

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

**STAFF REPORT**

**Subject: ZBA11-022 – 700 Tappan: Administrative Appeal**

**Summary:** Michael McLeod, Green Planet Patient Collective, is requesting review of the Planning and Development Services denial of a zoning compliance permit for operation of a medical marijuana dispensary at 700 Tappan.

**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 700 Tappan 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. 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:

“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.”

This parcel upon which 700 Tappan is located is part of the multiple-parcel Casa Dominick’s Planned Unit Development (PUD). The Casa Dominick’s PUD supplemental regulations, approved by City Council on October 19, 2009, permit the following permitted principal uses within Building B (700 Tappan):

- i. Restaurants and catering businesses. Drive-thru window service shall be prohibited. Outdoor restaurant uses shall be prohibited after midnight.
- ii. Grocery, prepared food and beverage sales, including retail sales of non-food items typically associated with groceries and food preparation. Examples include cookware, glassware, linens, books, kitchen utensils and implements, and small kitchen appliances.
- iii. Classrooms and educational instruction.
- iv. Tanning, massage and beauty salon.

- v. Business offices, medical or dental offices, professional and non-profit organization offices. Examples include real estate and insurance agencies, attorneys and law firms, accountants, architects, engineers, travel agencies, consultants, and property management firms. Banks shall be prohibited.
- vi. Residential dwellings, subject to the residential occupancy limitations per Ann Arbor City Code Chapter 55, Section 5:7 (a), (b), or (d). Six persons living as a single housekeeping unit shall not be permitted.

On November 16, 2011 Green Planet Health Collective applied for a zoning compliance permit to operate a medical marijuana dispensary at 700 Tappan. The permit was denied by Planning staff because it does not comply with Chapter 55, Section 5:50.1(3)(a), as retail is not listed as a general use allowed in the PUD supplemental regulations for this parcel, but is limited to the retail sales of non-food items related to the sales of groceries and prepared foods.

## **Discussion**

The petitioner argues that the medical marijuana dispensary use is allowed because Section 5:50.1(3)(a) allows dispensaries in “PUD districts where retail is permitted in the supplemental regulations”. While the supplemental regulations for Building B in the Casa Dominick PUD district do allow “Grocery, prepared food and beverage sales, including retail sales of non-food items typically associated with groceries and food preparation”, this is a specific use, and the PUD regulations do not include general retail uses outside of those defined in the supplemental regulations. Marijuana for medical use is not an item “typically associated with groceries and food preparation” and to allow a medical marijuana dispensary would enlarge on the specifically restricted use allowed by the PUD regulations. As such, staff determined that the existing regulations prohibit a medical marijuana dispensary.

The petitioner also states that the medical marijuana dispensary use is allowed under the Casa Dominick PUD supplemental regulations for Building B that permit medical offices and offices of non-profit organizations. While both of these uses are permitted in the PUD supplemental regulations, it is the medical marijuana dispensary use, not the medical or non-profit use, which is prohibited. Chapter 55, Section 5:50.1(2)(b)(iii) specifically defines medical marijuana dispensary use and has specific regulations regarding where such use is allowed. In addition, this use has not been added to the allowable uses in the Office district and as such it is not considered permitted activity of a medical office.

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

Respectfully submitted,

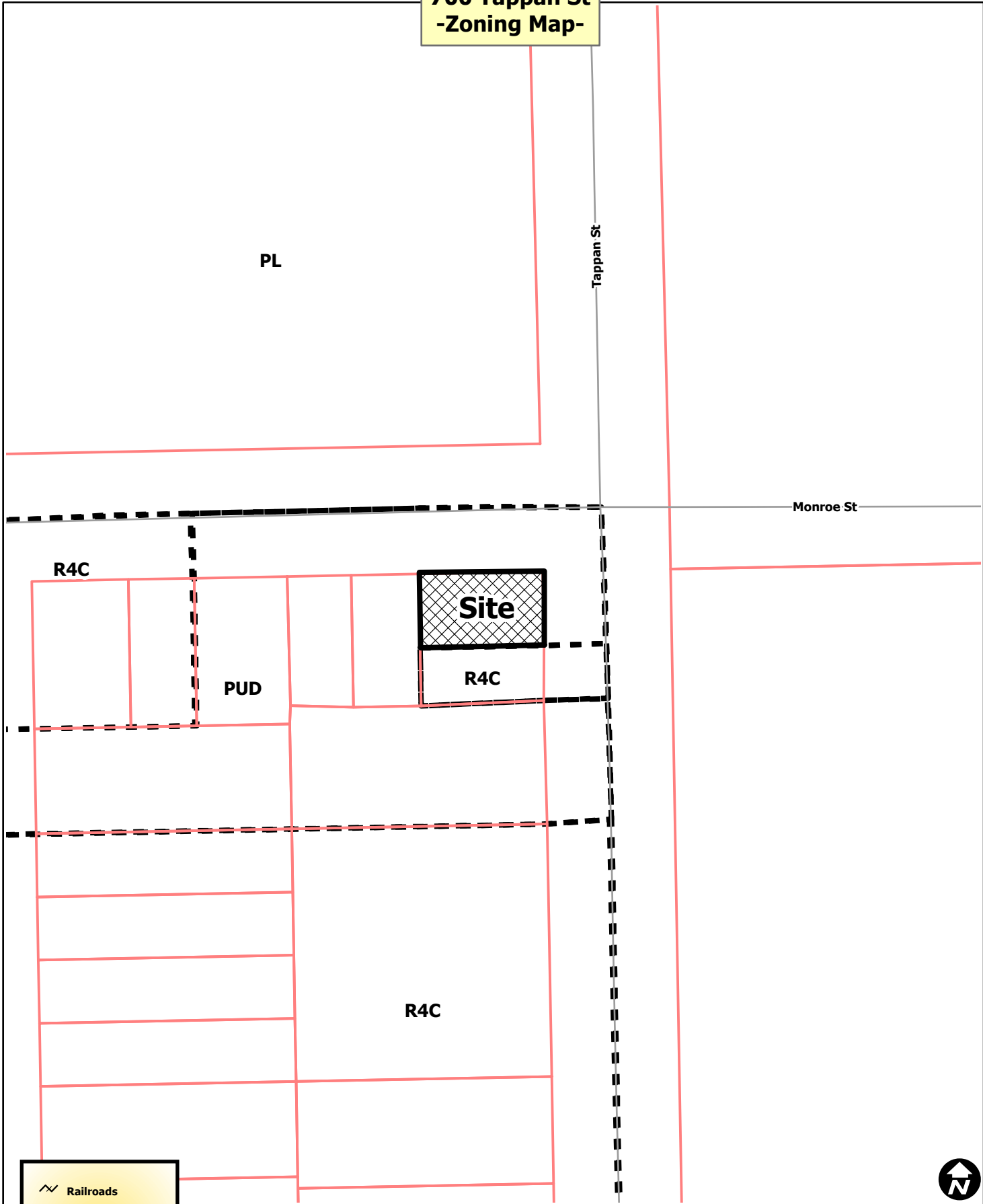
A handwritten signature in black ink on a light green rectangular background. The signature is cursive and appears to read 'Matt Kowalski'.

**Matt Kowalski, AICP**  
**City Planner**

Attachments:        August 5, 2010 City Council Moratorium  
                             Chapter 55, Section 5:50.1 Regulations concerning Medical Use of  
                             Marijuana  
                             Dominick's PUD Supplemental Regulations

c: City Attorney

# 700 Tappan St -Zoning Map-



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



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Map Created: 1/4/2012





# City of Ann Arbor

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

## Text File

File Number: 10-0793

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**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)

## Casa Dominick's PUD Supplemental Regulations

### Section 1: Purpose

It is the purpose of the City Council in adopting these regulations to provide for a reasonable utilization of several parcels under the same ownership, developed in harmonious integration with the surrounding historical neighborhood and presenting a unified development of mixed uses.

These regulations seek to promote development that provides a mix of desirable uses arranged in such a way that is innovative and efficient; preserves and reuses existing buildings; provides employment and shopping opportunities particularly suited to the neighborhood and the City; advances the City's land use plans and policies; and contributes to the character of an established neighborhood.

### Section 2: Applicability.

The provisions of these regulations shall apply to the property described as follows:

[800 Monroe Street] – Beginning in the south line of Monroe Street at a point 84 feet east of the northwest corner of Lot 1, in Block 7 south of Huron Street, in range 11 east, running thence east on said south line of Monroe Street, 48 feet to the east line of Lot 1; thence south parallel with Thayer Street 77 feet; thence west parallel with Monroe Street, 48 feet; thence north parallel with Thayer Street, 77 feet to the Place of Beginning, being part of Lots 1 and 2 in Block 7 South of Range 11 East, Alteration of the Ann Arbor Land Company's Addition to the Village of Ann Arbor, according to the plat thereof as recorded in Liber U of Deeds, Page 252, Washtenaw County Records; and,

[812 Monroe Street] – The West 33 feet in width of Lot No. 14 in Block No. 7, South of Huron Street, Range No. 11 East, according to the recorded plat of the alteration of the Ann Arbor Land Company's Addition to the Village (now City) of Ann Arbor, Washtenaw County, Michigan; and,

[814 Monroe Street] – The North 3 Feet of the West 35 feet of the East 99 feet of Lot 13 and the West of the East 99 feet of Lot 14 in Block No. 7, South of Huron Street, Range No. 11 East, according to the recorded plat of the alteration of the Ann Arbor Land Company's Addition to the Village (now City) of Ann Arbor, Washtenaw County, Michigan; and,

[705 Oakland Avenue] – The South 55 feet of Lot 2 in Block No. 7 South, Range 11 East, in the Alteration of the Ann Arbor Land Company's Addition to the said City of Ann Arbor, as recorded in Liber 'U' of Plats, Page 252, Washtenaw County Records; and,

[700 Tappan Street] – The East 64 feet of the North 39 feet of Lot 14 in Block No. 7, South of Huron Street, Range No. 11 East, according to the recorded plat of the alteration of the Ann Arbor Land Company's Addition to the Village (now City) of Ann Arbor, Washtenaw County, Michigan; and,



[706 Tappan Street] – Lot 13 excepting the North 3 feet thereof in Block No. 7, South of Huron Street, Range No. 11 East, according to the recorded plat of the alteration of the Ann Arbor Land Company's Addition to the Village (now City) of Ann Arbor, Washtenaw County, Michigan.

