



Legislation Text

File #: 19-1104, **Version:** 3

TO: Mayor Richard C. Irvin

FROM: Planning Commission

DATE: January 10, 2020

SUBJECT:

An Ordinance Granting a Special Use Permit for a Cannabis Dispensing Facility (2115) Use on the Property located at 1415 Corporate Boulevard (NuMed Partners, LLC - 19-1104 / AU01/3-19.236-Su - TV - Ward 1)

PURPOSE:

The Petitioner, NuMed Partners, LLC, is requesting approval of a Special Use for a Cannabis Dispensing Facility (2115) use on property located at 1415 Corporate Boulevard

BACKGROUND:

On June 25, 2019, the Cannabis Regulation and Tax Act (P.A.101-0027), was signed into law by the State of Illinois, effective January 1, 2020. The Act legalizes the purchase, possession and private use of cannabis by adults 21 years of age or older for recreational use. The majority of the law pertains to the sales, processing, distribution, taxes and eligible users of cannabis. Subsequently, the Aurora City Council passed Ordinance Number O19-072 on October 22, 2019, requiring a Special Use permit for qualifying Cannabis Dispensing Facilities with the Special Use Permit being permissible in the B-2, B-3, DC, ORI, M-1, and M-2 Districts and business arear of PDD.

The Subject Property is currently an office building with PDD Planned Development District zoning, which is part of the Farnsworth International Planned Development District. Additional information on the legislative history of the property can be found in the attached Property Information Sheet.

The Petitioner is requesting approval of a Special Use for a cannabis dispensing facility. The existing building is currently divided into two separate unit spaces. NuMed Partners, LLC is proposing to initially occupy the one of the units, which is currently vacant. As the other unit becomes available the intent is that the dispensing facility will expand into the entire building.

DISCUSSION:

As part of the Special Use review, Staff reviewed the request per the requirements as stated in the Special Use section for cannabis dispensing facilities. These regulations are as follows:

- i. Facilities shall at all times comply with all requirements, rules and restrictions, including without limitation, geographic location restrictions, as set forth in the Compassionate Use of Medical Cannabis Pilot Program Act (IL Public Act 098-0122) and the Cannabis Regulation and Tax (IL Public Act 101-0027) or as modified by applicable law, and shall at all times comply with

the terms and conditions of any special use permit that may be granted in the future.

The facility will need to comply with the requirement of the Compassionate Use of Medical Cannabis Pilot Program Act (IL Public Act 098-0122) and the Cannabis Regulation and Tax (IL Public Act 101-0027) in order to obtain a license with the State.

- ii. On or after January 1, 2020, no more than four (4) adult use cannabis dispensary special uses, may be established within the Aurora City limits. The City Council is authorized to evaluate and implement adjustments to the number of adult use cannabis dispensary special uses within the City in order to maintain public health, safety, and welfare as well as promote economic development. Such adjustments to the number of special uses shall be established via resolution. Any proposed changes shall start at the Building Zoning and Economic Development Committee.

Of the four cannabis dispensary special uses within the City, two (2) shall be reserved and issued for social equity candidates, in order to maximize the state legislature's intent of section 7-1, article h of the Cannabis Regulation and Tax Act. 410 ILCS 705/7.

Non-social equity candidates are required to meet the following requirements for adult use cannabis dispensary special use in order to promote public health, safety and welfare:

- a. Applicants must establish a minimum of two years of cannabis sales experience (either as a medical dispensary in Illinois, or as a recreational dispensary in another state).

NuMed Partners, LLC is submitting the application to the State as a social equity applicant in which 51% or more will be an equity holders and 51% of more of the current employees live in the Disproportionately Impacted Areas. In addition, NuMed has owned and operated three fully licensed medical cannabis dispensing facilities in East Peoria, Urbana, and Chicago. The first facility was open in 2016.

- iii. Facilities shall abut an arterial street as shown on the City of Aurora Comprehensive Plan. No more than one (1) dispensary shall be located on a single arterial. A dispensing facility may not be located within a mile and a half (1 ½) of a preexisting special use dispensing facility.

The proposed location abuts Farnsworth Avenue which is an arterial street and is not located within a mile and a half (1 ½) of a preexisting special use dispensing facility within the city.

- iv. Facilities shall not be located within seven hundred and fifty feet (750'), measured from property line to property line, of a grade school, middle school, alternative school, or high school. The authorization of a special use for this purpose should not be affected by subsequent establishment of a school within the restricted area.

The facility is not located within seven hundred and fifty feet (750') of a grade school, middle school, alternative school, or high school.

