PLAN COMMISSION
Wednesday, September 25, 2019
7:00 P.M.
Lorraine H. Morton Civic Center, 2100 Ridge Avenue, James C. Lytle City Council Chambers

AGENDA

1. CALL TO ORDER / DECLARATION OF QUORUM

2. APPROVAL OF MEETING MINUTES: Minutes from the September 11, 2019 meeting will be reviewed at the next scheduled Plan Commission meeting.

3. NEW BUSINESS

   A. Map Amendment
      Howard Street Rezoning
      A Zoning Ordinance Map Amendment pursuant to City Code Title 6, Zoning, to rezone properties located at 951-1125 Howard Street from the C1 Commercial District to the B2 Business District.

   B. Text Amendment
      Accessory Recreational Cannabis Use
      A Zoning Ordinance Text Amendment pursuant to City Code Title 6, Zoning, to create definitions for recreational and medical cannabis related uses, establish any applicable general provisions for such uses, establish any applicable parking requirements for such uses, and amend the permitted and special uses in the Business, Commercial, Downtown, Research Park, Transitional Manufacturing, Industrial, and Special Purpose and Overlay zoning districts.

4. PUBLIC COMMENT

5. ADJOURNMENT

The next meeting of the Plan Commission is scheduled for WEDNESDAY, OCTOBER 9, 2019 at 7:00 P.M. in JAMES C. LYTLE CITY COUNCIL CHAMBERS of the Lorraine H. Morton Civic Center.

Order of agenda items is subject to change. Information about the Plan Commission is available online at: http://www.cityofevanston.org/plancommission. Questions can be directed to Meagan Jones, Neighborhood and Land Use Planner, at 847-448-8170 or via e-mail at mmjones@cityofevanston.org.

The City of Evanston is committed to making all public meetings accessible to persons with disabilities. Any citizen needing mobility or communications access assistance should contact the Community Development Department 48 hours in advance of the scheduled meeting so that accommodations can be made at 847-448-8683 (Voice) or 847-448-8064 (TYY).

La ciudad de Evanston está obligada a hacer accesibles todas las reuniones públicas a las personas minusválidas o las que no hablan inglés. Si usted necesita ayuda, favor de ponerse en contacto con la Oficina de Administración del Centro a 847/866-2916 (voz) o 847/448-8052 (TDD).
Plan Commission

Map Amendment

Rezoning 951-1125 Howard St.
19PLND-0080
Memorandum

To: Chair and Members of the Plan Commission

From: Johanna Leonard, Director of Community Development
Scott Mangum, Planning and Zoning Manager
Melissa Klotz, Zoning Administrator

Subject: Zoning Ordinance Map Amendment
951-1125 Howard St.
19PLND-0080

Date: September 6, 2019

Request
Staff recommends a map amendment to the Zoning Ordinance to rezone the properties from 951-1125 Howard St., from Ridge Ave. west to Barton Ave. from the existing C1 Commercial District to the B2 Business District. The rezoning is primarily intended to allow for mixed use development with residential uses above the ground floor.

Notice
The Application has been filed in conformance with applicable procedural and public notice requirements including publication in the Evanston Review on August 22, 2019.

Analysis
Proposal Overview
The block of Howard St. from Ridge Ave. west to Barton Ave. (951-1125 Howard St.) is currently zoned C1 Commercial. The C1 District’s Purpose Statement is:

The C1 commercial district is intended to provide appropriate locations for contemporary shopping developments. Uses such as commercial strips and shopping centers, characterized by large parking areas and multiple tenants shall be encouraged. The C1 district will allow front yard parking but only with appropriate boundary landscaping.

The C1 District is intended for small to moderate sized development with automobile-oriented sites. The District allows for uses that are sometimes considered nuisances to residences (such as automobile (gas) service stations, automobile repair establishments, and wholesale establishments), therefore the C1 District does not allow for residential units.

This portion of Howard St. is surrounded by the B3 Business District east of Ridge Ave.,
and the B2 Business District west of Barton Ave. The south side of the street is within the City of Chicago and features a variety of commercial/mixed-use zoning (that does allow residential units). The block proposed for rezoning abuts an alley to the rear (north) and then the R2 Single Family Residential District following the majority of the block (20 homes) and a small amount of R5 General Residential District zoning (one condo building and one apartment building).

In past decades, the existing C1 District was appropriate zoning for the area. However, trends now show automobile usage in urban environments is on the decline, and instead residents prefer to live near or within walkable commercial corridors. Commercial corridors that allow mixed-use buildings where residential units are typically located above ground-floor commercial uses tend to be more vibrant and healthy commercial corridors due to the increased number of residents who patronize the surrounding businesses regularly. Residential units in commercial corridors also add more “eyes on the street” which discourages crime and vandalism.

City staff recommends a map amendment to rezone the block to match the adjacent B2 Business District zoning to the west that stretches from Barton Ave. west almost to Ashland Ave. This adjacent B2 District is similarly situated with larger surface parking lots in front yards, uses that may be considered nuisances to adjacent (existing) residences, and smaller buildings that do not serve the highest and best land use possible. The B2 District’s Purpose Statement is:

(A) The B2 business district is designed to accommodate and encourage the continued viable use of older, pedestrian oriented shopping areas found throughout the City primarily at arterial roadway intersections and, in some cases, near mass transit facilities. This zoning district encompasses the City's oldest shopping areas whose pedestrian orientation and character it wishes to preserve.

(B) These shopping and business areas are primarily neighborhood oriented, however, they can also accommodate specialty stores and service facilities that service a larger market area. The established physical pattern of the district is typically buildings built to the front lot
line and continuous bands of storefronts. The provisions of this district are intended to maintain pedestrian character.

(C) Uses in the B2 district may include businesses catering to the daily shopping needs of neighborhood residents, specialty stores that provide retail opportunities that have broader market appeal, retail service uses and professional service uses, offices and financial institutions without drive-up facilities. No individual use in this district should exceed twenty thousand (20,000) square feet in size.

Both the existing adjacent B2 District as well as the block proposed for rezoning feature properties ready for redevelopment, and staff has recently fielded a variety of inquiries regarding redevelopment of the area that includes mixed-use buildings with residential units. One such proposal is a request for a Planned Development at 999-1015 Howard St. to expand the existing CJE facility (1015 Howard St.) with a new 4-story primarily affordable multiple family residence with 60 dwelling units. The CJE Planned Development is currently undergoing staff review and is anticipated to proceed through the Planned Development process and Plan Commission this fall or winter of 2020. The CJE Planned Development is not possible unless the subject properties are rezoned. However, City staff feels it is appropriate to rezone the entire block to encourage redevelopment of the block and to reap the benefits of mixed-use development.

Since the block abuts an alley and then residential districts with primarily single family residences to the north, it is extremely important to consider the impact of any zoning change. In this case, perhaps the most important aspects of zoning are the regulations for building height and rear yard setbacks. When comparing the existing C1 District regulations to the proposed B2 District regulations, the maximum allowed building height does not increase, and the minimum rear yard setback abutting a residential district does not decrease. Building height in the C1 District is allowed up to 45’ (or 60’ as a Planned Development) while building height in the B2 District is also allowed up to 45’ (or 57’ as a Planned Development). Both Districts require a 15’ rear yard setback when abutting a residential district, which is every property in this scenario (and including a 10’ landscape buffer as a Planned Development). Full comparison charts of zoning regulations for the existing C1 District and the proposed B2 District are attached.

Rezoning does mean that some uses that were previously allowed would no longer be allowed (so any such use would thereafter be considered legally nonconforming – no business would be required to close). However, on this block, the Pawnbroker Establishment at 959 Howard St. is the only use that is not an eligible use in the proposed B2 District (and it is not an eligible use in the existing C1 District either – the use is already legally nonconforming). All other existing businesses on the block (including Type 1 & 2 Restaurants, Convenience Store, Retail Goods and Services Establishments, Daycare Center – Adult, Drive-Through Facility, and Medical Offices) are eligible uses in the proposed B2 District. A full comparison chart of eligible permitted and special uses in the existing C1 District and the proposed B2 District are attached.

Overall, the change from the C1 District to the B2 District is minimal. Most eligible uses
and building regulations remain the same or are slightly more strict, including building height and the rear yard setback when abutting residential districts. City staff provided outreach to the immediately affected area (951-1125 Howard St. and the block of Dobson to the north that abuts the shared alley) including a letter explaining the proposed rezoning and major implications, comparison of eligible uses, comparison of zoning regulations for structures, comparison of eligible Site Development Allowances for Panned Developments, and frequently asked questions regarding rezoning (all attached). All property owners within 500’ of the subject properties received public notice of the proposed change and Plan Commission public hearing (including properties in Chicago), and the Chicago 49th Ward Alderman’s Office has all documents on hand in the event Chicago residents reach out with questions. Staff is not aware of any opposition to the proposal. A draft ordinance will be created when the proposal moves forward to the City Council for a determination.

Standards of Approval
Pursuant to Section 6-3-4-5 Standards for Amendments:

The wisdom of amending the text of the Zoning Ordinance or the Zoning Map is a matter committed to the sound legislative discretion of the City Council and is not controlled by any one standard. In making their determination, however, the City Council should, in determining whether to adopt or deny, or to adopt some modification of the Plan Commission’s recommendation consider, among other factors, the following:

(A) Whether the proposed amendment is consistent with the goals, objectives, and policies of the Comprehensive General Plan, as adopted and amended from time to time by the City Council.
(B) Whether the proposed amendment is compatible with the overall character of existing development in the immediate vicinity of the subject property.
(C) Whether the proposed amendment will have an adverse effect on the value of adjacent properties.
(D) The adequacy of public facilities and services.

The proposed rezoning is consistent with the goals, objectives, and policies of the Comprehensive General Plan including:

- Promote the growth and redevelopment of business, commercial, and industrial areas.
- Continue to promote the revitalization of the Howard St. corridor through the collaborative planning efforts of merchants, concerned citizens, and representatives of agencies from the City of Evanston and the City of Chicago.
- Recognize and support the strong role neighborhood business districts play in Evanston’s economy and its identity.
- Promote pedestrian oriented retail activity in Evanston’s neighborhood business areas.
The Comprehensive Plan specifically refers to the area on Howard St. just east of Ridge Ave. that is adjacent to the subject area, and states there is the need to “implement a comprehensive redevelopment strategy to enhance the vitality of that portion of the street...”. The proposed rezoning is a redevelopment strategy that will encourage revitalization of the block west of Ridge Ave. in the same manner.

The proposed rezoning is compatible with the overall character of existing development in the immediate vicinity by maintaining similar bulk structure and use regulations while also allowing mixed-use residential similar to development on the south (Chicago) side of Howard St. Therefore, and in conjunction with the continuation of the required 15’ rear yard setback when abutting a residential district, the rezoning will not have an adverse effect on the value of adjacent properties. Adequate public facilities and services are already available in the area.

**Recommendation**

Staff finds the proposed map amendment to rezone 951-1125 Howard St. from the C1 Commercial District to the B2 Business District meets the Standards for Approval and will encourage the revitalization of Howard St. by encouraging mixed-use development. Staff recommends the Plan Commission make a positive recommendation to the City Council for the proposed map amendment.

