas that are permitted that have the spacing requirements, so that we know what properties to purchase and what properties not to purchase?

Eric Fazzini, CPC Staff, said that staff is working on a couple of different maps for the next meeting that will show potential eligible areas. They are not going to be maps that an applicant could use for permitting purposes, because they would be zoning-based maps. We may show how that 750 or 1,000 radius affects surrounding parcels. The mapping process is not created to create a list for applicants.

Kim James, CRIO, added that on the city's website there is a tool where you can check the zoning of properties and see whether there are any restrictions. Through the Home Grown website, HomeGrownDetroit.org there are links on that page that will take you to the property verification system.

Mitzi Ruddock (Black Cannabis Access): Thank you for identifying some things that were missing from the zoning. Addressing the SDD and the SDM has been one of my requests

because when COVID happened this license type came out that allowed restaurants to do carry-out liquor, which added to the properties we weren't able to access. Dollar stores can carry-out liquor as well. The process of getting churches that are not currently operating off the Assessor's database is a problem, please help with that. You haven't identified micro-businesses Class A, a license-type that is more enticing than the regular micro-business license. Please add that to the definition as well. (Later in the discussion.) Obtaining the property is the number one problem and getting capital is the second.

Dustin Oliver representing Ms. Global (a Navaho Nation Corporation): Own land in the City of Detroit, which has been taken outside of Wayne County and transferred into the Navaho Nation. I'm also a Native American church. This week we put the city on notice, and we're here to put you on notice as well, that there is no zoning because the corporation structure for zoning would follow in Detroit. My lawyers have been in contact with the city lawyers. I have requested a meeting with the Mayor's Office. The only laws that we must follow would be the laws of this Nation. All the land has been transferred into and deeded as well and we are acquiring a lot of commercial property in the city.

Danielle Adams: Licensed through the State of Michigan as a marijuana event organizer. My goal is to obtain a designated consumption establishment. I am also a student of Black Cannabis Access under Mitzi Ruddock and as she mentioned, finding property is one of our biggest hurdles along with finding capital to support our businesses. I ask the city to reduce the zoning requirement. With the number of closed churches and liquor stores, it is unfair. I ask the city to truly consider its residents and look out for us because we truly want to be a part of this industry.

Kelly: The City of Detroit could not control the lawsuit; however, we are the laughingstock of other communities in Michigan and outside of the state because of how long it takes anything to be done. Without zoning nothing will be able to get done. I'd like to see the 500 ft. or 750 ft. Anything is better than the 1,000 ft. My family has hundreds of thousands of dollars in buildings that we can do nothing at all with. This is something that must get passed.

Rebecca Colette, founder of the Detroit Cannabis Project (DCP): As a technical assistance provider to hundreds of social equity applicants and Detroiters over the last year, I'm in full support of the proposed zoning amendments as they will provide more land opportunities for equity applicants and increase diversity in the industry that has statistically excluded people of color. Land is one of the most common barriers to entry for this demographic and these proposed changes would open more opportunities for people most harmed by the war on drugs.

Najanava Harvey-Quinn, founder of the Clean Smoke Community Investment Project: The city has a great tool you can use. If you type in marijuana maps Detroit, the city's map will pop up and you can search for both limited and unlimited license types and where they can be placed in the city. The city and the state approved about 70 medical licenses and those people will get priority because they already have property. That leaves about 40 properties left, based on the number Attorney Kim James gave. This means there are 20 licenses that the city won't have property to support. I want to support the amendments as they are. I would like to add another amendment to say that we should consider bringing back the variance. The variance, when used with the medical ordinance will be totally different under the new recreational ordinance that has been put forth because it focuses on the neighborhood benefits agreements. I think it would bridge those community gaps.

Abdula Mohammad: If the reduction from 1,000 ft. down to 750 ft. is shown not to be effective over the next few months, is the committee open to moving it lower, in the 500 ft. range?

