

**COTTAGE GROVE CITY COUNCIL
12800 RAVINE PARKWAY SOUTH
COTTAGE GROVE, MN 55016
SPECIAL MEETING - TRAINING ROOM - 5:30 P.M**

October 2, 2024

1. CALL TO ORDER

Mayor Bailey called the Special Meeting to order at 5:30 p.m.

2. ROLL CALL

City Clerk Tammy Anderson called the roll: Council Member Khambata-Here; Council Member Olsen-Here; Council Member Thiede-Here; Council Member Garza-Arrived after Roll Call; Mayor Bailey-Here.

3. AGENDA

A. Cannabis Business - Zoning Standards

Staff Recommendation: Receive information regarding the proposed Zoning Standards and provide feedback.

Mayor Bailey stated that our City Attorney, Kori Land, will walk us through this and welcomed her.

Attorney Land stated we've broken this into two segments because the legislation in 2023-2024 is about changes, so, it's a lot of rules, a lot of regulations. There are basically two parts to it: 1) The registration process the City will have to adopt; we can no longer license any of these uses, but we can register them. 2) The Zoning, which is the bigger piece, and that's where we can have our focus on health, safety, and welfare regulations as well as time, place, and manner restrictions that the legislature has allowed cities to impose.

Because we have obviously a bigger process when we go through a Zoning Ordinance Amendment, it has to go to the Planning Commission for a public hearing and a recommendation, and then it can go to the Council; we need a little bit more rope on that one, so we wanted to get the zoning piece in front of you to make sure that you're comfortable with it so we can get it in front of the Planning Commission. This gives us just a little bit more time to do that.

As you know, we have a moratorium on all of the cannabis uses; so, our CBD Ordinance, which we have in place today is what it is and it's allowed to be continued, but no new cannabis uses can come in through December 31, 2024. The legislature in their 2024 session said all moratoriums have to expire on January 1, 2025. It's not that they'll be ready to do anything on

January 1, but that's when everybody's moratorium has to expire. So, just in case they magically get everything together and are ready to issue their licenses, we want to be ready with our Ordinances by then. Just to make sure we get through our process in a timely manner with Zoning first and then we'll adopt all the City Code things together. I will come back to you at another workshop to discuss the City Code Registration Process Amendments because there are things that you need to kind of work through on how you want to implement and whether or not you want to allow. If you have any questions along the way, some of it I might say we'll talk at the next meeting and some of it we can answer and address tonight. So, we'll try to get through it as painlessly as possible, but it is a lot of information and it's a lot of new things.

To remind you, what we have on the books today is from the 2022 legislation, which is the low potency; we called it at the time cannabinoid, or CBD, that's our ordinance that's on the books so we licensed CBD, but that is now called lower-potency edibles. So, basically, it's everything that's under .3% THC, it is made from a hemp plant product, and they're putting that into a category of low potency. So, that's what we have today, we allow low-potency edibles in B-3, P-B, and MU Zoning Districts. We do have buffer zones that are applied to those Zoning Districts; for example, we have 1,000 feet between cannabis uses, we have 1,000 feet from schools and parks. I don't think we did daycares because it just got a little bit too convoluted with all the residential daycares. So, we do have those buffer zones applied to the lower-potency uses, and we also restrict the number of licenses. We've only had one apply: High North grabbed that one in the MU Zoning District, so they are the only existing low-potency edible cannabis use; they're the only company in town that can sell any kind of cannabis.

Now, in the 2023-2024 legislation, the legislature has decided there are 13 different kinds of cannabis uses; fortunately, a lot of these can be lumped together. So, we don't have to zone each and every use because they kind of go in the same categories of uses: So, it's the adult use and regardless of whether it's the adult use or low potency, they all fit into these categories.

There are two kinds of low potency: Beverages and edibles. Beverages can be sold at on-sale liquor establishments and off-sale liquor establishments; we currently prohibit that and other cities do as well. So, you can prohibit that, but the law allows it, and there are a lot of other cities that have just sort of let the market do what it does and let businesses do it without cities imposing any regulations on it. So, the low potency is retail beverages and edibles.

Then there's adult use retail, that's a separate category. A lot of those uses on the previous page with the microbusiness and the mezzobusiness, those are really manufacturing. There's a lot of material in my memo that helps outline all of this, but the micro and mezzo business are basically your seed; so they're cultivating, harvesting, manufacturing a product, and then actually selling it in a retail store, and it can also get an onsite consumption license. It's the farm-to-table approach for cannabis; the microbusiness is just a smaller scale than the mezzobusiness, so there are statutory regulations around what kind of size, the maximum size. But just to be aware, the legislature did give themselves the authority to basically waive those limitations, so they can allow more and they can allow bigger if they think it's appropriate. So, then there's manufacturing, wholesaling, transporter; those are all very industrial kinds of uses. So, that's why we've clumped the manufacturing industrial kind of use. Then, of course, there's the farm use, which is the cultivation. So, those are the basic categories we'll be talking about. I

put some maps in your packet, so we'll be going through the maps to make sure that you're comfortable with the use in these zones, which are in these areas. You can really picture them opening up in these particular areas if you're comfortable with that.