**Attachments**

Comparison: Eligible Uses
Comparison: Zoning Requirements for Structures
Comparison: Eligible Site Development Allowances for Planned Developments
Frequently Asked Questions and Answers for Rezoning
Letter to Property Owners (951-1125 Howard St.)
Letter to Adjacent Residences (south side of Dobson abutting the subject properties)
Zoning Map
Property Addresses & PINs of Properties to Rezone
Aerial View
Comparison: Eligible Uses

Permitted = use is compliant in that zoning district
Special Use = zoning process including a public hearing and a final determination by City Council required

= a change between the C1 and B2

<table>
<thead>
<tr>
<th>C1 Commercial District (Existing)</th>
<th>B2 Business District ( Proposed)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Animal Hospital</td>
<td>Special Use</td>
</tr>
<tr>
<td>Artist Studios</td>
<td>Permitted</td>
</tr>
<tr>
<td>Aquaponics</td>
<td>Special Use</td>
</tr>
<tr>
<td>Assisted Living Facility</td>
<td>Special Use</td>
</tr>
<tr>
<td>Automobile Repair Service</td>
<td>Special Use</td>
</tr>
<tr>
<td>Automobile (Gas) Service Station</td>
<td>Special Use</td>
</tr>
<tr>
<td>Banquet Hall</td>
<td>Special Use</td>
</tr>
<tr>
<td>Boarding House</td>
<td>Special Use</td>
</tr>
<tr>
<td>Brew Pub</td>
<td>Permitted</td>
</tr>
<tr>
<td>Business or Vocational School</td>
<td>Special Use</td>
</tr>
<tr>
<td>Car Wash</td>
<td>Special Use</td>
</tr>
<tr>
<td>Caterer</td>
<td>Permitted</td>
</tr>
<tr>
<td>Commercial Indoor Recreation</td>
<td>Special Use</td>
</tr>
<tr>
<td>Commercial Outdoor Recreation</td>
<td>Special Use</td>
</tr>
<tr>
<td>Commercial Shopping Center</td>
<td>Permitted</td>
</tr>
<tr>
<td>Convenience Store</td>
<td>Special Use</td>
</tr>
<tr>
<td>Craft Alcohol Production Facility</td>
<td>Special Use</td>
</tr>
<tr>
<td>Cultural Facility</td>
<td>Permitted</td>
</tr>
<tr>
<td>Daycare Center – Adult</td>
<td>Special Use</td>
</tr>
<tr>
<td>Daycare Center – Child</td>
<td>Special Use</td>
</tr>
<tr>
<td>Daycare Center – Domestic Animal</td>
<td>Special Use</td>
</tr>
<tr>
<td>Drive-Through Facility</td>
<td>Special Use</td>
</tr>
<tr>
<td>Dwellings – Above Ground Floor</td>
<td>Permitted</td>
</tr>
<tr>
<td>Dwellings – Including Ground Floor</td>
<td>Special Use</td>
</tr>
<tr>
<td>Educational Institution – Private</td>
<td>Permitted</td>
</tr>
<tr>
<td>Educational Institution – Public</td>
<td>Permitted</td>
</tr>
<tr>
<td>Financial Institution</td>
<td>Permitted</td>
</tr>
<tr>
<td>Food Store (6am – 12am)</td>
<td>Permitted</td>
</tr>
<tr>
<td>Food Store (beyond 6am-12am)</td>
<td>Permitted</td>
</tr>
<tr>
<td>Funeral Services</td>
<td>Special Use</td>
</tr>
<tr>
<td>Government Institution</td>
<td>Permitted</td>
</tr>
<tr>
<td>Hotel</td>
<td>Special Use</td>
</tr>
<tr>
<td>Independent Living Facility</td>
<td>Special Use</td>
</tr>
<tr>
<td>Kennel</td>
<td>Special Use</td>
</tr>
<tr>
<td>Long-Term Care Facility</td>
<td>Special Use</td>
</tr>
<tr>
<td>Media Broadcasting Station</td>
<td>Special Use</td>
</tr>
<tr>
<td>Membership Organization</td>
<td>Special Use</td>
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<td>-------------------------</td>
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</tr>
<tr>
<td>Neighborhood Garden</td>
<td>Permitted</td>
</tr>
<tr>
<td>Office</td>
<td>Permitted</td>
</tr>
<tr>
<td>Open Sales Lot</td>
<td>Special Use</td>
</tr>
<tr>
<td>Planned Development</td>
<td>Special Use</td>
</tr>
<tr>
<td>Public Utility</td>
<td>Permitted</td>
</tr>
<tr>
<td>Recording Studio</td>
<td>Permitted</td>
</tr>
<tr>
<td>Religious Institution</td>
<td>Permitted</td>
</tr>
<tr>
<td>Resale Establishment</td>
<td>Special Use</td>
</tr>
<tr>
<td>Residential Care Home – Category 1</td>
<td>Permitted (above ground floor)</td>
</tr>
<tr>
<td>Residential Care Home – Category 2</td>
<td>Special Use</td>
</tr>
<tr>
<td>Restaurant – Type 1 (full service)</td>
<td>Permitted</td>
</tr>
<tr>
<td>Restaurant – Type 2 (quick serve)</td>
<td>Special Use</td>
</tr>
<tr>
<td>Retail Goods Establishment</td>
<td>Permitted</td>
</tr>
<tr>
<td>Retail Services Establishment</td>
<td>Permitted</td>
</tr>
<tr>
<td>Retirement Home</td>
<td>Special Use</td>
</tr>
<tr>
<td>Retirement Hotel</td>
<td>Special Use</td>
</tr>
<tr>
<td>Sheltered Care Home</td>
<td>Special Use</td>
</tr>
<tr>
<td>Trade Contractor (no outdoor storage)</td>
<td>Special Use</td>
</tr>
<tr>
<td>Transitional Shelters</td>
<td>Special Use</td>
</tr>
<tr>
<td>Transitional Treatment Facility – Category 3</td>
<td>Special Use</td>
</tr>
<tr>
<td>Urban Farm, Rooftop</td>
<td>Special Use</td>
</tr>
<tr>
<td>Uses Permitted Exceeding 20,000 sq. ft.</td>
<td>Special Use</td>
</tr>
<tr>
<td>Wholesale Goods Establishment</td>
<td>Special Use</td>
</tr>
</tbody>
</table>
## Comparison: Zoning Requirements for Structures

<table>
<thead>
<tr>
<th></th>
<th><strong>C1 Commercial District</strong> (Existing)</th>
<th><strong>B2 Business District</strong> (Proposed)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Lot Size</strong></td>
<td>No Minimum</td>
<td>No Minimum</td>
</tr>
<tr>
<td><strong>Lot Width</strong></td>
<td>No Minimum 100’ for Commercial Shopping Centers</td>
<td>No Minimum</td>
</tr>
<tr>
<td><strong>Floor Area Ratio (FAR)</strong></td>
<td>1.0</td>
<td>2.0</td>
</tr>
<tr>
<td><strong>Building Height</strong></td>
<td>45’</td>
<td>45’</td>
</tr>
<tr>
<td><strong>Front Yard</strong></td>
<td>0’</td>
<td>3’</td>
</tr>
<tr>
<td><strong>Street Side Yard</strong></td>
<td>5’</td>
<td>3’</td>
</tr>
<tr>
<td><strong>Interior Side Yard</strong></td>
<td>5’ 15’ when abutting Residential District</td>
<td>0’ 10’ when abutting Residential District</td>
</tr>
<tr>
<td><strong>Rear Yard</strong></td>
<td>0’ 15’ when abutting Residential District</td>
<td>10’ 15’ when abutting Residential District</td>
</tr>
</tbody>
</table>
## Comparison: Eligible Site Development Allowances for Planned Developments

<table>
<thead>
<tr>
<th></th>
<th>C1 Commercial District (Existing)</th>
<th>B2 Business District (Proposed)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Size</td>
<td>No Minimum (Dwelling Units not Allowed)</td>
<td>400 sq. ft. of lot size per Dwelling Unit + 20% additional units</td>
</tr>
<tr>
<td>Floor Area Ratio (FAR)</td>
<td>1.0 + 1.0 = 2.0 Maximum</td>
<td>2.0 + 1.0 = 3.0 Maximum</td>
</tr>
<tr>
<td>Building Height</td>
<td>45’ + 15’ = 60’ Maximum</td>
<td>45’ + 12’ = 57’ Maximum</td>
</tr>
<tr>
<td>Interior Side Yard</td>
<td>10’ when abutting Residential District</td>
<td>5’ when abutting Residential District</td>
</tr>
<tr>
<td>Rear Yard</td>
<td>10’ when abutting Residential District</td>
<td>10’ when abutting Residential District</td>
</tr>
<tr>
<td>Landscape Buffer</td>
<td>10’ for all boundaries abutting Residential</td>
<td>10’ for all boundaries abutting Residential</td>
</tr>
</tbody>
</table>
Frequently Asked Questions: Rezoning from C1 to B2 at 951-1125 Howard St.

1. **Why does the City want to change the zoning in this area?**
The current C1 District does not allow for dwelling units of any type. Many commercial corridors remain healthy and vibrant when there is a mixture of commercial/retail uses in conjunction with residential uses (“mixed-use development”). The change in zoning to the B2 District will allow a variety of residential uses (typically above the ground floor) that will encourage investment and development in the Howard St. corridor and therefore improve the commercial corridor.

2. **Will I have to close my business?**
No!! Rezoning will NOT kick out any existing business. Since the C1 and B2 Districts are similar, most businesses will not be affected by the rezoning in any way. In the event that a business is allowed in the C1 District but not in the B2 District, an existing business would become “legally nonconforming” and could continue to operate. Any space occupied by a legally nonconforming business may be replaced by the same type of legally nonconforming business in the future as long as the space does not sit vacant for 12 consecutive months.

3. **Will this hurt my business?**
No!! Rezoning changes the Zoning Map. Physical changes will not occur in the area until a development moves forward to construct a new building. All existing businesses and buildings may remain. When new development does occur (which will likely include new dwelling units), your business may improve due to the moderate increase in dwelling units in the area.

4. **How will this affect my property when I sell it in the future?**
It is likely this rezoning will make properties on Howard St. more valuable since properties could then be redeveloped as mixed-use with residential units above ground-floor commercial.

5. **Is there a proposal for a new building in this area?**
There is a proposal for a new 4-story building with approximately 60 affordable dwelling units for seniors and a private parking garage, in conjunction with the existing Adult Daycare Center operated by CJE SeniorLife at 1015 Howard St. The proposed new building will be connected to the existing building at 1015 Howard and extend east to 999 Howard St. where the old Dairy Queen currently sits. The proposal is a Planned Development and requires a public hearing and a final determination by City Council. Although this proposal does require rezoning (to allow dwelling units), the City’s Planning & Zoning Division is initiating rezoning of the entire block as a best planning practice to further encourage the revitalization of the area with mixed-use developments that include dwelling units. CJE SeniorLife presented preliminary plans at the January 8, 2019 Neighborhood Meeting and January 9, 2019 Ward Meeting. The proposal is not yet scheduled for next steps or a public hearing.

6. **Will this allow large buildings to be built closer to the residences behind Howard St.?**
No!! The existing C1 District requires buildings to be 15’ from the rear property line since this area abuts residential districts. The B2 District features the same 15’ setback requirement. For any Planned Development, the C1 District requires buildings to be 10’ from the rear property
line (instead of 15’) including a 10’ wide landscaping buffer. The B2 District features the same 10’ rear yard setback and 10’ wide landscaping buffer for Planned Developments.

7. **Will this allow taller buildings in this area?**

No...the C1 District allows for a building height of 45’ (typically 4 stories) and the B2 District also allows for a building height of 45’. For any Planned Development, the C1 District allows an additional 15’ for a maximum height of 60’. The B2 District is slightly more restrictive with Planned Developments, and allows an additional 12’ for a maximum height of 57’.

8. **What do I need to do next?**

You are not required to do anything. The City’s Planning & Zoning Division initiated the rezoning and will complete the process. If you have additional questions, comments, or concerns regarding the rezoning, contact the Planning & Zoning Division at 847/448-4311 or by emailing zoning@cityofevanston.org. Additionally, you may attend and speak at the public hearing with the Plan Commission. The public hearing is scheduled for September 11, 2019, at 7pm in Council Chambers at the Civic Center, 2100 Ridge Ave. Postcard notices further stating the public hearing details will be mailed and should reach property owners of affected properties as well as property owners within 500’ of the rezoning one to two weeks before the public hearing.

