

**Athens City Planning Commission
Minutes of Regular Meeting
Wednesday, May 15, 2024, 12:00 p.m.**

A regular meeting of the Athens City Planning Commission was held in City Council Chambers, third floor of City Hall, on May 15, 2024.

Attendees: No attendees

1. Call to Order

John Kotowski called the regular meeting of the Planning Commission to order at 12:01 p.m. and established quorum with four members present.

PLANNING COMMISSION MEMBERS:

Chris Knisely	Present
John Kotowski, Chair	Present
Steve Patterson, Mayor	Absent
Austin Phillips, Vice-Chair	Present
Andy Stone, Service-Safety Director	Present

STAFF:

David Riggs, Code Enforcement Director	Present
Meghan Jennings, City Planner	Present

2. Disposition of Minutes

Chris K. moved to approve the May 1, 2024 minutes. Austin P. seconded. All present voted aye, motion passed 4:0.

3. Cases

Case #24-05 Tobacco Zoning and Cannabis Zoning

Meghan Jennings/Summary

- At the request of the commissioners at the last meeting, additional language has been added relating to tobacco products. The final text being reviewed today (attached for reference) includes the original language regarding cannabis (limiting the number of establishments per zone and setting distancing buffer requirements) with added text relating to the retail sale of tobacco products.

The updated paragraph (found in 23.04.04.-B-1(B)(2), 23.04.05.-B-2(A)(6), 23.04.06.-B-2D (C), 23.04.07.-B-3(A)(14), and 23.04.08.-M(5)) was read and explained.

- Both the cannabis and tobacco establishments are listed as principal uses in the B2, B2D, B3 & M zones. Tobacco establishments are listed as a conditional use in B-1 zones.

Discussion

- Austin P: Asked for clarification on whether all current cigarette retailers would have to comply, like a gas station that also sells cigarettes.

- Meghan J: The principal use for a gas station is selling gas so selling cigarettes is an accessory use.
- Austin P: Asked for clarification on distancing.
 - Meghan J: Property line to property line. Churches not included.
- John K: Commented that regarding tobacco zoning, the number of establishments is not being restricted, only a distancing requirement is being added (the distancing will drive it). With cannabis there is a number limit and a distancing requirement. Cannabis is more restrictive than tobacco so potentially there will be fewer cannabis locations.
- Andy S: Asked for clarification on why they did not include a limit on the number of licensed tobacco establishments.
 - David R: A number limit can be added, but their thinking is that cannabis will be a new use. Tobacco is not new, and the number of tobacco and vape shops is known. Given the uncertainty with the cannabis shops they thought having a little more control over cannabis would be appropriate.
- Andy S: Commented that the list of thirty-three current licensed tobacco retailers includes establishments where it is not the principal use (like WalMart, Kroger, etc.). He suggested that the list be further delineated by principal use retailers and not principal use retailers, and set the numbers based on the actual locations that are a principal use.
- Chris K: This would take more time, so process-wise, if it can be done in the next few weeks, she would support taking care of putting limits on the number of tobacco establishments now as opposed to coming back later.
- John K: Wondered if it was necessary to put a limit on the numbers.
- Andy S: Commented that he would like this to be sent to council as a package. Athens will get hit with recreational marijuana sooner than we can get this legislation ready. Beginning in June the Department of Commerce will be issuing the first licenses for recreational cannabis to medical marijuana dispensaries. We have two in Athens, and they will likely be getting their recreational marijuana licenses.
- Chris K: Inquired about the timeline to get it to council as a communication item and then have all three readings before July recess.
- Andy S: This will also require a public hearing, so there will not be any way that this will be adopted before July recess, but it should be sent to City Council as soon as possible.
- John K: Should the cannabis be more restrictive than tobacco?
- Andy S: Thinking more about the character of community, rather than the actual substance, the attempt is to establish zoning, and he would keep both along the same lines of restrictiveness, (but not restrict retailers if it is not the principal use).
- Chris K: In going through the list and counting the principal use establishments, depending on the number that is picked, we could be at capacity for licenses already.
- John K: If we are at capacity, someone could go to the BZA with a request for a variance if they wanted to open a smoke shop.
- Austin P: In order to sell cigarettes, you have to apply for a license, so if you apply the state can turn you down. It is not financially viable to open a tobacco-only store, so are we adding restrictions that we do not really need?
- David R: The vape stores are a stand-alone based on that they sell “nicotine-related products.”