Lower-potency edibles are in the B3, PB, and MU, so that's where they are currently allowed with buffers for permitted uses. We're recommending a little bit differently, now that we've seen there's only one. We had some other stores request to apply, but we have the moratorium in place so they couldn't; there have been a couple of tobacco shops who've expressed interest. These are the only Zoning Districts where they would be allowed, and our recommendation is a Conditional Use Permit (CUP) so no more permitted use; they would have to come to the City for a CUP. We would still use the 1,000-foot buffer between cannabis uses so we don't get kind of a cluster of stores in any one location, but we would remove the other buffers, so, no 1,000-foot from schools or parks.

Council Member Olsen said when we went through the exercise of updating all of our City Ordinances, etc., one of the things we talked about was the solicitation of CUPs vs. standard permits. So, how do you apply that logic to this?

Attorney Land replied these uses are special; they need extra special loving care because cannabis, especially adult-use retail, is not Federally legal, right? So, it's illegal under the Federal law; it's still a catch business, so we need to have extra conditions on it. Here's the real key because we have no authority to license these uses anymore, we can only register them; if they violate a provision of our Code, if it's an emergency, we can shut them down right away. If it's a public health, safety, welfare issue, we can shut them down for up to 30 days, that's our max, that's all we get to do, and the Office of Cannabis Management (OCM) can unlock the door, they can overrule us. Our only control is through Zoning; if one of these businesses turns out to be a bad actor, we can revoke their CUP and there's nothing OCM can do about it. Council Member Olsen said that answers the question, thank you.

Attorney Land said so the question on low potency is are you okay with removing the buffer zones and allowing basically these low-potency shops, like High North today, in any of these spots on the map that are in B3, MU, and PB? We would just have the distance between stores, so you couldn't have a gazillion stores in every strip mall because they'd have to have 1,000 feet between them.

Council Member Khambata asked what's to prevent these low-potency establishments from being able to sell higher-potency stuff in the future? Say something at the State level comes down, for instance the State Statute that says our moratorium has to expire at the end of the year, if next year they say you can't restrict or zone it by potency, then you're going to have establishments that are going to say we're already here and we want to sell it. What recourse or leverage will we have in a scenario like that?

Attorney Land replied we can't predict what the legislature is going to do, so I think what we need to go on is a history of what we know, and that is High North has been a good corporate citizen. I do believe they did fail the one compliance check we did, but actually just about every shop that I represent in every city did fail. There's just been too much misinformation out there

about who can purchase these products. But other than that, I think they've been a good citizen; I don't think they've had like a line out the door for their products, they haven't had a bunch of teenagers hanging out there. So, I don't think that these low-potency shops are your high risk, they are technically Federally legal because they are a hemp product, under .3% THC, so they are not considered a drug. Now, granted, you take too many of them and I can guarantee you it will treat them like they were on drugs, but they are Federally legal. So, the low-potency ones I don't think we're as concerned about. We still have a CUP if they're a bad actor, but they would have to go through the State licensing process to become an adult-use retail; right now, estimates are that it costs about a million dollars to open an adult-use retail store because of all the security measures that have to go into it. I don't think that is going to change that easily to make them just be able to flip the switch to adult use. So, are we comfortable that this is a good spot for low-potency stores, retail stores?

Mayor Bailey replied yeah.

Council Member Garza said I apologize for being late, but I have some questions. For these retail-sales stores, are those different than liquor stores? Attorney Land replied we don't zone liquor, so they can basically go in any commercial Zoning District.

Council Member Garza asked so why is there a difference between this and the liquor stores? Attorney Land replied this is what the Council discussed back in 2022 when the legislation became effective was this is where they felt that cannabis-type businesses should go because they're more of a freeway than a neighborhood business.

Mayor Bailey asked don't we have proximity, though, to certain similar stores out there? Attorney Land replied yes, we do, based on distance. Mayor Bailey said I remember Council discussed another one that wanted to come in across from Top Ten, and they weren't allowed to do that.

Council Member Garza said I just wondered why there was a difference with these two types. Attorney Land said it was decided and we went through a very lengthy process in discussing where you wanted these uses and discussed all the different zones, and it was just felt like these higher-traffic commercial zones were more appropriate for any kind of a cannabis use.