- v. A facility shall not be located adjacent to a licensed day care facility. For the purpose of this limitation, in the case of a standalone building "adjacent" means physically abutting the lot, or in the case of a single structure containing multiple units comprising a shopping center or similar facility, in the unit directly adjoining a unit containing the licensed day care facility.

The facility is not located adjacent to a licensed day care facility.

- vi. No cannabis or paraphernalia shall be displayed or kept at the facility so as to be visible from outside the premises including but not limited to depiction on signage.

There will not be cannabis or paraphernalia displayed or kept at the facility so as to be visible

from outside the premises.

- vii. Onsite Use Is Prohibited. No cannabis shall be smoked, eaten or otherwise consumed or ingested on the premises.

There will not be any onsite consumption of cannabis.

- viii. Facilities shall have operating hours not earlier than 8 a.m. and not later than 10 p.m.

The hours of operation will be from 8 am to 10pm.

- ix. Co-locations: The City may approve the co-location of a Cannabis Dispensing Facility with a Cannabis Craft Grower Facility or a Cannabis Infuser Facility, or both, subject to the requirements of State law, zoning requirements and the special use criteria within this ordinance.

Not applicable

- x. Additional conditions may be imposed as part of the special use approval to provide for compatibility with adjacent uses and mitigate potential impacts from the dispensing operation.

Not applicable

- xi. The following items shall be submitted as part of the special use request:

- a. A plan for disposal of any cannabis or byproducts that are not sold to a purchaser or registered qualifying patient or caregiver in a manner that protects any portion thereof from being possessed or ingested by any person or animal and shall abide by applicable state or local regulations.
- b. A security plan that includes facility access controls, surveillance systems, on-site security personnel, and other security measures required by state or local regulations.
- c. A copy of the operating procedures adopted in compliance with state statutes. Said operations procedures should include provisions with minimum requirements for facility employees or volunteers (paid or unpaid) including individuals must be at least 21 years of age and must pass a criminal background having not been convicted of a felony under any federal or state law or having been convicted of a violation of any federal, state or city law concerning the manufacture, possession or sale of controlled substances or alcoholic liquor.
- d. A plan for ventilation of the facility that describes the ventilation systems that will be used to prevent any odor of cannabis off the premises of the business. For cannabis dispensing facilities, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate with the systems preventing any odor leaving the premises.
- e. The name(s) and location(s) of the offsite cultivation facilities associated with the cannabis dispensary.

This documentation has been submitted to the City.

With regard to the standard findings of fact as for any Special Use request, this is located in a major commercial corridor near to I-88 with all utilities, parking and ingress/egress already accounted for and should not be detrimental to the public's general welfare, enjoyment of other property in the area or impair property values. This is essential a retail use but one that is highly regulated by the City and State.

Public Input: Due public notice was given for the public hearing on this matter. As of the date of this

memo, staff has not received public inquiries regarding this petition.

POLICIES AND GUIDELINES:

The Staff's Evaluation and Recommendation are based on the following Physical Development Policies:

30.0 To promote and plan for the location of commercial centers, based on their functions and interrelationships, in order to provide a balanced distribution of commercial development and redevelopment.

31.1(3) To promote the development of commercial facilities in existing or planned commercial areas.

RECOMMENDATIONS:

The Planning Commission recommended CONDITIONAL APPROVAL of the Ordinance Granting a Special Use Permit for a Cannabis Dispensing Facility (2115) Use on the Property located at 1415 Corporate Boulevard, with the following conditions:

1. That the petitioner agrees to replace any dead or dying landscaping prior to occupancy permit approval.
2. That the petitioner agrees that the required documents submitted pursuant to the Special Use petition are subject to re-review and comment by staff if a State license is issued for the Subject Property. The petitioner further agrees to make any requested modifications based on said re-review prior to building permit being issued for the Subject Property.

ATTACHMENTS:

Exhibit "A" Legal Description
Exhibit "B" Memorandum of Agreement
Plat of Survey
Floor Plans
Security Operations Plan
Operating Plan
Disposal Plan
Ventilation Plan

cc:

Alderman Michael B. Saville, Chairperson
Alderman Sherman Jenkins, Vice Chairperson
Alderman Carl Franco
Alderman Robert J. O'Connor
Alderman Juany Garza



CITY OF AURORA, ILLINOIS

ORDINANCE NO. _____
DATE OF PASSAGE _____

An Ordinance Granting a Special Use Permit for a Cannabis Dispensing Facility (2115) Use on the Property located at 1415 Corporate Boulevard