### Section 3: Findings

During the public hearings on this Planned Unit Development, the Planning Commission and City Council determined that:

- A. It is desirable to develop the property described above for mixed uses, including restaurant, limited retail, limited office, residential, hotel and lodging, and artist's studios, by reusing existing buildings and developing new buildings in an innovative and efficient manner that preserves and contributes to the existing neighborhood character.
- B. The surrounding neighborhood contains a variety of land uses that are compatible with the proposed mix of uses, including the University of Michigan Central Campus, multiple-family residential use, and group housing.
- C. It is in the best interest of the surrounding properties and the City of Ann Arbor that the unique character of the existing neighborhood and the existing variety of land uses be maintained and expanded by establishing the permitted uses and regulating the development parameters on the lots, described above, to that which will have a beneficial effect on, and will not adversely affect, the surrounding properties or the City, in terms of public health, safety, or welfare.
- D. The limitations placed on the permitted principle and accessory uses, the area, height and placement standards, the off-street parking requirements, the landscape and screening requirements, and the architectural design guidelines will ensure that the existing neighborhood character is preserved and enhanced while providing for flexible, innovative, efficient and economical future development.
- E. Creation of the PUD zoning district will eliminate existing nonconforming land uses and lots as well as provide for unique preservation and adaptive reuse of existing structures; allow for a specific mix of certain land uses in a controlled manner; provide for additional employment and shopping opportunities particularly suited to the City and not readily available elsewhere; and will future the goals, policies and plans of the City with regard to new development in established neighborhoods and mixed pedestrian-oriented land uses.
- F. The parcel described above meets the standards for approval as a Planned Unit Development, and the regulations contained herein do not constitute the granting of special privileges nor deprivation of property rights.

### Section 4: PUD Regulations

#### A. Permitted principal uses

1. Areas A and B, as illustrated on Exhibit A, shall permit the following principal uses:
  - i. Restaurants and catering businesses. Drive-thru window service shall be prohibited. Outdoor restaurant uses shall be prohibited after midnight.
  - ii. Grocery, prepared food and beverage sales, including retail sales of non-food items typically associated with groceries and food preparation. Examples include cookware, glassware, linens, books, kitchen utensils and implements, and small kitchen appliances.

- iii. Classrooms and educational instruction.
  - iv. Tanning, massage and beauty salon.
  - v. Business offices, medical or dental offices, professional and non-profit organization offices. Examples include real estate and insurance agencies, attorneys and law firms, accountants, architects, engineers, travel agencies, consultants, and property management firms. Banks shall be prohibited.
  - vi. Residential dwellings, subject to the residential occupancy limitations per Ann Arbor City Code Chapter 55, Section 5:7 (a), (b), or (d). Six persons living as a single housekeeping unit shall not be permitted.
2. Area C, as illustrated on Exhibit A, shall permit the following principal uses:
- i. Hotel and lodging, including food preparation and service for guests. Preparation and serving of food for the general public shall be prohibited.
  - ii. Residential dwellings, subject to the residential occupancy limitations per Ann Arbor City Code Chapter 55, Section 5:7 (a), (b), or (d). Six persons living as a single housekeeping unit shall not be permitted.
3. Area D, as illustrated on Exhibit A, shall permit the following principal uses:
- i. Artists and craft studios, including sales of items produced by the artisans and craftsmen on the premises. Sales of items produced by other persons or outside of the district shall be prohibited.
  - ii. Residential dwellings, subject to the residential occupancy limitations per Ann Arbor City Code Chapter 55, Section 5:7 (a), (b), or (d). Six persons living as a single housekeeping unit shall not be permitted.

B. Permitted accessory uses

1. Outdoor restaurant seating, where restaurant uses are permitted as a principal use.
2. Home occupations, subject to all of the performance standards provided under the Ann Arbor City Code, where residential dwellings are permitted as a principal use.
3. Meetings, assemblies, conferences and special events, where hotel and lodging is permitted as a principal use.

C. Setbacks

1. Monroe Street: The minimum front setback for any building or portion of a building fronting Monroe Street shall be 0 feet.
2. Tappan Street: The minimum front setback for any building or portion of a building fronting Tappan Street shall be 19 feet.
3. Oakland Avenue: The minimum front setback for any building or portion of a building fronting Oakland Avenue shall be 24 feet.



4. Side and Rear: There shall be no minimum or maximum side or rear setback dimension required from any lot line internal to the district. New development, including additions to existing buildings, shall be set back a minimum of 10 feet from side or rear lot line around the perimeter of the district.

D. Height

The maximum height for all structures within the district shall be 35 feet. Exceptions shall be permitted for chimneys only.

E. Lot Size

1. Minimum lot size: 2,245 square feet
2. Maximum lot size: 25,932 square feet

F. Floor Area Ratio

1. The maximum floor area as a percentage of lot area, also referred to as Floor Area Ratio (FAR), permitted in the district shall be 150%.

Floor area shall include the enclosed area from the exterior face to exterior face of each floor of all buildings within the district. Attic space and partial floors or stories of a building shall be included in FAR calculations. Only basements or underground space may be excluded from FAR calculations.

G. Site Access and Off-Street Parking Spaces

1. Access: A maximum of two curb cuts shall be permitted from a public street to access the district, one curb cut from Monroe Street and one curb cut from Oakland Avenue. Each curb cut shall conform to the dimensional standards established in Ann Arbor City Code Chapter 47.

All useless curb cuts shall be removed and the curb shall be restored as part of the first PUD Site Plan approved within the district.

2. Vehicular Parking: A minimum of 2 off-street vehicular parking spaces shall be required. A maximum of 10 off-street vehicular parking spaces shall be permitted. These spaces shall be shared by all uses and buildings within the district.

3. Bicycle Parking:

- i. A minimum of 1 Class C (open, hoop-style) bicycle space shall be required for each bedroom in a residential dwelling within the district. Class B (covered, hoop-style) or Class A (enclosed, locker-style) spaces may be provided to satisfy all or part of this requirement.
- ii. A minimum of 10 Class C bicycle spaces shall be required to serve all other uses and buildings within the district. Class B spaces may be provided to satisfy all or part of this requirement.

H. Landscaping, Screening and Site Amenities

1. At minimum, a total of 2,500 square feet of pervious landscape area shall be provided in the district. Any one landscape area shall be a minimum of 8 feet in any direction. All landscaped

areas shall be planted with live ground cover. At minimum, 10 deciduous and/or evergreen trees must be provided in the district. Landscape areas and trees shall be distributed as evenly as possible throughout the district.

2. A solid fence or wall of at least 6 feet in height shall be required around the perimeter of the district except for adjacent to public streets.
3. Outdoor seating and other hardscape areas (generally those areas other than pervious landscape areas, driveways and vehicular use areas) constructed or installed after the adoption of this district and supplemental regulations shall be pervious, porous materials to facilitate ground water infiltration and enhance the quality of storm water run-off in the district. Pervious, porous materials may include porous asphalt or concrete, and pervious pavers.

I. Preservation

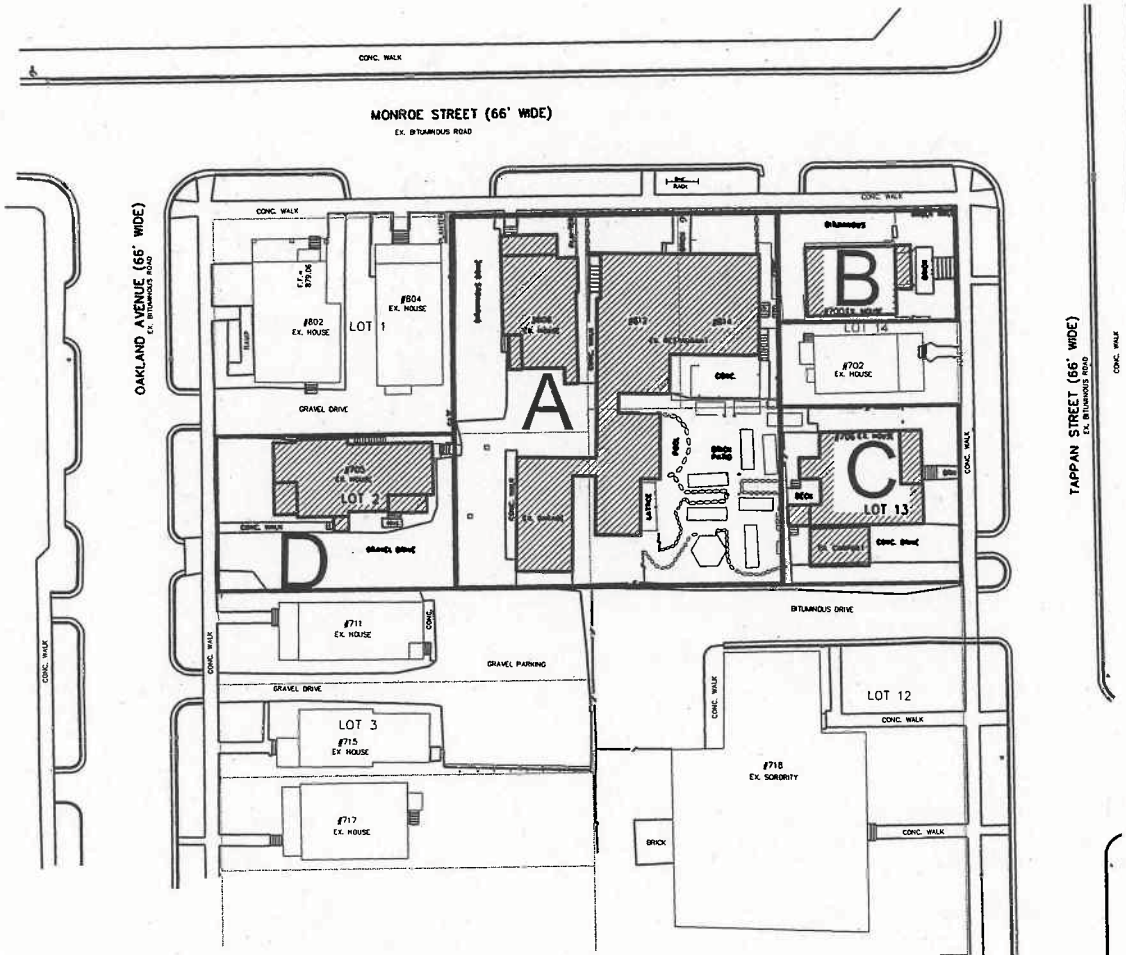
The exterior facades, including windows and all architectural trim materials, of the existing principal buildings within the district at the time of approval shall be preserved and maintained in their current configurations or restored to their original historic appearances unless an alteration, modification or, in the case of fire, accident or natural disaster, reconstruction is approved by the City Planning Commission. The existing principal buildings at the time of approval are 705 Oakland Avenue, 808 Monroe Street, 812-814 Monroe Street, 700 Tappan Street and 706 Tappan Street, and are shown on Exhibit K. This requirement shall not apply to any accessory buildings, including accessory buildings that are attached to the noted principal buildings.