Mackie: I share many of the common concerns with the majority people tonight. I purchased over a \$300,000 property and I just heard a lady mention the maps. Under these maps the property I purchased said it qualified. Since then, it has changed. I am concerned about some of the bordering properties as I have a property that is not 1,000 ft. from a school or a church, but it would be 750 ft. from said church or school that is outside of the jurisdiction of the City of Detroit. I am in favor of the 750 ft., but I'm now concerned that because there is a school or church outside of the City of Detroit, that it will not qualify. Please look at that issue.

Mark Snipes: I am in support of reducing the footage, but is there any way we can make that for equity people? If you open that up to anyone, we will still have the same results we have now. If the micro-business is in an M zone, are there spacing requirements? If not, essentially every building on an industrial street can be a dispensary, then we will be back to over 300 dispensaries in the city again.

Eric Fazzini, CPC Staff, replied there would be spacing requirements for micro-businesses. Between two micro-businesses there would have to be 1,000 ft. spacing, which we are not proposing to change. The only changes for micro-businesses are the proposed elimination of spacing the consumption establishments and the controlled use reduction at 750 ft. Additionally, micro-businesses are a limited license type and would be capped at 30 licenses total city-wide. I don't believe making controlled use spacing apply only to equity applicants is something we could legally do.

Vanessa Peak, Community Leader and District 3 Resident: Our geographic area is saturated with marijuana dispensaries. If we move from 1,000 ft. to 750 ft. our geographic area would be saturated with even more dispensaries. Is there a way to state that, for District 3, we will not do the reduction from 1,000 ft. to 750 ft.? Is there any consideration of the impact to District 3, because we abut residential and industrial, where other areas in the city will not be subjected to this. No one has mentioned the negative impact marijuana will potentially have on our community and the crime that it brings.

Janae Hannah: A DCP student and social equity consumption lounge licensed applicant. I am in 1,000% support the proposed amendment of 750 ft. My greatest concern is the lack of suitable properties that are currently available and if they may be available by the time the application session opens.

Andrew Efkovich, Michigan Cannabis Properties: I fully support all three (3) proposed zoning amendments. For churches and other establishments that are no longer in operation, are the qualifying uses for those properties historical or active uses? Would an abandoned church be considered within that 1,000 ft. zoning restriction or would those be designations for only active use sites?

Kim James, CRIO, responded that I believe it is in the ordinance and I know it's a BSEED policy, if there is an abandoned use (for example a school or a church) that presents a restriction and you let BSEED know about it, they will investigate to figure out if it is

correct. It could be the Assessor's Office needs to take it off the tax-exemption rolls. There is a path to object to abandoned uses who present challenges. It would be for every use (i.e., parks, churches, schools).

Donna Thorgen, City Logs, LLC: Agree that other municipalities have had less trouble getting this industry and their businesses started. I agree with the reduction of feet from 1,000 ft. down to 500 ft. or 750 ft. for a legacy. Lawsuits are holding us back and cutting into our two-year timeframe with the state. Is the city working with the state to assist Detroit legacy members who have been held back due to these lawsuits? Will we be able to get an extension?

Robbie Sellers: In the process of applying for a license and working with Black Cannabis Access as well. Need the requirement to be lowered to 500 ft. or 750 ft. Feel the city working with people living in the city all these years is important and that we should receive some type of reward for staying and remaining here. Living in the area that has been affected by the war on drugs, whether you make a certain income or not, you are affected by it. It is better to have a neighborhood with mixed incomes than to have a neighborhood with only people with lower incomes. You want to reward the people who are living in those communities. It is a beacon for those living in those neighborhoods.

Tonja Stapleton, Parkstone Development Partners: We are zoning and land use consultants and represent three (3) social equity applicants and have advised countless legacy and equity applicants through the process as advocates. I know Ms. Renata Miller's story and it breaks my heart when I see Detroit families that have put their life savings into these projects. She is 8 ft. shy from a park and today found out that this ordinance is not going to benefit her, because a park is designated as a drug-free zone. I would suggest that perhaps administrative waivers might be appropriate. There are provisions in the zoning ordinance that allow BSEED to grant an administrative waiver for projects that are minimally deficient of 10%. I respectfully ask that staff and the Commissioners look at that to the benefit of applicants such as Ms. Miller and other Detroiters that would be able to move forward with their projects.

