

**Jo Daviess County Planning Commission/Zoning Board of Appeals  
Minutes for Meeting  
At the Courthouse-7:00 PM  
November 20, 2019**

**Call to Order:** Meeting to order at 7:00 p.m.

**Roll Call Present:**

**Planning Commission:**

- ✓ Melvin Gratton
- ✓ Nick Tranel
- ✓ Laura Winter
- ✓ Ron Mapes
- ✓ Gary Diedrick  
Peter Huschitt, Alternate  
vacant, Alternate

**Staff & County Board Members:**

- ✓ Steve Keeffer, Highway Engineer
- ✓ Sandra Schleicher, JDC Health Dept.
- ✓ John Hay, State's Attorney
- ✓ Eric Tison, Planning & Development
- ✓ Robert Heuerman, JDC Board Member
- ✓ Melissa Soppe, Planning & Development

**Approval of Minutes:** A motion was made by Diedrick to approve the minutes of October 23, 2019. Seconded by Tranel. Voice Vote: All Ayes

Mel Gratton swore in all who might want to testify on any request this evening.

**New Business**

Approval of 2020 Meeting Dates as presented with November 2020 and December 2020 changed due to holidays.

A motion was made by Tranel to accept the 2020 meeting dates as presented.

Seconded by Winter

Voice Vote: All Ayes

**Joseph V. Ambrosia and Mary L. Ambrosia (2601 S Becker Road, Elizabeth, IL 61028) owners**, have petitioned for a Variance in the front yard setback, as established in Title 8, Chapter 3, Article A, Section 8-3A-6 A1c Public Streets, from the required fifty (50) feet to six (6) feet, a forty four (44) foot variation to place an accessory structure. Also requested is a variance in the required side yard setback, as established in Title 8, Chapter 3, Article A, Section 8-3A-6 2 Minimum Side Yards, from the required twenty (20) feet to six (6) feet, a fourteen (14) foot variance. Property is located in the AG Agricultural District. Commonly known as 2601 S Becker Road, Elizabeth, IL

**Staff**

- Comprehensive Plan: The Comprehensive Plan does not address Variances, but does recognize the importance of the rural character and excellent quality of life existing in the county, stating that it shall be enhanced and protected.

- Wastewater Treatment: The septic system serving this property is located north of the house. This variance request should not affect the system.
- Access Considerations: The property has an existing entrance onto Woodbine Township maintained Becker Road with adequate site distance.
- Other Considerations: The property is located in Woodbine Township, approximately 1.2 miles north of Elizabeth. The parcel was created in 1992 and is a Lot of Record. The existing residence was built in 1990. The petitioner came to the office seeking a permit to place a new accessory structure on a portion of the property. As there is no road frontage for this parcel the Ag District requires a front setback of 50' from the front property line and a side setback of 20'. Also, the petitioner owns the adjoining parcel (23-000-185-20) on which there is an existing single family residence, built in approximately 1973. All surrounding properties are zoned AG Agricultural.

Eric indicates he wants to put solar panels on the property.

Joseph Ambrosia, owner

- Looking to put in a solar array to the south so there are no obstructions for the sun. I would like to get it so that it is positioned in the best possible area; we are far enough from the high lines, no shading from the high line pole. My wife and I own all three sides of this and the neighborhood would not be impaired by the solar panels.

**Public Testimony**

None

**Public Testimony Closed**

Eric indicates that I could have observed a zero lot line, but the existence of another single family home on the other parcel was a concern, and this option was better and gives him the opportunity to sell each separate yet.