J. Architectural Design

1. Additions to Existing Buildings: All additions to existing buildings shall be designed and constructed to match the existing building, including such elements as: architectural style; façade materials; percentage of windows relative to the façade; style of windows, window frames, and shutters; trim details; roof pitch and materials; and color palette.
2. New Buildings: Any new free-standing building shall be designed in a style and with materials of its time but harmonious and complimentary to the district. Detailed and labeled architectural elevations and renderings shall be provided with submittal of any PUD Site Plan petition. The City Planning Commission shall determine during its review and recommendation or approval of the PUD Site Plan if a proposed new building is harmonious and complimentary to the district.

K. Exhibits

Casa Dominick's PUD Conceptual Plan (11 pages)



EXISTING SITE PLAN  
SCALE : 1/64" = 1' - 0"

These drawings as instruments of service remain the property of John Barrie Associates LLC. Any changes, publication, copying, or unauthorized use is prohibited unless expressly approved.

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1 OF 11

# CASA DOMINICK'S PROPERTIES DEVELOPMENT PLAN

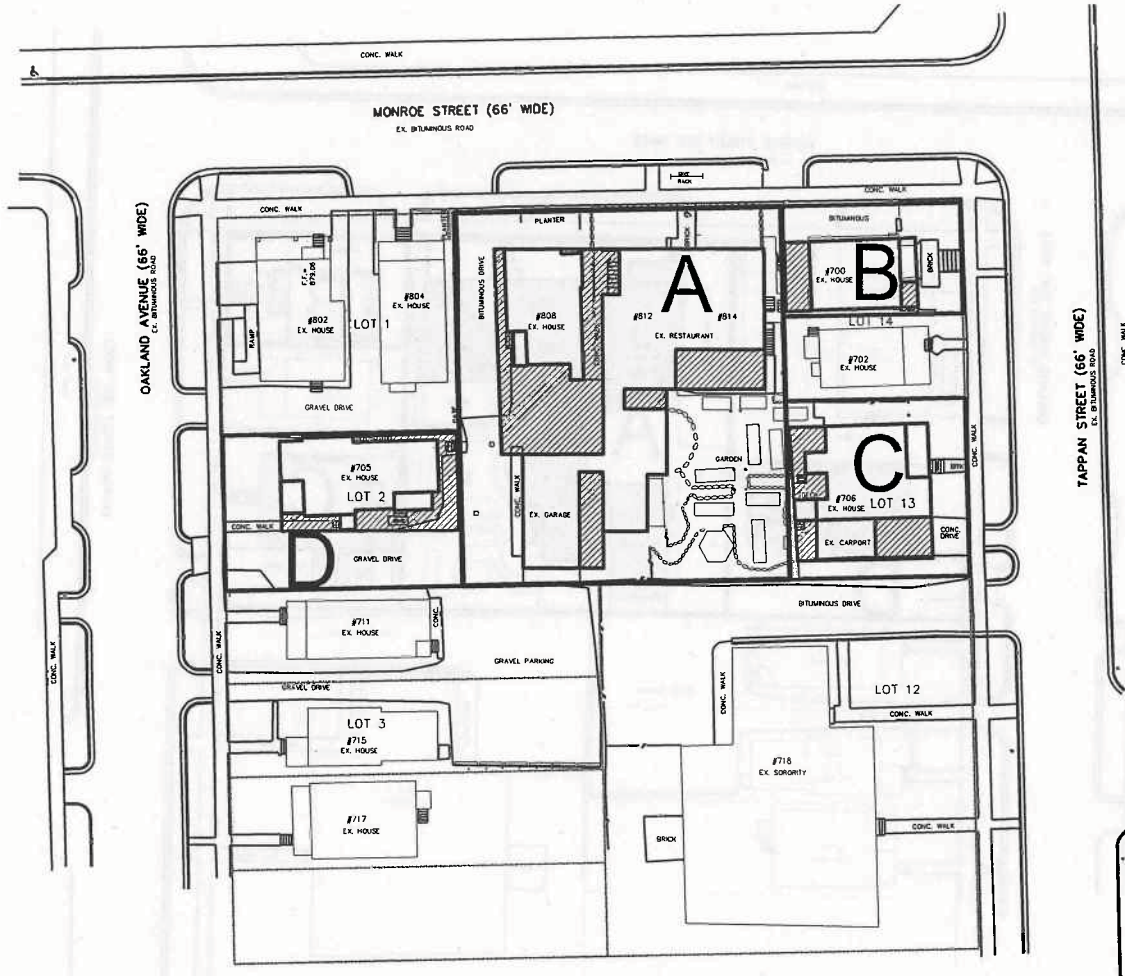


John Barrie Associates  
Architects LLC.  
Environmental Design of  
Residential and Commercial  
Structures

Phone: 734-688-4811  
Fax: 734-688-4152



CONCEPTUAL PLAN --  
 HATCHING SHOWS POTENTIAL  
 NEW DEVELOPMENT



CONCEPTUAL PLAN  
 SCALE : 1/64" = 1' - 0"

- SETBACKS:  
 FRONT = Monroe St. - 0 FT. FOR NEW CONSTRUCTION  
 Tappan St. - 19 FT. FOR NEW CONSTRUCTION  
 Oakland Av. - 24 FT. FOR NEW CONSTRUCTION  
 SIDE = NO MINIMUM SETBACK FROM ANY INTERNAL  
 LOT LINE. 10 FT MIN. FOR NEW.  
 REAR = NO MINIMUM SETBACK FROM ANY INTERNAL  
 LOT LINE. 10 FT MIN. FOR NEW.

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CASA DOMINICK'S PROPERTIES  
 DEVELOPMENT PLAN

**John Barrie Associates  
 Architects LLC.**

Environmental Design of  
 Residential and Commercial  
 Structures

Phone: 734-888-8811  
 Fax: 734-888-8182

40'-0"

30'-0"

20'-0"

10'-0"



814, 812, 808 MONROE STREET EXISTING ELEVATIONS

SCALE : 1/16" = 1' - 0"

40'-0"

30'-0"

20'-0"

10'-0"



814, 812, 808 MONROE STREET CONCEPTUAL ELEVATIONS

SCALE : 1/16" = 1' - 0"

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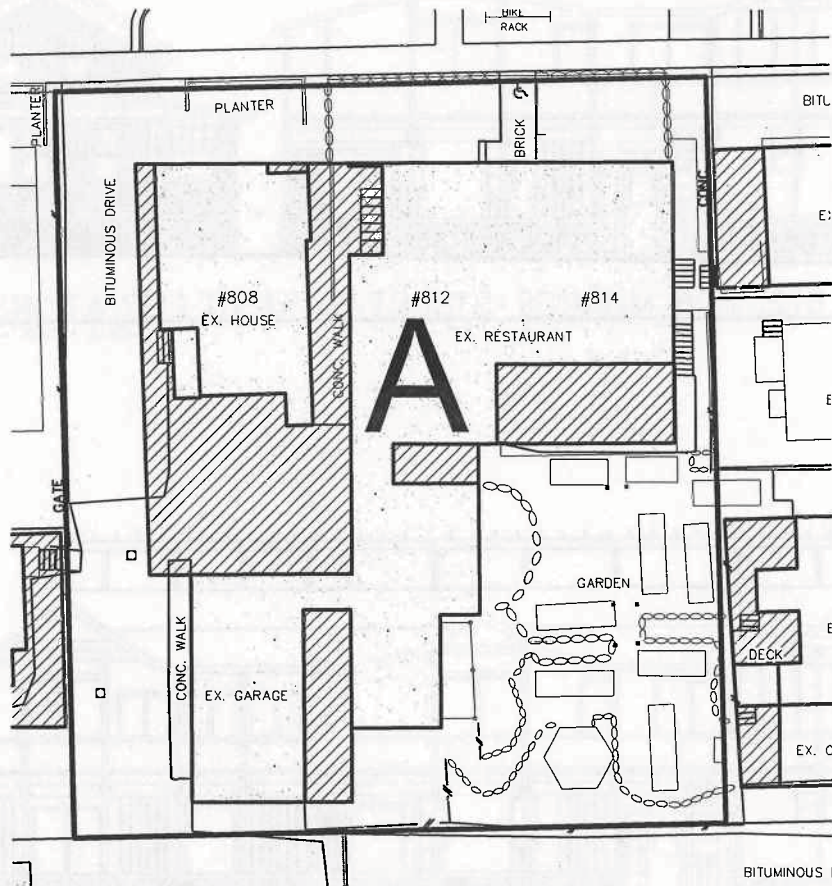
3 OF 11

# CASA DOMINICK'S PROPERTIES DEVELOPMENT PLAN





John Barrie Associates Architects LLC  
Environmental Design of Residential and Commercial Structures

Phone: 734-668-4811



SITE PLAN A - EXISTING AND CONCEPTUAL  
PLAN DETAIL

SCALE : 1/32" = 1' - 0"

LEGEND	
	EXISTING
	CONCEPTUAL

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## CASA DOMINICK'S PROPERTIES DEVELOPMENT PLAN

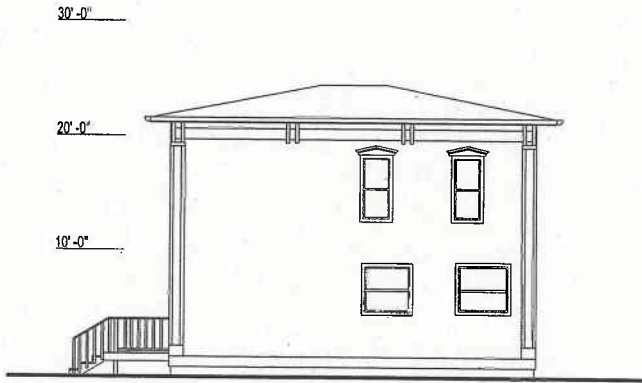


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Architects LLC.

