

**Zoning Board of Appeals
January 25, 2012 Regular Meeting**

STAFF REPORT

Subject: ZBA11-021 – 1712 S. State Street: Administrative Appeal

Summary: Dori Edwards, Tree City Health Collective, is requesting review of the Planning and Development Services denial of zoning compliance permit for operation of a medical marijuana dispensary at 1712 S. State Street.

Background:

On August 5, 2010 City Council enacted a moratorium on the establishment of medical marijuana dispensaries in the City of Ann Arbor (see attached). The petitioner states that they had signed a lease for a medical marijuana dispensary at 1712 S. State Street in August 2010 just before the moratorium was enacted.

In June of 2011, City Council approved revisions to Chapter 55 (Zoning), Section 5:50.1 (Regulations concerning medical use of marijuana), and this ordinance went into effect August 22, 2011 (see attached). The ordinance defines a medical marijuana dispensary as a building or part of a building where 1 or more primary caregivers operate with the intent to transfer marijuana between primary caregivers and/or qualifying patients. Within the new ordinance, Section 5:50.1(3)(a) states that a medical marijuana dispensary shall only be located in the D, C, or M districts or in certain PUD districts where retail is permitted in the supplemental regulations.

This parcel is zoned O (office), which allows general/medical/dental offices, but no retail sales or medical marijuana dispensaries. On November 3, 2011 Tree City Health Collective applied for a Zoning Compliance permit in order to operate a medical marijuana dispensary in the former residential structure at this location. The permit was denied by Planning staff because according to Chapter 55, Section 5:50.1(3) medical marijuana dispensaries are not a permitted use in the Office Zoning District.

Discussion:

Non-conforming Use: The Tree City Health Collective reports that they began operations as a medical marijuana dispensary at 1712 S. State Street in 2010. The petitioner states that they had signed a lease in August 2010 just before the moratorium was enacted and are therefore granted existing legal non-conforming status.

However, the exact date operations the medical marijuana use began is unclear because the City has no records of the structure being converted from residential to office use; also, the applicant made alterations to the rear of the structure to make it more accessible but did not apply for the required building permits. Therefore, no permits were issued and there is no record that this operation was legally established before the moratorium.

Furthermore, even if the dispensary was operational before the moratorium, the dispensing of marijuana is a use that was not listed within the zoning regulations for the O district, or any other district and was not envisioned at the time the ordinance was written, as acknowledged by the moratorium resolution passed by City Council. Per Chapter 55, Section 5:6, the City of Ann Arbor has a prohibition on uses not expressly permitted in the zoning ordinance and as a result, any dispensary use established before the ordinance which permitted the use would have been prohibited. Use as a medical marijuana dispensary cannot be a legal non-conforming use if the dispensary was illegally established.

The effect of the City Council moratorium was to delay enforcement of the zoning ordinance against dispensaries that existed as of August 5, 2010, until the zoning ordinance was amended to determine where such uses would be allowed. It also specifically called out that "the City of Ann Arbor's Zoning Ordinance does not specifically provide for properties or structures to be used as facilities for dispensing marijuana or cultivating marijuana plants for medical or any other purposes", and that there is a "general prohibition on uses not expressly permitted by the City's Zoning Ordinance".

Allowable Use: The petitioner is also stating that medical marijuana dispensary use is allowed under the existing Office district because the medical marijuana dispensary operates as a non-profit organization and offers medical consultations. Both non-profit and medical office uses are permitted in the Office zone, but medical marijuana dispensaries are not.

In June 2011, City Council approved revisions to Chapter 55 (Zoning), Section 5:50.1 (Regulations concerning medical use of marijuana). This ordinance went into effect August 22, 2011. Within the new ordinance, Section 5:50.1(3)(a) states that medical marijuana dispensaries shall only be located in the D, C, M districts, or in certain PUD districts. As such, medical marijuana dispensaries are prohibited from the Office zoning district.