Commissioner Hood said that a couple of people mentioned that they were engaged in the process as a legacy applicant, spent money and purchased property. Is there anyway legally to prioritize people that have been in the process in this new equity applicant process?

Kim James, CRIO, responded that there is no priority for a Detroit legacy applicant as it pertains to eligibility. Anyone who lives in the City of Detroit would qualify as an equity applicant, if they meet the other criteria; however, we do have special programming that's available to equity applicants such as the Cannabis Project that Rebecca Colette mentioned. We just reached out to the Michigan State Bar Cannabis Section and found some attorneys who are willing to advise equity applicants and Detroit legacy applicants pro bono. They will also have access to the land sales when we open that up; but they do not have any priority in licensing.

Commissioner Hood said that one of the callers commented about the crime that comes with cannabis facilities. Is there anywhere in the documentation that we can point to that being the case or not?

Eric Fazzini, CPC Staff, we can try to address that in the next report. If there is any information from DPD, specific to marijuana. There are some requirements for working with law enforcement, at least for a temporary marijuana event. They are required to allow police or enforcement to be at the event for inspections. As far as general crime and cannabis, we can do some research and try to have answers for you at the next meeting with the next report.

Commissioner Hood added one of the callers commented on a proliferation on these spaces in District 3. Is there anything in place to make sure that one district isn't overburdened?

Eric Fazzini, CPC Staff, answered the grow facilities is an unlimited license type. That may be something that would be needed if there was a desire to reduce grow operations. Those have been the main facility type we have been seeing over the past year or two. As far as the licensing cap, that would need to be through the licensing ordinance. Through zoning there are none.

Marcell Todd, CPC Director, added that at your last meeting we acknowledged that Districts 3 and 6 carry far more industrial land than any of the other City Council districts. We, along with our colleagues at the Law Department, tried to look at different ways to address the concern. At present, there do not appear to be any easy fixes to that. We could look at some sort of over-concentration factor. That would still allow these uses to go forward but find a way to restrict over-proliferation of them in certain areas.

Commissioner Esparza, asked if it is a viable, technical option for us to consider that this body can consider acting on this item to move it forward?

Marcell Todd, CPC Director, responded that procedurally, we as staff are not ready in terms of the requirements for same day action, but you could waive such things as you have done in the past. There are additional things we would like to work on and bring back to you at your next meeting with a continued public hearing to have them advanced into the discussion. Also, since City Council is on recess, there would be no advantage timewise to any expeditious action today. Staff would feel comfortable if we are given specific direction and authorization to address and resolve certain items with the Law Department and colleagues at other city agencies to finalize the ordinance and advance it to City Council.

Commissioner Daniels asked if there is anything staff has that would identify how many, what type of marijuana facilities are listed in the city per district?

Timarie Szwed, CPC Staff, said that we do have a list of all the businesses that have passed zoning. They are not all operating, and have not all received their licenses yet, but have been verified as being able to open once they do that. We have it broken down by district and by type.

Commissioner Daniels said he blames real estate agents. Being a broker myself, anyone who buys commercial property from me, I always add contingencies. This offer is contingent upon purchaser being able to acquire the necessary approvals from the state, city, or whatever the case may be, within so many days. If not, the deal is nullified at the buyer's request. Is it a requirement that applicants have to have control of the property, or could they make an offer with those type of contingencies to move forward?

Brian Coe, Law Department, answered to apply for a conditional use, you only must have an interest in the property, it doesn't require you to be an owner. A prospective purchaser with a purchase agreement could apply for those land use designations required for a marijuana business. It is not uncommon for those types of conditions to be included in a purchase agreement. That is not something the city has a hand in, it is in negotiation between the buyer and the seller.