Standards for variance reviewed 1 – ok; 2 – true; 3 – true; 4 – true; 5 – true; 6 – ok; 7- yes

A motion was made by Mapes to approve the variance request as presented from the front property line of fifty (50) feet to six (6) feet, a forty-four (44) foot variation for an accessory structure. Also from the side property line of twenty (20) feet to six (6) feet; a forty-four (44) foot variation stating the following:

1. Standards for variance reviewed and met

Seconded by Winter

Roll Call:	Gary Diedrick – Aye	Nick Tranel – Aye
	Ron Mapes – Aye	Mel Gratton – Aye
	Laura Winter – Aye	

**Richard D Jennings and Patti J Jennings (1669 Barberry Circle, Freeport, IL 61032) owners**, have petitioned for a Variance in the rear yard setback, as established in Title 8, Chapter 5, Article B, Section 8-5B-46 B4b Building Siting and Orientation, from the required thirty (30) feet to twenty four point six seven (24.67) feet, a five point three three (5.33) foot variation to allow for Guest Accommodations use. Property is located in the RP Planned Residential District. Commonly known as: 330 Thunder Bay Road, Galena, IL

## **Staff**

- **Comprehensive Plan:** The Comprehensive Plan does not address Variances, but does recognize the importance of tourism and the use of the homes for rental is a direct result of tourism.
- **Wastewater Treatment:** The septic system serving this property was installed in 2001 and is located south of the house. This variance request should not affect the septic system.
- **Access Considerations:** The property has an existing entrance onto East Galena Township maintained Thunder Bay Road. The sight distance to the south is adequate. The sight distance to the north is 300' which equates to a 30 mile per hour design speed. The regulatory speed limit is 40 miles per hour on the portion of road where the property is located.
- **Other Considerations:** The property is located in The Galena Territory and was constructed in 2001. Per the application and exhibit, this variance request applies to the location of the home and outdoor activity area. Guest Accommodations zoning requires a thirty (30) foot rear setback for all homes in the rental program. The parcel to the west is zoned AG. The other abutting parcels are zoned RP.

Steve Keeffer states that the site distance is not adequate for the speed of the road. This is a common occurrence in Jo Daviess County.

Eric indicates no comments from neighbors were received.

Diedrick asks if there are any other Guest Accommodations in that area or is it new to the area.

- Eric states that is a good question, not sure if we can verify any right at the moment.

### Patti Jennings, owner

- Turning it from a residential home into a Guest Accommodations. The house directly to the north is a rental property and has been for many years. We will be using the same rental agency as they are using. We do not want to change any fence lines, we do back up to a farm, the farmer is a very nice man and we are not wanting to change anything. There is a patio out the back that is closer.

Diedrick asks if the house is being used as a single family home or do you have people coming and going.

- Patti Jennings indicates that we have lived in the home and we have just left there and are in Freeport now. Instead of selling the house we decided to keep and do it this way. It was not built as a rental originally.

## **Public Testimony**

None

## **Public Testimony Closed**

Gratton states this is to acquire a Guest Accommodations and the reason for the setback is to create distance and setback between houses to make neighboring property owners more comfortable and less of an impact on them. The precedent or history of what we have done is when we have greenspace in that setback area is to look favorably upon those, because it already accomplishes our intent.



cannabis-infused products, cannabis seeds, paraphernalia or related supplies to purchasers or to qualified registered medical cannabis patients and caregivers, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

**ADULT-USE CANNABIS INFUSER ORGANIZATION OR INFUSER:**

A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

**ADULT-USE CANNABIS PROCESSING ORGANIZATION OR PROCESSOR:**

A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to either extract constituent chemicals or compounds to produce cannabis concentrate or incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis product, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

**ADULT-USE CANNABIS TRANSPORTING ORGANIZATION OR TRANSPORTER:**

An organization or business that is licensed by the Illinois Department of Agriculture to transport cannabis on behalf of a cannabis business establishment or a community college licensed under the Community College Cannabis Vocational Training Pilot Program, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

**CANNABIS:** Includes marijuana, hashish, and other substances that are identified as including any parts of the plant *cannabis sativa* and including derivatives or subspecies, such as *indica*, of all strains of cannabis, whether growing or not; the seeds thereof, the resin extracted from any part of the plant; and any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin, including tetrahydrocannabinol (THC) of greater than 0.3% on a dry weight basis and all other naturally produced cannabinol derivatives, whether produced directly or indirectly by extraction, in accordance with the Illinois Cannabis Regulation and Tax Act. CANNABIS includes cannabis concentrate and cannabis-infused products. CANNABIS shall not include industrial hemp as defined and authorized under the Industrial Hemp Act.