Council Member Olsen asked what would your recommendation be? Attorney Land replied I'm actually comfortable that these stores are not high risk; we still need to do compliance checks on them because it is still a 21 and over product with 21 and over employees, so we will still be doing the recommended enforcement standpoint and we will still be monitoring them. But I just don't see them as high target, given that adult use is going to become legal, I don't think that they're high risk.

Mayor Bailey stated I'm good with this. My question is along West Point Douglas Road, isn't there a tobacco place going in by the Bulletin License Center? Attorney Land replied yes, and it does qualify. Mayor Bailey said I just didn't see the color, that's why I was questioning it. Mayor Bailey said I just want to make sure that we weren't excluding anything. Council Member Thiede asked that's in the PB area, right? Attorney Land confirmed that.

Council Member Olsen asked Administrator Levitt if she had concerns about that and she did not.

Attorney Land said with adult-use retail, now we're applying our buffer zones: So, it's 1,000 feet from schools, which is the maximum we can do per the legislation; 500 feet from a park attraction, so, it's not the park border, it's the park attraction that would attract minors, so its a playground, its a restroom, its a pavilion, its a picnic table, those kinds of things, we even included disk golf features. So, we really tried to be mindful of where the park attraction itself was located and then out 500 feet. So, the school buffer is yellow, the park attraction buffer is blue, and then we also did daycares in a commercial Zoning District because this is just clearly the commercial area. I know we discussed before about daycares in residential zones, it gets a little too complicated, but we felt like it was important that you don't want cannabis use, especially adult-use cannabis use, right next to a daycare that happens to be in the same mall or next to it; as in this case, O2B Kids is located next to a strip mall. So, we feel that was an appropriate, compatible use, so we wanted to apply the 500 feet from a daycare rule if the daycare's in a commercial Zoning District. So, those are the pink buffers in the upper-left corner.

Council Member Khambata said so there's really only like a couple places in town where it would be allowed once you apply all those buffers.

Attorney Land said once you apply the buffers, if you look at the green boxes, those are the parcels of land where adult-use retail could be sold. Now, the MU with the green bubble around it, that green bubble is representing High North. We don't know that High North is necessarily going to stay low potency or whether it's adult use, but we put a green bubble around it because it exists today. So, that green bubble may or may not be there, and the buffer between cannabis uses can't be applied until we know for sure we have a cannabis use. So, today we have one in this location, but again, that green bubble may not be there next year.

Attorney Land stated let me just show you another option if you feel like this is a little too restrictive for adult-use retail, knowing that first of all, that the lower potency can go anywhere in the zone, adult-use retail would be limited to green boxes; if you feel like that's not enough options, we offered a reduced buffer from schools to 500 feet, and we remove the buffer around High North, because again we don't know what they're going to do. So, you take off that green bubble and it opens up all those other uses around Target, but then it opens up, all of the yellow ones, the schools, shrunk. So, here you can see the yellow eats up a lot more of the pink and here it shrinks it just a little bit, opens up a few more green boxes. Just to see what it would look like; I don't know if that is something that you want to allow from schools, just to be a little bit closer, or if you'd want to change the one for parks. We can make the bubbles anything you want if you feel like you need to open up more spaces.

Council Member Olsen said I'm looking at potential use, I'll just say obviously we have Holiday Train in those areas; would restrictions go on during certain times then? Attorney Land replied no.

Council Member Garza said so my question again is how does this restriction relate to liquor stores? Because we have quite a few of those in the areas that you have on this map and all, but will those be the same type of restrictions? Do we want them by schools, do we want them by parks? This would just be adult use, right?

Attorney Land replied no, I don't think it is, and I think that the marijuana is significantly different than alcohol, and we don't have any restrictions from other uses for liquor stores.

Council Member Thiede said I guess I would have a tendency to go more restrictive, it can always get less restrictive but we're not going to ever probably get more restrictive. Council Member Khambata said I agree with Dave.

Mayor Bailey said so here's my question, though; so, you're agreeing to hold back, which is High North? Attorney Land stated right. Mayor Bailey asked if they decided they wanted to do the adult use, would they be able to do that?

Attorney Land replied yes, they would because they are outside of the yellow and outside the orange; so, you take away the green and all of that pink ball around Target would be eligible.

Mayor Bailey stated okay, because as I'm looking at it, maybe I'm just saying it wrong, is the green their proximity?

Attorney Land replied yes, the green bubble is solely because of them, so they can be in it and then nobody else would be.

Mayor Bailey stated correct, but the bubble, does that go into the yellow and from the school?

Attorney Land replied it does, but it just overlaps. It wouldn't be allowed in the school here either, but High North is south, I'm thinking outside of the yellow.

Mayor Bailey stated I just didn't know where. Attorney Land stated it's a little hard to tell specifically where it is, but.

