

**PLANNING COMMISSION
MEETING MINUTES
March 21, 2018
CITY COUNCIL CHAMBER
7:00 P.M.**

I. CALL TO ORDER

The meeting was called to order at 7:05 p.m.

II. ROLL CALL

Present: L. Dahl-MacGregor, C. Zuellig, A. Bedogne, P. Hollifield, M. C. Madigan, T. Dennis

Absent: H. Jugenitz, M. Dunwoodie, J. Talaga (all excused)

Staff: Bonnie Wessler, City Planner
Cynthia Kochanek, Preservation Planner
Nan Schuette, Executive Secretary

III. APPROVAL OF MINUTES

Commissioner Hollifield moved to approve the minutes of February 21, 2018 (Support: T. Dennis) and the motion carried unanimously.

IV. AUDIENCE PARTICIPATION

None

V. PRESENTATION AND PUBLIC HEARING ITEMS

1. 75 Catherine – Special Use and Site Plan

Planner Kochanek gave a brief presentation stating that this is a request for Special Use and Site Plan approval. The total area is 1.03 acres and has an existing building on the site of 7,615 sq. ft. A special use permit was granted for its use as a medical marijuana grow facility back in March 2013 with a certificate of occupancy issued in February 2015. The property was rezoned from CN to PMD in October 2017. The applicant requested a variance from the front, street side and rear setbacks and was seen by the Zoning Board of Appeals at their January 24, 2018 meeting. The ZBA approved the front and street side setback variances but denied the rear setback. The applicant has since corrected the rear setback on the plans to conform to the zoning ordinance. The current plans indicate a building expansion to 19,062 sq. ft. with a north addition of 3,121 sq.ft. and a south addition of the 8,326 sq. ft. New concrete curbing and asphalt paving, dumpster, landscaping and lighting will be installed on site.

Medical marijuana grow/manufacturing facility is allowed in PMD as a special use.

Staff recommends approval of the expansion of the Special Use Permit for medical marijuana growing/processing with finding and condition. Staff also recommends the approval of the Site Plan for the expansion of Aspen Gardens with finding, waivers and conditions.

Commissioner Dennis moved to open the public portion of the hearing (Support: P. Hollifield) and the motion carried unanimously.

Since there was no comments from the public, Commissioner Zuellig moved to close the public portion of the hearing (Support: P. Hollifield) and the motion carried unanimously.

Commissioner Dennis moved that the Planning Commission approve the expansion of the Special Use Permit for medical marijuana growing/processing for Aspen Gardens, with the following finding and condition:

Finding: The application is substantially in compliance with Sec 122-324(b).

Condition: special use approval shall be subject to approval of site plan

The motion was supported by Commissioner Bedogne. A roll call vote was taken and carried unanimously 6:0.

Commissioner Dennis moved that the Planning Commission approve the Site Plan for the expansion of Aspen Gardens, with the following finding, waivers and conditions:

Finding: The application substantially complies with Sec 122-310.

Waivers:

1. Waiver requested from Sec 122-636, Street Trees, due to lack of available space on both Chidester and Catherine.
2. Waiver requested from Sec 122-432(a)(6), greenbelt, along the Chidester frontage due to lack of available space.

Conditions:

1. Applicant shall seek, obtain, and retain all necessary state licensure and all necessary local licenses or permits for operation.
2. Applicant to note on the site plan that smoking and/or use of medical marijuana shall be prohibited at the growing/manufacturing facility.
3. The premises shall be open for inspection upon request by the Building Official, the Fire Department and law enforcement officials for compliance with all applicable laws and rules, during the stated hours of operation/use and as such other times as anyone is present on the premises.
4. Establishment must comply with the State mandated tracking system.
5. Applicant to note on the site plan that if the growing/manufacturing facility ceases operation for a length of time of sixty (60) days or greater, the permit shall expire.
6. That portion of the structure where the storage of any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspection and approval by the Ypsilanti Fire Department to ensure compliance with the Michigan Fire Protection Code.

7. The dispensing of medical marijuana growing/manufacturing facility shall be prohibited.
8. There shall be no other accessory uses permitted within the same building.
9. Applicant to address all engineering conditions per the engineering review.
10. Applicant to submit photometric for administrative review and approval.

The motion was supported by Commissioner Bedogne. A roll call vote was taken and carried unanimously 6:0.