**INDUSTRIAL HEMP:** The plant *Cannabis sativa* L. and any part of that plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis that has been cultivated under a license issued under the Industrial Hemp Act or is otherwise lawfully present in this State, and includes any intermediate or finished product made or derived from industrial hemp.

\* \* \*

Create a new set of Use Standards as Section 8-5B-53: Adult Use Cannabis, of Chapter 5 (Use Table and Regulations) of Title 8 (Zoning Regulations) as follows:

## **8-5B-53: ADULT-USE CANNABIS:**

A. Purpose and Intent: It is the intent and purpose of this Section to provide regulations regarding the cultivation, processing and dispensing of adult-use cannabis occurring within the unincorporated areas of Jo Daviess County. Such facilities shall comply with all regulations provided in the Cannabis Regulation and Tax Act (P.A. 101-0027) (Act), as it may be amended from time-to-time, and regulations promulgated thereunder, and the regulations provided below. In the event that the Act is amended, the more restrictive of the state or local regulations shall apply.

B. Special Use: Adult-Use Cannabis Business Establishment facilities, as defined herein, requiring approval of a special use in the respective districts in which they are requested shall be processed in accordance with Chapter 2, Article D (Special Uses) of this Title and Section 8-5B-53 C. (Adult-Use Cannabis Facility Components) as provided herein.

C. Adult-Use Cannabis Facility Components: In determining compliance with Chapter 2, Article D. (Special Uses) of this Title, the following components of the Adult-Use Cannabis Facility shall be evaluated based on the entirety of the circumstances affecting the particular property in the context of the existing and intended future use of the properties:

1. Impact of the proposed facility on existing or planned uses located within the vicinity of the subject property.
2. Proposed structure in which the facility will be located, including co-tenancy (if in a multi-tenant building), total square footage, security installations/security plan and building code compliance.
3. Hours of operation and anticipated number of customers/employees.
4. Anticipated parking demand based on Chapter 4, Article D of this Title and available private parking supply.
5. Anticipated traffic generation in the context of adjacent roadway capacity and access to such roadways.
6. Site design, including access points and internal site circulation.
7. Proposed signage plan.
8. Compliance with all requirements provided in Section D (Adult-Use Cannabis Craft Grower); Section E (Adult-Use Cannabis Cultivation Center); Section F (Adult-Use Cannabis Dispensing Organization); Section G (Adult-Use Cannabis Infuser Organization); Section H (Adult-Use Cannabis Processing Organization); or Section I (Adult-Use Cannabis Transporting Organization), as applicable.
9. Other criteria determined to be necessary to assess compliance with Chapter 2, Article D (Special Uses) of this Title, including but not limited to, submission of State of Illinois licensing information.

D. Adult-Use Cannabis Craft Grower: In those zoning districts in which an Adult-Use Cannabis Craft Grower may be located, the proposed facility must comply with the following:

1. Facility may not be located within 1,500 feet of the property line of a pre-

existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.

2. Facility may not be located within 1,500 feet of the property line of a pre-existing property zoned or used for residential purposes.

3. Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.

4. For purposes of determining required parking, Adult-Use Cannabis Craft Grower shall be classified as “For building and other enclosed structures” per Section 8-4D-7 (Schedule B of Off-Street Parking Requirements), provided, however, that the County may require that additional parking be provided as a result of the analysis completed through Section C (Adult-Use Cannabis: Special Use) herein.

5. Petitioner shall file an affidavit with the County affirming compliance with Section D\_as provided herein and all other requirements of the Act.

E. Adult-Use Cannabis Cultivation Center: In those zoning districts in which an Adult-Use Cannabis Cultivation Center may be located, the proposed facility must comply with the following:

1. Facility may not be located within 1,500 feet of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.

2. Facility may not be located within 1,500 feet of the property line of a pre-existing property zoned or used for residential purposes.

3. Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.

4. For purposes of determining required parking, Adult-Use Cannabis Cultivation Centers shall be classified as “For building and other enclosed structures” per Section 8-4D-7 (Schedule B of Off-Street Parking Requirements), provided, however, that the County may require that additional parking be provided as a result of the analysis completed through Section C\_(Adult-Use Cannabis: Special Use) herein.