WHEREAS, the City of Aurora has a population of more than 25,000 persons and is, therefore, a home rule unit under subsection (a) of Section 6 of Article VII of the Illinois Constitution of 1970; and

WHEREAS, subject to said Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs for the protection of the public health, safety, morals, and welfare; and

WHEREAS, NuMed Partners, LLC, is the applicant of record of the real estate legally described on Exhibit "A", attached hereto and incorporated herein by reference as if fully set forth, and hereafter referred to as Exhibit "A"; and

WHEREAS, by petition dated December 3, 2019, NuMed Partners, LLC filed with the City of Aurora a petition Requesting approval of a Special Use for a Cannabis Dispensing Facility (2115) use on property located at 1415 Corporate Boulevard; and

WHEREAS, after referral of said petition from the Aurora City Council, and after due notice and publication of said notice, the Aurora Planning Commission conducted a public hearing on January 8, 2020, reviewed the petition and recommended CONDITIONAL APPROVAL of said petition; and

WHEREAS, on January 16, 2020, the Building, Zoning and Economic Development Committee of the Aurora City Council reviewed said petition and the before mentioned recommendations and recommended CONDITIONAL APPROVAL of said petition; and

WHEREAS, the City Council, based upon the recommendation and the stated standards of the Planning Commission, finds that the proposed Special Use is not contrary to the purpose and intent of Ordinance Number 3100, being the Aurora Zoning Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Aurora, Illinois, as follows:

Section One: That the City Council of the City of Aurora, Illinois finds as fact all of the preamble recitals of this Ordinance.

Section Two: That this Ordinance shall be in full force and effect, and shall be controlling, upon its passage and approval.

Section Three: That all Ordinances or part of Ordinances in conflict herewith are hereby repealed insofar as any conflict exists.

Section Four: That any section, phrase or paragraph of this Ordinance that is construed to be invalid, void or unconstitutional shall not affect the remaining sections, phrases or paragraphs of this Ordinance which shall remain in full force and effect.

Section Five: In accordance with Ordinance Number 3100, being the Aurora Zoning Ordinance and

the Zoning Map attached thereto, and pursuant to Section 10.6 and Section 4.3-3.N a Special Use permit is hereby granted for a Cannabis Dispensing Facility use for the real estate property legally described in Exhibit "A".

Section Six: That this Special Use permit hereby granted is solely for the purpose of a Cannabis Dispensing Facility use and is subject to all of the conditions set forth herein which shall be binding and remain in full force and effect upon the property, the petitioner and their respective heirs, executors, administrators, successors, assigns and devisees for the duration of said special use.

Section Seven: That the petitioner agrees to sign the Memorandum of Agreement attached hereto as Exhibit "B" within fourteen (14) days from the date of passage of this Ordinance and that said Special Use permit is granted specifically contingent upon the following conditions:

1. That the petitioner agrees to replace any dead or dying landscaping prior to occupancy permit approval.
2. That the petitioner agrees that the required documents submitted pursuant to the Special Use petition are subject to re-review and comment by staff if a State license is issued for the Subject Property. The petitioner further agrees to make any requested modifications based on said re-review prior to building permit being issued for the Subject Property.
3. That the petitioner agrees to separate the ventilation systems between the two units.
4. That the petitioner install a sidewalk, prior to occupancy permit, along the east side of Church Road right of way from the northern access of 2485 Church Road to Bilter Road and along the south side Corporate Boulevard right of way from Farnsworth Avenue to the eastern access of the Subject Property.

Section Eight: That should any of the above-stated conditions not be met or that the property described in Exhibit "A" is not developed in accordance with the special use the City Council shall take the necessary steps to repeal this Ordinance.

Section Nine: That future proposals for expansion or intensification of whatever kind for the property legally described in said Exhibit "A", except as provided for herein, shall be considered only upon proper application, notice and hearing as provided by Section 10.6 of Ordinance Number 3100, being the Aurora Zoning Ordinance.

Section Ten: That the property legally described in Exhibit "A" shall remain in the underlying zoning classification of PDD(S) Planned Development District with Special Use. The Special Use permit shall terminate and the classification of the PDD Planned Development District shall be in full force and effect without further action by the City Council if said property 1) fails to obtain conditional registration license for Cannabis Dispensing Facility by the State, within one hundred eighty (180) days of the authorization of the permit, or 2) fails to commence its use as a Cannabis Dispensing Facility within one (1) year of the authorization of the permit, or 3) ceases its use as a Cannabis Dispensing Facility for a period greater than thirty (30) days.

Section Eleven: That this Cannabis Dispensing Facility use shall remain subject to compliance,

except as herein modified, with the minimum standards of all applicable City Ordinances.