Zoning Board of Appeals
Administrative Review
January 25, 2012 - Page 3

Respectfully submitted,

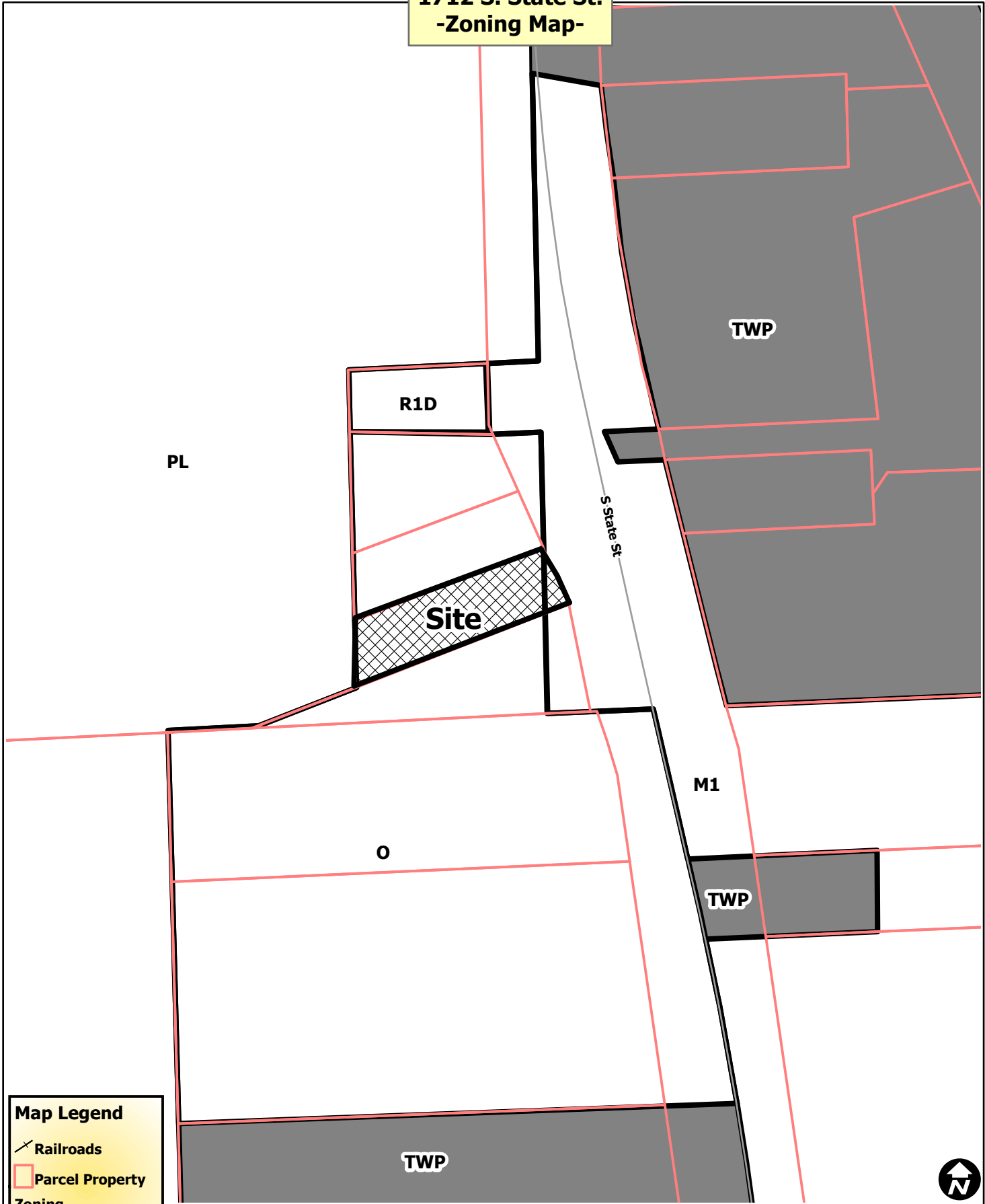
A handwritten signature in black ink, appearing to read 'Matt Kowalski', with a small comma at the end.

Matt Kowalski, AICP
City Planner

Attachments: August 5, 2010 City Council Moratorium
 Chapter 55, Section 5:50.1 Regulations concerning Medical Use of
 Marijuana

c: City Attorney

**1712 S. State St.
-Zoning Map-**



Map Legend

- Railroads
- Parcel Property
- Zoning**
- Township
- City of Ann Arbor



City of Ann Arbor Map Disclaimer:
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Map Created: 8/15/2011



City of Ann Arbor

301 E. Huron St.
Ann Arbor, MI 48104
<http://a2gov.legistar.com/Calendar.aspx>

Text File

File Number: 10-0793

Agenda # DC-2

Introduced: 8/5/2010

Version: 2

Current Status: Passed

Matter Type: Resolution

Resolution to Impose a Temporary Moratorium on the Use of Property and Structures
in the City for Dispensing and Cultivating Marihuana

Resolution to Impose a Temporary Moratorium on the Use of Property and Structures in the City for Dispensing and Cultivating Marihuana

Whereas, City staff has received inquiries concerning the use of property and structures in the City for use as facilities for dispensing medical marihuana and/or cultivating medical marihuana plants;

Whereas, the City of Ann Arbor's Zoning Ordinance does not specifically provide for properties or structures to be used as facilities for dispensing marihuana or cultivating marihuana plants for medical or any other purposes, and this use was not envisioned when the zoning ordinance was adopted;

Whereas, the City of Ann Arbor Master Plan: Land Use Element adopted on November 5, 2009, by Council Resolution R-09-438, and the City's general prohibition on uses not expressly permitted by the City's Zoning Ordinance must be considered in addressing whether and/or where to allow facilities for dispensing marihuana and/or cultivating marihuana plants;

Whereas, the Michigan Medical Marihuana Act ("the Act") permits registered qualifying patients and primary caregivers to possess specific amounts of marihuana and to cultivate a specific number of plants, but the Michigan Medical Marihuana Act does not specifically provide for facilities for dispensing medical marihuana and/or cultivating medical marihuana plants;

Whereas, the federal law contains no provisions for the dispensation or cultivation of marihuana for medical or any other purposes;