Council Member Thiede stated you couldn't have another retail shop inside that green, okay? And High North is actually outside of the yellow or outside of that orange.

Mayor Bailey said so the green is just the distance of what did you say it was? Attorney Land replied 1,000 feet from other cannabis uses. Mayor Bailey said okay, and the only reason I bring it up is we already know that they move from the one location so that they can sell what they did from this location and turn around and now you can't sell the next thing there; so, I'm thinking they're probably going to wave their finger at us, going what are you guys doing? Because they've been trying to follow our rules.

Attorney Land said yes, like I said, they've been a good corporate citizen, I think

Mayor Bailey said yes, I think so, too. So, if that's the case, because right now they're the only one anyway, but if that's the case, that's not going to cause them issues with these other yellow or with the 1,000.

Attorney Land said here's the nice thing about putting all this in Zoning, right? Like Council Member Thiede got us to the point of let's start more restrictive, and if we find out that we need to or can loosen it up, we'll do that later. Because when you put something in Zoning, uses become legal by conformity. So, if you change the restriction to try to make it harsher, they will not have to comply once they are established. So, we can't go a bigger buffer later;

you start bigger and then we can contract it if we find it's too restrictive. The other thing that's nice about Zoning is if we find out that by a foot or two, High North is accidentally in the yellow bubble, they can apply for a variance. So, that's another tool in Zoning that allows a special exception. So, Option 1 is what I'm hearing, and that was confirmed.

Administrator Levitt asked Attorney Land you have the performance standards for the hours of operation; who dictates that?

Attorney Land replied well, State law says it can't be before 10:00 a.m., and cities can restrict it but 9:00 p.m. is the earliest you can restrict it; they can be open as late as 2:00 a.m. under State law. But I did obviously the most conservative is 10:00 a.m. to 9:00 p.m.; you could allow them to be open late, you could say hours of operation per State law, and then they can just decide their own. I just put 9:00 p.m. because if it's a retail, I don't know why it needs to be open past 9:00 p.m., as typically retail stores are not.

Mayor Bailey stated we're open until 10:00 p.m.

Council Member Olsen said there are some retailers who are open later, obviously, but he asked Administrator Levitt if she had a thought on kind of how you'd like to see that play out? Administrator Levitt replied no, this is really your conversation, what times you want.

Council Member Thiede said again, I'd probably lean toward the more restrictive, and if we get a lot of people complaining, saying I'm losing all this business because I have to close an hour earlier than I want to, then we can make changes.

Council Member Khambata said I was going to say if I'm a business owner, I might find the sales after 9:00 p.m. was probably low anyway. I would be fine closing at 9:00 p.m., but like if somebody complains about it, thinks it should be later, then we can just say the State says.

Attorney Land said and there's no onsite consumption, so it truly is just basically like off-sale retail.

Council Member Khambata said I don't know, I guess could that could be something we change later on, too, right? Attorney Land replied absolutely. Council Member Khambata said again, why try to fix a problem that doesn't exist here; if somebody has a problem with 9:00 to 5:00, come and tell us.

Council Member Olsen said if we give them, let's say 10:00 to 10:00, that doesn't mean they can't close earlier than 10:00. Attorney Land said right, they can choose; Council Member Olsen said but that's their ceiling, so I would suggest that.

Mayor Bailey said I personally would, not all of my stores that I operate close at 10:00, some close at 8:00, and it's relative to the area. I think if we did 10:00, that is enough. Because if they try to say they want to go to 11:00 or something, most of our Business Districts, including some of our bars and restaurants, aren't open past.

Council Member Thiede asked why did you choose 9:00 p.m. in the first place? Attorney Land replied because that's what State law says is the earliest you can require them to close, so I was just again being conservative.

Mayor Bailey stated since it's required kind of early, before 10:00, I'm guessing if we do 10:00 to 10:00, it's a 12-hour day.

Council Member Olsen said and if they choose to do something earlier than that, that's possible. Mayor Bailey said it's their choice, but I'm not interested in going past 10:00 p.m.

Attorney Land stated now we're going to get into the nitty gritty, low-potency beverages. We talked about this last year when the legislature said beverages are now allowed at liquor stores. There's a lot of them out there, but cities don't regulate them. So, there's a lot of liquor stores knocking at your door for over a year to try to sell them. On-sale liquor establishments, bars and restaurants, can sell it as well under the new law right now. So, I wanted to revisit this to just gauge your position to see if it's changed. You still can prohibit it, most cities are not, at least for liquor stores for sure. I did have my meeting, this same presentation in Stillwater last night, and they do not want their on-sale bars and restaurants to be selling this. So, we don't want to be the test case; they have 41 on-sale liquor licenses in town and it could be a very big problem to try to manage so they didn't want to be the first to have every bar and restaurant selling THC beverages. You only have 8 on-sale liquor licenses, and I don't think every one of them would choose to sell this, so you could let the market just dictate it if you want to and allow it in on-sale and off-sale for that matter. So, I put the stars and triangles to show where we have on-sale and off-sale liquor, so these are the potential locations where they would be sold.