5. Petitioner shall file an affidavit with the County affirming compliance with Section E\_as provided herein and all other requirements of the Act.

F. Adult-Use Cannabis Dispensing Organization: In those zoning districts in which an Adult-Use Cannabis Dispensing Organization may be located, the proposed facility must comply with the following:

1. Facility may not be located within 1,500 feet of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.

2. Facility may not be located in a dwelling unit or within 250 feet of the property line of a pre-existing property zoned or used for residential purposes.
3. At least 75% of the floor area of any tenant space occupied by a dispensing organization shall be devoted to the activities of the dispensing organization as authorized by the Act, and no dispensing organization shall also sell food for consumption on the premises other than as authorized in Section F.5 below in the same tenant space.
4. Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.
5. Facility may be issued a permit to host on-site consumption of cannabis if located in a freestanding structure occupied solely by the dispensing organization and smoke from the facility does not migrate into an enclosed area where smoking is prohibited. The security plan for the facility required by Section J (Additional Requirements) shall also reflect adequate provisions to respond to disruptive conduct and over-consumption. The on-site consumption permit shall be reviewed annually and may be suspended or revoked following notice and hearing as provided in Chapter 2, Article D, Special Uses of the County Code.
6. For purposes of determining required parking, said facilities shall be classified as  
“Retail establishment” per Section 8-4D-7 (Schedule B of Off-Street Parking Requirements), provided, however, that the County may require that additional parking be provided as a result of the analysis completed through Section C\_(Adult-Use Cannabis: Special Use) herein.
7. Petitioner shall file an affidavit with the County affirming compliance with Section F as provided herein and all other requirements of the Act.

G. Adult-Use Cannabis Infuser Organization: In those zoning districts in which an Adult-Use Cannabis Infuser Organization may be located, the proposed facility must comply with the following:

1. Facility may not be located within 1,500 feet of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.
2. Facility may not be located in a dwelling unit or within 250 feet of the property line of a pre-existing property zoned or used for residential purposes.
3. At least 75% of the floor area of any tenant space occupied by an infusing organization shall be devoted to the activities of the infusing organization as authorized by the Act. Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.
4. For purposes of determining required parking, said facilities shall be classified as  
“For building and other enclosed structures” per Section 8-4D-7 (Schedule B of Off-Street Parking Requirements), provided, however, that the County may require that additional parking be provided as a result of the analysis completed through Section C (Adult-Use Cannabis: Special Use) herein.

5. Petitioner shall file an affidavit with the County affirming compliance with Section G as provided herein and all other requirements of the Act.

H. Adult-Use Cannabis Processing Organization: In those zoning districts in which an Adult-Use Cannabis Processing Organization may be located, the proposed facility must comply with the following:

1. Facility may not be located within 1,500 feet of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.
2. Facility may not be located in a dwelling unit or within 250 feet of the property line of a pre-existing property zoned or used for residential purposes.
3. At least 75% of the floor area of any tenant space occupied by a processing organization shall be devoted to the activities of the processing organization as authorized by the Act. Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.
4. For purposes of determining required parking, said facilities shall be classified as  
“For building and other enclosed structures” per Section 8-4D-7 (Schedule B of Off-Street Parking Requirements), provided, however, that the County may require that additional parking be provided as a result of the analysis completed through Section C (Adult-Use Cannabis: Special Use) herein.
5. Petitioner shall file an affidavit with the County affirming compliance with Section H as provided herein and all other requirements of the Act.

I. Adult-Use Cannabis Transporting Organization: In those zoning districts in which an Adult-Use Transporting Organization may be located, the proposed facility must comply with the following:

1. Facility may not be located within 1,500 feet of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.
2. Facility may not be located in a dwelling unit or within 250 feet of the property line of a pre-existing property zoned or used for residential purposes.
3. The transporting organization shall be the sole use of the tenant space in which it is located. Facility may not conduct any sales or distribution of cannabis other than as authorized by the Act.
4. For purposes of determining required parking, said facilities shall be classified as  
“For building and other enclosed structures” per Section 8-4D-7 (Schedule B of Off-Street Parking Requirements), provided, however, that the County may require that additional parking be provided as a result of the analysis completed through Section C (Adult-Use Cannabis: Special Use) herein.
5. Petitioner shall file an affidavit with the County affirming compliance with

Section I as provided herein and all other requirements of the Act.