9. **How does the rezoning process work?**

The Planning & Zoning Division initiated the rezoning. Public notice postcards will be mailed to all affected properties, as well as property owners within 500’ of the rezoning, one to two weeks before the public hearing with the Plan Commission meeting that is scheduled for September 11, 2019. At the public hearing, City staff will explain the rezoning to the Plan Commission and the public, and the public may ask questions and state comments. The Plan Commission will then make a recommendation to the City Council. Then the rezoning will move forward to the Planning & Development Committee of the City Council, and the full City Council for a final determination.
August 21, 2019

RE: 951-1125 Howard St. rezoning from C1 Commercial District to B2 Business District

Dear Property Owner,

The City of Evanston is considering rezoning the area of 951-1125 Howard St. (north side of Howard St. from Ridge Ave. west to Barton Ave.) that includes your property. The zoning change should not affect your business operations in any way. Rezoning DOES NOT mean your business needs to move.

This rezoning is City initiated by the Planning & Zoning Division; therefore there is nothing you are required to do. The City proposes to rezone the block from the current C1 Commercial District to the B2 Business District. The primary reason for the rezoning is to encourage mixed-use developments that include dwelling units above ground-floor commercial businesses. Allowing mixed-use development will encourage the revitalization of this block and will further encourage the success of the Howard St. commercial corridor.

The existing C1 Commercial District is similar to the proposed B2 Business District. The primary changes between these districts include:

- B2 District allows residential uses (dwelling units) above the ground floor while the C1 District does not.
- B2 District does not allow uses that are considered incompatible with residential uses, such as automobile repair establishments, automobile (gas) service stations, and car washes, while the C1 District does allow these uses (by special use approval).

Additional information is attached that compares all pertinent regulations of the C1 Commercial District and the B2 Business District, as well as a Frequently Asked Questions document explaining common questions and answers. The full Zoning Ordinance may be accessed at www.cityofevanston.org/government/city-code (Title 6 - Zoning). For additional information, contact the Planning & Zoning Division at zoning@cityofevanston.org or 847/448-4311. The public hearing with the Plan Commission, where the proposed rezoning will be discussed (and will include a recommendation to City Council) is scheduled for September 11, 2019, at 7pm in Council Chambers at the Civic Center. Property owners of 951-1125 Howard St. and property owners within 500 feet of the proposed rezoning will receive a public notice post card in the mail confirming this meeting.

Sincerely,

Melissa Klotz
Zoning Administrator

Cc: Ann Rainey – 8th Ward Alderman
    Johanna Leonard – Community Development Director
    Scott Mangum – Planning & Zoning Manager
August 21, 2019

RE: 951-1125 Howard St. rezoning from C1 Commercial District to B2 Business District

Dear Property Owner,

The City of Evanston is considering rezoning the area of 951-1125 Howard St. (north side of Howard St. from Ridge Ave. west to Barton Ave.) that abuts the rear or side of your property across the alley.

This rezoning is City initiated by the Planning & Zoning Division. The City proposes to rezone the block from the current C1 Commercial District to the B2 Business District. The primary reason for the rezoning is to encourage mixed-use developments that include dwelling units above ground-floor commercial businesses. Allowing mixed-use development will encourage the revitalization of this block and will further encourage the success of the Howard St. commercial corridor.

The existing C1 Commercial District is similar to the proposed B2 Business District. The primary changes between these districts include:

- B2 District allows residential uses (dwelling units) above the ground floor while the C1 District does not.
- B2 District does not allow uses that are considered incompatible with residential uses, such as automobile repair establishments, automobile (gas) service stations, and car washes, while the C1 District does allow these uses (by special use approval).

Most significant to your property, the B2 District requires a 15’ rear yard setback when abutting a residential district (or a 10’ rear yard setback including a 10’ landscape buffer when approved as a Planned Development) just as the existing C1 District requires.

Additional information is attached that compares all pertinent regulations of the C1 Commercial District and the B2 Business District, as well as a Frequently Asked Questions document explaining common questions and answers. The full Zoning Ordinance may be accessed at www.cityofevanston.org/government/city-code (Title 6 - Zoning). For additional information, contact the Planning & Zoning Division at zoning@cityofevanston.org or 847/448-4311. The public hearing with the Plan Commission, where the proposed rezoning will be discussed (and will include a recommendation to City Council) is scheduled for September 11, 2019, at 7pm in Council Chambers at the Civic Center. Property owners of 951-1125 Howard St. and property owners within 500 feet of the proposed rezoning will receive a public notice post card in the mail confirming this meeting.

Sincerely,

Melissa Klotz  
Zoning Administrator  

Cc: Ann Rainey – 8th Ward Alderman  
Johanna Leonard – Community Development Director  
Scott Mangum – Planning & Zoning Manager
Proposed Map Amendment to Rezone
951-1125 Howard St.
(from Ridge Ave. west to Barton Ave.)

↑ from C1 Commercial District to B2 Business District
Proposed Map Amendment to Rezone
951-1125 Howard St.
(from Ridge Ave. west to Barton Ave.)

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<tr>
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</tbody>
</table>
Plan Commission

Text Amendment

Accessory Recreational Cannabis Use
19PLND-0078
To: Chair and Members of the Plan Commission

From: Johanna Leonard, Director of Community Development
      Scott Mangum, Planning and Zoning Manager
      Meagan Jones, Neighborhood and Land Use Planner

Subject: Zoning Ordinance Text Amendment
          Accessory Recreational Cannabis Use
          19PLND-0078

Date: September 19, 2019

Request
Staff recommends approval of a text amendment to the Zoning Ordinance to create definitions for cannabis dispensary businesses, establish any applicable general provisions for cannabis dispensaries and amend the permitted and special uses in the Business, Commercial, Downtown, Research Park, Transitional Manufacturing, Industrial, and Special Purpose and Overlay zoning districts.

Notice
The Application has been filed in conformance with applicable procedural and public notice requirements including publication in the Evanston Review on August 8, 2019. The agenda item was subsequently continued to a date certain at both the August 28, 2019 and September 11, 2019 Plan Commission meetings.

Analysis
Background
In 2013 the “Compassionate Use of Medical Cannabis Pilot Program Act” was signed and went into effect on January 1, 2014. This Act allowed the establishment of medical cannabis dispensaries and cultivation centers and the prescribing of medical cannabis to patients and caregivers in Illinois. The uses still had to comply with state and local regulations as they related to building, zoning and fire safety codes and ordinances.

Evanston currently has one medical cannabis dispensary located at 1804 Maple Avenue which is operated by Pharmacann. This use was initially approved in 2015 as part of a lease agreement with the City. At that time the use was classified as an (medical) office use. It was also subject to several distance requirements outlined within the established Act, including being 1,000 feet from pre-existing public and private educational institutions, child daycare centers and daycare homes and could not be located within any dwelling unit, rooming unit or residentially zoned district. The State
has since removed these distancing requirements for new medical cannabis dispensaries.

The Illinois General Assembly passed the Illinois Cannabis Regulation and Tax Act, which becomes effective on January 1, 2020. This Act will legalize the possession and private use of cannabis for residents over the age of 21 from licensed dispensaries. The Act prohibits cannabis use in public places, schools, child care facilities and other locations but does not alter the 2013 medical cannabis pilot program. Under the new Act, local municipalities are able to permit and regulate cannabis related businesses through zoning restrictions provided they are “reasonable” and “not in conflict” with the Act. More specifically municipalities can enact conditional (or special) use permits “governing the time, place, manner, and number” of cannabis businesses. Pharmacann has expressed its intention to pursue co-locating a recreational cannabis dispensary at its current site in accordance with the first wave of dispensaries allowed under the new Act.

Generally, municipalities are considering the following zoning issues:

A. Whether all or some Cannabis Business should be prohibited in the City;
B. If allowed in the City, what zoning districts should Cannabis Businesses be allowed to operate in;
C. If allowed in a particular zoning district, should Cannabis Businesses be classified as a permitted or conditional (or special) use;
D. What specific operating conditions should be applied to Cannabis Businesses as a condition of receiving a conditional (or special) use; and
E. Whether, and under what conditions, should on-premises consumption of recreational Cannabis be allowed.

At its September 16, 2019 meeting, the City Council was provided an overview of both of the above mentioned Acts, current municipal regulations and possible next steps for zoning, licensing, taxation and other relevant considerations. The City Council provided input that dispensaries should only be allowed as special uses, with distancing requirements from sensitive uses (not including day care facilities). Direction was also provided to continue the practice of prohibiting smoking establishments, including cannabis smoking establishments, and that industrial areas would be more appropriate for production uses such as infusers. A cap of three dispensary locations was also suggested during the discussion.

A number of Illinois communities within the Chicago metropolitan area have considered or will be considering zoning changes and implications as they relate to cannabis uses. Currently there are several municipalities that have prohibited cannabis uses, several who have voted to allow the use as of right or conditionally, and others that have created a moratorium on establishing cannabis uses until more information has been gathered on the Act’s implementation.

Staff is beginning to look at possible changes to the zoning code as they relate to cannabis related uses. It is the intention that a definition and regulations be established for dispensaries and that, in the future, additional definitions/regulations are considered.
as they relate to comprehensive cannabis uses (i.e. cannabis growers, infusers, processing organizations, transporters, etc.).

Proposal Overview
Staff is proposing to amend a number of sections within the Zoning Code as they relate to the definitions and regulations of cannabis dispensaries. Specifically the following amendments are proposed:

Section 6-18-3. DEFINITIONS to create a definition for Cannabis Dispensaries. Specifically, revisions will be the following:

| CANNABIS DISPENSARY | A facility operated by an organization or business that is registered by the Illinois Department of Financial and Professional Regulation to acquire medical cannabis from a registered cultivation center for the purpose of dispensing cannabis, cannabis infused products, paraphernalia, or related supplies and educational materials to purchasers or registered qualifying patients as defined in the Compassionate Use of Medical Cannabis Pilot Program and the Cannabis Regulation and Tax Act Section as it may be amended from time-to-time, and regulations promulgated thereunder |

Distancing requirements are proposed to be codified with a new section, Section 6-4-11. Special Regulations Pertaining to Cannabis Related Uses. Specifically the following is proposed:

6-4-11. - SPECIAL REGULATIONS PERTAINING TO CANNABIS RELATED USES.

6-4-11-1. Purpose and Applicability: The purpose of this Section 6-4-11 is to ensure new cannabis related uses are integrated with surrounding uses and are compatible in character with the surrounding neighborhood or area of the zoning district in which they are located.

6-4-11-2. Certificate of Zoning Compliance: A certificate of zoning compliance is required prior to any cannabis related use being established.

6-4-11-3. Cannabis Dispensaries
(A) Special Uses: The approval for cannabis dispensary businesses shall only be allowed as a Special Use in RP, D1, D2, D3, D4, C1a, C1, C2, B1, B1a, B2, B3, and O1 Zoning Districts as well as the oDM, oCSC and oH Zoning Overlay Districts. Cannabis dispensaries shall be prohibited in all R, M, T, U, I, WE1 and OS zoning districts as well as within any dwelling unit or rooming unit.

(B) Distance Requirement: Any cannabis dispensary shall not be located within one thousand five hundred (1,500) feet of another cannabis dispensary or within seven hundred fifty (750) feet of a pre-existing public or private educational institution that is an elementary, middle, or high school, as measured from lot line to lot line.

(C) Distance Requirement Measurement: The distance requirement shall be measured from the nearest property lines of each property the cannabis dispensary is located on.

(D) Hours of Operation: Cannabis Dispensaries shall only be permitted to operate between the hours of 10:00 a.m. and 8:00 p.m. seven days out of the week.
With regards to where the cannabis dispensaries will be allowed to establish a location, staff is taking State requirements into consideration as well as Council preferences. A preliminary use chart is outlined below.