Whereas, it is unclear whether any state and/or federal regulations that apply to entities that dispense controlled substances, for the benefit of the public health, safety, and welfare, would apply to facilities where marihuana is dispensed or where marihuana is cultivated;

Whereas, therefore, federal, state, and local laws lack clarity as to whether such facilities might be allowed and, if allowed, where they might be located that is conducive to the public health, safety and welfare of the City;

Whereas, the issue of allowing or disallowing facilities for the dispensing or cultivating of marihuana may be settled by the state Legislature;

Whereas, the City desires to ascertain the best and safest path to compliance with the Michigan Medical Marihuana Act, MCL 333.26423(d) in order to protect the public health, safety, and welfare;

Whereas, City Council has determined that it is necessary to amend City Code to address this issue and is directing City staff and the Planning Commission to study, and make specific recommendations to amend City Code regarding such facilities; and

Whereas, it is therefore prudent to immediately forbid use of all property and structures

in the City of Ann Arbor as facilities for dispensing marihuana or cultivating marihuana plants for medical or any other purposes for a limited period of time until City Code can be amended to address such facilities;

RESOLVED, That City Council hereby imposes a temporary moratorium prohibiting the initiation or expansion of the use of any property in the City as a facility for dispensing marihuana for medical and any other purpose and for cultivating marihuana plants, and that any zoning compliance permits or building and trade permits for such uses be deferred for a period of 120 days from the date of this resolution, in conjunction with the study and revision of the City's Zoning Ordinance or other ordinances regarding this issue;

RESOLVED, That this moratorium does not apply to the following:

- A dwelling unit (as defined by the Zoning Ordinance) where a qualifying patient under the Act resides and is cultivating up to the maximum number of marihuana plants permitted by the Act for personal use or possesses up to the maximum amount of marihuana permitted by the Act for personal use.
- A building or structure (as defined by the Zoning Ordinance) other than a dwelling unit where no more than one qualifying patient under the Act is cultivating up to the maximum number of marihuana plants permitted by the Act for personal use or possesses up to the maximum amount of marihuana permitted by the Act for personal use.
- A dwelling unit or other building or structure where no more than one primary caregiver under the Act is cultivating up to the maximum number of marihuana plants permitted by the Act for assisting a qualifying patient or possesses up to the maximum amount of marihuana permitted by the Act for assisting a qualifying patient.

RESOLVED, That City Council directs City staff and the Planning Commission to study and make specific recommendations for ordinance amendments that restrict facilities for dispensing marihuana to appropriate zoning districts along with spacing requirements, and to also regulate such use in residential districts;

RESOLVED, That the moratorium imposed by this resolution shall expire the earlier of 120 days from its effective date or upon adoption by City Council of ordinance amendments regarding the issue of facilities for dispensing marihuana and/or cultivating plants for medical or any other purposes.

As Amended by Ann Arbor City Council on August 5, 2010

Sponsored by: Councilmembers Higgins, Taylor, Rapundalo and Teall.

5:50.1. - Regulations concerning medical use of marijuana.

- (1) *Intent.*
 - (a) It is the intent of this section to provide appropriate locations and reasonable restrictions for the cultivation and transfer of marijuana allowed by the Michigan Medical Marihuana Act, MCL 333.26421 et seq. This is a unique land use with ramifications not addressed by more traditional zoning district and home occupation regulations. Although some specific uses of marijuana are allowed by the Michigan Medical Marihuana Act, marijuana continues to be classified as a Schedule 1 controlled substance under federal law making it unlawful under federal law to use, manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense marijuana.
 - (b) It is the intent of this section to protect the health, safety, and general welfare of persons and property by limiting land uses related to marijuana to districts that are compatible with such uses. Additional regulations in this section are intended to provide reasonable restrictions within districts so that these uses do not compromise the health, safety, and general welfare of persons in the district, or other uses allowed in each district.
- (2) *Definitions.* The following words and phrases shall have the following definitions when used in this section.
 - (a) *Words and Phrases Contained in the Michigan Medical Marihuana Act ("MMMA"), MCL 333.26421 et seq.* This subsection contains some words and phrases that are defined in the MMMA. As used in this section, they have the same meaning as provided in the MMMA, except that if at any time the definition of a word or phrase set forth below conflicts with the definition in the MMMA, then the definition in the MMMA shall apply. These words and phrases are as follows:
 - i. *"Department"* means the State Department of Community Health.
 - ii. *"Marihuana"* means that term as defined in Section 7106 of the Public Health Code, 1978 PA 368, MCL 333.7106.
 - iii. *"Medical use"* means the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition.
 - iv. *"Primary caregiver"* means a person who is at least 21 years old and who has agreed to assist with a patient's medical use of marihuana and who has never been convicted of a felony involving illegal drugs.
 - v. *"Qualifying patient"* means a person who has been diagnosed by a physician as having a debilitating medical condition.
 - (b) *Other Words and Phrases.* The words and phrases in this subsection, as used in this section, shall have the following meanings:
 - i. *"Marijuana"* means "marihuana" as used in the MMMA.
 - ii. *"Medical marijuana cultivation facility"* means a building or part of a building where marijuana plants are being grown in compliance with the MMMA, other than a medical marijuana home occupation or a dwelling unit in which marijuana is being cultivated for a qualifying patient who resides in the dwelling unit as permitted under subsection (7).
 - iii. *"Medical marijuana dispensary"* means a building or part of a building where 1 or more primary caregivers operate with the intent to transfer marijuana between primary caregivers and/or qualifying patients, other than a medical marijuana home occupation or a dwelling unit in which the transfer of marijuana occurs between a primary caregiver and qualifying patient who resides in the dwelling unit as permitted under subsection (7).
 - iv. *"Medical marijuana home occupation"* means an accessory use of a nonresidential nature that is conducted by a registered primary caregiver who resides in the dwelling and (A) is performed within a single-family dwelling or within an accessory building to that single-family dwelling; (B) is for the purpose of assisting 1 or more registered qualifying patients with the medical use of marijuana who do not reside in the dwelling and (C) complies with the MMMA.
 - v. *"Michigan Medical Marihuana Act" and "MMMA"* mean the Michigan Medical Marihuana Act, MCL 333.26421 et seq.
- (3) *Locations of Medical Marijuana Dispensaries and Medical Marijuana Cultivation Facilities.* A medical marijuana dispensary or medical marijuana cultivation facility may be located in the City only in accordance with the following restrictions:
 - (a) Medical marijuana dispensaries shall only be located in a district classified pursuant to this chapter as D, C, or M, or in PUD districts where retail is permitted in the supplemental regulations.
 - (b) Medical marijuana cultivation facilities shall only be located in a district classified pursuant to this chapter as C, M, RE, or ORL.
 - (c)