Public Safety Director Koerner stated outside of Minnesota, even down in Florida, it's just commonplace. So, I think you just leave it, let it be part of what it already is.

Attorney Land stated our recommendation actually is it's basically a permitted use in any Zoning Districts without any buffer zones, so not requiring to be 1,000 feet from each other, and I know the liquor stores already have that. Part of the reason is let's just say it became a problem with overserving, we already have an on-sale liquor license penalty grid to deal with the businesses that are a problem; whether it's liquor or with cannabis, we will address it one way or the other through their liquor license. So, if you want to allow them in on-sale, I think we have the ability to try to rein it back in if it becomes a problem business and just let it be, month to month we figure it out.

Mayor Bailey stated so we'll let the market dictate it in this case. It's low potency pretty much out there everywhere.

Council Member Khambata stated whether we regulate it or not, they're going to do it. Where to her point, just like with overserving alcohol, if an establishment is overserving, then they're going to risk their liquor license, which is a lot more valuable than selling whatever product they're selling and deal with it on the back end.

Council Member Olsen said I'm assuming I know the answer to this question already, but I just want to ask for the sake of me being able to sleep at night. Can people be pulled over and charged with DUI for use of this stuff?

Attorney Land replied yes, it's the same. Currently, obviously, there have been people pulled over for being high; the problem is we don't, I don't know with the beverages if there's any difference than with the smoking. I don't know if we can tell when they took it. We certainly have drug experts that we use with the DUI enforcement.

Council Member Olsen asked is that a thing? Council Member Khambata said they have a pilot program, and they have like a pilot test program for testing for THC.

Director Koerner said I know they're talking about that, but the answer is yes, we can enforce under the influence of alcohol, THC, all of that. It's just more of a challenge that sometimes you'd have to call in a Drug Recognition Expert; right now, most of those would come from State Patrol.

Council Member Olsen said yeah, because they can't blow, right? You'd have to get blood in order to identify what the substance is.

Director Koerner said this morning we arrested a woman for too many pills, so we had to do the blood draw and all that. Sergeant McCormick said essentially, it's if it impairs your ability to operate a vehicle.

Council Member Olsen said okay, so your authority is broad enough for it; Attorney Land said oh, yeah. Council Member Olsen said okay, I would say just let it be then.

Attorney Land stated so now we're getting into the Industrial Zone. As you know, we have a big Industrial Park, all of a couple areas with the buffer zones I think we're pretty confident we can assume we want them to stay doing it; so the buffer zone around them is 1,000 feet from their use, that bubble will stay and in the parks and in the residential. We added a residential bubble, and it has to be 500 feet from residential, because with manufacturing there's a stink, and we know these people already have an odor that we have not quite figured out how to manage yet. We are in the Performance Standards going to recommend that we actually adopt an Odor Ordinance because they have been a problem, they don't seem to care, and we don't know how to get a good handle on it without any standards in place.

Council Member Thiede said I thought all this had been taken care of because we haven't heard about that. Council Member Olsen stated I did, too, because we addressed all that when they came to town.

Attorney Land stated we actually did, we required them to put in odor mitigation, we required them to do testing and sufficient testing. Everybody that was on board at the time is now gone, and nobody knows how to use their equipment. We need to readdress it, and we need to make sure nobody else comes to town and has a problem. So, we can do that, fortunately.

Council Member Khambata asked so with that in mind, is 500 feet from a residential area the appropriate distance to mitigate that aspect?

Attorney Land replied it's breathing distance; honestly, if the wind's blowing in the right direction, you can't get away from it. Now, you are fortunate that you happen to have the same City Attorney who actually drafted the Odor Ordinance in South St. Paul, which has now gone to the Federal Court of Appeals and withstood the challenges that the big giant Sanimax attorneys brought and it is valid. And so we're going to take that Ordinance, which has been held to be constitutional, nondiscriminatory, and modify it to fit our purposes. So, we can get there with an Odor Ordinance, enforcement is tricky.

Council Member Khambata said I was going to ask what are the teeth of that Ordinance? Attorney Land replied, fines are going to be the teeth.

Council Member Thiede asked so have we had actual complaints? Attorney Land replied that's the tricky thing about an Industrial Park; nobody wants to rat out their neighbors because everybody kind of has their own issues, right, in an Industrial Park. Council Member Thiede stated I know that the people who were most vocal lived right north of the Industrial Park, right?

