

**MINUTES  
ZONING BOARD OF APPEALS  
NOVEMBER 13, 2019**

**CALL TO ORDER:**

Chairperson Rosenthal called the regular meeting of the Zoning Board of Appeals to order at 6:30 PM on Wednesday, November 13, 2019 at City Hall, 101 Green Street, Galena, IL.

**ROLL CALL AND DECLARATION OF QUORUM:**

As Roll Call was:

Baranski	Present
Bochniak	Present
Calvert	Present
Cook	Present
Jansen	Present
Nybo	Present
Rosenthal	Present

A quorum was declared.

Zoning Administrator Matt Oldenburg, City Attorney Joe Nack and Zoning Secretary Deb Price were present.

**APPROVAL OF MINUTES**

**MOTION:** Baranski moved, seconded by Cook to approve the September 11, 2019 minutes.

Motion carried.

**UNFINISHED BUSINESS**

None

## NEW BUSINESS

Cal. No. 19A-05, 19S-13 & 19S-14, Applicant and Owner: ILWAB Farms, LLC, 13275 Chetlain Lane, Galena, IL 61036. Parcel 1: 13-001-106-13, Lots 1 through 6 in Block 2 of Galena Scenic Meadows Unit 2; and Lot 7 in Block 1 of Galena Scenic Meadows Unit 2 in the City of Galena, Jo Daviess County, Illinois. Parcel 2: 13-000-105-15, Lot 5, Block 7 of the Cobblestone Crossing Plat 2, Section 12, T28N, R1W, Galena, Illinois. Request for Map Amendment to rezone Parcel 1, and a portion of right-of-way described in a concurrent Street Vacation request, from Limited Agriculture (former PUD) to Planned Industrial district. Request to rezone Parcel 2 from Medium Density Residential to Limited Agriculture district. Request for Special Use Permits to allow Adult-Use Cannabis Craft Grower and Adult-Use Cannabis Dispensing Organization land uses in Parcel 1.

**MOTION:** Bochniak moved, seconded by Cook to open the Public Hearing for Cal. No. 19A-05.

Motion carried on voice vote.

Nack swore all those who wished to testify at this public hearing.

**Brad Heying** of Kane, Norby & Reddick, 2100 Asbury Road, Dubuque is representing the applicant IL WAB. Parcel 1 was a PUD zoning – this has been in effect for twenty years but was unable to be developed. They are proposing this be rezoned to Planned Industrial. Parcel 2 is Medium Density Residential, and they propose it be rezoned to Limited Ag. These parcels have been used as crop ground. Rezoning is being requested for a craft grow and dispensary. Planned Industrial is allowed in the zoning ordinance and this type of use would be appropriate for the property as all activities would be wholly indoors and would not negatively impact the area. The location behind Wal Mart is a perfect spot for this type of development which is part manufacturing and part retail.

Baranski asked if all the growing would be done inside.

Heying said yes.

Baranski asked what their intentions were for about Parcel 2.

Heying said they were asking for limited ag zoning which would provide the necessary buffer to the residential areas. There will be no outdoor growing activities.

**Pat Ready** 2067 Wedgewood Drive, Dubuque is with IIW and as a representative of the applicant. The northwest corner of the parking lot is about 117 feet off the property line – the building is a little more than that making it closer than the required 250 feet. They wanted to create an adequate bufferyard and for the foreseeable future this property will remain crop ground. In looking at the site plan the square footage of the building is 38,000 square feet. The parcel is 11.02 acres and there is 2.8 acres of impervious area. This leaves a tremendous amount of green space for necessary landscaping and drainage. The maximum building height would be 36 feet. The indoor space would be comprised of 14,000 square feet for craft growing, 8,000 square feet for dispensing and 16,000 square feet for miscellaneous uses – offices, bathrooms, traffic flow, etc. Parking requirements show that 19 stalls would be needed. They are planning 40 stalls to handle 30 employees and 10 customers. All lighting

requirements and standards will be complied with including the fixtures and illumination. The projected operation hours for the grow facility would be seven days a week with 2 - 12-hour shifts, and the dispensary would be open seven days a week from 9AM-10PM. The impact on the Highway 20 traffic would be negligible. All landscaping requirements will be met, but a design plan has not yet been created. This is a new use and the presented renderings give you an idea what will be built. The exterior of the buildings will comply with the design requirements and will be very tasteful. The use works nicely with the other businesses in the area.