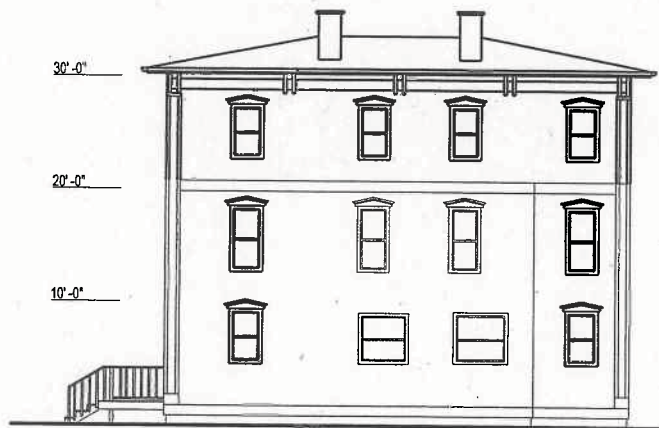
Environmental Design of  
Residential and Commercial  
Structures

Phone: 734-668-4811





700 TAPPAN EXISTING MONROE STREET ELEVATION  
 SCALE : 1/16" = 1' - 0"



700 TAPPAN CONCEPTUAL MONROE STREET ELEVATION  
 SCALE : 1/16" = 1' - 0"

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## CASA DOMINICK'S PROPERTIES DEVELOPMENT PLAN



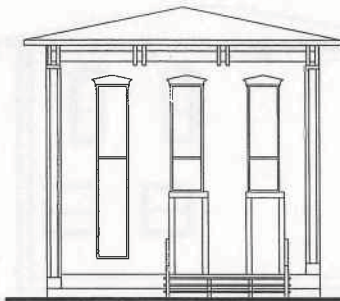
John Barrie Associates  
 Architects LLC.  
 Environmental Design of  
 Residential and Commercial  
 Structures

Phone: 734-865-4811

30'-0"

20'-0"

10'-0"

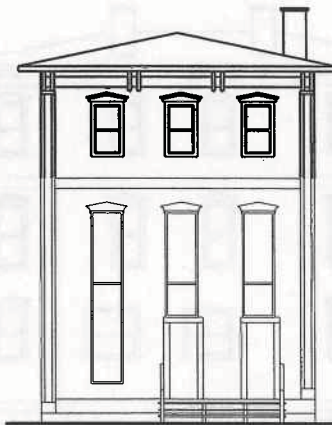


700 TAPPAN EXISTING ELEVATION  
SCALE : 1/16" = 1' - 0"

30'-0"

20'-0"

10'-0"



700 TAPPAN CONCEPTUAL ELEVATION  
SCALE : 1/16" = 1' - 0"

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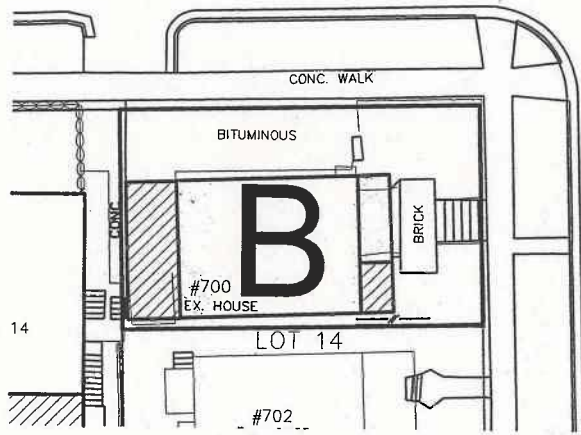
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## CASA DOMINICK'S PROPERTIES DEVELOPMENT PLAN



**John Barrie Associates  
Architects LLC.**

Environmental Design of  
Residential and Commercial  
Structures  
Phone: 734-668-4811






**SITE PLAN B - EXISTING AND CONCEPTUAL**  
 SCALE : 1/32" = 1' - 0"

LEGEND	
	EXISTING
	CONCEPTUAL

SETBACKS:  
 FRONT (TAPPAN) = 19 FT. FOR NEW CONSTRUCTION  
 SIDE = NO MINIMUM SETBACK FROM ANY INTERNAL LOT LINE. 10 FT MIN. FOR NEW.  
 REAR = NO MINIMUM SETBACK FROM ANY INTERNAL LOT LINE. 10 FT MIN. FOR NEW.

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## CASA DOMINICK'S PROPERTIES DEVELOPMENT PLAN



John Barrie Associates Architects LLC.

Environmental Design of Residential and Commercial Structures

Phone: 734-968-4811

30'-0"

20'-0"

10'-0"



706 TAPPAN EXISTING ELEVATION  
SCALE : 1/16" = 1' - 0"

30'-0"

20'-0"

10'-0"



706 TAPPAN CONCEPTUAL ELEVATION  
SCALE : 1/16" = 1' - 0"

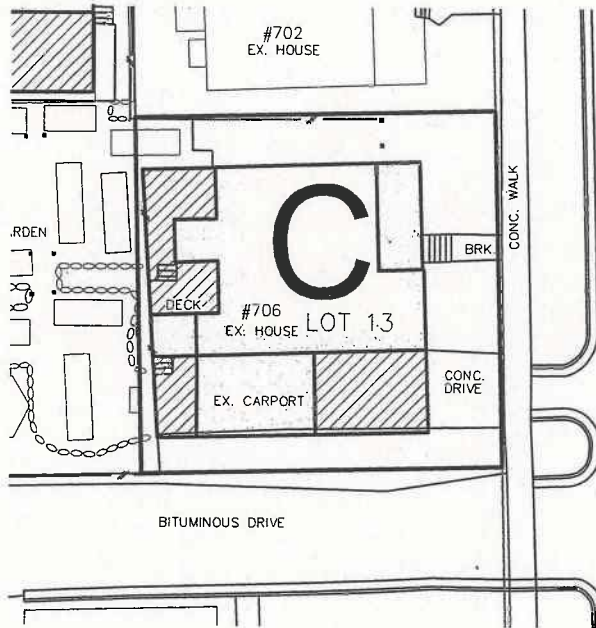
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## CASA DOMINICK'S PROPERTIES DEVELOPMENT PLAN

**JB**  
John Barrie Associates  
Architects LLC.

Environmental Design of  
Residential and Commercial  
Structures  
Phone: 734-688-4811



SITE PLAN C – EXISTING AND CONCEPTUAL  
 PLAN DETAIL

SCALE : 1/32" = 1' - 0"

LEGEND	
	EXISTING
	CONCEPTUAL

SETBACKS:  
 FRONT = 19 FT. FOR NEW CONSTRUCTION  
 SIDE = NO MINIMUM SETBACK FROM ANY INTERNAL LOT LINE. 10 FT MIN. FOR NEW.  
 REAR = NO MINIMUM SETBACK FROM ANY INTERNAL LOT LINE. 10 FT MIN. FOR NEW.

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## CASA DOMINICK'S PROPERTIES DEVELOPMENT PLAN

**John Barrie Associates  
 Architects LLC.**  
 Environmental Design of  
 Residential and Commercial  
 Structures  
 Phone: 704-946-4811

30'-0"

20'-0"

10'-0"



705 OAKLAND EXISTING ELEVATION  
SCALE : 1/16" = 1' -0"

40'-0"

30'-0"

20'-0"

10'-0"



705 OAKLAND CONCEPTUAL ELEVATION  
SCALE : 1/16" = 1' -0"

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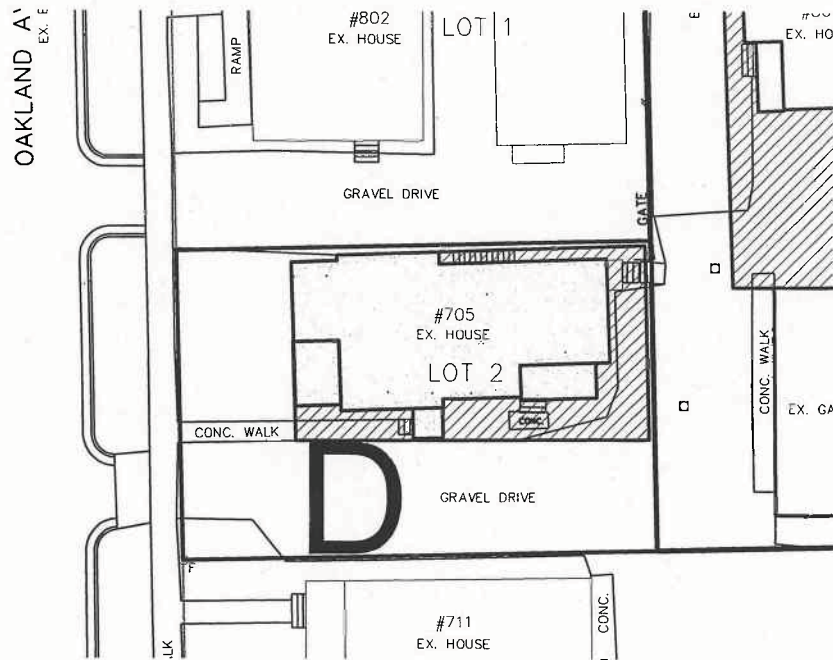
# CASA DOMINICK'S PROPERTIES DEVELOPMENT PLAN



John Barrie Associates  
Architects LLC.



Environmental Design of  
Residential and Commercial  
Structures

Phone: 734-688-4811



SITE PLAN D – EXISTING AND CONCEPTUAL  
PLAN DETAIL

SCALE : 1/32" = 1' - 0"

LEGEND	
	EXISTING
	CONCEPTUAL

SETBACKS:  
 FRONT = 24 FT. FOR NEW CONSTRUCTION  
 SIDE = NO MINIMUM SETBACK FROM ANY INTERNAL LOT LINE. 10 FT MIN. FOR NEW.  
 REAR = NO MINIMUM SETBACK FROM ANY INTERNAL LOT LINE. 10 FT MIN. FOR NEW.