J. Additional Requirements: Petitioner shall install building enhancements, such as security cameras, lighting or other improvements, as set forth in the special use permit, to ensure the safety of employees and customers of the adult-use cannabis business establishments, as well as its environs. Said improvements shall be determined based on the specific characteristics of the floor plan for an Adult-Use Cannabis Business Establishment and the site on which it is located, consistent with the requirements of the Act.

K. Co-Location of Cannabis Business Establishments. The County may approve the co-location of an Adult-Use Cannabis Dispensing Organization with an Adult-Use Cannabis Craft Grower Center or an Adult-Use Cannabis Infuser Organization, or both, subject to the provisions of the Act and the Special Use criteria within the Jo Daviess County Zoning Regulations. In a co-location, the floor space requirements of Section F. 3 and G. 3 shall not apply, but the co-located establishments shall be the sole use of the tenant space.

\* \* \*

Add to the use table in Section 8-5A-6 of Chapter 5 (Use Table and Regulations) of Title 8 (Zoning Regulations) as follows:

USE TYPE	ZONING DISTRICTS								
	RESIDENTIAL				NONRESIDENTIAL				Use Standards
	A	R-1	R-2	RP	Con	C	M	IND	
Adult Use Cannabis:									
Craft Grower	S						S	S	8-5B-53 D
Cultivation Center	S						S	S	8-5B-53 E
Dispensing Organization	S					S	S	S	8-5B-53 F
Infuser	S					S	S	S	8-5B-53 G
Processor	S					S	S	S	8-5B-53 H
Transporter	S					S	S	S	8-5B-53 I

**Staff**

Eric Tison

With the recent approval of adult use, recreational cannabis by the State of Illinois via Public Act 101-0027 (Cannabis Regulation and Tax Act), local jurisdictions have the authority to enact reasonable zoning regulations that are not in conflict with the act. Such regulations may designate the time, place, manner and number of cannabis business operations including minimum distances between locations through conditional (special) use permits.

As the County Board did not take any action to opt out or prohibit cannabis business establishments that necessitates an amendment to the Zoning Ordinance to more clearly define

standards for the growing, processing and selling of recreational cannabis in the unincorporated areas of the County. This amendment will not authorize the establishment of cannabis facilities within any of the municipalities in the County. This amendment will also not authorize the growing of cannabis in homes; that is regulated by the medical cannabis program.

What you have before you is a proposed text amendment, utilizing a model provided by UCCI (United Counties Council of Illinois), which provides direction on establishing the various recreational cannabis facilities, including:

- Adding definitions to Section 8-7-2 for adult use cannabis business establishment, craft grower, cultivation center, dispensing organization, infuser, processor and transporter as well as definitions for cannabis and industrial hemp
- Creating Use Standards for each of the named facilities to a new Section 8-5B-53
- Inclusion of each facility in the Use Table in Section 8-5A-6, and referencing the standard created

Cannabis definitions clearly reference Public Act 101-0027. A definition for industrial hemp was included to allow for clarification from adult use cannabis. The growing of industrial hemp is similar to any other tillable crop and is therefore permitted by right as agriculture in all zoning districts. This amendment does not apply to industrial hemp cultivation.

The Use Standards create a guide for applicants when submitting for zoning approval through a Special Use application, as well as a checklist for staff to assist with the review process. Each of the various facilities will be required to provide the items listed in Section C Facility Components, as well as adhere to the requirements for the specific establishment in Sections D through I. Facilities will have to meet setback requirements from schools, day care and nursing homes and residential properties. Minimum parking requirements are referenced and shall be adhered to.

This proposed amendment permits the various cannabis facilities to be established by Special Use in the AG, Commercial, Manufacturing or Industrial districts.

The Illinois Municipal League (IML) prepared a frequently asked questions information sheet, included for your review.