In C districts, buildings used for medical marijuana dispensaries or medical marijuana cultivation facilities shall meet the minimum parking requirements of [Chapter 59](#) for retail uses, with no exceptions for existing nonconforming parking.

- (d) No medical marijuana dispensary or medical marijuana cultivation facility shall be located within 1,000 feet of a parcel on which a public or private elementary or secondary school is located.
- (4) *Medical Marijuana Dispensary and Medical Marijuana Cultivation Facility Regulations.*
 - (a) No person shall reside in or permit any person to reside in a medical marijuana dispensary or medical marijuana cultivation facility, except as allowed in the M1 and M2 zoning districts.
 - (b) No one under the age of 18 shall be allowed to enter a medical marijuana dispensary or medical marijuana cultivation facility unless accompanied by a parent or guardian.
 - (c) No smoking, inhalation, or consumption of marijuana shall take place on the premises.
 - (d) In M1 and M2 districts, retail sales of products customarily incidental to the principal use shall be allowed provided that the total amount of internal floor area of the structure devoted to sales and display of such products does not exceed 10% of the floor area of the total establishment.
 - (e) Drive-in medical marijuana dispensaries shall be prohibited.
 - (f) All activities of a medical marijuana dispensary or medical marijuana cultivation facility shall be conducted indoors.
 - (g) No equipment or process shall be used in any medical marijuana dispensary or medical marijuana cultivation facility which creates noise, dust, vibration, glare, fumes, odors or electrical interference detectable to the normal senses beyond the property boundary.
 - (h) A zoning compliance permit shall be required consistent with Section 5:92.
 - (i) No more than 72 marijuana plants shall be grown on the premises of any medical marijuana cultivation facility.
 - (j) Medical marijuana dispensaries and medical marijuana cultivation facilities shall comply with all other regulations of the zoning district in which the medical marijuana dispensary or medical marijuana cultivation facility is located, except when they are in conflict, in which case this section shall prevail.
 - (k) Medical marijuana dispensaries and medical marijuana cultivation facilities shall be operated in compliance with the MMMA.
- (5) *Cultivation or Other Medical Use of Marijuana as a medical Marijuana home Occupation in Single-Family Dwellings.*
 - (a) In a single-family dwelling in any zoning district, no more than 72 marijuana plants shall be grown on the premises, regardless of the number of registered primary caregivers and/or registered qualifying patients residing in the dwelling. The principal use of the single-family dwelling shall be a residential occupancy and shall be in actual use as such.
 - (b) A zoning compliance permit shall be required, consistent with Section 5.92.
 - (c) All other performance standards for home occupations as provided in Section 5:10.2(4)(c) shall be required.
- (6) *Medical Marijuana Home Occupations* are not permitted in multiple-family dwellings and other non-single-family dwellings.
- (7) *Cultivation or Other Medical Use of Marijuana in Dwelling Units When the Use is Not a Medical Marijuana Home Occupation.*
 - (a) In a dwelling unit in any zoning district, where medical use of marijuana is not a medical marijuana home occupation, no more than 12 plants for each registered qualifying patient who resides in the dwelling unit shall be grown.
 - (b) The principal use of the dwelling unit shall be residential occupancy and shall be in actual use as such.
 - (c) No equipment or process shall be used in cultivation which creates noise, dust, vibration, glare, fumes, odors or electrical interference detectable to the normal senses beyond the property boundary.
 - (d) All aspects of the medical use of marijuana shall comply at all times with the provisions of the MMMA.