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CASA DOMINICK'S PROPERTIES  
DEVELOPMENT PLAN



John Barrie Associates  
Architects LLC.

Environmental Design of  
Residential and Commercial  
Structures

Phone: 734-668-4811





December 14, 2011

City of Ann Arbor  
Planning & Development Services – Planning Division  
Attn: Matthew J. Kowalski, AICP – City Planner  
301 East Huron Street  
PO Box 8647  
Ann Arbor, MI 48107-8647

**RE: Administrative Appeal Application – Zoning Board of Appeals**

Green Planet's Administrative Appeal Application for the Zoning Board of Appeals is attached.

The application includes the following Attachments:

- Attachment A – Letter of Authorization from Property Owner
- Attachment B – Detailed Description of Appeal
- Attachment C – Casa Dominick's PUD Supplemental Regulations – October 19, 2009 (survey included)
- Attachment D – Building Floor Plan
- Attachment E – Photographs of Property & Neighborhood
- Attachment F – Copy of Zoning Compliance Permit Denial
- Attachment G – Minutes Ann Arbor City Planning Commission October 5, 2010
- Attachment H – Written Comments submitted to Ann Arbor City Planning Commission on October 5, 2010
- Attachment I – Article – "Medical Marijuana Zoning Heads to Council", The Ann Arbor Chronicle, October 13, 2010
- Attachment J – Video Link References of Ann Arbor City Planning Commission October 5, 2010

Please contact me if you have any questions.

Thank you,

A handwritten signature in black ink, appearing to read "Michael McLeod", written in a cursive style.

Michael McLeod

## APPLICATION FOR ADMINISTRATIVE APPEAL

### Section 1: Applicant Information

Name of Applicant: Green Planet, Inc.  
Address of Applicant: 700 Tappan, Ann Arbor, MI 48104  
Daytime Phone: 734.975.8490  
Fax: NA  
Email: mike@GreenPlanetA2.org  
Applicant's relationship to property: Lease Property

### Section 2: Property Information

Address of Property: 700 Tappan  
Zoning Classification: PUD  
Tax ID# (if known): 09-09-28-303-015  
\*Name of Property Owner: R+D Partnership, LLC

\*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 B

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### 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 ½" 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.

734.975.8490  
Phone Number

mike@GreenPlanetA2.org  
Email Address

[Signature]  
Signature  
Michael McLeod  
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 14th 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.

**LINDA HANSON**  
Notary Public, State of Michigan  
County of Washtenaw  
My Commission Expires 02-26-2017  
Acting In the County of \_\_\_\_\_

[Signature]  
Notary Public Signature  
Linda Hanson  
Print Name

2-26-17  
Notary Commission Expiration Date

Staff Use Only

Date Submitted: 12/14/2011 Fee Paid: \$500.00

File No.: ZBA11-022

Pre-Filing Review Person & Date: M.A. - 12/13/11

Secondary Staff Review Person & Date: [Signature] 12/14/11

Date of Public Hearing: Jan 25, 2012

ZBA Action: \_\_\_\_\_



**ATTACHMENT A**  
**Letter of Authorization from Property Owner**

December 12, 2011

City of Ann Arbor  
Planning & Development Services – Planning Division  
Attn: Matthew J. Kowalski, AICP – City Planner  
301 East Huron Street  
PO Box 8647  
Ann Arbor, MI 48107-8647

**RE: Letter of Authorization from Property Owner**

R & D Partnership, LLC, hereby authorizes Michael McLeod, or his representative, to appear before the City of Ann Arbor Zoning Board of Appeals regarding Green Planet's application for a Zoning Compliance Permit at 700 Tappan.

Please contact me if you have any questions.

Sincerely,



Richard DeVarti  
R & D Partnership, LLC

**ATTACHMENT B**  
**Detailed Description of Appeal**

Green Planet request that the City of Ann Arbor reverse its decision, and approve Green Planet's Zoning Compliance Permit Application.

Background

The City of Ann Arbor denied Green Planet's Zoning Compliance Permit Application on November 16, 2011.

The City states the reason for denial as: *"Per Chapter 55, Section 5:3, does not conform to district regulations of Section 5:50.1 (3) (a). Casa Dominics' supplemental regs limit retail to 'sales of non-food items typically associated with groceries and food preparation'"* (see Attachment F).

Statements of Facts

1. Green Planet is a non-profit.
2. Green Planet provides holistic health services involving medical marijuana as authorized by the Michigan Medical Marihuana Act. Therefore, it is a 'medical office'.
3. Green Planet has leased the first floor of 700 Tappan since August 1, 2010, which was previously leased by a podiatrist medical clinic. We have not received a single complaint.
4. Casa Dominick's PUD Supplemental Regulations specifically permits the proposed following uses at 700 Tappan:
  - a. Restaurants and Catering Businesses.
  - b. Grocery, prepared food and beverage sales, including retail sales of non-food items typically associated with groceries and food preparation. Examples include cookware, glassware, linens, books, kitchen utensils and implements, and small kitchen appliances.
  - c. Classrooms and educational instruction.
  - d. Tanning, massage and beauty salon.
  - e. Business offices, medical or dental offices, professional and non-profit organization offices. Examples include real estate and insurance agencies, attorneys and law firms, accountants, architects, engineers, travel agencies, consultants, and property management firms.

So Green Planet is permitted under paragraph (e) of these regulations.

5. Green Planet submitted written and verbal comments to the Ann Arbor City Planning Commission meeting on October 5, 2010 describing our PUD at 700 Tappan and requesting that PUDs be included as an approved zoning district for medical marijuana dispensaries (see Attachments G, H, I, and J).
6. The Ann Arbor City Planning Commission added PUDs where retail is permitted as a permitted zoning district for medical marijuana dispensaries to the City Zoning Ordinance on October 5, 2010 in response to Green Planet's request (see Attachments G, H, I, and J).

7. Chapter 55, Section 5:50.1 (3) (a), states that a medical marijuana dispensary may be located in “PUD districts where retail is permitted in the supplemental regulations”.
8. Chapter 55, Section 5:50.1 does not specify the nature or extent of the retail activity permitted in the PUD supplemental regulations as a condition of approval, it only states “where retail is permitted in the supplemental regulations”.

### Justifications for Appeal

Green Planet believes that the City of Ann Arbor should have approved its Zoning Compliance Permit Application for the following reasons:

#### **1) Green Planet’s zoning is in full compliance with Chapter 55, Section 5:50.1.**

Green Planet is located in a PUD district where retail is permitted in the supplemental regulations.

The City claims that the PUD supplemental regulations limits “retail to sales of non-food items typically associated with groceries and food preparation”. However, Chapter 55, Section 5:50.1 states “PUD districts where retail is permitted in the supplemental regulations”. The nature or extent of the retail activity is not specified as a condition of approval in the ordinance.

During the October 5, 2010 Planning Commission Meeting, the zoning criteria for PUDs was discussed in response to Green Planet’s request to include them for the 700 Tappan location. Members discussed whether the specific language of each PUD’s supplemental regulations would need to include medical marijuana dispensary as a use. The Planning Commission decided instead, to only use the criteria of “where retail is permitted in the supplemental regulations.” They reasoned that PUDs that allow retail are essentially the same as C1 Districts (both being comprised of a mix of retail and residential) that allow medical marijuana dispensaries. They also noted that medical marijuana could not have been a use previously contemplated in the supplemental regulations.

Secondly, the nature and extent of retail activity included in the PUD supplemental regulations is much broader than is implied by the City in its justification, “*Casa Dominics’ supplemental regs limit retail to ‘sales of non-food items typically associated with groceries and food preparation’.*” The following example retail business activities are specifically included in the PUD supplemental regulations for 700 Tappan:

- Restaurants and Catering Businesses.
- Grocery - prepared food and beverage sales, including retail sales of non-food items typically associated with groceries and food preparation. Examples include cookware, glassware, linens, books, kitchen utensils and implements, and small kitchen appliances.
- Tanning, massage and beauty salon.
- Travel Agencies.

Green Planet’s use of 700 Tappan is consistent with the contemplated commercial uses specified in the PUD and zoning ordinance. Our use of the property as a medical marijuana

dispensary does not burden the City or our neighbors in any way that is contemplated in the zoning ordinance (e.g. member traffic).

## **2) Green Planet Meets Existing Commercial Use Criteria**

Prior to Green Planet's occupancy, 700 Tappan was last used as a medical clinic for a podiatrist.

It was not possible for a medical marijuana dispensary to be contemplated as a commercial use when the PUD supplemental regulations were written.

Green Planet meets uses specified in the 700 Tappan PUD supplemental regulations, including: non-profit organization offices, medical offices, classrooms and educational instruction, and where retail is permitted.

Finally, Green planet is permitted under paragraph (e) as a medical office and as a nonprofit organization office.

**ATTACHMENT C**  
**Casa Dominick's PUD Supplemental Regulations – October 19, 2009**

**Casa Dominick's PUD Supplemental Regulations**

**Section 1: Purpose**

It is the purpose of the City Council in adopting these regulations to provide for a reasonable utilization of several parcels under the same ownership, developed in harmonious integration with the surrounding historical neighborhood and presenting a unified development of mixed uses.

These regulations seek to promote development that provides a mix of desirable uses arranged in such a way that is innovative and efficient; preserves and reuses existing buildings; provides employment and shopping opportunities particularly suited to the neighborhood and the City; advances the City's land use plans and policies; and contributes to the character of an established neighborhood.