Commissioner Markowicz echoed Commissioner Esparza's urgency for residents, constituents, and business owners about the reduction of feet. I would feel comfortable considering that today. Is there a way we can legally build in density limitations for certain areas (for example District 3 and District 6)? Also, is there a way that we can legally provide administrative waivers for something like being short by 8 ft? It would be interesting to hear from the Detroit Police Department on crime by district and area; whether that's an impact of certain marijuana businesses vs something else. What would the difference be between a reduction to 750 ft. vs 500 ft.? Is there a way we can structure 500 ft. for legacy applicants and 750 ft. for others legally?

Marcell Todd, CPC Director, said that City Council, upon receiving recommendation from this Honorable Body, would then go through the same sort of discussions and hearing process. If they were to receive this matter in September upon their return, it could probably be up for hearing by the end of September or the first of October at the earliest.

Commissioner Daniels asked can we require as a condition of getting approved, that marijuana type businesses, because of the crime issues that concerns residents, to use the green-light system the city currently has in place?

Marcell Todd, CPC Director, responded, not through zoning. That is a voluntary mechanism in place that a great number of businesses in the city have elected to participate in.

Kim James, CRIO, added that presents a challenge because there has been so much opposition and we don't require that of any businesses. There is a robust security requirement. They don't have to have security guards, but they must have security cameras located in certain places and we have the police review their security plan before we approve them.

Commissioner Lewis is prepared to vote on it today if the Commission decides to do so. I would like to know that the equity licensing applicants are made an integral part and given every opportunity to move forward in this process. Not sure about the administrative waivers. The real estate brokers should have given their clients indication of what needs to be done in the contract situation. Eight (8) feet short is something that should be given consideration.

Commissioner Daniels was concerned about the caller who expressed concerns about being able to obtain property.

Kim James, CRIO, said that to make a zoning change you must have the owner's permission, but a lease or someone who has a purchase agreement or an option, if you have the owner's permission to get the zoning change, you can go ahead and do it, but it benefits the property owner. The person who owns the property must agree, but the person who owns it doesn't have to be the operator of the business.

Brian Coe, Law Department, added that the owner of the property can apply or anyone with a legal interest in the property, which would include a prospective purchaser, a lease of the property, and depending on the option right it might include someone with an option to purchase if that option can be exercised. In each instance, only if there is a right to do so through the actual owner of the property. Can someone who has a purchase agreement score these points? Not necessarily. Having a purchase agreement in place does not mean that there is conditional land use approval, building permits, or a certificate of occupancy. The site control points are not exclusive to equity or non-equity applicants. It is the same between both sides of the scoring rubric.

Commissioner Russell directed a specific question to Ms. Miller, based on this discussion, how does that affect your situation?

Renata Miller said there are 125 points that you need to qualify for to be considered. The building permit is 5 points, and you need the building to get the building permit. If you don't have a building you don't get the certificate of occupancy, and that is 20 points. So, you're going to be in the contest and you don't have 25 points? This is why people are getting buildings, to qualify for the additional 25 points. Please make the vote today, so we can qualify this month.

Commissioner Russell asked staff what can the city do to assist with the 8 ft shortage?

Marcell Todd, CPC Director, said that the administrative adjustment would give BSEED the authority. As with just about all other dimensional divisions, except where expressly prohibited, it gives the opportunity to apply a 10% adjustment to make up for such deficiencies. We might want to look further at the impact (10% or 5%), but we would be supportive of adding such a provision and it would be consistent with other practices.

Commissioner Russell said if there was a vote and we voted on administrative adjustment at 10%, would that be something that City Council could act on and then we could still look at the 750 ft at the September meeting?

Marcell Todd, CPC Director, said that with all these changes we're talking about need to be placed in an ordinance, the ordinance needs to go through the public hearing process. Putting all the changes in a single package would be a benefit to the process.

Commissioner Daniels asked what is staff's position if we were to lower the square footage from 750 ft. to 500 ft.?