2. Bell-Kramer Neighborhood: Well Restriction Ordinance

City Planner Bonnie Wessler stated that this was discussed at the last meeting. At that time we did not fully comprehend all of the State Acts steps to approval. One of the steps for approval was that notice must be given in the same manner as zoning amendments. In an excess of caution, staff has also chosen to interpret this as requiring the same process of review. Therefore, staff is requesting that the Planning Commission review the ordinance that was included in the packet, which would restrict the drilling and use of wells in the Bell-Kramer neighborhood. The format has changed; rather than an addition whole into Chapter 106, it serves to modify an existing well restriction ordinance and add the bell-Kramer and landfill areas. This reduces redundancy and potential conflict. It is not substantially different than the ordinance which was presented to Planning Commission in February.

Commissioner Zuellig moved to open the public portion of the hearing (Support: P. Hollifield) and the motion carried unanimously. Since there was no input, Commissioner Hollifield moved to close the public portion of the hearing (Support: C. Madigan) and the motion carried unanimously.

Commissioner Hollifield moved that the Planning Commission recommend approval to City Council (Support: C. Zuellig) and the motion carried unanimously.

3. Medical Marijuana Provisioning Centers

City Planner Wessler stated that this is a request for the Planning Commission to recommend to City Council to approve a Text Amendment to Medical Marijuana dispensaries (recommended to become "Medical Marijuana provisioning Centers"), Sec 122-532(b)(3).

She stated that the Zoning Ordinance currently requires a 500' buffer between provisioning centers and growing facilities and 1000' around schools. One of the things that City Council has made very clear in their discussions about marijuana is that they are comfortable with the status quo and they don't see any reason for change. One of the items that we are seeing as far as patterns in development in the status quo is that there is approximately one provisioning center per business district. Downtown is a little bit of an outlier in that. We looked at ways to maintain that. One way is to increase the buffer between provisioning centers only from 500' to 1000'. This would have the effect of making two provisioning centers non-conforming, Third Coast and Herbal Solutions – they are approximately 996' between each other. However, it is the understanding of Planner Wessler that Herbal Solutions is planning to move two doors to the east which would resolve that situation quite nicely. Staff is recommending that Planning Commission recommend to City Council that they approve the increase in the buffer distance.

Commissioner Dennis asked if City Council is comfortable with the status quo, what is the purpose of the 1000' and Planner Wessler responded that we currently have seven provisioning centers and not only do they have to get a permit from the City of Ypsilanti, but they also have to get a license from the State, none of which are guaranteed, but we won't know which one will get a State license until June 15th. There may be a repositioning in provisioning centers in three months. There is not much opportunity for either of these centers to expand.

Commissioner Bedogne stated that he understands the balance of one center per district but increasing the buffer would make it more challenging if someone were not able to get their license. Planner Wessler responded that if one center in Depot Town lost their license, there would only be room for one, not two, as is currently the status.

Commissioner Zuellig moved to open the public portion of the hearing (Support: P. Hollifield) and the motion carried unanimously.

Adam Tasselmeyer – totally agrees with expanding to 1000', however, he is concerned because the day after this meeting, the board is going to go over the first licenses for pre-qualification on approval or denial at the State level and we do not know how in depth they are going to get. He would not like to get in front of the board and be not in compliance by 4 ft. They are moving so that will resolve the problem but he advocates tabling this item.

Mr. Benjamin Spenser, Attorney, 106 N. 4th Street, Ann Arbor – what he doesn't hear being discussed is that the City of Ypsilanti actually accepted applications and put them in a queue for those provisioning centers that would like to take over a licensee in case one of the currently operating provisioning centers is not approved. A lot of time, effort and money went into locating the correct locations for provisioning centers and preparing applications and materials for the City. They were turned in March 1st. For the clients, they looked at all the ordinances and zoning and wanted to be sure they found compliant locations. With the change in the ordinance, after these applications have gone in, they believe some might make thru the State process, maybe all. But if the one is 750 ft, it raises questions. They relied on this ordinance when working on getting the applications in. Under the new buffer zone, one of his clients could be affected. He is suggesting to table the motion for some time until they sort out at the State level. The June 15th deadline date could be changed.

City Planner Wessler asked to make a procedural point to the board. She stated that the board can choose recommend denial and it still goes on to council, table and it stays here, or choose to recommend approval and it goes to council.

After discussion by board members, Commissioner Hollifield moved to table this item (Support: C. Madigan). A roll call vote was taken and carried unanimously 6:0.

4. **Planned Unit Development – 1600 Huron River Drive**

Planner Wessler gave a brief presentation stating that this is a request for a Planned Unit Development (PUD) for Ozone House. It is a city owned parcel on the corner of Superior and Huron River Drive and is the site of a former YCUA well and current site of a YCUA pumping station. YCUA holds an easement over the east portion of the site and there will be a future drainage over the east site of the site. DTE has two easements over the property and roads are covered by Washtenaw County. There are steep slopes on site, complicated by sandy soil, which preclude development along the east half of the parcel and much of the north.