**Section 2: Applicability.**

The provisions of these regulations shall apply to the property described as follows:

[800 Monroe Street] – Beginning in the south line of Monroe Street at a point 84 feet east of the northwest corner of Lot 1, in Block 7 south of Huron Street, in range 11 east, running thence east on said south line of Monroe Street, 48 feet to the east line of Lot 1; thence south parallel with Thayer Street 77 feet; thence west parallel with Monroe Street, 48 feet; thence north parallel with Thayer Street, 77 feet to the Place of Beginning, being part of Lots 1 and 2 in Block 7 South of Range 11 East, Alteration of the Ann Arbor Land Company's Addition to the Village of Ann Arbor, according to the plat thereof as recorded in Liber U of Deeds, Page 252, Washtenaw County Records; and,

[812 Monroe Street] – The West 33 feet in width of Lot No. 14 in Block No. 7, South of Huron Street, Range No. 11 East, according to the recorded plat of the alteration of the Ann Arbor Land Company's Addition to the Village (now City) of Ann Arbor, Washtenaw County, Michigan; and,

[814 Monroe Street] – The North 3 Feet of the West 35 feet of the East 99 feet of Lot 13 and the West of the East 99 feet of Lot 14 in Block No. 7, South of Huron Street, Range No. 11 East, according to the recorded plat of the alteration of the Ann Arbor Land Company's Addition to the Village (now City) of Ann Arbor, Washtenaw County, Michigan; and,

[705 Oakland Avenue] – The South 55 feet of Lot 2 in Block No. 7 South, Range 11 East, in the Alteration of the Ann Arbor Land Company's Addition to the said City of Ann Arbor, as recorded in Liber 'U' of Plats, Page 252, Washtenaw County Records; and,

[700 Tappan Street] – The East 64 feet of the North 39 feet of Lot 14 in Block No. 7, South of Huron Street, Range No. 11 East, according to the recorded plat of the alteration of the Ann Arbor Land Company's Addition to the Village (now City) of Ann Arbor, Washtenaw County, Michigan; and,



[706 Tappan Street] – Lot 13 excepting the North 3 feet thereof in Block No. 7, South of Huron Street, Range No. 11 East, according to the recorded plat of the alteration of the Ann Arbor Land Company's Addition to the Village (now City) of Ann Arbor, Washtenaw County, Michigan.

### Section 3: Findings

During the public hearings on this Planned Unit Development, the Planning Commission and City Council determined that:

- A. It is desirable to develop the property described above for mixed uses, including restaurant, limited retail, limited office, residential, hotel and lodging, and artist's studios, by reusing existing buildings and developing new buildings in an innovative and efficient manner that preserves and contributes to the existing neighborhood character.
- B. The surrounding neighborhood contains a variety of land uses that are compatible with the proposed mix of uses, including the University of Michigan Central Campus, multiple-family residential use, and group housing.
- C. It is in the best interest of the surrounding properties and the City of Ann Arbor that the unique character of the existing neighborhood and the existing variety of land uses be maintained and expanded by establishing the permitted uses and regulating the development parameters on the lots, described above, to that which will have a beneficial effect on, and will not adversely affect, the surrounding properties or the City, in terms of public health, safety, or welfare.
- D. The limitations placed on the permitted principle and accessory uses, the area, height and placement standards, the off-street parking requirements, the landscape and screening requirements, and the architectural design guidelines will ensure that the existing neighborhood character is preserved and enhanced while providing for flexible, innovative, efficient and economical future development.
- E. Creation of the PUD zoning district will eliminate existing nonconforming land uses and lots as well as provide for unique preservation and adaptive reuse of existing structures; allow for a specific mix of certain land uses in a controlled manner; provide for additional employment and shopping opportunities particularly suited to the City and not readily available elsewhere; and will future the goals, policies and plans of the City with regard to new development in established neighborhoods and mixed pedestrian-oriented land uses.
- F. The parcel described above meets the standards for approval as a Planned Unit Development, and the regulations contained herein do not constitute the granting of special privileges nor deprivation of property rights.

### Section 4: PUD Regulations

#### A. Permitted principal uses

1. Areas A and B, as illustrated on Exhibit A, shall permit the following principal uses:
  - i. Restaurants and catering businesses. Drive-thru window service shall be prohibited. Outdoor restaurant uses shall be prohibited after midnight.
  - ii. Grocery, prepared food and beverage sales, including retail sales of non-food items typically associated with groceries and food preparation. Examples include cookware, glassware, linens, books, kitchen utensils and implements, and small kitchen appliances.

- iii. Classrooms and educational instruction.
  - iv. Tanning, massage and beauty salon.
  - v. Business offices, medical or dental offices, professional and non-profit organization offices. Examples include real estate and insurance agencies, attorneys and law firms, accountants, architects, engineers, travel agencies, consultants, and property management firms. Banks shall be prohibited.
  - vi. Residential dwellings, subject to the residential occupancy limitations per Ann Arbor City Code Chapter 55, Section 5:7 (a), (b), or (d). Six persons living as a single housekeeping unit shall not be permitted.
2. Area C, as illustrated on Exhibit A, shall permit the following principal uses:
- i. Hotel and lodging, including food preparation and service for guests. Preparation and serving of food for the general public shall be prohibited.
  - ii. Residential dwellings, subject to the residential occupancy limitations per Ann Arbor City Code Chapter 55, Section 5:7 (a), (b), or (d). Six persons living as a single housekeeping unit shall not be permitted.
3. Area D, as illustrated on Exhibit A, shall permit the following principal uses:
- i. Artists and craft studios, including sales of items produced by the artisans and craftspersons on the premises. Sales of items produced by other persons or outside of the district shall be prohibited.
  - ii. Residential dwellings, subject to the residential occupancy limitations per Ann Arbor City Code Chapter 55, Section 5:7 (a), (b), or (d). Six persons living as a single housekeeping unit shall not be permitted.
- B. Permitted accessory uses
1. Outdoor restaurant seating, where restaurant uses are permitted as a principal use.
  2. Home occupations, subject to all of the performance standards provided under the Ann Arbor City Code, where residential dwellings are permitted as a principal use.
  3. Meetings, assemblies, conferences and special events, where hotel and lodging is permitted as a principal use.
- C. Setbacks
1. Monroe Street: The minimum front setback for any building or portion of a building fronting Monroe Street shall be 0 feet.
  2. Tappan Street: The minimum front setback for any building or portion of a building fronting Tappan Street shall be 19 feet.
  3. Oakland Avenue: The minimum front setback for any building or portion of a building fronting Oakland Avenue shall be 24 feet.



4. Side and Rear: There shall be no minimum or maximum side or rear setback dimension required from any lot line internal to the district. New development, including additions to existing buildings, shall be set back a minimum of 10 feet from side or rear lot line around the perimeter of the district.

D. Height

The maximum height for all structures within the district shall be 35 feet. Exceptions shall be permitted for chimneys only.

E. Lot Size

1. Minimum lot size: 2,245 square feet
2. Maximum lot size: 25,932 square feet

F. Floor Area Ratio

1. The maximum floor area as a percentage of lot area, also referred to as Floor Area Ratio (FAR), permitted in the district shall be 150%.

Floor area shall include the enclosed area from the exterior face to exterior face of each floor of all buildings within the district. Attic space and partial floors or stories of a building shall be included in FAR calculations. Only basements or underground space may be excluded from FAR calculations.

G. Site Access and Off-Street Parking Spaces

1. Access: A maximum of two curb cuts shall be permitted from a public street to access the district, one curb cut from Monroe Street and one curb cut from Oakland Avenue. Each curb cut shall conform to the dimensional standards established in Ann Arbor City Code Chapter 47.

All useless curb cuts shall be removed and the curb shall be restored as part of the first PUD Site Plan approved within the district.

2. Vehicular Parking: A minimum of 2 off-street vehicular parking spaces shall be required. A maximum of 10 off-street vehicular parking spaces shall be permitted. These spaces shall be shared by all uses and buildings within the district.

3. Bicycle Parking:

- i. A minimum of 1 Class C (open, hoop-style) bicycle space shall be required for each bedroom in a residential dwelling within the district. Class B (covered, hoop-style) or Class A (enclosed, locker-style) spaces may be provided to satisfy all or part of this requirement.
- ii. A minimum of 10 Class C bicycle spaces shall be required to serve all other uses and buildings within the district. Class B spaces may be provided to satisfy all or part of this requirement.

H. Landscaping, Screening and Site Amenities

1. At minimum, a total of 2,500 square feet of pervious landscape area shall be provided in the district. Any one landscape area shall be a minimum of 8 feet in any direction. All landscaped

areas shall be planted with live ground cover. At minimum, 10 deciduous and/or evergreen trees must be provided in the district. Landscape areas and trees shall be distributed as evenly as possible throughout the district.

2. A solid fence or wall of at least 6 feet in height shall be required around the perimeter of the district except for adjacent to public streets.
3. Outdoor seating and other hardscape areas (generally those areas other than pervious landscape areas, driveways and vehicular use areas) constructed or installed after the adoption of this district and supplemental regulations shall be pervious, porous materials to facilitate ground water infiltration and enhance the quality of storm water run-off in the district. Pervious, porous materials may include porous asphalt or concrete, and pervious pavers.