As a point of information, per the IML, the State will further regulate and license cannabis operations for cultivators, craft growers, infusers, transporters and dispensaries. The state may issue up to 295 dispensing organization licenses by the end of the first year and up to 500 by January 1, 2022. Cultivators will be capped at 50 and 100 craft growers will be allowed. By January, 2022 100 infuser organizations will be authorized to receive a license.

Multiple State agencies are involved in the licensing process including the Department of Agriculture (cultivation centers, craft growers, processors and transporters), Department of Financial and Professional Regulation (dispensing organizations), Illinois State Police (security plan review), among others. Per the standards, presented for review and recommendation, information provided to these departments will be included in any application for special use.

*For your consideration, from staff:*

If deemed an appropriate use, the zoning board can consider allowing the Craft Grower and Cultivation Center facilities to be permitted by right in the AG district on parcels larger than 40 acres, similar to the allowance of a residence. Parcels less than 40 acres would require a special

use, also similar to the allowance of a residence in the AG district. This would require a motion to amend the use table in a recommendation to the County Board.

With guidance from the State's Attorney, the Board may want to consider recommending a revision to the phrase 'regulations promulgated thereunder' to one that is more reader friendly.

State's Attorney Hay and Interim Health Dept. Administrator Schleicher are here.

Steve Keeffer no concerns

Sandra Schleicher indicates that as far as she can understand, we would only step in if it involved food production. There is not a lot of Illinois Department of Public Health involvement with the public act right now. It does not seem right now that it is technically legal by the FDA rules to use it in food, not sure how that will all play out, but the State of Illinois has not given their guidance yet.

- Gratton asks then what are the infusers putting this into then.
- Sandra Schleicher indicates that is the part we do not know yet. I don't know if we can go against FDA rules and allow or not. There are lotions and soaps.

John Hay, States Attorney, states that the language is very legalistic, but unfortunately I think it is a good starting point, because I think a year or so down the road we will see changes. The one concern I have is not from the legal perspective in regards to opening any liability or anything for the County, but from a personal perspective and I have expressed this to the County Board, there is a part that Counties can allow for consumption on site at dispensaries. The County Board has not voted on that yet, it was not part of opt in or opt out portion. The Zoning Board not only how do you zone the dispensaries, but do you zone them such that you can allow on site consumption only in the building. Personally I have a huge concern with that, because I think it encourages and then drive intoxicated or high when leaving the establishment which would lead to more traffic crashes and fatalities. Personally I think that is a bad thing for the County, not from a legal perspective. The State is recommending this because it may discriminate against low income because if you live in an apartment building your landlord can prohibit it and if you live in government housing you can't consume it there. This is a good starting point.

- Gratton asks about the placement in the use table and if special uses.
  - John Hay states that it makes sense to him. Everyone is about the same that have done this. They are taking the model code information.

### **Public Testimony Open**

Gratton asks about the definitions, if they seem okay.

Mapes asks about the 40 acres by permitted right

- Eric states that other counties have done this and wanted to see if that was something you would want to consider. I am perfectly comfortable with keeping them Special Uses. Sheriff is concerned with these, we normally would not contact Sheriff on a zoning request, but for these they will be notified and will get their input because of the security element.

Diedrick asks about the Federal law stating that recreational use of cannabis is illegal. I know what the State of Illinois has done and effective January 1, 2020, I find it difficult that we are trying to preempt the Federal Law, I think until that aspect gets resolved recreational use for adults doesn't even seem to be on the horizon in the State of Illinois.

- John Hay states that it is interesting part of this. Anybody who would open one of these are at risk if someone in the Federal Attorney General's Office steps in and wants to enforce the law, they absolutely could take their businesses away, freeze bank accounts. As of right now at the State level we have no authority to stop the possession of it. The only thing we can do is whether we are going to allow businesses in the county; we have no authority to stop someone from possessing it. The only thing is if we don't allow businesses, we are going to have a lot of illegally purchased black market cannabis here in the county, which will increase our criminal activity. It is really a double edged sword in regards to that, but I don't think we have a choice but to ignore the federal law and if the feds want to step in then the county is not going to be in any trouble, it will be the individual businesses that decided to run the risk with going forward with it.

Eric indicates that the state has issued some already. It is a valid point, Gary, but if someone were to come to our office, I don't have a means to even allow it in the county right now. How many other states are allowing this in some form?