Director Koerner said I'm not aware of any complaints to the Police Department about the odor; it's usually the noise from some of the others.

Mayor Bailey stated this question is for my knowledge: So, when we approved at the time Leafline Labs, we were very specific about the odor and the scrubbers and stuff that might affect, was it Pennsylvania or Philadelphia or someplace that had issues; was that part of their Development Agreement with us?

Emily Schmitz, Community Development Director, replied we didn't have a Development Agreement; as part of the Resolution to their Site Plan that they have odor mitigation and all of the regulations are in there. They have not been held to probably to task on many things.

Mayor Bailey said okay, and Director Schmitz said it's because nobody's complained, and that's part of the issue is that there haven't been complaints about it. We know that they do still have an odor, as witnessed today, but we just haven't done anything to enforce it yet. And I'll add part of their approval was to submit to us their testing in some different locations on the site on a regular basis, so I will add they have done that; but Kori makes a good point about how will we enforce this mezzo manger, which don't ask me the details behind that, but that's how odor is measured and that's how they're doing it on their site. It's important to know that they are upholding and providing that data to us.

Mayor Bailey said that's the only reason and I'm totally in favor of the Odor Ordinance proposal that you're talking about because my guess is and I don't know this for a fact, but they just expanded it, right? So, the way this is all going, my guess is they'll probably expand again; Director Schmitz said they've already asked, and we told them we have a moratorium.

Attorney Land stated so getting back to just apart from these lines, the purple, are all the areas where a cannabis manufacturing business can go; so, this is the micros, the mezzos, the manufacturing, the testing labs, and the medical combo, which is the seed to sale. We are recommending no sales in the Industrial Park and no onsite consumption; they simply aren't set up for retail, and they're not set up for that kind of an environment with all the truck traffic and everything else that's going on. So, we are going to have that in the Performance Standards that in the I Zone and in the A Zone we're not going to allow retail or onsite consumption, but otherwise the manufacturing will be allowed in any of the purple spots.

Mayor Bailey said so the only other question that I have for Kori on this, so down from the red bubble to the left because there are a couple new housing developments going in down there, directly next to NorthPoint, so at the moment what you're saying is 500 feet from?

Attorney Land replied residential, and if you think it should be larger, this would be the time to talk about it.

Mayor Bailey said I do, and Council Member Olsen said I think I do. Mayor Bailey asked what Council thought and said I'm thinking 1,000 feet. Council Member Olsen said yeah, that's what I was thinking, too. Council Member Garza said and that's probably not going to stop it, though.

Attorney Land stated at least there's a buffer zone, at least there's some distance from it.

Council Member Olsen said the residents who decide to ultimately inhabit those homes are going to appreciate.

Mayor Bailey said and that's the only reason I'm bringing it up is I'm looking there and they could use some extra buffer in there, so.

Attorney Land stated and we know those are now zoned residential, so regardless of the fact that there aren't homes yet, we can put the yellow levels in there.

Council Member Khambata said I think that the difference between 500 and 1,000 feet isn't substantial in terms of the smell, but it's livable and it'll work with the number of those types of facilities. Ultimately, mitigating the overall effect of that type of manufacturing that this has on the residents. So, I agree with 1,000 feet.

Attorney Land said and then cultivation is allowed in any AG Zone, obviously in the Industrial, too, because we do allow cultivation in the I Zones, and cultivation is part of the Micro, Mezzo business. Cultivation can be just obviously like a farm field outdoors or it can be indoors in a greenhouse or a hoop house type environment, so, those are allowed as well. They're limited by State law on the size and the amount of blooming plants at one time; you can have a giant 100-acre field, but you can only have so many going to seed at one time. We are putting restrictions or putting size before you can even apply for a cultivation CUP, you have to have at least 20 acres to work with so that we have enough room to have a buffer zone so it's not visible from the Right-of-Way; they can put screening up, just trying to put some distance between residential and the crop itself, which will smell when they go to cultivate it and harvest it. I learned last week that the hoop houses burp, and so when they burp, there's an odor that goes out with it. So, again, we're just trying to provide as much protection and buffer zone as we can from even just the cultivation crop itself. There will be no retail, no onsite consumption. All of the AG ones that are not in a bubble and all of the I Zones, if it's not in a bubble, would be fair game for cultivation. So, it's a lot of land.

Council Member Garza asked are some of those green, the AG ones, are those already properties that are large enough to start operation?

Attorney Land replied oh, sure, they're all, I mean, there would have to probably be some land assemblage to get enough land to do it. There are some owners that own several parcels and could probably start today if they decided to do that, but otherwise these are all, a lot of them are just completely separate ownership, but they're all zoned correctly. So, you get a developer in there and somebody with a big cannabis business; for example, Leafline could choose to buy up a bunch of farmland for their outdoor cultivation. They don't have to all be on one site.