<table>
<thead>
<tr>
<th>Use</th>
<th>Districts Use proposed as Permitted</th>
<th>Districts Use Proposed as a Special Use</th>
<th>Prohibited</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cannabis Dispensary</td>
<td>RP, D1, D2, D3, D4, C1a, C1, C2, B1, B1a, B2, B3, O1, oDM, oCSC, oH overlay districts</td>
<td>All residential zoning districts, MUE, MXE, MU, T1, T2, U1, U1a, U2, U3, OS, I1, I2, I3, WE1</td>
<td></td>
</tr>
</tbody>
</table>

As an example of what this change would look like within the Zoning Ordinance, Section 6-12-2-3 Special Uses for the RP Research Park District is shown below:

**6-12-2-3. - SPECIAL USES.**

The following special uses may be permitted in the RP district, subject to the provisions set forth in Section 6-3-5 of this Title:

- Banquet hall.
- Business or vocational school.
- **Cannabis Dispensary (subject to the general requirements of Section 6-4-11 of this Title).**
- Craft alcohol production facility.
- Open sales lot.
- Outdoor storage.
- Performance entertainment venue.
- Planned developments (subject to the requirements of Section 6-3-6 of this Title and Section 6-12-1-7 of this Chapter).
- Resale establishment.
- Restaurants—Type 2.
- Urban farm, rooftop.

Parking regulations for the cannabis dispensaries are proposed to be similar to that of a retail goods establishment. Table 16-B — Schedule of Minimum Off Street Parking Requirements is not proposed to specifically separate out these uses at this time.

Additional cannabis uses such as cultivation centers, craft growers, infusers and transporters are not in consideration at this time. Staff is proposing that the Commission refer those uses and related regulations to the Zoning Committee for future review.
Other Municipalities
As noted above, Chicago-area municipalities have begun discussions and passed ordinances and resolutions regarding cannabis use. Several municipalities- Naperville, Morton Grove and Bolingbrook for example - recently approved resolutions prohibiting all cannabis businesses within their boundaries. Other municipalities have approved moratoriums in an effort to conduct additional research and study the impacts of the new laws over the next year.

A number of municipalities have decided to amend, or are proposing to amend their zoning ordinances to allow Cannabis businesses as either permitted or special uses. Skokie’s Village Board voted to amend its zoning ordinance to allow cannabis dispensaries as a permitted use, subject to distancing restrictions. Oak Park’s Village Board also recently voted to allow cannabis businesses as a permitted use without distance restrictions. Chicago has drafted an ordinance which would allow cannabis businesses within seven zones (excluding downtown) as permitted or special uses depending on the zoning district. A chart of other municipalities’ actions is attached for your review.

Standards of Approval
The proposed Zoning Ordinance Text Amendment to create definitions for cannabis businesses, establish any applicable general provisions for such uses and amend the permitted and special uses meets the standards for approval of amendments per Section 6-3-4-5- of the City Code. The proposal is consistent with the goals of the Comprehensive Plan to maintain the appealing character of Evanston’s neighborhoods while guiding their change as well as retain and as well as promoting the growth and redevelopment of business, commercial, and industrial areas. Staff will need to ensure that precautions related to licensing, building, and security are also in place to mitigate any possible effects on surrounding areas.

The current medical cannabis dispensary has an unassuming façade and blends in with the existing storefronts. Any proposed establishment wishing to make exterior changes to a space would need to have Design and Project Review (DAPR) Committee review and approval prior to obtaining building permits. This will help ensure that the establishment will fit within the context of existing locations. Any new or expanded facility would be required to have adequate utilities and provide adequate parking and safety measures for customers. Should the use be allowed as a Special Use, additional review would occur and more site specific considerations and/or restrictions could be implemented for proposed businesses.

Recommendation
Staff recommends the Plan Commission make a positive recommendation to City Council for the proposed text amendment regarding cannabis dispensary businesses and refer discussion of additional regulations related to cannabis cultivation centers, processors, transporters, infusers and craft growers to the Zoning Committee on a date to be determined.

Attachments
- Summary of Illinois Cannabis Regulation and Tax Act
- PowerPoint presented to City Council on September 16, 2019
- Map of Proposed Cannabis Dispensary Zoning Districts with 500', 750' & 1,000' buffers around Schools
- Other Municipalities' Actions
- Articles from the American Planning Association
This document is provided to summarize the law and policy but is not intended to provide legal advice. Please consult an attorney for legal advice or questions.

Disclaimer: if using a mobile device, be aware that links may not direct you to the appropriate page. Please use the section and page number references to scroll to the linked subclause.

**Zoning**

**A. Opting out**
Local governments may opt out of having any cannabis businesses located in their jurisdictions ([Section 55-25 Local Ordinances subclause 1, page 285](#)). They can NOT opt out of residents being allowed to possess or home grow ([Section 55-25 Local Ordinances subclause 1, page 283](#)). Municipalities should pass ordinances if they wish to opt out ([Section 55-25 Local Ordinances subclause 1, page 285](#)). Precincts in a city with a population over 500,000 may also implement ordinances by petition that intend to limit either home growing or cannabis business establishments ([Section 55-28 Restricted cannabis zones subclause b-c, page 286](#)). This political process is essentially the same for liquor moratoriums.

**B. Setbacks and other restrictions**
Local governments may (but do not have to) establish setbacks related to location of dispensaries, craft grow, cultivation centers, and infuser businesses. The intent of the legislation was to maximize local control over citing and zoning options since the very prescriptive language in the medical pilot program created significant challenges for licensees to find eligible properties, particularly in more densely populated areas. Zoning decisions should be based on what each jurisdiction determines are appropriate concerns for their communities ([Section 55-25 Local Ordinances subclause 2, page 283](#)). The only setback language that is spelled out in the law is designed to prevent undue concentration in any given area and requires a minimum of 1500 feet between dispensaries ([Section 15-20 Early Approval Adult Use Dispensing Organization License; secondary site subclause b, page 73; Section 15-25 Awarding of Conditional Adult Use Dispensing Organization Licenses prior to January 1, 2021 subclause e, page 90; Section 30-30 Craft grower requirements; prohibitions subclause o, page 219](#)).

**C. Clarity, efficiency, and equity**
As local governments consider zoning plans, it might be helpful to contemplate prioritizing what issues need to be resolved most quickly. In order for existing dispensaries to convert to dual use establishments, there may need to be a change to permit those businesses to continue to operate. The second most pressing issue relates to the second location being allowed for existing dispensary license holders and the need to create specific zoning requirements that will apply to new dispensaries. In both cases, these need to be in place very soon in order to allow these businesses to begin operation on 1/1/2020. The next round of dispensary applications, which will represent the first new entrants into the industry and hopefully a
significant number of social equity applicants, will become available on 10/1/19 with applications due 1/1/20 for issuance in May of 2020. In addition, there will be a need to contemplate zoning requirements related to craft grow and infusing businesses. These applications become available January 1 with a due date of March 31 and issuance in July. These priorities should also take into account that local governments want to avoid any unnecessary litigation; have an interest in ensuring that existing cannabis businesses are able to operate under the new law on January 1; and can creatively use some of their own zoning tools to ensure that the equity applicants have access to their markets.

Local ordinances may create civil penalties for businesses that violate their locally determined conditions for placement (concerning time, place, on premises administration, and manner of operation) if they are not unreasonably restrictive. The enforcement of these is primarily left up to the discretion of the local government (Section 55-25 Local Ordinances subclause 1-5, page 283) - although the municipality may not regulate in a manner more restrictive than the State under this Act.

**Enforcement and prosecutorial discretion** -
Municipalities should contemplate immediate policy concerning whether there should by any enforcement of simple possession. Technically any possession of cannabis remains illegal until the legalization date of January 1, 2020, at which point any possession over 30 grams remains illegal. However, local governments should immediately contemplate and update their policies concerning cannabis possession in anticipation of the legalization date. One provision of the law’s attempt to rectify the War on Drugs’ impact on minority and underprivileged communities is the automatic expungement of criminal records for possession of 30 grams or less (Section 5.2 Expungement, sealing, and immediate sealing subclause 2.5, page 370). Will local law enforcement continue to enforce/arrest for amounts between 10-30 grams? Should local law enforcement continue to arrest for possession for any amounts under 30 grams? What will the local jurisdiction do with folks in custody at the time of implementation? For example, DuPage State’s Attorney Berlin recently announced that he will no longer prosecute these cases since they’ll be eligible for resentencing Jan 1. See this Tribune article. These conversations should be had in conjunction with each county’s States Attorney.

**Taxation** -
Municipal and County governments will have the ability to impose up to an additional 3% each in local taxes beginning in September of 2020. (Section 5-1006.8 County Cannabis Retailers' Occupation Tax Law subclause a, page 533; Section 8-11-22 Municipal Cannabis Retailers' Occupation Tax Law subclause a, page 540). Proceed with extreme caution and avoid immediately taxing to the cap. We are already near the high middle end of tax rates around the country, and it’s vital to allow the marketplace to mature before increasing tax rates. This has been a huge issue around the country as states and locals have often found that street markets lower prices to compete and maintain market share, so it’s critical to allow the new market to gain traction before increasing consumer costs through taxation. It is anticipated that it will take up to 5 years before the market is fully mature, so a taxation strategy should take this into account to avoid negatively impacting consumer movement into the legal marketplace and counterproductive taxation strategies.

**Equity** -
As an equity-centered law, there are numerous provisions included. Provisions of the social equity program offer benefits (including financial assistance and license application benefits) to individuals that have been most impacted by cannabis-related law enforcement. The Cannabis Business Development Fund is a special fund created in the State Treasury to be used to pay for low-interest rate loans, grants,
compensation for loans and grants, outreach, research, and job training for Social Equity Applicants interested in beginning and operating cannabis-related businesses (Section 7-10, Cannabis Business Development Fund subclause 1-4, page 31). The Department of Commerce and Economic Opportunity will also establish grant and loan programs for Social Equity Applicants (Section 7-15 Loans and grants to Social Equity Applicants subclause a, page 32). If a Social Equity Applicant meets specific qualifications, license benefits for Social Equity Applicants include a 50% fee waiver for applications (Section 7-20 Fee waivers subclause a, page 35; Section 15-30, Selection criteria for conditional licenses awarded under Section 15-25 subclause c5, page 95).

Keep in mind that everything in the new law is a floor, not a ceiling. There are important ways a local government can impact the equity provisions in the law. While the programs incorporated into the law creating resources for social equity applicants are significant, there’s nothing stopping local governments from adding onto these ideas via fee waivers, technical assistance or other access to capital programs that build on the loan funds incorporated into the state program. In addition, issues such as zoning decisions can have a significant impact on the equity space. Avoiding undue concentration and assuring access in underserved communities are other important considerations.

Community College Pilot Program -
A rather late addition to the bill, but a significant opportunity to drive employment and training is the four-year pilot program that allows eight community colleges within the state to apply to participate in a pilot that will provide the opportunity to incorporate plant handling in a community college curriculum.

This will create a pool of qualified potential employees for the growing industry. The program will be administered jointly by the IL Community College Board and the Department of Agriculture. While the program will allow hands-on learning of cultivation and processing, all harvested product resulting from the program must be destroyed. The department has until September 1, 2020 to issue up to eight program licenses. The Department of Agriculture, in conjunction with the Illinois Community College Board, is responsible for developing the various aspects of selecting license recipients (Section 25-10 Issuance of Community College Cannabis Vocational Pilot Program licenses subclauses a-d, page 194).

The joint departments must make applications for program participation available by February 1, 2020, and the application will be due from applicants by July 1st of 2020, with the programs eligible to begin instructing students in the 2021-2022 academic year. In the process of applicant selection, the Departments must consider various factors, including the geographic diversity of the schools so as to make sure students throughout the entire state may take advantage of the program, and the proposed curriculum plans of the community colleges. Additionally, at least five of the eight selected Program license awardees must have a student population composed of more than 50% low-income in each of the past four years (Section 25-10 Issuance of Community College Cannabis Vocational Pilot Program licenses subclauses b3, page 194). Licensees, while held under specific restrictions to guarantee the safety of students and faculty, have the freedom to, once selected, determine their curriculum and career advising processes. It’s also important to note that there are community colleges already providing a cannabis curriculum that is theory based as opposed to hands-on, so there is also the option of not participating in the plant handling pilot program and merely implementing a classroom-based curriculum such as the one at Oakton. The idea is to authorize community colleges to develop a program that works best for its students and faculty, instead of a one-size-fits-all program.
More information on the application and licensing process for Community College Pilot Programs will be available through the Department of Agriculture and the Illinois Community College board once the application has been developed.