Marcell Todd, CPC Director, said that staff is comfortable with the 750 ft. We would want to look more deeply at the 500 ft.

Commissioner Harrison asked if the administrative waiver be able to amend all the zones or just spacing requirements for 750 ft, or both?

Marcell Todd, CPC Director, said, if it is the Commission's desire, it could apply to all of the spacing requirements, or you could limit it to make it available to only certain requirements.

Commissioner Lewis said if we're talking about making such broad changes, I would like to hear from the public on it. I am prepared to vote tonight on the 5% or 10% administrative change. I would like to get a better understanding on what that looks like in real life, from staff. What impact would that have in a District 3 or District 6?

Commissioner Esparza said the concept and process of administrative waivers is discretionary. Whoever is hearing that request, they assess it on a case-by-case basis.

Marcell Todd, CPC Director answered yes, it is a case-by-case basis, but once invoked, it's applied uniformly.

Staff would like to ask that you adjourn the public hearing to the meeting of September 8, 2022, at 6:45 pm for a continued public hearing. After the public hearing, working closely with the Law Department, we would hope to have approval as to form expedited. City Council would then have an actionable document they could look at within two (2) weeks of your meeting.

Ms. Humphries, Council President Pro Tem Tate's Office, said that she will take the need for urgency back to President Pro Tem Tate. For those interested in this industry it is imperative to talk to your state representatives and state senators and let them know in Lansing, we need them to extend that period beyond those 24 months the state legislation currently says, because it will have a detrimental impact on the number of applicants seeking licenses in the City of Detroit.

Commissioner Hood recessed the public hearing to the call of the Chair for the meeting of September 8, 2022, at 6:45 pm.

IV. Unfinished Business (May be taken up earlier in the meeting as opportunity presents)

- A.** Consideration of the request of SER Metro-Detroit and The Collaborative to amend Article XVII, Section 50-17-56, District Map No. 54 of the 2019 Detroit City Code, Chapter 50, Zoning, to show a B4 (General Business) zoning classification where a P1 (Open Parking) zoning classification is currently shown at 4423 Western Street generally located at Western Avenue, bounded by Michigan Avenue to the north and St. Stevens Street to the south. **(TS)**
20 mins

Present: Timarie Szwed, CPC Staff

Timarie Szwed, CPC Staff, gave a Power Point presentation of the proposed map amendment summarizing the information from the staff report dated August 2, 2022. The proposed map amendment is at 4423 Western, part of the SER Metro campus in District 6, located on the Detroit-Dearborn border. The parcel is used as a parking lot for SER Metro, who owns the land. The zoning is currently P1 (Open Parking) and SER Metro is petitioning to have it changed to B4 (General Business).

On July 21, 2022, a public hearing was held. Prior to the hearing significant public engagement was done by SER Metro. One person made public comment, representing his family, was concerned about the distance between the new development and the house located directly south. The family has had prior engagement with SER Metro regarding this

project. Ms. Szwed spoke to them the following Monday and they were content with the answers given. Staff was asked to obtain more information regarding the public engagement and the distance mentioned above. There will be 30.66 feet between the wall and the house. The green grass next to the house is SER Metro's property. SER Metro plans to leave the wall and do not plan on developing beyond the wall. After the public hearing, Ms. Szwed, along with SER Metro staff, went door-to-door along Western St., approximately ¼ mile, knocked on every door and passed out flyers when no one answered. They engaged with fifteen (15) residents who were all in support of the rezoning and the proposed development. This week staff received one letter that stated they opposed the building on the property off 4423 Western and wished to keep it a residential property.

The proposed amendment will protect the health, safety, and general welfare of the public. By doing this rezoning SER Metro will be able to expand that school to include skilled trades training for the students at the charter school ranging from age 16-24. Rezoning is not expected to have any adverse impact on the natural environment nor on other property that is in the vicinity, and it will not create spot zoning.

CPC staff recommends approval of this proposed rezoning.