- Andy S: The Department of Commerce is considering, in their initial set of rules, a 1-mile radius around cannabis shops. State could change this, but this puts a much greater limit than what is being discussed here. We should move forward even though it could change.
- John K: Should this be rewritten by the planner and code enforcement director with updated tobacco #'s?
- Andy S: Yes, and do we want a distance requirement between the establishments?
- Chris K: It would help protect some areas where we want to see diversity in economic development.
- David R: We want to consider these as two separate things, so is it okay to have a cannabis store next to a store that sells tobacco? And do you want establishments (if they sell both tobacco and cannabis) to hold two separate licenses as well?
- John K: It is likely that some tobacco stores will want a cannabis licenses, so they may not just be right door to each other but be one in the same.
- Andy S: That is the presumption. There are additional layers of restrictions imposed by the state (like security, etc.) put on recreational cannabis stores.
- John K: Do smoke shops have places to sit and smoke? And if so, do we see that happening with cannabis stores?
 - David R: Some will let you sample the different flavors.
- Andy S: On-site consumption is something we need to find out about.
- Austin P: Struggling with this because cannabis alters your state (like alcohol), but cigarettes/vape products do not. Why would we restrict this product versus another? There is a difference in his mind between cannabis and tobacco. He does not want to restrict a business from selling cigarettes if the State of Ohio says that they could.
- Chris K: If we do not restrict the tobacco, this would be ready to go.
- Andy S: Suggested that they just add the 500 ft. buffer requirement. Add a line to the paragraphs. Current stores are grandfathered in.

Andy Stone moved to adopt Case #24-05 as presented with the following modifications as discussed: add text requiring a 500 ft. buffer between establishments to the licensed cigarette, vapor product, or other tobacco product retail paragraphs (5). Chris Knisely seconded the motion. All present voted aye. Motion passed 4:0.

4. **Communications**

Andy Stone

Shared the May 1st announcement from the Governor's Office about the second round of Implementation Funding (ACG). Recipients included the City of Athens (6.5 M for a streetscape project along Carpenter, State, & Stimson, to include burying the overhead utilities), Mt. Zion Church and the SE Ohio History Center.

Austin P: Asked what burying lines looked like and if was a Union Street project all over again.

Andy S: No, particularly if they bore the conduit in. There will be spot installations for transformers, which will be the most difficult. The Union Street project completion date is November. There is a change order under review allowing the return to two-way traffic by the end

of July. The biggest barrier is not space, but private property service lines must connect via underground to the ground transformers. This has been done before in Athens along Court Street.

5. **Reports from Director of Development & Code Enforcement and City Planner**

David Riggs/Code Enforcement Director

- No report

Meghan Jennings/City Planner

- No report

6. **Opportunity for Citizens to Speak**

None

7. **Announcements & Other Business**

- Next meeting: June 5, 2024.

8. **Adjournment**

The meeting adjourned at 12:35 p.m.

Planning Commission Members,

In preparing for recreational marijuana legislation from the State, the Staff researched existing tobacco licenses by zone and proposes the following changes to Athens City Code in order to permit and restrict cannabis establishments throughout the community of Athens.

We suggest changes to the following sections of ACC 23.04 as follows:

23.04.05. - B-2 Business District.

(A) Principal permitted uses. Any convenience business or general business or services establishment, subject to the following general conditions:

(1) Residential uses are permitted only on the second story and above.

(2) Automotive services and service stations shall be at least 50 feet from any R-Zone and shall have no openings adjoining the R-Zone, other than stationary windows and fire escapes.