(Ord. No. 10-37, § 1, 6-20-11, eff. 8-22-11)

APPLICATION FOR ADMINISTRATIVE APPEAL

Section 1: Applicant Information

Name of Applicant: Treecity Health Collective
Address of Applicant: 1712 S. State Street Ann Arbor, MI
Daytime Phone: 734.369.3212
Fax: _____
Email: info@ganjamamas.com
Applicant's relationship to property: Tenant

Section 2: Property Information

Address of Property: 1712 S. State Street
Zoning Classification: "O" office
Tax ID# (if known): 09-09-32-400-003
*Name of Property Owner: Francis Clark

**If different than applicant, a letter of authorization from the property owner must be provided.*

Section 3: Request Information

Code or Ordinance and Specific Language you are appealing:

Give a detailed description as to what decision you would like to appeal

See Attachment

Section 4: Supporting Documentation Materials

The following materials are **suggested** for all Administrative Appeals. Failure to provide these materials may result in an incomplete appeal and may delay staff review and Zoning Board of Appeals consideration of the appeal. ALL materials should accompany the application must be provided on **8 1/2" by 11" sheets or a CD ROM (Adobe PDF Preferred)**.

- Survey of the property including all existing and proposed structures, dimensions of property, and area of property.
- Building floor plans showing interior rooms, including dimensions.
- Photographs of the property, neighborhood and any existing buildings involved in the request.
- Any other graphic or written materials that support the appeal.

Section 5: Acknowledgement

SIGNATURES MUST BE SIGNED IN PRESENCE OF NOTARY PUBLIC

I, the applicant, request an Administrative Appeal from the above named Chapter(s) and Section(s) of the Ann Arbor City Code for the stated reasons, in accordance with the materials attached hereto.

734.369.3212
Phone Number
info@ganjamamas.com
Email Address

[Signature]
Signature
Dori M. Edwards
Print Name

I, the applicant, hereby depose and say that all of the aforementioned statements, and the statements contained in the materials submitted herewith, are true and correct.

[Signature]
Signature

Further, I hereby give City of Ann Arbor Planning & Development Services unit staff and members of the Zoning Board of Appeals permission to access the subject property for the purpose of reviewing my Administrative Appeal.

[Signature]
Signature

On this 21st day of December, 2011, before me personally appeared the above named applicant and made oath that he/she has read the foregoing application by him/her subscribed and knows the contents thereof, and that the same is true as to his/her own knowledge except as to those matters therein stated to be upon his information and belief as to those matters, he/she believes them to be true.

MELANIE E. HOSKI
Notary Public, Washtenaw County, MI
Acting in Washtenaw County
My Commission expires December 17, 2016
12/17/2016
Notary-Commission Expiration Date

[Signature]
Notary Public Signature
Melanie E. Hoski
Print Name

Staff Use Only

Date Submitted: _____ Fee Paid: _____
File No.: _____
Pre-Filing Review Person & Date: _____
Secondary Staff Review Person & Date: _____
Date of Public Hearing: _____
ZBA Action: _____



December 12, 2011

Zoning Board of Appeals
City Hall, Ann Arbor, MI

To Whom It May Concern:

I authorize Dori Edwards to appear before the Zoning Board of Appeals to appeal the denial of Tree City Health Collective's application for zoning compliance.

Sincerely,

A handwritten signature in black ink, appearing to read "Francis Clark", is written over a horizontal line.

Francis Clark
President
616 Church St.
Ann Arbor, MI
734-527-0906

MORTGAGE SURVEY

Certified to: STERLING BANK & TRUST

Applicant: FRANCIS CLARK

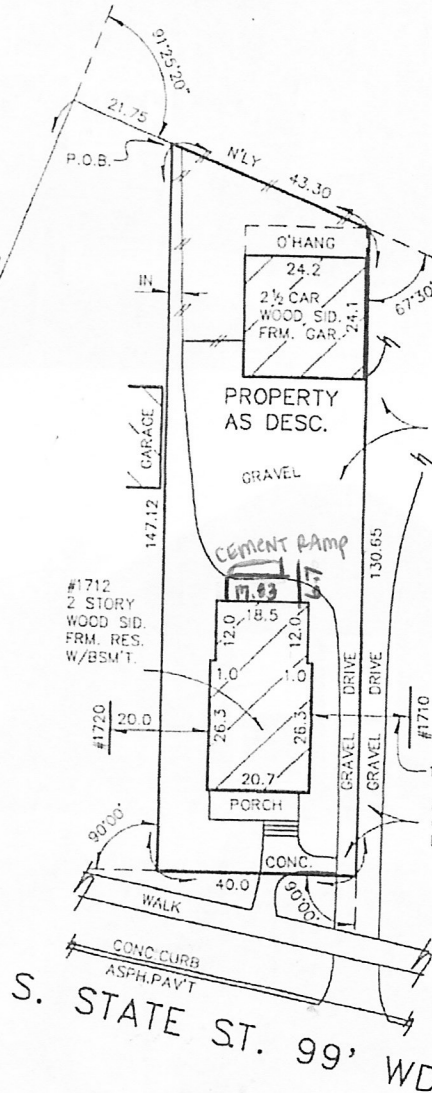
Property Description:

Land located in the Township of Ann Arbor, County of Washtenaw, State of Michigan, described as follows:
 Commencing at the Southeast 1/4 of Section 32; thence West 120.88 feet in the South line of Section; thence deflecting 91 degrees 25 minutes 20 seconds to the right 21.75 feet for a Place of Beginning; thence continuing Northerly 43.30 feet; thence deflecting 67 degrees 30 minutes to the right 130.65 feet; thence deflecting 90 degrees 00 minutes to the right 40 feet; thence deflecting 90 degrees 00 minutes to the right 147.12 feet to the Place of Beginning, being a part of the Southwest 1/4 of Section 33 and part of the Southeast 1/4 of Section 32, Town 2 South, Range 6 East, Township of Ann Arbor, Washtenaw County, Michigan.

Note: The property description is as furnished by client.



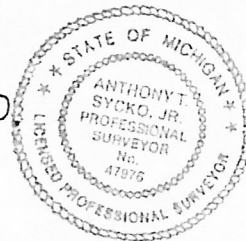
SE 1/4 OF SECTION 32 T.2S., R.6E.



NOTE: A BOUNDARY SURVEY IS NEEDED TO DETERMINE EXACT SIZE AND/OR LOCATION OF PROPERTY LINES, AND FENCE LOCATIONS.

NOTE: GRAVEL DRIVE CROSSES PROPERTY LINE AS SHOWN.

NOTE: GRAVEL DRIVE CROSSES PROPERTY LINE AS SHOWN.



THIS SURVEY DRAWING IS VOID IF THE PROFESSIONAL SEAL IS NOT IN BLUE INK.

CERTIFICATE: We hereby certify that we have surveyed the above-described property in accordance with the description furnished for the purpose of a mortgage loan to be made by the forementioned applicants, mortgagor, and that the buildings located thereon do not encroach on the adjoining property, nor do the buildings on the adjoining property encroach upon the property heretofore described, except as shown. This survey is not to be used for the purpose of establishing property lines, nor for construction purposes, no stakes having been set at any of the boundary corners.

(Signature)