**Wayne Briggs, 13275 Chetlain Lane, Galena** said he will be the building owner. He will lease this to Holistic Industries. Liberty will run the craft grow and dispensary – they are a subsidiary of Holistic Industries.

Baranski asked about the topography and location of the building.

Ready said the left side of the property includes a detention pond. The roadway will be a continuation of Bartell Boulevard. Final details on the cul-de-sac have not been determined. The plain will be lowered to create a flat spot and there will be some fill work at the front of the building. It will be an earthwork balance to make the grades work. The site plan is not perfected, but they wanted to show that they are complying with the setbacks.

Rosenthal asked those in favor of the request to come forward and testify.

No one did.

Rosenthal asked those opposed to the request to come forward and testify.

No one did.

**MOTION:** Bochniak moved, seconded by Calvert to close the Public Hearing for Cal. No. 19A-05.

Motion carried on voice vote.

**MOTION:** Baranski moved, seconded by Jansen to send a positive recommendation to the City Council to allow Parcel 1 to be rezoned from Limited Ag to Planned Industrial subject to the applicant obtaining their state license for Cal. No. 19A-05 – Parcel 1.

Nack said the owners would not be the one obtaining the license. Those who lease will be responsible for obtaining the license. There is a time lapse requirement in our ordinance.

**MOTION:** Baranski moved, seconded by Jansen to withdraw the motion.

**MOTION:** Baranski moved, seconded by Jansen to send a positive recommendation to the City Council to allow rezoning of Parcel 1 from Limited Ag to Planned Industrial to be used as an Adult-Use Cannabis Craft Grower and Adult-Use Cannabis Dispensing Organization, Cal. No. 19A-05 – Parcel 1.

Baranski reviewed the approval criteria:

**Approval Criteria & Recommendation for Map Amendment:**

In order to maintain internal consistency within this code and on the zoning map, proposed amendments to the text and zoning map must be consistent with the purposes stated herein.

In determining whether the proposed amendment shall be approved, the following factors shall be considered:

- (1) Whether the existing text or zoning designation was in error at the time of adoption; **N/A**
- (2) Whether there has been a change of character in the area or throughout the city due to installation of public facilities, other zone changes, new growth trends, deterioration, development transitions, etc.; **It does apply.**
- (3) Whether the proposed rezoning is compatible with the surrounding area and defining characteristics of the proposed zoning district or whether there may be adverse impacts on the capacity or safety of the portion of street network influenced by the rezoning, parking problems, or environmental impacts that the new zone may generate such as excessive storm water runoff, water, air or noise pollution, excessive nighttime lighting, or other nuisances; **It does apply.**
- (4) Whether the proposal is in conformance with and in furtherance of the implementation of the goals and policies of the Comprehensive Plan, other adopted plans, and the policies, intents and requirements of this code, and other city regulations and guidelines; **It is.**
- (5) Whether adequate public facilities and services are available or will be made available concurrent with the projected impacts of development in the proposed zone; **They are.**
- (6) Whether there is an adequate supply of land available in the subject area and the surrounding community to accommodate the zoning and community needs; **It is.**
- (7) Whether there is a need in the community for the proposal and whether there will be benefits derived by the community or area by the proposed rezoning. **This is self-evident.**

**The Zoning Administrator and Zoning Board of Appeals shall make recommendations and the City Council shall take final action.**

- (1) **When the Zoning Board of Appeals or City Council deems it necessary or expedient, additional property in the zoning district may be considered for a zoning change provided that this additional property is also addressed in the public hearing notice, in accordance with § [154.919\(F\)](#).**

(2) In the event of a written protest against a proposed amendment signed and acknowledged by the owners of 20% of the frontage proposed to be altered or by the owners of 20% of the frontage immediately adjoining or across the alley or rear line therefrom or by the owners of 20% of the frontage directly opposite the frontage proposed to be altered as to such regulations or zoning district and field with the City Clerk, such amendment shall not be passed except by the favorable vote of two-thirds of all of the selected members of the City Council.

As Roll Call was:

Bochniak	Yes
Calvert	Yes
Cook	Yes
Jansen	Yes
Nybo	Yes
Baranski	Yes
Rosenthal	Yes

Motion carried.