I. Preservation

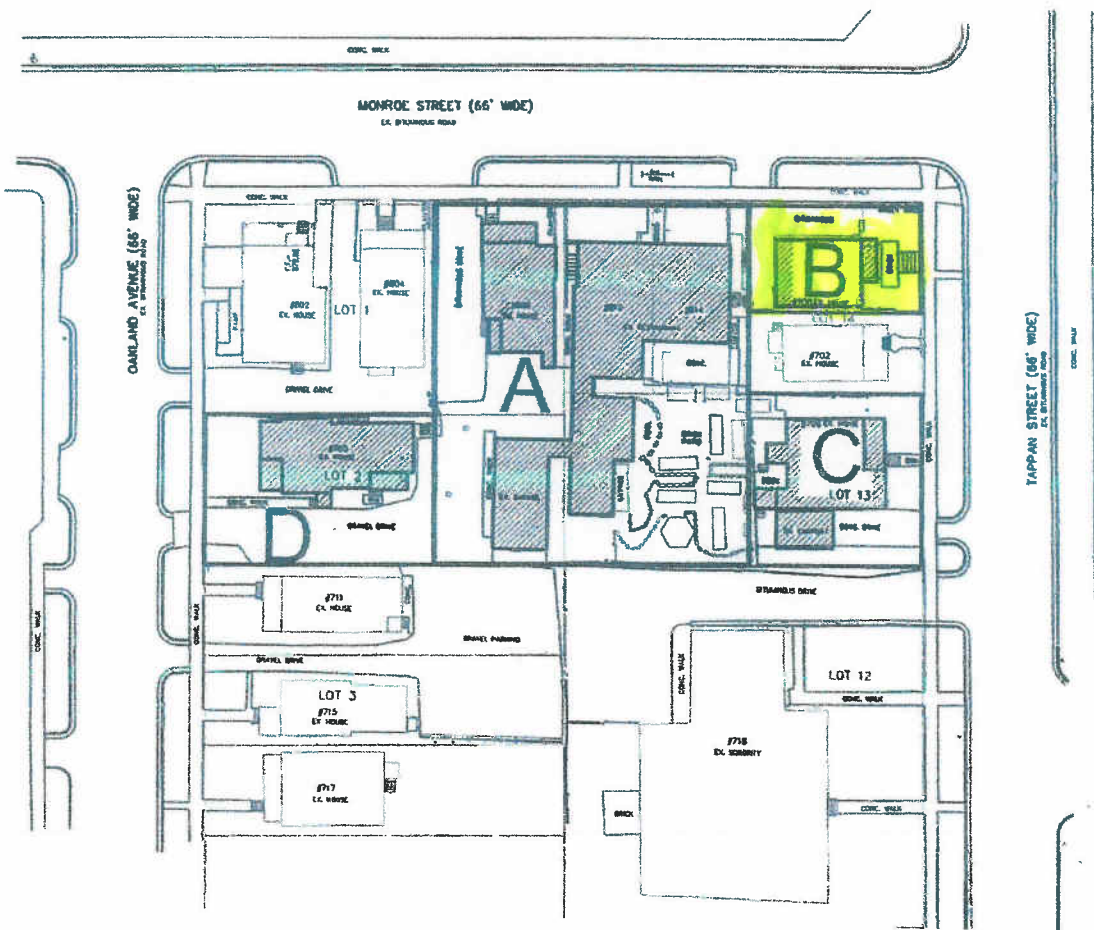
The exterior facades, including windows and all architectural trim materials, of the existing principal buildings within the district at the time of approval shall be preserved and maintained in their current configurations or restored to their original historic appearances unless an alteration, modification or, in the case of fire, accident or natural disaster, reconstruction is approved by the City Planning Commission. The existing principal buildings at the time of approval are 705 Oakland Avenue, 808 Monroe Street, 812-814 Monroe Street, 700 Tappan Street and 706 Tappan Street, and are shown on Exhibit K. This requirement shall not apply to any accessory buildings, including accessory buildings that are attached to the noted principal buildings.

J. Architectural Design

1. **Additions to Existing Buildings:** All additions to existing buildings shall be designed and constructed to match the existing building, including such elements as: architectural style; façade materials; percentage of windows relative to the façade; style of windows, window frames, and shutters; trim details; roof pitch and materials; and color palette.
2. **New Buildings:** Any new free-standing building shall be designed in a style and with materials of its time but harmonious and complimentary to the district. Detailed and labeled architectural elevations and renderings shall be provided with submittal of any PUD Site Plan petition. The City Planning Commission shall determine during its review and recommendation or approval of the PUD Site Plan if a proposed new building is harmonious and complimentary to the district.

K. Exhibits

Casa Dominick's PUD Conceptual Plan (11 pages)



EXISTING SITE PLAN  
 SCALE: 1/64" = 1' - 0"

These drawings as instruments of service remain the property of John Barrie Associates LLC. Any changes, publication, copying, or unauthorized use is prohibited unless expressly approved.  
 ©2009 John Barrie Associates, LLC.  
 1 OF 11

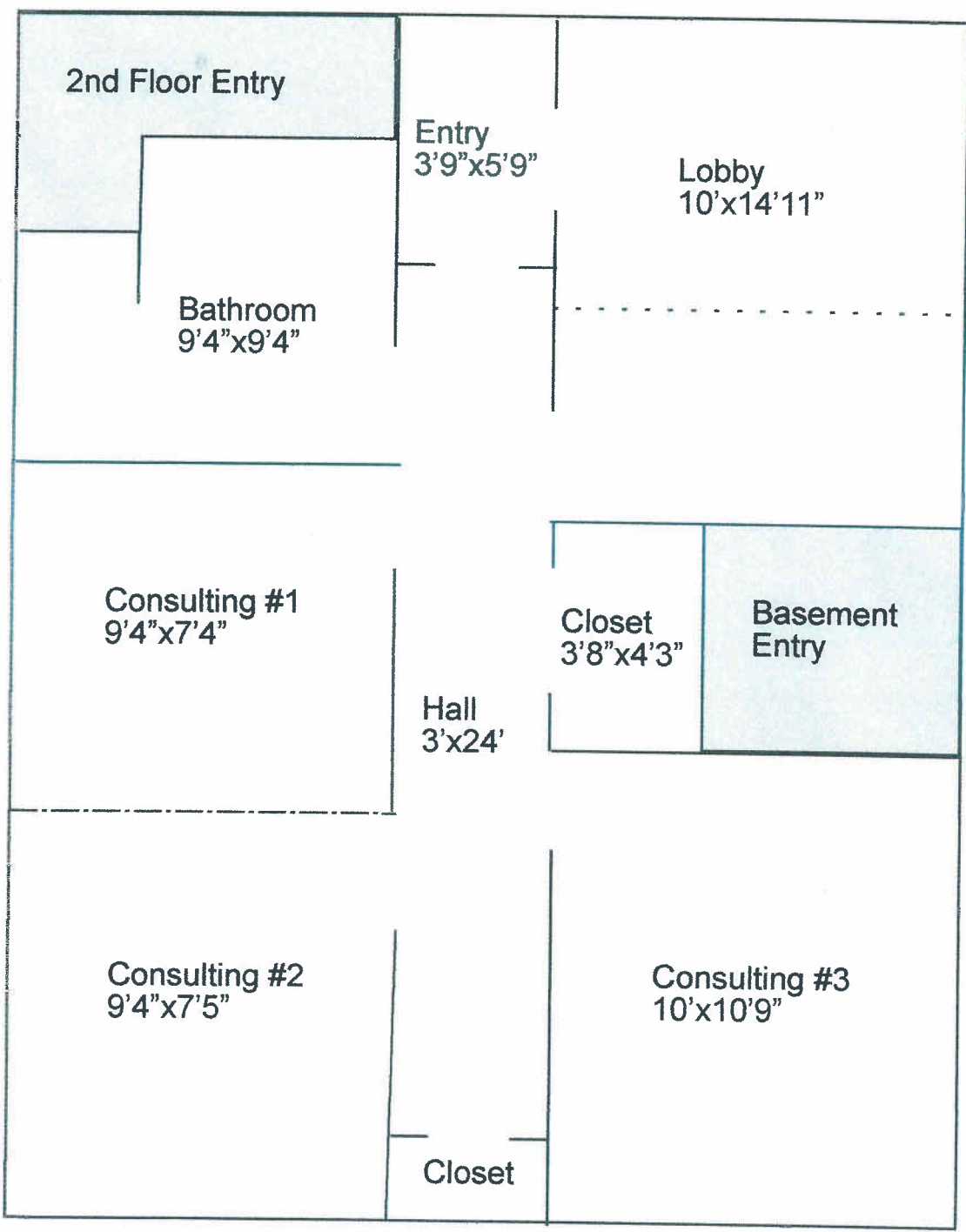
# CASA DOMINICK'S PROPERTIES DEVELOPMENT PLAN

**John Barrie Associates  
 Architects LLC**  
 Environmental Design of  
 Residential and Commercial  
 Structures  
 Phone: 734-888-4641  
 Fax: 734-888-1100

**ATTACHMENT D**  
**Building Floor Plan**

# Floor Plan

Green Planet, Inc.  
700 Tappan - First Floor



----- Wall to be Removed  
..... Partial Divider

**ATTACHMENT E**  
**Photographs of Property & Neighborhood**





700 Tappan – Green Planet



EAST – UM Ross School of Business



NORTH – UM Law School



WEST – Monroe St - Casa Dominick's



SOUTH - Tappan



**ATTACHMENT F**  
**Copy of Zoning Compliance Permit Denial**



City of Ann Arbor  
PLANNING & DEVELOPMENT SERVICES — PLANNING DIVISION  
301 East Huron Street | P.O. Box 8647 | Ann Arbor, Michigan 48107-8647  
p. 734.794.6265 | f. 734.994.8312 | [planning@a2gov.org](mailto:planning@a2gov.org)

November 16, 2011

Michael McLeod  
Green Planet, Inc  
700 Tappan Street  
Ann Arbor, MI 48104

Subject: Medical Marijuana Zoning Compliance Application Denial

Dear Mr. McLeod,

Your zoning compliance application for a medical marijuana dispensary at 700 Tappan Street has been denied. Enclosed please find a copy of the denied *Zoning Compliance Permit Application for Medical Marijuana Dispensaries and Cultivation Facilities* and your original *Re-Occupation Application – Commercial*. A refund for the re-occupation application in the amount of \$190.00 will be mailed to you in two to three weeks.

Sincerely,

A handwritten signature in black ink, appearing to read "Jill Thacher".

Jill Thacher  
City Planner

Enclosures

c: R&D Partnership, LLC, property owner  
City Attorney's office



**CITY OF ANN ARBOR  
ZONING COMPLIANCE PERMIT APPLICATION  
for MEDICAL MARIJUANA DISPENSARIES  
and CULTIVATION FACILITIES**

CITY OF ANN ARBOR  
CITY CLERK  
REC'D

2011 OCT 14 PM 2:37

Return completed form to: City Clerk, 301 E Huron St, 2<sup>nd</sup> Floor, Ann Arbor, MI 48104

Date: 10-12-11

Fee: \$ 50.00

Address: 700 Tappan

Zoning District: PUD

Assessor Code/Parcel ID: 09-09-28-303-015

Currently, the property is being used as (or was last used as, if vacant): medical marijuana dispensary

The property is proposed to be used as a:

medical marijuana dispensary     medical marijuana cultivation facility

Floor area of building: <600 sq ft    Total number of off-street parking spaces: 2

Are there other units in this building?  Yes  No    If yes, list use(s): residential flat

For cultivation facilities only – maximum number of marijuana plants to be located on site: NA

**THIS FORM IS NOT A MEDICAL MARIJUANA DISPENSARY LICENSE. AN APPROVED ZONING COMPLIANCE PERMIT DOES NOT AUTHORIZE THE OPERATION OF A MEDICAL MARIJUANA DISPENSARY.**

Property Owner Name: R+D Partnership, LLC    Applicant Name: Green Planet, Inc.