Council Member Garza said so there's also the energy gardens. Attorney Land said exactly, the solar farm is here.

Council Member Khambata said can you give us examples of outdoor cultivation, is there a preferred method?

Attorney Land replied no, because it's not, especially in this climate. You can only get a few, maybe one-or-two crops in a season because of the harsh climate and the time it takes this to

grow, and it's a very fickle crop. So, that's why Leafline does everything indoors because they can control the environment.

Mayor Bailey asked if somebody like Leafline comes in, do they have to own the land or can they lease? Attorney Land replied they can lease. Mayor Bailey said that little box between the new homes that are going off of 90th and Sandy Hills and they decide to cultivate their crop there and it has a smell, my question is how do we prevent or do something to keep it where it's not in the core of our City, but where it would be on the farther outreaches?

Council Member Thiede said we could say it's only allowed indoors and not outdoors.

Attorney Land replied we could prohibit all outdoor, but I'm not sure we can where it's a licensed use.

Council Member Thiede said well, if they want to go just outside the City limits and buy the land, they can.

Mayor Bailey said well, I almost said MUSA, but the MUSA I don't think, it's right on the line there so you can't say MUSA. Attorney Land agreed with that.

Attorney Land noted we did put in a buffer zone, the State law requires a 6-foot fence around it. We've put there must be screening around the fence and we put a 300-foot buffer between the screening and the road or the property line, just to try to give it some distance from the crop. But, again, I don't know how you'd prevent odor from going over a buffer.

Mayor Bailey said you don't.

Council Member Olsen said I'm going to assume that as this becomes more prevalent starting next year, there's going to be more and more people who say oh, I'm going to get into this business, and they want to do it this way. So, it's challenging to want to be business friendly but also protect the rights of residential homeowners and things like that because this is common, it just is. What are you getting from other communities that either you represent, are they having any problems on this cannabis issue?

Attorney Land replied most are predicting that outdoor cultivation is not going to be super prevalent, but that's a hope, right? I mean, if you do have a big giant area where they can go, you're hoping it's not because you have like Old Cottage Grove is going to be surrounded.

Council Member Olsen said that's what I'm saying.

Attorney Land said so we can try to put some more parameters on it, some restrictions, it has to be, I mean, a lot of these are residential uses, or we could say from residential zones, we can put a bubble around those residential zones, and that would help a lot. That would reduce the space.

Mayor Bailey said my biggest concern is anything that's going to be, again, just kind of within that core where people are going to be living. Attorney Land said yeah, that would certainly eat up those little spots. Mayor Bailey said yeah, I'm most concerned about that. I mean, if you get out beyond Old Cottage Grove, I mean, that's where the solar farms are now and that, I'm not as concerned out there. But even, think about it, I mean, we assume next year that the Tanks are going to start developing on the one side there, and then what if that lady down the street there, this whole Goebel thing, starts cultivating marijuana.

Attorney Land asked do you want to see a 1,000-foot buffer zone in residential? Council Member Thiede said how about a mile?

Administrator Levitt asked is there anything that prevents us from doing a 40-acre minimum on the outdoor? Attorney Land replied no, we can do that, too, increase the size. Administrator Levitt stated that would push it away from the core of the larger lands. Mayor Bailey stated that's really what I'm trying to do; I just want to somehow get it so that it's not going to be in the core of our City.

Council Member Olsen said so, theoretically, we can do the buffer and we can increase the size up to 40 acres. I would suggest both of those. Mayor Bailey said I agree.

Council Member Garza said it seems like our City is going to be a target of this, especially for the cultivation. Council Member Olsen said we have land. Council Member Garza said we have land and we're still close. Mayor Bailey said and that's what I'm worried about. Council Member Olsen said it's a blessing and a curse. Council Member Garza said right, and the other part that I wanted to say is because of the lottery situation that they have, most of those went to outside of Minnesota, so we're going to have outside competition for our land to come and start growing stuff.

Attorney Land said all right, we can make those changes, and that will be new math for our GIS guy.