**Social Use Space**

The law allows units of local government to create opportunities within their communities to open what are known as social use spaces (Section 55-25 Local Ordinances subclause 3, page 284). The law is relatively broad in the definition of these spaces in terms of what the local government can allow within the spaces. They are intended to be businesses that permit the use (but not sale) of cannabis products within their facilities. These could be existing establishments that can offer this opportunity to their patrons within the bounds of their current operation or stand-alone intentional spaces dedicated to social use. That said, while the language required an exception to the state’s smoke-free law protecting against second-hand smoke, we’ve made clear that it is not the intent of the state or the sponsors to allow smoking of cannabis products in venues where tobacco smoking is prohibited but instead want to create an opportunity not unlike that created by hookah lounges or cigar clubs. There are a couple of reasons why this is important. First, in other states that have created legal marketplaces but not created social consumption spaces, we still see a disproportionate impact on communities of color concerning enforcement of public use prohibitions. There are several reasons for this, but it is important to note that building and property owners can still prohibit smoking by tenants and residents of public housing facilities are federally prohibited from consumption on site, so there is a significant swath of the population who might not have a legal space to consume. In addition, areas with substantial tourism have also found concerns from the hospitality industry, particularly hotels, around the issue of use in their spaces. Each unit of local government has the option of deciding how and when to allow the creation of these spaces, including what other business activity can occur on-site, location of facilities, proximity to cannabis business facilities, licensing of facilities, etc..

In 2019, Colorado’s Governor signed a bill that authorizes and regulates social use spaces throughout the state (article on the new law). Before this was passed, individual municipalities determined exactly how they would approach the topic. Denver, Colorado passed a ballot initiative in 2016 on social use before state legislation titled Initiative 300. The ordinance, which originally had a four-year expiration date, created a pilot program to permit approved businesses to allow consumption of cannabis in designated consumption areas (see the full Cannabis Consumption Pilot Program here). A permit for a social-use space did not require any association to a dispensary organization (Sec. 6-302 Cannabis consumption permit subclause i-iii, page 2). The space must be approved by eligible neighborhood organizations, which are organizations that are either defined in the Revised Municipal Code as being in existence for two or more years, business improvement districts, or any association of residents or owners of real property designated as such by the Director of Excise and Licenses (Sec. 6-301 Defined terms subclause 6 i-iii, page 3). The evidence of community support “may include any additional operational requirements that the eligible neighborhood organization deems necessary to protect the health, safety, and welfare of the surrounding community” (Sec. 6-304 Evidence of community support subclause a-b, page 3). The program document contains specific regulations for Cannabis Consumption Areas, as well as the proposed format for applications to become a licensed area. Denver’s system is comprehensive and allows for community involvement in the placement and type of businesses wishing to provide Designated Consumption Areas, and could serve as a model for Illinois municipalities.

Las Vegas, Nevada, also passed regulations on social use. Nevada’s state law on cannabis use does not explicitly allow social use spaces; however, it is implied that municipalities have the opportunity to
permit and regulate them if they wish. In May of 2019, the city council approved an ordinance authorizing customers 21 and older to bring their own cannabis to newly licensed social use venues. Social use venue licenses can only be issued to a licensed dispensary. On-site consumption facilities must obtain annual city licenses and, initially, only licensed dispensaries could apply for on-site consumption, not private businesses (refer to this policy analysis by a local Las Vegas newspaper). The ordinance established business licenses and land use regulations for social spaces, as well as safety requirements (see the ordinance here). As the only businesses that could receive social use licenses were businesses that were already licensed dispensaries, the city was able to avoid outlining specific rules for placement and potential backlash from surrounding communities. The intention being, beyond avoiding zoning complications, that dispensaries would have use lounges associated with but not inside of their regular place of business.

San Francisco, California, was one of the first cities to allow widespread cannabis-use lounges. According to the state’s current law on adult-use cannabis, local municipalities may act in their own authority on social-use as long as they stay within state regulations (Chapter 20 Local Control 26200 subclause a-g). San Francisco took the initiative and began passing city ordinances to create their own regulations. Individual zones had the opportunity to opt in, opt out, or conditionally opt in to social use permitting. All cannabis-related storefronts must receive neighborhood confirmation before a license can be obtained, and there are ventilation, safety, and employee regulations to limit the inhalation of second-hand smoke. Consumption lounges in San Francisco must be attached in some way to a dispensary that has already obtained that prior license (article on San Francisco’s practices). To even further discourage illegal cannabis, consumption lounge users cannot bring their own cannabis; they must first purchase it at the dispensary.

Breakdown of municipality ordinances on social-use spaces

<table>
<thead>
<tr>
<th>City municipality</th>
<th>State regulations on social-use spaces</th>
<th>Neighborhood participation/opt-in to social use spaces</th>
<th>Dispensary license required before social-use license can be obtained</th>
<th>Zoning specifications</th>
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</thead>
<tbody>
<tr>
<td>Denver</td>
<td>Yes, as of 2019</td>
<td>Yes, confirmation from eligible neighborhood organizations</td>
<td>No, can be associated or not associated. If not associated with dispensary, cannot sell cannabis products</td>
<td>Yes</td>
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<tr>
<td>Las Vegas</td>
<td>No</td>
<td>No, attached to dispensaries and therefore subject to the same zoning regulations</td>
<td>Yes</td>
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<tr>
<td>San Francisco</td>
<td>No</td>
<td>Yes, neighborhood confirmation required</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>
Proposed Cannabis Dispensary Zoning Districts
with 500', 750' & 1,000' buffers around Schools

School Property Buffers
- 500'
- 750'
- 1000'
- Existing Dispensary
- Existing Dispensary 1500' Buffer

Zoning Districts
- B1 - Business
- B1a - Business
- B2 - Business
- B3 - Business
- C1 - Commercial
- C1a - Commercial Mixed-Use
- C2 - Commercial
- D1 - Downtown Fringe
- D2 - Downtown Retail Core
- D3 - Downtown Core Development
- D4 - Downtown Transition
- O1 - Office
- RP - Research Park
- Main Road
- Local Street
- City of Evanston

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www.cityofevanston.org/mapdisclaimers.html for more information.
Chicago and Suburb Zoning Consideration

<table>
<thead>
<tr>
<th>Allow/Trending to Allow</th>
<th>Prohibit/Trending to Prohibit</th>
<th>To be Considered</th>
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<tbody>
<tr>
<td>Arlington Heights</td>
<td>Des Plaines</td>
<td>Deerfield</td>
</tr>
<tr>
<td>Buffalo Grove (voted to establish a tax 9/16)</td>
<td>Glenview (to reevaluate in future)</td>
<td>Wilmette</td>
</tr>
<tr>
<td>Chicago</td>
<td>Highland Park (informal consensus)</td>
<td>Winnetka</td>
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<tr>
<td>Niles</td>
<td>Lake Forest (informal consensus)</td>
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<tr>
<td>Northbrook</td>
<td>Libertyville</td>
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</tr>
<tr>
<td>Oak Park (voted to allow 9/16)</td>
<td>Morton Grove (voted ban 7/1)</td>
<td></td>
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<tr>
<td>Skokie (voted to allow 9/16)</td>
<td>Naperville (voted ban 9/3)</td>
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Planning August/September 2019

IN THIS ISSUE:

The Commissioner

LAW

Marijuana and the Zoning Board
Local governments are increasingly faced with decisions regarding legalized marijuana — or cannabis, the term I prefer — businesses. That's because the status of the drug has changed dramatically since California became the first state to legalize it for medical use in 1996. Currently, 10 states and the District of Columbia allow adults to buy and use cannabis for recreational use, and 23 more have legalized medical use.

Meanwhile, the federal government still considers cannabis illegal as a Schedule 1 drug under the federal Controlled Substances Act. U.S. Attorneys rarely prosecute cannabis businesses or individual users, provided they comply with state law. At the same time, however, federally insured banks refuse to deal with cannabis businesses, and the U.S. Food & Drug Administration has prosecuted businesses that use the drug in foods or cosmetics in ways that violate the federal Food, Drug & Cosmetics Act.

The starting point for any planning commission or zoning board in a state that has legalized cannabis — whether for medical or adult recreational use — is detailed knowledge of your state's statutes. Most states allow the prohibition of facilities, but not all. Delaware, for example, allows local zoning of medical marijuana facilities, but does not permit outright prohibition. The 2015 Oregon statute legalizing adult recreational use preempts local bans, but only by citizen initiative. In California, local governments may prohibit cannabis businesses but may not ban personal cannabis cultivation "inside a residence or accessory structure."

Many local governments have chosen total prohibition — particularly in states that have legalized adult recreational use. In California, for example, only 89 of the state's 482 cities allow adult recreational establishments.

But while prohibition relieves cities of the burdens associated with regulation, it also denies them the revenue these businesses can provide. In large cities, that can be a significant amount. For example, Denver anticipates it will receive more than $32 million this year from a combination of "state share back" dollars and the city's own 5.5 percent tax on retail cannabis businesses.

What can cities regulate?
The first step, again, is to look to the state law, but the following possibilities are commonly left to local choice: designating zoning districts where certain businesses are permitted or prohibited; establishing reasonable "buffer" requirements for "sensitive" uses such as schools or residential districts, but often subject to state minimums; setting reasonable hours of operation; and requiring approval for items associated with development review, like design review, dimensional requirements, traffic circulation, signage, and lighting.

What about a moratorium? Unless prohibited or preempted under state law, moratoriums are usually allowed, provided that the duration is reasonable. What's "reasonable"? State court decisions on this point vary, but in its 2002 ruling in Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency, the U.S. Supreme Court stated that "a moratorium lasting more than one year should be viewed with special skepticism."

Nuts and bolts
So what can a board or commission do?

Three things:

1. **Designate certain zoning districts** where the various types of cannabis businesses — retail dispensaries and facilities for cultivation, processing, and distribution — are permitted or prohibited.
2. **Decide which, if any, of those businesses** should be permitted as-of-right as opposed to being approved as a conditional use.
3. **Determine appropriate buffering** and spacing requirements, keeping in mind that these must be in accordance with the state statutory scheme. "Buffers" are distancing requirements from "sensitive" land uses such as a K-12 school, day care center, or library. "Spacing" is the required distance between any two cannabis facilities. Keep in mind, however, that the area of exclusion increases exponentially with the length of the radius. Thus, a 500-foot distance requirement excludes other facilities within 18 acres, while doubling that requirement to 1,000 feet will quadruple the excluded area.

Remember that what makes for strong zoning ordinances generally also applies to regulating cannabis businesses. Your ordinance should have a clear statement of purpose acknowledging the need to safeguard public health, safety, and welfare while complying with state statutory requirements, which should be supplemented with a well-developed "Findings" section.

Good definitions of key terms — cannabis, medical marijuana dispensary, and adult recreational retail marijuana establishment — are a must.

It is also essential to keep state preemption in mind. Be aware of rights created by state statute — the right to home cultivation for personal use, for example. Finally, the ordinance should not permit conduct that the state prohibits or prohibit conduct that the state permits.

— Alan Weinstein

Weinstein is the director of the Law and Public Policy Program at the Cleveland-Marshall College of Law and Maxine Goodman Levin College of Urban Affairs at Cleveland State University. For more on his research, visit the Social Science Research Network at ssrn.com/author=30790.
Planning April 2019

IN THIS ISSUE:

From Seed to Sale

As more states legalize marijuana, local planners tackle land-use and zoning challenges to make the new industry work for their community.
Against the backdrop of an eventful national election, 2016 was a pivotal year at the polls for California: 57 percent of state voters approved the Adult Use of Marijuana Act (Proposition 64), a statewide ballot initiative that legalized the possession, sale, cultivation, and use of recreational marijuana and required the state to create a regulatory structure to encompass all commercial aspects, including licensing and taxation.

While nine states plus Washington, D.C., have legalized recreational marijuana use in recent years, in many ways, California is an outlier. While other states are developing regulatory approaches to create entirely new marijuana economies, the Golden State has long had a reputation for having a permissive and progressive marijuana culture. In 1996, it became the first state to legalize medical marijuana for qualified patients via the Compassionate Use Act (sometimes referred to as Proposition 215).