(3) Other uses: Any other retail business or service establishment or use, which determined by the BZA to be of the same general character as the above permitted uses, but not including any use first permitted or not permitted in the B-3 Zone.

(4) "Bed and breakfast" establishments.

(5) Hotels and motels.

(6) CANNABIS ESTABLISHMENTS. NO MORE THAN 2 ESTABLISHMENTS ARE ALLOWED WITHIN THE B-2 BUSINESS DISTRICT AND THEY SHALL BE AT LEAST FIVE HUNDRED (500) FEET FROM A SCHOOL, PUBLIC LIBRARY, PUBLIC PLAYGROUND, PUBLIC PARK, OR ANY OTHER CANNABIS ESTABLISHMENT.

(B) Permitted accessory uses: Accessory uses and structures as permitted and as regulated in the R-3 Zone and such other accessory uses and structures, not otherwise prohibited, customarily accessory and incidental to any of the foregoing permitted uses.

23.04.06. - B-2D Downtown Business Zone.

Same as specified in B-2, except for schedule of bulk controls Table A.

(A) Entertainment—Night clubs, theaters, billiard parlors, pool halls, bowling alleys, and similar enterprises shall be at least 100 feet from any R-Zone.

(B) "Bed and breakfast" establishments.

(C) CANNABIS ESTABLISHMENTS. NO MORE THAN 5 ESTABLISHMENTS ARE ALLOWED WITHIN THE B-2D DOWNTOWN BUSINESS ZONE AND THEY SHALL BE AT LEAST FIVE

HUNDRED (500) FEET FROM A SCHOOL, PUBLIC LIBRARY, PUBLIC PLAYGROUND, PUBLIC PARK, OR ANY OTHER CANNABIS ESTABLISHMENT.

23.04.07. - B-3 General Business Zone.

(A) Principal permitted uses: Any use permitted and as regulated in the B-2 and B-2D Zones, except as hereinafter modified in the following general conditions:

(14) CANNABIS ESTABLISHMENTS. NO MORE THAN 12 ESTABLISHMENTS ARE ALLOWED WITHIN THE B-3 GENERAL BUSINESS ZONE AND THEY SHALL BE AT LEAST FIVE HUNDRED (500) FEET FROM A SCHOOL, PUBLIC LIBRARY, PUBLIC PLAYGROUND, PUBLIC PARK, OR ANY OTHER CANNABIS ESTABLISHMENT.

(1~~5~~4) Other uses—Any other use which is determined by the BZA to be of the same general character as the above permitted uses, but not including any use which is first permitted in the M-Zone, or which is prohibited in the M-Zone.

(B) Permitted accessory uses: Accessory uses and structures as permitted and as regulated in the B-1 Zone and such other accessory uses and structures not otherwise prohibited, customarily accessory and incidental to any of the foregoing permitted B-2 uses.

23.04.08. - M Industrial Zone.

(A) Principal permitted uses: Any use permitted and regulated in the B-3 Zone and any industrial use, except as hereinafter modified in the following general conditions:

(5) CANNABIS ESTABLISHMENTS. NO MORE THAN 5 ESTABLISHMENTS ARE ALLOWED WITHIN THE M INDUSTRIAL ZONE AND THEY SHALL BE AT LEAST FIVE HUNDRED (500) FEET FROM A SCHOOL, PUBLIC LIBRARY, PUBLIC PLAYGROUND, PUBLIC PARK, OR ANY OTHER CANNABIS ESTABLISHMENT.

(6~~5~~) Other uses—Any other use that is determined by the BZA to be of the same general character as the above permitted uses but not including any use that is conditionally permitted in the M Zone under Section 23.04.07(B) or prohibited under Section 23.04.07(C).

(B) Permitted accessory uses: Accessory uses and structures permitted and as regulated in the B-2 Zone, except as hereinafter modified and such other uses and structures customarily accessory and incidental to any of the foregoing principal permitted uses for an M Zone.