They are proposing a multipurpose building, with associated parking and outdoor recreation areas (decks and walkouts as well as a basketball court). This building would have a mix of storage, office and housing. On the lower level, there are eight bedrooms with a shared kitchen, study area and bathrooms, as well as a shared living area with walkout deck proposed, as well as storage, laundry and a recreation room. On the ground/main floor, there are office spaces, work areas, meeting rooms, storage, medical offices, childcare spaces and multipurpose rooms. The upper story has two large multipurpose rooms, as well as another eight bedroom unit with shared living, dining, toileting, and recreation/learning areas. This unit also has access to the outdoors via screened porch. The building is a total of approximately 19,066 sq. ft.

PUD's are difficult to amend therefore Planning Department is trying to include as much administrative approvals as possible through this process. A PUD gives us the flexibility to approve exceptions.

The applicant also has a potential Phase 2 of a two-story 8-10 unit apartment block, proposed just north of the basketball court, with a footprint of approximately 3,500 sq. ft. In the event of development, this court would become parking to serve the new housing. Staff is recommending approval.

Commissioner Zuellig moved to open the public portion of the hearing (Support: P. Hollifield) and the motion carried unanimously.

Krista Girty, Exec. Director of Ozone House – was accompanied by Joe Maynard, from Washtenaw Engineering, and Jan Culbertson, from A3C Collaborative Architecture. Ozone House is 49 years old and they work with people in crisis in many ways. They've outgrown their office and are moving from their properties in Ann Arbor consolidating their services. This will be an L-shaped building. There will be two housing groups – one for juveniles 10-17 year olds and one for 18-21 year olds who can live there for up to 18 months, helping them to be skilled and live on their own. The lower level will be separate from the 10-17 year olds with their own outside space. One building will be for training, counseling, health, etc. They will also have a future expansion wing that can be used for more living space if necessary. She feels that 50 people is reasonable.

They reviewed the proposed drawings of the property, including sidewalks, buildings, landscaping, and storm water with rain garden. He noted the location of the bus stop. They have water services coming on site as well as a fire hydrant.

Patrick Gaulier, 1613 Gregory – is not only a resident but is an employee of Ozone House. He added there have been several neighborhood meetings with personnel from Ozone House and they approve of the potential project and its use.

Planner Wessler added that five emails that had been received in support of the project as well as one packet of information.

Commissioner Zuellig moved to close the public portion of the hearing (Support: T. Dennis) and the motion carried unanimously.

Commissioner Zuellig comments that this is one of the best site plans that she had seen – it is very thoughtful, architecturally great and she is very supportive.

Commissioner Dennis moved that the Planning Commission recommend that City Council approve the Ozone House Planned Unit Development at 1600 Huron River Drive with the following find, waiver, exceptions and conditions:

Findings

1. The application substantially complies with Sec 122-311, Section 122-702 and Sec 122-706.

Waiver

1. For a reduction of 14% in the required vehicle parking under Sec 122-691 due to site constraints and proximity of bus stop.

Exceptions

1. From the front setback requirement for Phase 2 apartment building of Sec 122-479(e) due to the constraints of the site.
2. From the frontage build-out percentage requirements of Sec 122-479(h), due to the constraints of the site.
3. From the private Frontage requirement of Sec 122-484, due to the lack of a retail or commercial presence on the first floor open to the general public.
4. From the Sec 122-548(a), limiting the number of supportive housing residents, in the social interest of being able to serve more clients.
5. From Sec 122-548(b), limiting provision of supportive services to residents only, in the social interest of being able to serve a more clients.
6. From sidewalk requirement of Sec 122-672 along Superior Drive, with the finding that the site constraints and future connectivity make such construction impractical and undesirable, and the additional finding that provision of a crosswalk across Huron River Drive and the service drive to the south provide a superior benefit.
7. From the maximum light pole height in Sec 122-609(c) due to the character of the site and the site constraints in locating additional fixtures.

Conditions

1. Applicant to provide compact car signage for the eight compact car parking spaces.
2. Applicant to provide a fully connected 5' or wider walkway from the Phase II apartment building to the sidewalk on Huron River Drive; to be reviewed administratively at point of construction.

3. Applicant to review landscaping at southwest corner of site adjacent to drive and propose alternate plantings to meet both off-street parking screening requirements and traffic visibility requirements.
4. Applicant to provide details for the dumpster enclosure for administrative review.
5. Applicant to evaluate ability to allow existing trees to remain where possible, or add additional tree on east side of site.
6. Applicant to replace Callery pear trees with similar trees with less invasive habit.
7. All site improvements related to construction of the Phase 2 building shall be reviewed administratively and in accordance with the PUD agreement. Any changes to the location or increases in the intensity of use of the building will be subject to the provisions of Sec 122-708.