- John Hay indicates we are at eight or nine other states allowing.

Eric states that we need a mechanism to deal with these, until some change is done at the Federal level.

Winter states that we need to be pro-active and not re-active on this.

Gratton states that information from the narrative states that licenses will be denied if not in compliance with local zoning laws. We need to put something that we are comfortable with in our zoning regulations.

Heuerman states that if we had a grower or dispensary going and the federal government came in and took everything, is the County liable?

- John Hay indicates no we are not; the individual owners are at risk and will know the risk going into this. We are just doing what the state statute told us to do.

Mapes asks if the way this is written, can you use it at a dispensary.

- Eric indicates yes, it is in there currently. The City of Galena is allowing for onsite consumption in their approval of recreational cannabis. The Zoning Board approved, not sure if City Council approved yet.

Mapes asks about using cannabis in a public place such as a restaurant or bar.

- John Hay indicates the only place it is allowed would be at the dispensaries, not in any other public place. Transporting it they have to leave it in the original packaging.
- Eric indicates that the consumption permit would be reviewed annually per the special use process; I have no other way to do that. I don't believe that is efficient. If you want to remove the onsite consumption and county board agrees, I am in agreement with that.

Gratton states that I agree with everything John Hay stated before. I find it ironic that no use of this product can be used out in the public and then providing a public place for people to go to. They define a public place in the ordinance. This country has provided smoke free environments for many years and to say we are going to provide a place to smoke, I don't care what it is that goes against what we have done from a public health standpoint. I am on board with omitting this.

Tranel agrees with Gratton to remove

Winter and Mapes agree

Eric states that I would recommend stating that on site consumption shall be prohibited; John

Hay agrees that makes it clear. Section F, 5.

Heuerman asks for clarification that you can go to the dispensary purchase it, keep in package and take it home and as long as you don't live in an apartment building or closer than 1500 feet to your neighbors, schools, etc. you can smoke it.

Eric states that the setbacks are from the property line of the individual property line on which the establishment is going to be present. If that facility is within 1500 of a nursery, preschool or other primary, secondary or daycare center it will not be permitted, if within 250 feet of a property zoned or used for residential purposes it will also not be permitted. This does not apply to using it. In most cases you will have to take it home.

John Hay states you would legally have to take it home. That is if you don't rent because your landlord can put in the lease that you are not allowed to consume it on their property.

Eric states that individual landlords can prohibit the use on their property.

John Hay states that it is ironic that they are allowing the using, but not on any government property.

Heuerman states that we have always had that clause in our leases, but not many went by it.

Gratton wants to clarify under standards #2 that this is a residential zoned or used for residential even if they are for ag.

- John Hay agrees with that interpretation.
- Eric states that if a 40 acre parcel is vacant but then a house is built they would need to meet the setback from the property line of the total parcel. If there is a residence it initiates this clause.

Mapes indicates this is only for county; cities can make their own regulations.

- Eric states that the City of Galena has done this.

Gratton asks if this gives the county the protection to place and locate these structures or uses the way we would like to see them. We would have to make that determination based on the special use process or do we need more direction within the standards. Examples would be Galena will not do these on Main Street, we are putting Special Uses in the Ag and that covers a lot of area in the county.

- Eric states the first set of standards are your guidelines. I am at a loss as well and not sure where we are going to see any one of these are going to be proposed. I think using the model ordinance as the guide until we get one. In the statute there are some proximity requirements between the establishments, I think it is 15 miles. I don't know where these are going to be requested, but they are going to want to be located in a higher volume, visible location. There are severe signage limitations in the statute that I won't have to worry about.

Gratton states that I don't think that they are going to be in really remote locations, but security is going to be a concern, would you like them in a highly visible area versus remote areas.

- Eric indicates that if we get an application we will get the information to the Sheriff's Department as well for any input on the application. The facilities will have to meet State requirements, but also the components Section C of this text. You will have flexibility to add additional conditions to the request.