ACTION: Commissioner Esparza moved to accept CPC staff's recommendation.
Commissioner Brenda Goss Andrews second the motion. All members present verbally responded yeah to the motion. No nays. Motion approved.

- B.** Consideration To consider the proposed text amendment to amend Chapter 50 of the 2019 Detroit City Code, Zoning, to change the permissibility of motor vehicle sales and repair uses including junkyards and towing service storage yards, to implement a spacing requirement between such uses, to re-define several motor vehicle repair uses, and to update the use regulations for such uses as requested by the Buildings, Safety Engineering, and Environmental Department (**JM, CG, KJ**) *60 mins*

Present: Bob Watson and Jayda Philson, BSEED
CPC Staff – Jamie Murphy, Christopher Gulock, Kimani Jeffrey

Jamie Murphy, CPC Staff, gave a brief Power Point presentation summarizing the report submitted to the Commission dated August 2, 2022. The first part of the presentation was a survey of the existing conditions of tow yards. Staff located fourteen (14) tow yards in various districts throughout the city; many of which classify as junkyards. Pictures and descriptions of each were presented to the Commission.

Commissioner Daniels asked if these are all the tow yards in Detroit?

Jamie Murphy, CPC Staff responded that there are a couple others that are classified as junkyards, which are allowed to do towing and store inoperable vehicles. She only included ones designed as tow yards.

Commissioner Daniels asked if the tow yards were to get a large city contract, would they be allowed to expand?

Jamie Murphy, CPC Staff, responded that if the zoning district allowed towing yards, then yes, they could by going through the process. If they were made non-conforming by the ordinance, they could still do it but they would have to go through the Board of Zoning Appeals (BZA).

Commissioner Daniels asked if used car sales would be allowed in M2, M3 and M4? In an industrial zone you cannot sell used cars with the new proposed ordinance.

Jamie Murphy, CPC Staff, answered that used car sales is M2, M3, M4 and M5. You wouldn't be able to establish a new location for a used car lot, but we have so many that we don't really need any more. We have about 374 in the city right now.

Commissioner Daniels asked that, based on the proposed changes, if there is a vacant used car lot and someone wants to purchase that property, would they be allowed to open a new used car lot?

Jamie Murphy, CPC Staff, said that if the use isn't legally established already, they wouldn't be able to unless it was in one of those industrial zones. If it has been closed, it depends on whether the use has been extinguished.

The second part of the presentation was regarding auto-related uses that don't work well with problems of signage, tire storage, vehicles on the sidewalk, inadequate screening, vacant businesses causing blight, etc. The moratorium currently expires on September 30th. Several departments met to try to figure out how to regulate these businesses better. The general strategy for the proposed amendment is to further restrict the zoning districts for each auto-related use allowed, add spacing requirements, clarify, update, and add several definitions and re-classify the auto service and repair uses.

A non-conforming use is a use that was legally established but does not currently appear in the listing of uses permitted by-right or conditionally in the zoning district where they are located. Non-compliant use is a use that has failed or refused to obey or follow a rule or regulation that does apply to the use and subject to enforcement action. This proposed amendment wouldn't affect existing businesses if they're allowed. If they are in the districts where they are no longer allowed, they become that non-conforming use. Non-conforming use can continue as long as it stays open, as it is attached to the land and not the owner. They can expand but they must go to the BZA for a review. If you're an existing legal use and you're in a district that still allows that use but you don't comply with the spacing requirements, that does not make you non-confirming as stated in Section 50-15-24.

Since June 16, 2022, when this was last presented to the Commission, there were a couple of changes with the auto service and repair. The Law Department examined the proposed amendment and decided that our categories weren't differentiated enough, and we needed to revamp some. The four original categories would now be three.

- Light duty vehicle service establishments
- Light duty vehicle repair establishments
- Medium heavy duty vehicle equipment repair establishments

These categories are easily differentiated, and these terms come from the Federal Highway Administration. Secondly, the length of time the vehicles are there. The Law Department

also brought up the shift to electric vehicles, where the maintenance and repair is not the same. To make the categories more general, parts and specific repair information was removed. The staff report was discussed in detail emphasizing the use changes, spacing requirements, definition changes, and miscellaneous changes in the proposed ordinance were discussed in detail.