As a result, California already had a thriving infrastructure of cannabis cultivators, manufacturers, and retailers by the time Prop 64 passed. But because there were no official regulatory or licensing structures in place, these businesses existed on the legal periphery, or what some refer to as the "gray market" — not quite in the underground market, since their business activities were enabled by the state, but also not squarely within the realm of legal compliance.
Prop 64, which officially went into effect last January, was the first time that regulators across the state were called upon to develop strategies to formalize the relationship between government and the marijuana industry, from seed to sale. The measure has allowed state regulators to create a broad regulatory infrastructure for licensing while providing local jurisdictions quite a bit of latitude in determining specific planning and zoning approaches according to their communities’ needs and priorities.

A year in, many counties and municipalities are still working out the details. Where states like Colorado have realized the potential revenue opportunity by collecting business and sales taxes, in California, where land values are already at a premium, local planners have a unique challenge to contain disruptive economic effects as much as possible.

Some California counties and communities see Prop 64 as an opportunity to introduce new economic activity. Others have taken a more restrictive approach, handling land use and zoning for cannabis similarly to the regulations already in place for liquor stores and other locally undesirable land uses. However, the precedent of cannabis being treated like medicine prompted officials statewide to consider the nuances of public and industry opinion.

State and local regulators are still learning and revising their regulations to acknowledge the complicated nature of balancing so many priorities. The lessons learned and wide range of approaches taken so far offer a different perspective — and valuable insights — for planners and policy makers looking to regulate recreational cannabis in their own jurisdictions.
Blunts & Moore was the first dispensary to open under Oakland, California’s cannabis equity program. To qualify, individuals must have had a cannabis conviction or live in a community found to be overpoliced with regards to cannabis arrests. The goal of the program is to help them overcome the challenges of marginalized business owners. Photo courtesy Blunts & Moore.

Licensing and regulations

In January 2018, California introduced a two-tiered licensing structure that requires businesses to secure local business permits before they can receive a state cannabis business license. On the state's end, the licensing process is complicated, with the Bureau of Cannabis Control regulating commercial licenses for retailers, distributors, laboratories, and events; the California Department of Food and Agriculture issuing licenses for cultivators; and the California Department of Public Health handling the manufacturing of edibles. This dual system has required local agencies to create their own processes and mechanisms for permitting businesses if commercial cannabis activities are allowed locally.

Some counties have developed entire cannabis departments to handle the regulatory burden; others have relied on the existing conditional use permitting process as a means for signaling local approval to state regulators.

Many jurisdictions that already had substantial cannabis business activity under Prop 215 rules have formed advisory committees to instruct local leaders on how to move forward. "We had dozens of growers that were allowed under the medical market, but we didn't have a regulatory structure to permit them," says Tim Ricard, the cannabis program manager at Sonoma County's Economic Development Board. "We had to think both about how to transition those folks into the legal, regulated market and also how, as this industry grew and matured, it would fit into the traditional agriculture."

Some farmers in Sonoma County were apprehensive about cannabis cultivation on land adjacent to theirs because of the common perception that it would bring illegal activity. There was also concern that cannabis cultivation would quickly turn into a speculative market, driving up land values and making the area prohibitively expensive for existing farmers.

Ricard notes that reassuring community members over concerns about displacement of existing economic activities — even in areas like Sonoma County that have traditionally accommodated cannabis cultivation — is a big challenge for planners.

That makes outreach and education key. The county held an eight-part "Dirt to Dispensary" workshop series to introduce both existing and prospective operators to all aspects of the county's cannabis program — including zoning, permitting, inspections, communicating with neighbors constructively,
standards, and business requirements. The program attracted more than 300 participants.

"By bringing [existing cannabis business operators] into the legal market, we’re bringing them into the permitting structure that is available to wineries and everyone else," notes Amy Lyle, supervising planner in Sonoma County's Planning Division. The county also implemented a penalty relief program at the outset to allow existing cannabis businesses to continue operations while they pursued their business permit.

A Cannabis History

<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
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<tbody>
<tr>
<td>1600–1890s</td>
<td>The U.S. government encourages domestic production of hemp to make rope, sails, and clothing. In the late 19th century, cannabis becomes a popular ingredient in over-the-counter medicinal products.</td>
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<tr>
<td>1906</td>
<td>Federal Pure Food and Drug Act requires cannabis labeling in over-the-counter remedies.</td>
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<tr>
<td>1900</td>
<td>Mexican immigrants flood into the U.S. after the Mexican Revolution of 1910 and introduce recreational use to American culture. Now frequently called by the Spanish word <em>marijuana</em>, it is connected to fear and prejudice about the Spanish-speaking newcomers.</td>
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<tr>
<td>1930</td>
<td>The Federal Bureau of Narcotics is created.</td>
</tr>
<tr>
<td>1931</td>
<td>The list of states outlawing cannabis rises to 29 as fear and resentment of Mexican immigrants increases.</td>
</tr>
<tr>
<td>1932</td>
<td>The Federal Bureau of Narcotics wages the infamous &quot;Reefer Madness&quot; propaganda campaign and encourages state governments to adopt the Uniform State Narcotic Act.</td>
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<tr>
<td>1937</td>
<td>Congress passes the Marijuana Tax Act, which effectively criminalizes cannabis by restricting possession of the drug to individuals who pay an excise tax for certain authorized medical and industrial uses.</td>
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<tr>
<td>1952, 1956</td>
<td>The federal government establishes mandatory minimum sentences for marijuana possession and use.</td>
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<tr>
<td>1970</td>
<td>Congress repeals most mandatory minimum sentences for possession of small amounts of marijuana and categorizes it separately from other more harmful drugs.</td>
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<tr>
<td>1971</td>
<td>President Richard M. Nixon officially declares the War on Drugs and introduces an era of new mandatory sentencing minimums for possession and distribution of marijuana.</td>
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<tr>
<td>1973</td>
<td>The Drug Enforcement Administration is created.</td>
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<tr>
<td>1989</td>
<td>Congress creates the Office of National Drug Control Policy.</td>
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<tr>
<td>2012</td>
<td>Washington and Colorado permit retail sales of cannabis.</td>
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<tr>
<td>2014</td>
<td>Alaska, Oregon, and Washington D.C., legalize recreational use through ballot measure.</td>
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<tr>
<td>2016</td>
<td>California, Nevada, Maine, and Massachusetts approve ballot measures to legalize recreational cannabis.</td>
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<tr>
<td>2018</td>
<td>Vermont becomes the first state to legalize recreational cannabis by way of state legislature, and Michigan approves a ballot measure legalizing recreational use.</td>
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Sources: PBS.org, Online Paralegal Degree Center

Building regulatory capacity

Developing a regulatory structure to handle permitting is an important and necessary first step in building a local cannabis economy. The approach a community chooses will often depend on the size of its jurisdiction and the activities that are likely to take place within it.

Many municipalities are finding that housing all cannabis-related functions in a single office that acts as an intermediary with other local departments is an efficient way to go: It helps streamline permitting, outreach, and community relations, and builds cooperation and buy-in among diverse stakeholders.

In July 2015, the San Francisco Board of Supervisors formed a Cannabis State Legalization Task Force to inform the scope and role of what would eventually become the San Francisco Office of Cannabis. That office is responsible for issuing permits and acting as a liaison for business owners, community members, and local agencies.
Centralized offices that coordinate the efforts of multiple city departments are also useful in terms of outreach and education to community members, which is necessary when introducing something like cannabis into a new context, including destigmatization efforts in the wake of the decades-long War on Drugs. Giving the general public a clear point of contact in case of any issues, as well as providing them with the proper resources and information about business developments, can help assuage confusion.

Communities introducing new cannabis regulations can also benefit from working closely with cannabis businesses, both existing and new, to navigate challenges and ensure mutually beneficial outcomes. For example, in its original iteration of state regulations, California's Bureau of Cannabis Control prohibited cannabis manufacturers from sharing kitchen facilities. However, as a result of ongoing outreach and relationship-building with local cannabis operators, the city of Oakland found that rule to be problematic.

"As a practical matter, the cost of building a new kitchen facility was prohibitive to cannabis business owners. We saw an opportunity to help businesses reduce costs by going to Sacramento and advocating to the BCC to create a shared kitchen model because of the need we observed on the ground," says Greg Minor, assistant to Oakland's city administrator, who deals specifically with cannabis, special permits and nuisance abatement.

Because of the close relationships Minor has cultivated with local cannabis businesses, he's been able to effectively advocate on behalf of operators, and the BCC has updated its regulations to allow for shared-use commercial kitchen facilities in jurisdictions across the state.

**Economic development opportunities**
Hollywood director and winemaker Francis Ford Coppola has invested in a new venture that markets luxury marijuana products along with his signature wine brand. Photo by Justin Hargraves.

Besides lowering administrative and enforcement expenditures, the potential for economic stimulation is an attractive reason behind legalization. Local governments can collect sales tax and business licensing fees. Local economies can also benefit from a range of ancillary economic activity, from
tourism to commercial corridor revitalization. Pete Parkinson, AICP, former planning director in Sonoma County, pointed out that cannabis legalization has even been a boon to the region's existing wine industry.

"There's a close connection between wine industry tourism and a burgeoning connection between craft brewing and tourism, so I would guess there will be synergies without a doubt," Parkinson notes.

In fact, the popular Francis Ford Coppola winery headquartered in Geyserville, California, recently introduced an independent operation that markets luxury marijuana products in conjunction with the signature Francis Ford Coppola wine brand.

The Sonoma County Fairgrounds also hosts the annual Emerald Cup — a showcase and competition between local cannabis producers considered to be the "Academy Awards of Cannabis." The event consistently draws tens of thousands of people to Santa Rosa, along with economic activity.

The opening of the recreational market has brought some in real estate changes in the area too. Although the Sonoma County Economic Development Board is still collecting data on the specific effects of the cannabis industry, Cannabis Program Manager Tim Ricard says that it has driven vacancy rates in commercial and industrial zones down, while price per square foot has risen since legalization in Santa Rosa, Sonoma's county seat.

Oakland's Green Zones for Cannabis

Oakland allows and licenses all major types of medical and adult-use cannabis businesses, but steers most cannabis activities to designated areas. This "Green Zone" map dovetails with its existing zoning code, with restrictions for each area as noted below. Right now most of the cannabis businesses are located in industrial zones.

View an interactive version of this map (http://oakgis.maps.arcgis.com/apps/webappviewer/index.html?id=7e9130f4bd684fa08d893bba2e6bf7d) online in ArcGIS.

Zoning and land-use considerations

The biggest tools planners have wielded in regulating cannabis activities are buffering, zoning overlays, and permitting. California state law delegates land-use and zoning authority to cities and towns, leading to a varied landscape statewide in terms of location and type of business activity.

In many cities, a buffer zone of 1,000 feet from sensitive uses like schools, parks, and day care centers is required; in San Francisco, the most densely populated city in the state, that buffer was reduced to 600 feet to compensate for the relatively small size of the city. Generally, commercial manufacturing and cultivation are prohibited in residential areas.
“Green Zones” have also been established in some municipalities to steer cannabis activities to designated areas. This typically allows businesses to be established by right, without being subject to a lengthy zoning review process. This strategy has the bonus of stimulating growth in previously blighted industrial areas and can strategically introduce new activity in areas that need new life. That was the case in Oakland, where the city aligned cannabis business uses with its existing zoning code; currently the majority of cannabis activity is located in industrial zones, since they are typically not open to the public.

Oakland has also used municipal code and permitting processes to incorporate its equity priorities directly into cannabis regulation. It was the first city in the country to launch a cannabis equity program, designed specifically to acknowledge the barriers that black and brown business owners face in the wake of the War on Drugs, in hopes of repairing some of the harm that overpolicing has done within these communities.

As a result of a race and equity analysis of medical cannabis regulations conducted by Oakland City Council shortly after Prop 64 passed, the city set an ambitious goal of requiring that half of all cannabis business permits issued in the initial permitting phase must go to equity applicants. To qualify, individuals must have either had a cannabis conviction or lived in a community that has been found to be overpoliced with regards to cannabis arrests, and they must make no more than 80 percent of Oakland's area median income.