The motion was supported by Commissioner Madigan. A roll call vote was taken and carried unanimously 6:0.

5. **Code Enforcement**

At previous meetings, there have been many people attending who complain about code enforcement in the city. Because of this, City Planner Wessler asked the Code Enforcement Office to give a presentation to the Board in an effort for the members to have a better understanding of his position and responsibilities.

James Jackson, Code Enforcement Officer – stated that he is the only person that has the authority to write civil infractions that are done in the city. He does nothing on commercial buildings, or city property. He covers sidewalks, noise, animals, graffiti, snow removal, litter, signage in wrong places. He ensure that anything that is in the city code is enforced and that property owners are aware of what they can/cannot have.

He also does all the paperwork on a daily basis, five days a week. He also gets complaints to check out through See Click Fix for the City, Manager's Office and other avenues.

Commissioner Dennis asked about uneven sidewalks and Mr. Jackson responded that if it is a city sidewalk, he contacts the Department of Public Services. Commissioner Zuellig asked how he covered the city and Mr. Jackson responded that he tends to do the high priority areas first, i.e. downtown, around schools, then go to the neighborhoods. With regard to trash/litter, he waits until after the trash pick-up day for the neighborhood then he goes out and does a sweep. One of the biggest violators is the city itself with regard to street litter. He also stated that the parking lots are also a problem with litter.

VI. **NEW BUSINESS**

1. Resolution from the Housing Affordability and Access subcommittee

Planner Wessler stated that we have a subcommittee of the Planning Commission that is currently in the discovery phase of drafting either a Master Plan amendment or a sub-plan for the Master Plan regarding housing. They met for the second time at the beginning of this

month and it was proposed at the table that they pass a resolution to Planning Commission to pass along to city council recommending that they establish a Housing Trust Fund. The rationale behind this request is to ensure that money is spoken for or awaiting the plan's completion so there will be immediately be funds available for this plan. They want it in before the budget is adopted.

The staff side is that it is very challenging to set money aside for a plan that may/or may not be completed especially when you don't know the objective. Staff is not supporting the resolution. It is also challenging politically. It is staff's opinion that it should be the result of a plan instead of having the resolution when a discovery phase has not been completed.

Commissioner Hollifield asked what the purpose is of \$100,000 and how was that number determined. Vice Chair MacGregor stated the resolution was initiated by the Chair of Planning Commission. Commissioner Zuellig is concerned about a Housing Committee when we don't have any idea of what they plan to do; how the funds would be administered and added that it is her opinion if we are spending public dollars, the public should be able to weigh in.

Planner Wessler stated the next step is to either make a resolution to pass along to City Council or to decline to pass along to City Council.

After further discussion, Commissioner Zuellig moved that the Planning Commission hereby resolves that we decline to pass along the resolution presented by the Housing Committee to City Council (Support: C. Madigan). A roll call vote was taken and carried 4:2 – Vice-Chair MacGregor and Commissioner Dennis opposed.

VII. OLD BUSINESS

None

VIII. FUTURE BUSINESS DISCUSSION/UPDATES

1. Capital Improvements Plan: Annual update process/committee formation

Planner Wessler stated that there are several proposed projects coming before the commission in April.

2. Firearms Sales Regulations: Local Options

Staff was asked what, if anything, in zoning spoke to firearms. We had a couple of businesses relating to firearms that were looking to locate in the city. Planner Wessler contacted the City Attorney for his opinion on this matter. A copy of his memorandum is included in the packet (dated March 8, 2018) in which he stated that the city may not regulate gun sales, but may zone where guns may be sold in the city. Planner Wessler added that anywhere we permit retail, we permit firearm sales. The committee gave her a directive to look into areas to restrict and come back with informational language on firearm zoning.

3. Commissioner Bedogne stated that he had resigned his position on the Planning Commission effective 5-1-18 at the end of his term. He will be moving out of the area. He will also be giving up his seat on the Non-Motorized Committee.

IX. COMMITTEE REPORTS

1. Master Plan: Housing Affordability and Access subcommittee

Planner Wessler stated that the adopted minutes are available on line. The Housing Committee has its own page. The committee have met twice and have a meeting the second week in April. We have a facilitator to do the meeting – she was offered by the County and they accepted. We are still in the discovery phase.

X. ADJOURNMENT

Since there was no further business, Commissioner Dennis moved to adjourn the meeting (Support: C. Madigan) and the motion carried unanimously. The meeting adjourned at 8:40 pm.