Peter Huschitt

- You raise some good questions, but my comment would be that we are going down a

path that we are micro-managing something that we don't know how to micro-manage and that our jurisdiction is the entire county, which by definition is rural area, I don't know how we could begin to write a zoning law that starts to govern differences in the rural areas. We can't control municipalities, but we get everything else. I don't know how we begin to control that above and beyond the standard ordinance that these organizations have tried to develop to give us that guidance.

Gratton states that we can look at it a different way, are there places that we don't want it to be. We are going to have to base each one on our good judgement in placing these.

- Eric states that you could do that, but I don't know where those are at the moment.

Mapes states that the guidelines we are given here are what we will have to start with and go from there.

Eric states that there are many counties that have not made a decision on this yet.

Gratton states that there are a lot of suburban communities that have opted out.

Peter Huschitt

- The text can be amended at any time. The unknowns can be addressed at a later time.

Eric states that a Naperville business was awarded a license and then opted out.

Gratton states we may not get a dispensary, but may get a cultivation center or a craft grower, but these are probably going to be located near a dispensary.

Heuerman asks if we have a fee schedule for these places. So this will look like a gun shop on the outside, bars on the windows and steel doors.

- Eric indicates that I have not amended our fee schedule; it would be \$500 for the Special Use request. The building permit fee would be determined by the information submitted at time of building permit. If they are not starting from scratch, they will have to do a significant amount of remodeling work in an existing building and would need to get a building permit. I am not sure what these will look like, there is severe signage limitations so it may look like a vacant building that is occupied than a steel fortress.

John Hay asks if there are any other questions, I have to leave.

Gratton asks if anything we have done draws a red flag.

- John Hay agrees with everything, we are kind of in this nebulous area; we are going to have to make the best with what we can. You have the ability to review and if doesn't meet say no then change the ordinance to fit the criteria.
- Eric states that if we get a request, John will have to be present at the hearing.

Tranel asks in the section for setbacks why do we go from 1,500 to 250 for another.

- Eric states that this is in the statute and the model ordinance; they are making a decision on this. The Craft grower could be housed in a much larger facility and therefore a larger setback. Cultivation Centers and Craft Growers can get up to 200,000 square feet of space and needs to be setback greater.

Gratton states that they may have fences around these also

Diedrick talks about the requests that were in the Savanna Army Depot for the Medical Marijuana. We had to issue something on that.

Eric states that changing Section F. 5 it references Section J and need direction on what to do with that. It doesn't necessarily have to apply to one section, but leave it in for all

- They indicate leave it in.

Gratton states that we may only see these in municipalities, because of the sales tax.

**Public Testimony Closed**

Gratton states that if we want to restrict the dispensing we could take out of Agriculture and only have in Commercial, Manufacturing and Industrial.

- Eric states that we do have a lot of ground zoned Ag, so if we take it out, is that going to be detrimental because it fits with where someone wants to locate it based on the proximity to something else.

Gratton states that the City had a place not zoned appropriately to what the ordinance said so they changed the zoning classification of the property as well.

- Eric states that we could do a map amendment at the time if you change this. The area Galena changed was behind Wal-Mart and recommended approval. It is accessible, but still hidden, per my opinion. They are allowing onsite consumption in Galena.

Eric covers what has all been discussed – Definitions – no changes; use standard – F. 5 strike the existing language and should read – Prohibit on site consumption in dispensaries. Use table has not had any changes from what was presented.

Eric states there are some typographical error issues that staff has just pointed out where City is indicated and should be County. H. 5 and I. 5

Mapes asks Heuerman if what we have done if you see a problem or objection.

- Heuerman states that we have a few on the board that are all for this in any form and the revenue.
- Eric states that on site consumption is not going to change the revenue, because they still have to purchase it.

A motion was made by Tranel to recommend approval of the text amendment with the following changes:

1. 8-5B-53 F. 5 – should read – On site consumption shall be prohibited
2. Typographical errors of City should read County

Seconded by Mapes

Roll Call:	Laura Winter – Aye	Gary Diedrick – Nay
	Nick Tranel – Aye	Ron Mapes – Aye
	Mel Gratton – Aye	

**Reports and Comments:**

Tranel made a motion to adjourn at 8:50 PM. Winter seconded. Voice Vote: All Ayes