JOB NO: 06-07694 SCALE: 1"=30'
 DATE: 03-29-06 DR BY: LAO

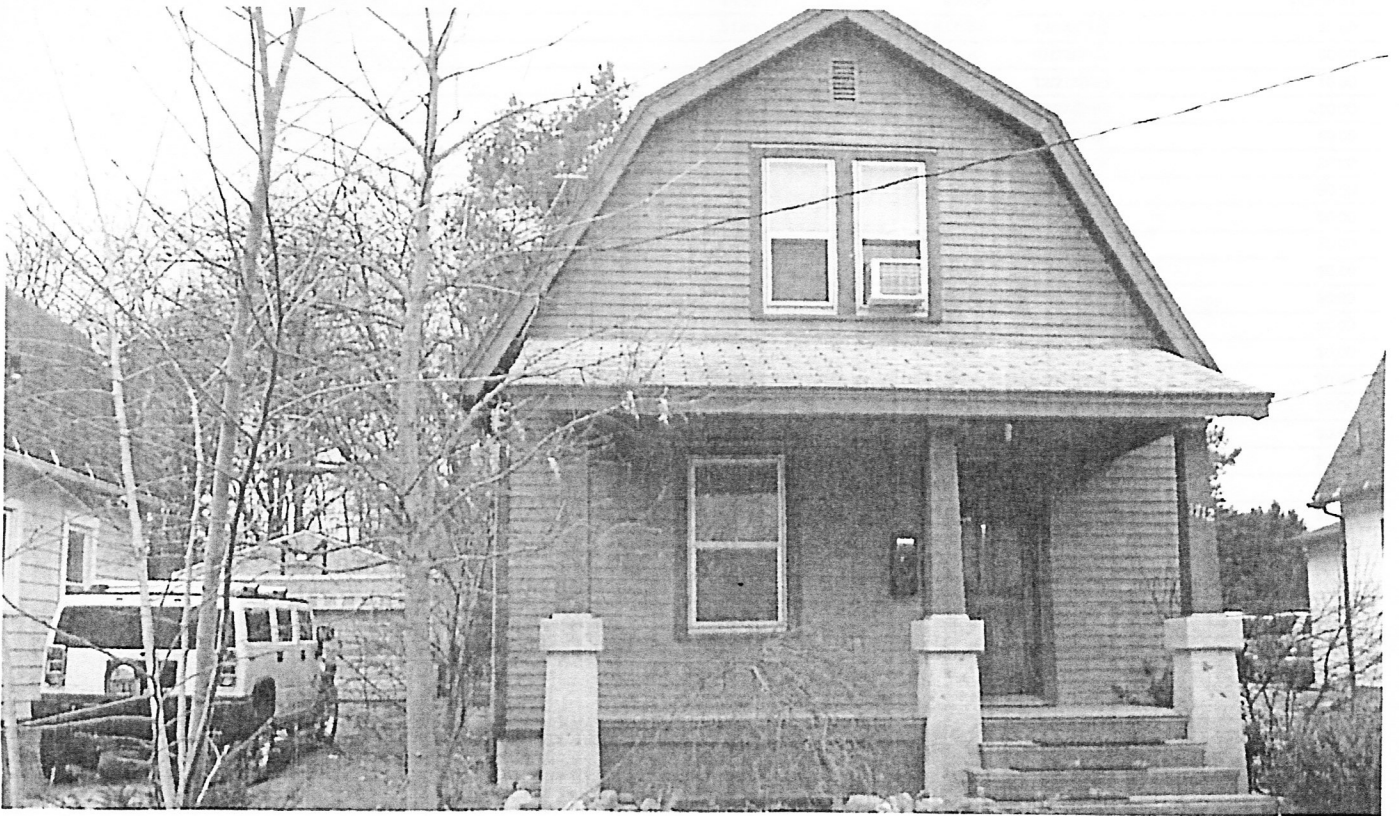
KEM-TEC
 LAND SURVEYORS

22556 Gratiot Avenue
 Eastpointe, MI 48021-2312
 (586) 772-2222

KEM-TEC WEST
 LAND SURVEYORS

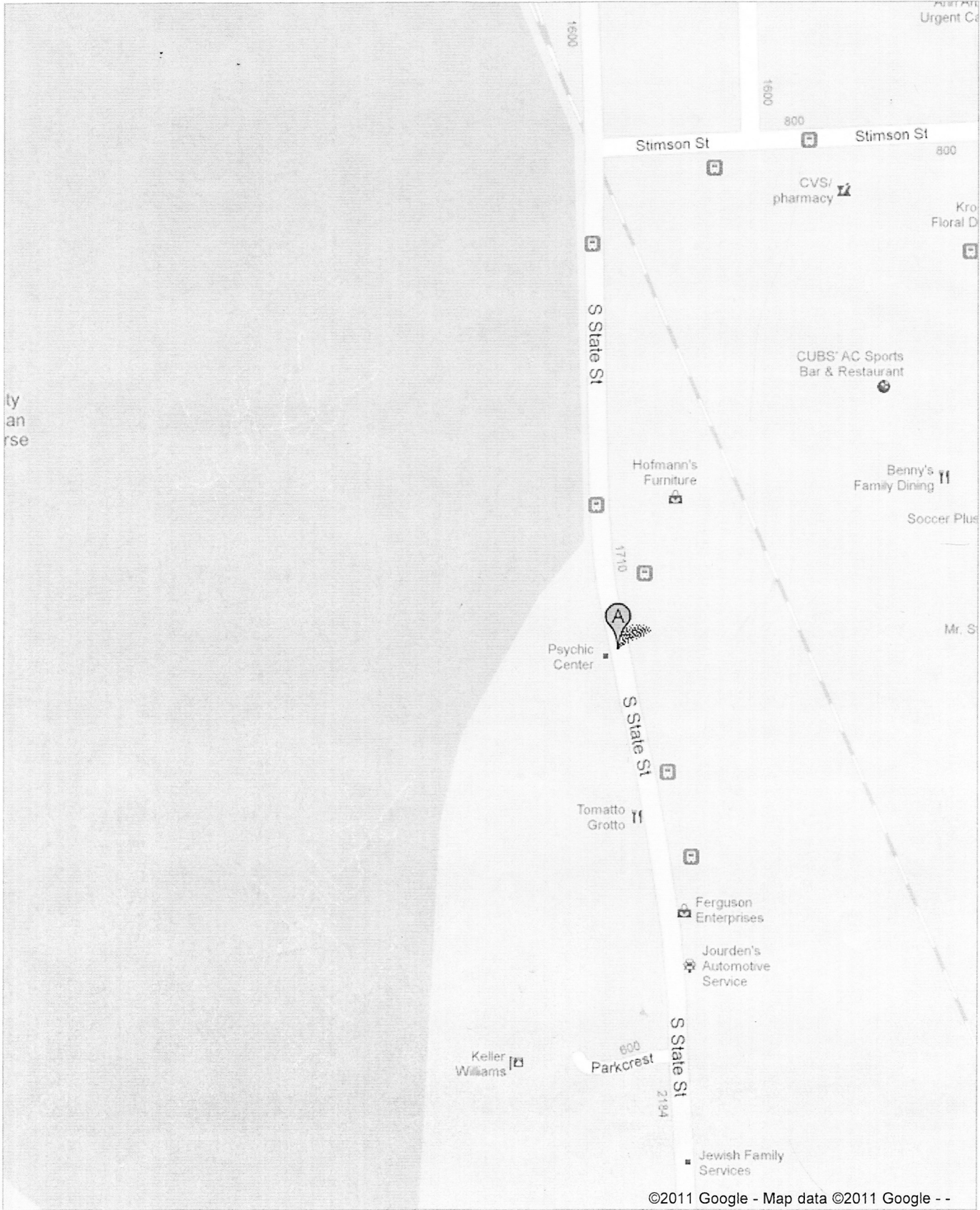
800 E. STADIUM
 Ann Arbor, MI 48104-1412





KEM-TEC LAND SURVEYORS

To see all the details that are visible on the screen, use the "Print" link next to the map.