The public hearing was held on June 2, 2022. Notice was mailed to our city-wide list of people who have expressed interest in zoning amendments, about 1,500 people. It was published in the Detroit Legal News. Nine (9) members of the public spoke at that hearing; five (5) were supportive due to the concerns about auto-related uses on commercial corridors and four (4) were concerned about the effect on auto-related businesses and whether the businesses had been properly notified. The Commission had voted to continue the public hearing until June 16th to allow staff to do additional community engagement. Staff mailed out notices to 1,548 existing auto-related uses from a list received from BSEED. Notices were also sent out to our subscriber list of 4,000. The Department of Neighborhoods (DON) held two weekly virtual meetings that we participated in with about 200 people on the call. Ten people spoke in support. Ten days later CPC staff held a zoom meeting with about nine (9) members of the public who had questions about existing businesses and whether they would be affected. They seemed satisfied with this new amendment.

These changes would make it more difficult to establish new auto-related uses, which would limit the number of new businesses opening over time. The new regulations wouldn't apply to existing businesses. This amendment proposes to regulate auto-related businesses much more strictly than they currently are. They do often detract from the appearance and viability of our commercial corridors and guiding those businesses closer to the rail corridors and industrial areas would have fewer negative impacts and aesthetics from the retail viability. Some of these uses contribute to pollution, moving them further from residential areas would also have a positive effect on our residents' quality of life.

Commissioner Daniels asked will new used car lots be allowed to do auto repairs at those locations as well?

Jamie Murphy, CPC Staff, responded that if they are repairing their own cars or doing routine service on them, they are fine. If they are providing it to the public, then they need a second principal use of repair or service.

Bob Watson, BSEED, added that, the current ordinance does not allow repairs and used auto dealers cannot do any repairs to their vehicles.

Commissioner Daniels said that the state requires any used auto shop to have a repair facility.

Bob Watson, BSEED, said they would have them take it to another licensed repair facility. If you have a used auto sale, unless it is specified in your original permit, used-auto sales with minor auto-repair, you cannot do the minor or any repairs to your vehicles.

Jayda Philson, BSEED, added that those facilities must have a relationship with a repair shop, that is what the state requires.

Jamie Murphy, CPC Staff, said that based on the analysis and presentations, staff recommends approval of the proposed amendment.

ACTION: Brenda Goss Andrews moved that the Commission accept staff recommendations. Commissioner Russell (?) second the motion. All members present responded yeah, verbally, to approve the motion. No nays. Motion carried.

V. New Business – No New Business

VI. Committee Reports – No Committee Reports,

VII. Staff Report – Staff forgoes Staff Reports

VIII. Member Report – No Member Reports

IX. Communications –

McKenna and Associates on behalf of one of the Pointes sent correspondence indicating they are doing a Master Plan Amendment. Staff will report on this at the next meeting.

X. Public Comment

Pat Bosch: Asked for a recording of the marijuana public hearing, which she missed. She has concerns about the marijuana ordinance and its spacing requirements lessening. Many of the car related uses are using box cars and she understands this is permissible, but they add nothing to the quality of life or the environment. Some of the collision shops are using bizarre colors, i.e., orange and red. Could there be a way to add landscape requirements in addition to control of the exterior facades? Now you're allowing marijuana to be positioned in M2, M3, or M4 districts, while that would be right next door to these collision type of uses.

Troy: As a small business owner in the city for almost 30 years, I want to say that auto-sales is a retail business and should have been looked at in that light. If there were boundaries placed between locations that may have helped the issue examined by the city. Regarding the impound lots, I understand that you must go through a hearing if you want to expand your location, but if you are already in business and buy a property that is not being used, you shouldn't have to go through a lot of hoops to beautify that property. Same for the auto sales.

Adjournment – Meeting adjourned at 9:10 pm.