The Oakland model also looks to overcome the challenges marginalized business owners might face in securing operations space. It introduced a mentorship component by pairing each equity applicant with an incubator business, which agrees to provide equity applicants with free space to operate on their premises in exchange for receiving incentives and expedited permitting.

Since Oakland launched its program, San Francisco and Los Angeles have both followed suit, iterating on the eligibility criteria and incentives. Oakland's Greg Minor emphasizes the importance of centering equity in local cannabis discussions: "The sooner a jurisdiction has these conversations and tries to address these systemic issues, the sooner they'll be on the path toward resolving them, as opposed to tackling them later down the line."

Juell Stewart is an urban planner and policy researcher based in San Francisco. Her website is juellstewart.com.

Planning and Policy Lessons from Colorado
MITIGATE NUISANCES
Implementing standards for mitigating nuisances can be an opportunity to set industry best practices.

Kim Kreimeyer, a planner with Aurora, Colorado's Marijuana Enforcement Division, says that Aurora wanted to distinguish its cultivation facilities from surrounding cities, which had a reputation for having a noticeable and distinct marijuana smell outside of the industrial buildings. The result is what Kreimeyer describes as the most stringent odor control standards in the entire state. But they left the "how" up to the individual businesses.

"We did not prescribe how the industry was to mitigate odor. We left it up to them," Kreimeyer says of the regulation and incentive-driven effort.

"Initially we saw licensees use carbon filters, while some transitioned to ozone filtration, while others utilize both," she says.

In an industry with rapidly evolving technology, this kind of approach encourages businesses to innovate to satisfy local requirements.

REGULATE LIGHTING AND ENERGY USAGE
Similarly, Aurora's indoor-only cultivation offers an opportunity to affect energy reduction benchmarks by introducing rigid guidelines for lighting. Grow operations in the city are required to have extra cooling mechanisms, and most of the growers have transitioned from fluorescent lighting to more energy-efficient LED lights, keeping costs and usage low.

ENCOURAGE REVITALIZATION
Aurora's cannabis cultivators were also limited in the spaces they could access shortly after recreational legalization.

Because many new developments and shopping centers were still bound by bank-backed mortgages, property owners were hesitant to jeopardize their investments by running afoul of federal law.

This shutout from leases in new construction meant cannabis businesses had no choice but to occupy vacant properties, which spurred adaptive reuse across the city.

"In the economic downturn, we had vacant buildings that operators were able to lease. From a land-use perspective, we required that the site plan was up to date, so we got replaced dead or dying landscaping, renovated parking lots, etc," she says.

Kreimeyer says this was a catalyst behind many rehabilitation projects in commercial and industrial buildings.

BE FLEXIBLE
Kreimeyer's advice to planners grappling with regulating cannabis — whether they are in communities introducing an entirely new industry or in towns balancing a new regulatory framework for a legacy business sector — is simple: "Be flexible. It's going to be changing constantly. It will be a learning process, and things will come up continuously that will need to be addressed."

Planners and policy makers can work together with constituents and business owners to determine the appropriate approach that fits their community's needs.

In a rapidly changing industry, government officials have to be willing to learn and share best practices.

Can Cannabis Policies Catch Up?
FINANCING

By far, the biggest hurdle for cannabis operators is access to capital. Financial institutions are regulated by the Federal Deposit Insurance Corporation, which guarantees a bank's deposits. However, doing business with a cannabis operator puts this insurance at risk since it runs afoul of federal regulations.

The effect is essentially a de facto ban on banks doing business with the cannabis industry. Since they're cut off from more mainstream methods of fundraising and financing, a significant number of businesses rely on cash and private investors.

This reliance on cash financing means that business owners from marginalized communities are all but excluded from entering the marketplace, even in cities like San Francisco and Oakland that have provisions to prioritize eligible applicants that meet certain income and residency criteria in equity programs.

Cash transactions also pose a security risk; for neighbors near dispensaries that handle tens of thousands of dollars of cash daily, this can be a serious point of contention.

California State Treasurer John Chiang convened a Cannabis Banking Working Group to explore the feasibility of introducing a statewide public bank that would allow cannabis businesses to circumvent the conventional banking industry and to alleviate the state-federal conflict. Ultimately, it was deemed too much of a legal and financial risk for the state to take on, and Chiang urged federal regulators to remove cannabis from the list of scheduled drugs to resolve the issue once and for all.

EVENT PERMITS

In September 2018, California Governor Jerry Brown signed Assembly Bill 2020, which allows local jurisdictions to approve temporary cannabis events, reversing previous Bureau of Cannabis Control rules that restricted events with cannabis consumption and sales to county fairgrounds. In cities like San Francisco — which is home to an annual "unofficial" (and thus unregulated) 4/20 event that attracts more than 10,000 visitors each year — this presents an opportunity to introduce a clear process for event producers that aligns the need for safe consumption sites with the needs of other city agencies.

Obtaining a state Cannabis Event Organizer license requires approval from a local jurisdiction for on-site consumption and sales, so the Office of Cannabis needed to develop a clear process.
In January, the San Francisco Office of Cannabis and the San Francisco Entertainment Commission hosted a panel to introduce the next steps for developing a regulatory structure for event permitting, which drew community interest from local cultivators to coordinators of neighborhood events.

Office of Cannabis Director Nicole Elliott, along with Supervisor Rafael Mandelman — whose district includes popular destinations the Castro and the Mission — developed an intentionally broad framework that gives the Office of Cannabis latitude in issuing permits while also recognizing the need for other agencies to have control over their jurisdictions; for instance, the Recreation and Park Department and the Port of San Francisco both have the power to decline cannabis events on their respective land.

The Office of Cannabis plays the role of an intermediary between the BCC's state-level process and the local interests of the city and county, while maintaining a balance between the authority of existing local agencies. The panel was an example of city agencies working together to include the public on important decisions regarding this new regulatory structure.

Even in a city like San Francisco, which has political will and a history of cannabis events, creating new regulation can be a lengthy process. Community and industry input goes a long way.

**PUBLIC CONSUMPTION**

Outside of the context of one-time special events, public consumption remains a complex hot-button issue.

People who live in federally subsidized housing are still bound by the rules of the federal government and face eviction if they consume marijuana, even when it's legal in their jurisdiction.

People who live in multiunit rental housing are also subject to restrictions on their method of consumption.

Aurora planner Kim Kreimeyer believes that public consumption is a key issue that's yet to be resolved on the state level in Colorado; currently, allowing on-site consumption is up to the municipality's discretion in California.

Offering people safe places to consume takes the burden off of law enforcement and ensures that people aren't penalized for enjoying something that is recreationally legal or medically necessary.
Euora operates in an upscale neighborhood of Aurora, Colorado's third-largest city, selling goods that would be illegal in most other states. Customers must be 21, but no doctor's prescription is required to buy the marijuana or, more precisely, the psychoactive constituent tetrahydrocannabinol.

You can buy the THC in beverages, chocolate bars, hard candies, tinctures, and balms. There's also hashish and concentrate, the latter in the form of oil, wax, and shatter, which is 70 to 90 percent THC. You "dab" this concentrate onto a hot surface to inhale the vapor. Budtenders say a little dab will do you.

Unlike the "nickel" bags of the 1960s and '70s, though, the contemporary products are explained in detail and the content of THC calibrated in milligrams. Start low and go slow, signs advise shoppers.

More remarkable than Euora's goods is its location among a small sea of chain franchises on the edge of the Southlands Lifestyle Center. Euora itself occupies a former bank building, tan and faux brick on the exterior, an American flag flying overhead. Inside, except for the former bank vault, it looks like a smartphone store.

Jars of cannabis sit on the tables. I stop to sniff the Pineapple Express. The adjoining tablet identifies it as a "hard-hitting Sativa that provides an energetic high that tends to last." Scrolling down the tablet's display, I am told I will be "happy, uplifted, energetic, euphoric and relaxed." Side effects? No mention of murderous urges here, unlike the warnings of drug crusaders who persuaded Congress to launch the U.S. war on drugs in 1937; what I could expect from Pineapple Express was only "dry mouth and dry eyes."

Then I start to wonder: Might a purchase of Black Bubba, Jilly Bean, or some other product discovered while researching this story be considered a business-related expense? [Editor's note: Nice try, Allen.]
In fact, the U.S. government still classifies cannabis as a controlled substance, its sale or possession punishable by extended prison sentences. Federal drug agents have left Colorado alone since 55 percent of Colorado voters approved a constitutional amendment in November 2012 to legalize the production, sale, and use of the drug.

Reflecting the federal stance, financial institutions involved in the federal banking system — virtually all of them are — steer clear of marijuana. Banks won't loan money for start-up ventures or property purchases, nor will they accommodate checks or credit card transactions overtly identified with the cannabis trade.

Legislation has been introduced in Congress to provide a path for cannabis to enter the financial mainstream. "The federal government can't keep an eye on business practices if they are forcing them offline and underground," says Rep. Denny Heck (D-Wash.), cosponsor of a bill introduced in April. It may not even get a committee hearing, though, says Taylor West, deputy director of the National Cannabis Industry Association. "But we do feel the forward progress even as we fight with the process."

Without access to the federal banking system, the 364 other stores across Colorado licensed to sell recreational marijuana as of April 30 have either shielded their income from banks or operate in a cash-only economy. You see lots of ATMs.


"We were starting ... from scratch," says Brennon Staley, the planner in Seattle's Department of Planning and Development who chiefly works on marijuana issues. Complicated regulations have made it difficult for pot entrepreneurs to find locations, he adds. Seattle, like Denver, has led the rest of the state. It has 100 dispensaries, of which 90 were previously medical dispensaries.

Voters in Alaska and Oregon last year also approved production, sales, and consumption of recreational cannabis. In Alaska, smoking, growing, and owning small amounts of marijuana became legal in February. State regulators are drafting rules at the moment; no applications for business licenses will be accepted until February 2016.

Washington, D.C., voters authorized a different format, called "grow and give." Sales are not allowed. D.C. residents will be allowed to grow a limited number of plants, possess a limited amount, and give away what they can't use. Mark Kleiman, a professor of public policy at the University of California, Los Angeles, argues that this and other alternative models should be examined.

"The path already laid out by Colorado and Washington State is the obvious one," he wrote in an essay posted on Slate last November. "Since alcohol is the only intoxicating and sometimes habit-forming drug now legally available without a prescription, the alcohol system — regulated for profit commerce — seems like the natural model to adopt when legalizing another intoxicating and sometimes habit-forming drug. But are we really satisfied with the results of the current alcohol system?"

Legalization proponents point to rising support for legalization reflected in polls. A Pew Research Center poll conducted in March found 53 percent of Americans supporting full legalization, and a Fox News poll in April reported 51 percent. This compares with just 12 percent in 1969, says Keith Stroup, a lawyer who
founded the advocacy group NORML in 1969.

Ballot initiatives proposing to legalize cannabis are being readied in Arizona, California, Nevada, Maine, and Massachusetts, which are among the 23 states, plus Washington, D.C., that allow cannabis sales for medicinal purposes. "If California legalizes it, it's over," says Russ Belville, who does a daily two-hour show on 420 Radio, which calls itself the NPR of THC.

Seeking answers

Colorado Gov. John Hickenlooper famously called marijuana legalization the great social experiment of the 21st century. Little outwardly has changed in Colorado, though. Tourists still come, and they don't see people standing on street corners vaping on pipes. Crime rates are stable. There have been rough edges, but for the most part, the experiment has gone better in the early stages than many expected. However, the core question that has been asked since the 1970s remains to be answered: Will legalized use of a drug cause more public health problems than it solves?

After voter approval in 2012, Hickenlooper appointed a task force that took just two months to create a 300-page road map for legislators to consider in regulation of cultivation facilities, product manufacturers, and retail testing centers. There are still some issues.

Ron Kammerzell, senior director of the Colorado Department of Revenue's Division of Enforcement, says legalized marijuana remains divisive but that disagreements about rule making "often lead us to better public policy."