ZONING BOARD OF APPEALS

Tree City Appeal of Planning Division's Denial of Application for Zoning Compliance Permit

1. Treecity Health Collective was organized by caregivers and patients in July of 2010 as a Michigan nonprofit corporation to serve the needs of both under the Michigan Medical Marijuana Act.
2. It rented its current location at 1712 S. State St. on August 1, 2010. When we were looking for space, we sought out the section of town that had a high concentration of medical professional office buildings, on the advice of our attorney. We thought Treecity Health fit into the O zoning district because it is both a health care provider and a nonprofit organization.
3. 1712 S. State St. is located in an O zoning district.
4. In the O zoning district the ordinance provides:
5. (2) *Permitted principal uses.* ...
Offices of physicians, dentists and other health care providers....

* * * * *

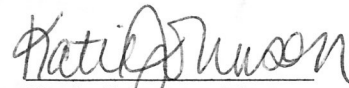
Office of nonprofit organizations, such as professional membership organizations, labor unions, civic, social and fraternal associations, political organizations and religious organizations.

6. In June, 2011 the City Council passed Ordinance 10-37 Concerning the Medical Use of Marijuana. The Ordinance went into effect on August 22, 2011.
7. The Ordinance restricts medical marijuana "dispensaries" to D, C, M or PUD districts.
8. Treecity has offices, meeting places for its members, information and educational services for members of the medical marijuana community. Treecity does not generate a high volume of traffic on State Street.
9. Treecity also provides alternative health services including massage therapy and the nonprofit distribution of medical marijuana to patients registered under the MMMA.

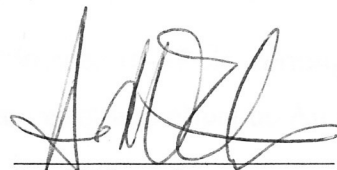
10. When Treecity filed for rezoning from O to C1, it was required to conduct a citizen participation meeting after notifying its neighbors.
11. At the meeting no neighbors appeared to object, and to date there have been no complaints to our knowledge by anyone.
12. The City Council denied the request for rezoning.
13. On 11/3/11 the Planning Division denied Treecity's application for a zoning compliance permit.
14. As Treecity was legally in operation in the O zoning district prior to the effective date of the new zoning ordinance, it is a "legal nonconforming use" under the new zoning ordinance, and as such, it should be issued a zoning compliance permit.

Therefore, Treecity asks that the denial of its zoning compliance permit application be reversed, and that a zoning compliance permit be issued.

Date: December 19, 2011



Katie Johnson, Treasurer
Treecity Health Collective, Inc.



Dori Edwards
Public Relations

Ganja Mama's
Trecity Health Collective
1712 S State Street
Ann Arbor, MI 48104

(734)369.3212

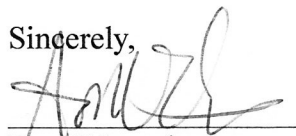
December 20, 2011

To Whom it May Concern:

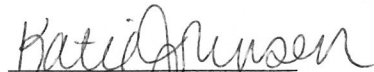
Dear Council,

I authorize Denny Hayes to appear before the Zoning Board of Appeals to appeal the denial of Trecity Health Collective's application for a zoning compliance permit. I authorize Denny Hayes to speak before council on the behalf of Trecity Health Collective during the hearing for this appeal.

Sincerely,



Dori Edwards
Personal Relations



Katie Johnson
Treasurer

From: Public Relations [<mailto:mama@ganjamamas.com>]
Sent: Wednesday, January 11, 2012 11:56 AM
To: Kowalski, Matthew
Subject: non conforming use statute

Dear Matt,

I would like to highlight the legal basis of Treecity Health's Collective's administrative appeal. It is based on Michigan Compiled Laws 125.3208(1), which states in part:

"If the use of a dwelling, building, or structure of the land is lawful at the time of enactment of a zoning ordinance or an amendment to a zoning ordinance, then that use may be continued although the use does not conform to the zoning ordinance or amendment."

Treecity Health's use of 1712 S. State was lawful in the O zoning district, as we have stated in our appeal, at the time the amendment to our zoning ordinance took effect on August 22, 2011. According to this statute, our use "may be continued although the use does not conform to the zoning ordinance or amendment."

Michigan Compiled Laws 125.3208 is part of the Michigan Zoning Enabling Act, and is therefore binding on the City. So the City should have approved our application for a zoning compliance permit.

I hope your staff report will recommend that our administrative appeal be granted, and that a zoning compliance permit be issued.

Sincerely,

Dori Edwards
Treecity Health Collective

P.S. Please include this e-mail in the packet that is sent to the ZBA.

--

Dori Edwards
Public Relations
ChronicaLogic LLC
[734.369.3212](tel:734.369.3212)