**MOTION:** Baranski moved, seconded by Calvert to send a positive recommendation to the City Council to allow the rezoning of Parcel 2 from Medium Density Residential to Limited Agriculture, Cal. No. 19A-05 - Parcel 2 based on the approval criteria for Cal. No. 19A-05 – Parcel 1.

As Roll Call was:

Calvert	Yes
Cook	Yes
Jansen	Yes
Nybo	Yes
Baranski	Yes
Bochniak	Yes
Rosenthal	Yes

Motion carried.

**MOTION:** Bochniak moved, seconded by Cook to open the Public Hearing for Cal. No. 19S-13 and Cal. No. 19S-14.

Motion carried on voice vote.

Nack swore all those who wished to testify at this public hearing.

Brad Heying returned to testify. He asked that the prior testimony given be referenced for the Special Use Permit public hearings.

The Board had no additional questions for the applicant.

**MOTION:** Bochniak moved, seconded by Jansen to close the Public Hearing for Cal. No. 19S-13 and Cal. No. 19S-14.

Motion carried on voice vote.

**MOTION:** Baranski moved, seconded by Bochniak to draft a positive Finding of Fact for the Special Use Permit to allow an Adult-Use Cannabis Craft Grower, Cal. No. 19S-13.

Baranski reviewed the approval criteria.

**Approval Criteria & Recommendation:**

The purpose of a special use review is to provide an opportunity to utilize property for an activity, which under usual circumstances, could be detrimental to other permitted uses and which normally is not permitted within the same district. A special use may be permitted under circumstances particular to the proposed location and subject to conditions that provide protection to adjacent land uses. A special use is not a use by-right and one that is otherwise prohibited without approval of a special use permit.

- The application shall demonstrate that the proposed development will comply with the following:
  - (1) *Site plan review standards.* All applicable site plan review criteria in § 154.914.
  - (2) *District standards.* The underlying zoning district standards established in § 154.201 through § 154.209 including the defining characteristics of the district;
  - (3) *Specific standards.* The land use regulations established in § 154.406;
  - (4) *Availability of complementary uses.* Other uses complementary to, and supportive of, the proposed project shall be available including, but not limited to: schools, parks, hospitals, business and commercial facilities, and transportation facilities.
  - (5) *Compatibility with adjoining properties.* Compatibility with and protection of neighboring properties through measures such as:
    - (a) *Protection of privacy.* The proposed plan shall provide reasonable visual and auditory privacy for all dwelling units located within and adjacent to the site. Fences, walls, barriers and/or vegetation shall be arranged to protect and enhance the property and to enhance the privacy of on-site and neighboring occupants.
    - (b) *Protection of use and enjoyment.* All elements of the proposed plan shall be designed and arranged to have a minimal negative impact on the use and enjoyment of adjoining property.
    - (c) *Compatible design and integration.* All elements of a plan shall coexist in a harmonious manner with nearby existing and anticipated development. Elements to consider include: buildings, outdoor storage areas and equipment, utility structures, building and paving coverage, landscaping, lighting, glare, dust, signage, views, noise, and odors. The plan must ensure that noxious emissions and conditions not

typical of land uses in the same zoning district will be effectively confined so as not to be injurious or detrimental to nearby properties.

**The Zoning Board of Appeals can grant, conditionally grant, or deny all applications for a Special Use Permit or an amendment thereof. If the Board would like to grant the request, a motion to draft Findings of Fact should be entertained. The Findings of Fact will then be presented for final consideration at the next Board meeting.**

The application meets all the approval criteria.

As Roll Call was:

Cook	Yes
Jansen	Yes
Nybo	Yes
Baranski	Yes
Bochniak	Yes
Calvert	Yes
Rosenthal	Yes

Motion carried.

**MOTION:** Baranski moved, seconded by Bochniak to draft a positive Finding of Fact for the Special Use Permit to allow an Adult-Use Cannabis Dispensing Organization, Cal. No. 19S-14 based on the approval criteria for Cal. No. 19S-13.

As Roll Call was:

Jansen	Yes
Nybo	Yes
Baranski	Yes
Bochniak	Yes
Calvert	Yes
Cook	Yes
Rosenthal	Yes

Motion carried.

### **OTHER BUSINESS**

None

### **PUBLIC COMMENTS**

None

**MOTION:** Jansen moved, seconded by Bochniak to adjourn the meeting at 7:15 pm.

Motion carried on voice vote.

Respectfully submitted by

Deb Price  
Zoning Board Secretary