Particularly divisive, he says, has been the debate about how to keep cannabis products away from children. A report issued by the Colorado Department of Public Health and Environment in January flagged a "three-fold increase" in hospitalization rates for children with possible marijuana exposure during the six months of legalization. But the data behind that statement was slim.

Rough edges

Another sore point has been packaging of edibles. Somewhat surprisingly, about 40 percent of all THC has been sold in the form of edibles. New York Times columnist Maureen Dowd didn't get hospitalized, but she famously wrote about her night curled on a hotel bed in downtown Denver, unable to move, after overindulging her mood-altering sweet tooth during the first weeks of legalized sales.

Dowd wasn't alone. With up to 100 mg per serving, some early customers wolfed down a whole cookie. Others, ingesting one portion and feeling no effect, would take another and then another. Compared to smoking, the effects of edibles ingestion are delayed but no less powerful.

Now, packages are better marked and portions clearly divided, with no more than 10 mg per portion. New rules that went into effect in October require individual packaging of edible marijuana products in a child-resistant container that is child-resistant for multiple openings. Retailers have also gotten more careful, with trade groups stressing the start-low and go-slow approach.

Pets, too, are occasionally getting addled. Mountain towns have had reports of dogs dazed after finding edibles or, in one case, a THC-infused apple that had been used as a smoking device. Cats tend to be more persnickety, say veterinarians.
Tax revenues were a guess. The state projected $70 million for 2014 but realized $63.4 million. Of that, $52.6 was for recreational cannabis and the remaining $10.8 million for medical. Of this, $17 million was allocated to school capital construction projects, as the constitutional amendment dictated, with the balance going into the state's general treasury or returned to local governments. Many local governments also enacted sales taxes.

Kammerzell says a key lesson from Colorado is to leave plenty of time to adopt rules. "It will be a lot harder, it will cost a lot more, and it will take a lot more time than you think it will," he says, adding that Colorado officials tell their counterparts from other states and nations to "make sure you have the financial resources to build a regulatory framework in the proper way."

Local scene

Local governments can set other rules, including locations and operating hours. In metropolitan Denver, stores close somewhere between 7 p.m. and midnight, depending on the jurisdiction. They also have the option of just saying no. Two-thirds of county governments took that route. Among municipalities, 53 allowed and 181 prohibited or had moratoria in place as of December 2014, according to Knowledge Now, a newsletter of the Colorado Municipal League.

"Not every city or town has the resources to support this industry, and not all of them want to support this industry," says Rachel Allen, staff attorney for the Colorado Municipal League.

Denver opened the gate widely and quickly, treating marijuana like alcohol and letting the free market determine the number of sales outlets. As of April 1, Denver had 103 of Colorado's 356 cannabis retail stores. It also had 198 of the state's 500-plus medical dispensaries, according to state Department of Revenue sources. Denver has more cannabis outlets and dispensaries than McDonald's and Starbucks stores combined.

Early on, some business leaders warned that legalization would drive off visitors. The fears appear unfounded. Still, the mountain town of Breckenridge last winter booted a cannabis dispensary off its Victorian-themed Main Street for fear of sullying the town's family-friendly image. Visitors intent on securing a stash need go just a short distance to the town's "green-light district," where they can find a string of cannabis shops amid the likes of a Crossfit gym, a woodworking shop, and an auto-repair business.

Cannabis shops get plenty of business. A study conducted after the first winter of sales found that out-of-state visitors made up 90 percent of recreational sales in mountain resort communities and nearly 50 percent in metropolitan Denver.

In Aurora, elected officials steered a middle course. They waited to see the evidence from Denver and other pioneering cities before allowing up to 24 dispensaries in a slow rollout, divided evenly among the city's six council wards. Rather than delegate to any one department, city officials chose to create an interdisciplinary team from five departments. Kim Kreimeyer, a senior planner, represents the planning department.

Aurora, says Kreimeyer, required dispensaries to stay beyond 1,000 feet of a school and 500 feet of a hospital or any inpatient treatment center. Stores must be at least 300 feet from residential and open-space zones. That doesn't leave all that much space, but dispensaries can be next to one another, if they
wish.

In fact, dispensaries have brightened Aurora's streetscapes. The Green Solution, a chain retailer, opened in early April in a former McDonald's that had been empty for several years. Now, the site is dressed up, and inside, it's like a well-lit jewelry store, the goods kept behind glass cases except for gift items such as a marijuana-themed clocks, jigsaw puzzles, T-shirts, and caps.

But the federal prohibition remains a sticking point along Colfax Avenue, Aurora's original main street. An overlay district specifies higher design standards, and other businesses benefit from federal community development block grant assistance to meet them. Marijuana retailers aren't eligible. "They're kind of left holding the bag, if you will, because the city applies the regulations to all applications and can't waive requirements for the cannabis businesses," says Kreimeyer.

But in one key respect, all the cannabis stores differ from liquor, shoe, or most every other store: All are required by state regulations to have maximum security.

Growing it

Grow operations are legal in Colorado. The marijuana plants are almost entirely grown inside buildings under intense lights in tightly controlled environments. In Denver, grow operations of up to 100,000 square feet are not uncommon, and there are rumors of a one-million-square-foot grow operation being planned.

The power needs are enormous. Gabriel Romero, a spokesman for Xcel Energy, the largest single supplier in Colorado, says the industry uses 150 to 200 gigawatt-hours per year of electricity.

Touring a small grow operation one night in February, I could understand why. Inside a 7,300-square-foot building on Denver's east side, half the space was devoted to round-the-clock cannabis cultivation under high-pressure sodium lights. This generates so much heat, even in mid-winter, that air conditioning must also be employed, as the plants grow best at 70 to 76 degrees, explained Bruys Henderson, our guide.

This creates a tremendous electrical demand, with a bill of up to $15,000 per month. One of Henderson's jobs is to figure out how to reduce that demand, which he is trying to do with LED lighting.

But in some jurisdictions, smell has been a major issue. What to one person is a slightly sweet, skunky aroma of flowering cannabis plants is all skunk to someone else.

Odor has been among the issues fielded by Joan Armstrong, the director of the Pueblo County Department of Planning and Development. Located two hours south of Denver, the county has an economy based on a steel mill, retirees drawn by cheap land, and agriculture. Hot weather and plentiful sunshine allow production of chili peppers — and now cannabis. Controversy has followed. "Every hearing is a mini-forum," says Armstrong. "People are getting on their soapboxes."

But farther south, sparsely populated Huerfano County has welcomed grow operations along the Cucharas River to help restore an economy that has faltered since the last coal mines closed 60 years ago. Steven B. Channel, the county's planner and code enforcement officer, reports seven applications and two approvals as of April. The county has approved no testing operations or retail sales, however. It is leaving that to other jurisdictions.

Going legit?

Marijuana Laws in 50 States

After nearly a year and a half of legalization in Colorado and a year in Washington State, many questions linger. One is whether regulations and taxes have brought the former underground economy above ground. Tax rates may hinder that. Colorado consumers can pay upward of 30 percent, when all state and local taxes are included, on recreational cannabis. As a result, many state residents who were "medical" users before have remained medical patients, simply to avoid the higher tax on recreational pot.
Seattle's Staley sees a more complex calculus. "If everything — the tax issues, the regulatory burden, the locational criteria — don't work together to create a legal market, then the black market will still thrive," he says. "It's not all lined up yet in Washington State."

There are also questions about public health impacts. Reviewing existing scientific literature, Colorado's Retail Marijuana Public Health Advisory Committee in January issued a report that found the risk of motor vehicle crash doubles among drivers with recent marijuana uses, and that using alcohol and marijuana together increases the risk of a motor vehicle crash more than using either substance alone.

Too, regular marijuana use by adolescents and young adults is associated with impaired learning, memory, and math and reading achievement, even 28 days after the previous use. The report also pointed to the need to fill in myriad research gaps: "More research is needed on the potential therapeutic benefits of marijuana."

In the cannabis shops I visited, there was no residual skepticism. "An overdose is called a nap," one budtender said with a smile. Another declared she would never use pain pills when she got older; cannabis was nature's remedy.

Tim Byers, associate dean for public health practice at the Colorado School of Public Health, points out that growers have been creating new strains that isolate cannabinoid with properties that produce beneficial neurological effects without making people high. He wants to see more research, but adds that the federal government doesn't make it easy. He describes "a bunch of hoops and various federal permits."

"We need to get marijuana to not be a schedule 1-controlled drug, and we need to get the Drug Enforcement Administration and the Food and Drug Administration to loosen up," he says.

Colorado legislators have appropriated $9 million for "objective scientific research regarding the efficacy of marijuana and its component parts as part of medical treatment." The state Department of Public Health and Environment has budgeted $6 million for marijuana-related education campaigns.

Do Colorado and Washington State really represent a step forward? Or do other models make more sense? We now have several laboratories to examine those questions.

*Allen Best is based in Denver, where he edits the e-zine Mountain Town News. He is a frequent contributor to Planning.*

Oregon Gets Ready
When Oregon's Measure 91 passed the public vote by a 56–44 margin in November 2014, legalizing marijuana for recreational use, it was yet another step in a national trend toward decriminalization. In March, Tom Towslee, the acting director of communications for the Oregon Liquor Control Commission, answered questions about the challenges facing state staff.

Q: How much did Oregon's proposed legalization copy Colorado's and other states?
A: Like Oregon, Colorado had an existing medical marijuana program prior to the legalization of recreational marijuana. For that reason, it has been a much better model for us as we move forward. Officials from the OLCC have been in touch with their counterparts in Colorado and Washington to learn from their experiences and determine the best practices.

Q: How much of the existing medical marijuana legislation was carried over?
A: The ballot measure that legalized recreational marijuana in Oregon made it clear that the existing medical marijuana program would remain separate and not fall under regulation by the OLCC. Also, Oregon's medical marijuana program is largely unregulated, while the recreational marijuana program will regulate marijuana from seed to sale.

Q: Explain some of the external pressures, perhaps from counties and municipalities, to form legislation that takes their specific needs into account.
A: The voter-approved measure that legalized recreational marijuana expressly prohibited local taxes on marijuana. There are efforts by cities and counties in Oregon to lift that ban and allow for local taxation. That is something that the state legislature will need to sort out. The OLCC will begin writing rules based on the law that exists today. If the law is changed then we will adapt accordingly.

Q: Legalized possession begins this month (July 2015); license application review will start next January. How will the state planning agency use that time?
A: The OLCC will use that time in three ways. First and foremost is writing the rules necessary to implement the new law by January 4, 2016, the deadline to begin accepting applications for commercial recreational marijuana outlets and getting public input on those rules. Second will be an educational campaign before the July 1, 2015, legalization date to help Oregonians understand what is legal under the new law and what isn't. Third will be hiring the staff necessary to run the program and getting the technology up and running.

Q: How much of your planning has been affected by the public's marijuana misconceptions? Is the state looking at this as an informative opportunity?
A: Thanks in part to the existence of a medical marijuana program, Oregon has a well-established and sophisticated marijuana industry that many Oregonians are already familiar with. The biggest challenge facing the commission is to ensure that Oregonians understand what is allowed and what is not allowed under the new recreational marijuana law.

Q: The state's call for applicants to a marijuana advisory committee closed in March. How will you employ that board?
A: The Rules Advisory Committee is an integral part of the process. The committee will spend the time between now and November writing the rules necessary to implement the new law and present them to the commission for approval. What the agency learned during a public participation process that started in January with a survey of Oregonians and included 11 listening sessions throughout the state will play a key part in guiding the committee's work.

Erick Mertz is a writer originally from Portland, Oregon. His background is in case management and working to effectively operate nonprofit organizations serving persons with mental health and developmental disabilities.

RESOURCES

Images: With 40,000 square feet of cultivation space and two stores in Denver and Aurora, Medicine Man Inc. is one of Colorado's largest marijuana dispensaries. Dubbed "the Costco of cannabis" by the media, the company grows enough pot to fully stock both retail locations. Photos by Theo Stroomer.