Performance Standards: For all, we're going to put in just a general generic provision, you can't be a nuisance, and so then that ties in all of those fabulous Nuisance Ordinances that we beefed up in here, noise, smell, junk, or anything. Then we'll also be adopting an Odor Ordinance that gives some teeth to it. Security Plan: Depending on what they are and where they are, but they all are going to need some kind of a Security Plan. I don't want our Planning Department trying to figure out what that looks like, so it's got to be approved by Public Safety. No Home Occupations: So, nobody can be selling it out of their house. We're going to say it out loud in our Code, and State law says it today, but I don't trust State law. So, I'm going to say no, that is just not appropriate in residential zones. Parking: Also, for these Micro and the Mezzo businesses that have multiple kinds of uses mixed in, parking requirements are going to be for the most-intense use; so, we're not going to like add on your manufacturing and your this and that and the other things. It's going to be whichever one requires the most parking is the parking that we're going to require. Signage: We can restrict them to two signs, so we're going to do that. We'll try to be as mindful as we can about everybody; we want free enterprise, we want people to do business if they can do it, but yet protect our residents, our citizens.

Mayor Bailey asked just looking at this real quick, how much land is left for growth? Attorney Land asked in the Industrial Park? Mayor Bailey replied yes, on the Leafline site, I'm just curious if they can come, based on what we're going to do, you're going to say it has to be 40 acres; and that's why I'm asking, I just want to make sure that they will be able to start, come to us and all, and say now we're going to start growing outside.

Director Schmitz said they actually asked that question already; they asked again this summer if they could just automatically start doing the outdoor grow, and we said no, we've got a moratorium and it's a different use than what you're approved for, so no.

Next Steps:

- Take it to the Planning Commission on October 28. If they're comfortable with it, we'll just keep it moving along.
- Bring the registration process to a workshop in late November, and then sync everything up in December, depending on how everybody is comfortable with it. If we need both meetings in December, we'll do that, but we'll just take everything up in the end.
- There will be fees that we can impose with the registration process. They are not nearly as generous as the State gets to collect, but we do get something for registering all these businesses. State law says we have to register the retail ones; if we're going to do the registration process, we have to do retail. I'm going to say fine, let's do them all, so we'll collect the fees on all of them. That way we know they're there, we'll know who's doing what, where, and when. We'll do the compliance checks when we can to make sure everybody's got a CUP; that's really the only way we can know who is in town.

Attorney Land asked if there were any questions about the process, but none were asked.

Mayor Bailey asked Attorney Land on a separate note, with this kind of stuff, so we had a situation that they have where we revoked that license, right? Under all of this new process, would we still be able to do that if something like that happens? Attorney Land replied we would revoke their CUP.

Mayor Bailey stated, okay, I just wanted to make sure that that would still be possible.

Attorney Land stated the OCM can control the license, but one of the conditions of a license is that it complies with local Zoning; so, that is our hook with these businesses to make sure they're good. Of course, there are going to be many good businesses, so you can stay, but if you're going to be a problem, we need to be able to address it. Our big hammer is revoking their CUP, because once they no longer comply with Zoning, the OCM can't license them.

Mayor Bailey stated okay, perfect. And that was my only reason for asking is it does seem to me that the State's kind of saying we'll allow everybody to grow, have fun, and that the cities are left trying to figure out how to make this work. Again, we've got some good business people in our community with this, and we obviously have the bad ones.

Attorney Land said exactly, and we hope for the best and prepare for the worst; that's my motto.

Council Member Garza asked have we had conversations with Woodbury and how they have been doing it and everything? Attorney Land replied no. Council Member Garza said that I know they have medical up there, but I know that they probably got something out of that that they could share with us maybe.

Attorney Land stated I haven't talked to them. I checked everybody's Zoning Ordinances around us to see if anybody's adopted anything yet, and nobody has; St. Paul did a very, very minimal Ordinance Amendment, like a 300-foot buffer zone from something, schools, I think. But otherwise people are kind of waiting, and everybody's in the same schedule we are, they

know they need to do something by the end of the year, so it's in process, but nothing's been formalized yet.

Council Member Olsen said they're watching, just like everybody else. Attorney Land said yes, who's going to go first? Council Member Olsen said we tend to be a trendsetter, so. Mayor Bailey said we were with the solar. Attorney Land said frankly, the model ordinance the OCM came out with was really unworkable; I mean, it had a few good nuggets in it, but it was just kind of a mess of spaghetti for the most part. Council Member Olsen said Woodbury is represented by Eckberg Lammers, and they tend to be similar, very conservative like this. I would be surprised if they do anything that's any more liberal than what we've just discussed; in fact, I could see them tightening it up even more. Mayor Bailey said I agree with you. Council Member Olsen said it always feels good when your neighbors are kind of on the same page as us. Mayor Bailey said part of the reason we did that with Woodbury is because we were concerned that all these places that couldn't go into Woodbury or the fee was too high in Woodbury, they'd just wind up here in Cottage Grove. So, we pretty much adopted the same rules and mirrored most of their ordinance; they're pretty close.

3. ADJOURNMENT

The meeting was adjourned at 6:24 p.m.

Minutes prepared by Judy Graf and reviewed by Tamara Anderson, City Clerk.