Address: 812 Monroe

Address: 700 Tappan

Phone: 734-323-5021

Phone: 734-975-8490

Email:

Email: mike@greenplanetaz.org

Signature: [Signature]

Signature: [Signature]

OFFICE USE ONLY

Denied  
Approved By: [Signature]

Date: 11/16/11

Comments: Per Chapter 55, Section 5:3, does not conform to district regulations of Section 5:50.1(3)(a). Casa Dominics supplemental regs limit retail to "sales of non-food items typically associated with groceries and food preparation."

\$50 Permit Fee Paid Date: 10/14/11

Permit Number: No permit issued.

08/22/11



**City of Ann Arbor**  
**PLANNING & DEVELOPMENT SERVICES — CONSTRUCTION SERVICES**

Mailing: 100 North Fifth Avenue P.O. Box 8647 Ann Arbor, Michigan 48107-8647

Location: 2000 South Industrial Highway Ann Arbor, Michigan 48104-6120

p. 734.794.6263 f. 734.994.8460 building@a2gov.org

Date Submitted: \_\_\_\_\_

PERMIT #: REOC **11-0092**

**RE-OCCUPATION APPLICATION — COMMERCIAL**

**YOU MUST FILL IN ALL FIELDS**

<b>PROPERTY</b>	Address 700 Tappan	Zoning District PUD
	Between Monroe	And Hill
<b>PROPERTY OWNER</b>	Name R + D Partnership, LLC	Assessor Code 09-09-28-303-015
	Address 812 Monroe	Ph (734) 323-5021
		Fax
<b>TENANT</b>	Business Name Green Planet, Inc.	Ph (734) 845-2172
	Address 700 Tappan	Fax
	Type of Business Medical Marijuana Patient Collective	Email mike@GreenPlanetA2.org
	Days and Hours of Business 11-7 M-F / 12-5 sat.	Number of Employees 0
<b>BUSINESS OWNER/ MANAGER</b>	Contact Name Michael McLeod	Ph (734) 975-8490
	Address 700 Tappan	Fax
	Email mike@GreenPlanetA2.org	Cell
<b>HISTORIC DISTRICT</b>		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	District _____
<b>FLOOD PLAIN</b>		
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	DNR-E Permit # _____ Approval _____

PLEASE SUBMIT TWO COPIES OF A FLOOR PLAN WITH THIS APPLICATION. THE FLOOR PLAN MUST INCLUDE DIMENSIONS, EXISTING ELEMENTS, PROPOSED DEMOLITION, AND PROPOSED CONSTRUCTION.



**ZONING**

Previous Use: medical marijuana dispensary  
Proposed Use: medical marijuana dispensary

Is this a Medical Marijuana Dispensary or Cultivation Facility?  Yes  No

If you answered "yes" above, you must submit a Zoning Compliance Permit for Medical Marijuana application.

For information about zoning requirements, contact [planning@a2gov.org](mailto:planning@a2gov.org) or 734.794.6265 prior to submission of your permit application.

**BUILDING USE-OCCUPANCY CLASSIFICATION**

- |   |   |
|---|---|
| <input type="checkbox"/> Vacant   | <input type="checkbox"/> H-5 Hazardous production materials                       |
| <input type="checkbox"/> A-1 Assembly, theaters                             | <input type="checkbox"/> I-1 Institutional, supervised residential care           |
| <input type="checkbox"/> A-2 Assembly, nightclubs, bars, restaurants        | <input type="checkbox"/> I-2 Institutional, incapacitated, hospital, nursing home |
| <input type="checkbox"/> A-3 Assembly, rec centers, religious buildings     | <input type="checkbox"/> I-3 Institutional, restrained, prisons                   |
| <input type="checkbox"/> A-4 Assembly, indoor sporting facilities           | <input type="checkbox"/> M Mercantile   |
| <input type="checkbox"/> A-5 Grandstands, stadiums, outdoor sporting events | <input type="checkbox"/> R-1 Residential, hotels, motels, boarding houses         |
| <input type="checkbox"/> B Business   | <input type="checkbox"/> R-2 Residential, multiple-family, fraternity, sorority   |
| <input type="checkbox"/> E Educational                                      | <input type="checkbox"/> R-3 Residential, 1 and 2 family and townhouses           |
| <input type="checkbox"/> F-1 Factory and industrial, moderate hazard        | <input type="checkbox"/> R-4 Assisted living (6-16 occ.)                          |
| <input type="checkbox"/> F-2 Factory and industrial, low hazard             | <input type="checkbox"/> S-1 Storage, moderate hazard                             |
| <input type="checkbox"/> H-1 High hazard, detonation hazards                | <input type="checkbox"/> S-2 Storage, low hazard                                  |
| <input type="checkbox"/> H-2 High hazard, deflagration hazards              | <input type="checkbox"/> U Utility, miscellaneous, garages, fences, sheds         |
| <input type="checkbox"/> H-3 High hazard, physical hazards                  | <input checked="" type="checkbox"/> Mixed Uses                                    |
| <input type="checkbox"/> H-4 High hazard, health hazards                    |   |

**SUPPRESSION SYSTEM**

- |                                   |  |                                   |
|-----------------------------------|--|-----------------------------------|
| <input type="checkbox"/> NFPA-13  | <input type="checkbox"/> Limited Area    | <input type="checkbox"/> Partial  |
| <input type="checkbox"/> NFPA-13R | <input type="checkbox"/> Range Hood      | <input type="checkbox"/> Complete |
| <input type="checkbox"/> NFPA-13D | <input checked="" type="checkbox"/> None |                                   |

**ALARM SYSTEM**

- |  |   |                               |   |                                   |
|--|---|-------------------------------|---|-----------------------------------|
| <input type="checkbox"/> Manual  | <input checked="" type="checkbox"/> Automatic Detection | <input type="checkbox"/> None | <input checked="" type="checkbox"/> Partial | <input type="checkbox"/> Complete |
| <input type="checkbox"/> Single Use  |   |                               |   |                                   |
| <input type="checkbox"/> Mixed Use - Separation Option: <input type="checkbox"/> Non-separated uses <input checked="" type="checkbox"/> Separated uses <input type="checkbox"/> Separate buildings |   |                               |   |                                   |

**OFFICE USE ONLY**

**ZONING NOTES**

Notes: \_\_\_\_\_  
Approval: \_\_\_\_\_ Date: \_\_\_\_\_

**BUILDING NOTES**

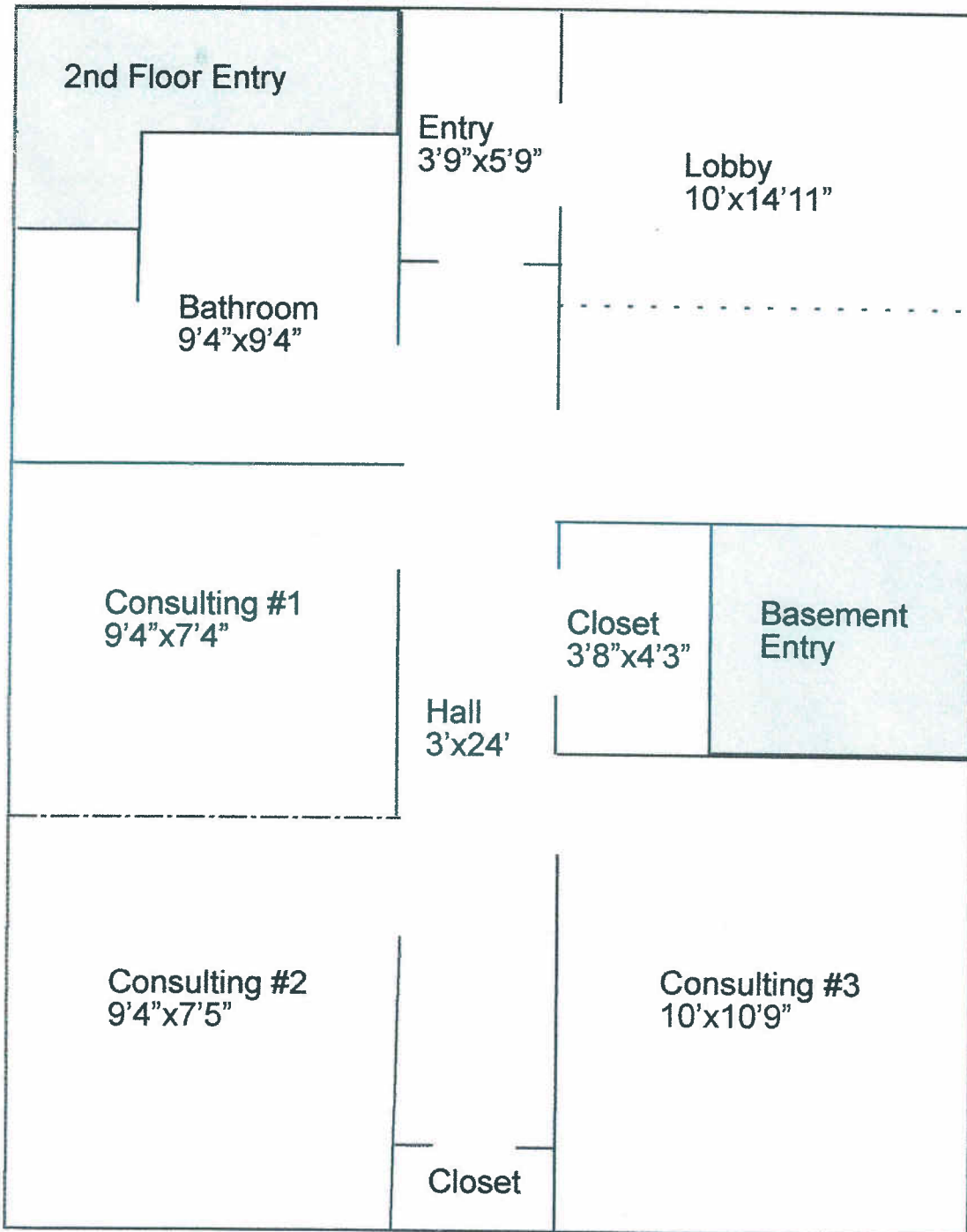
Notes: \_\_\_\_\_  
Approval: \_\_\_\_\_ Date: \_\_\_\_\_

**FEEES**

Zoning Review: \$20  
Building Review: \$170  
**TOTAL: \$190**

# Floor Plan

Green Planet, Inc.  
700 Tappan - First Floor



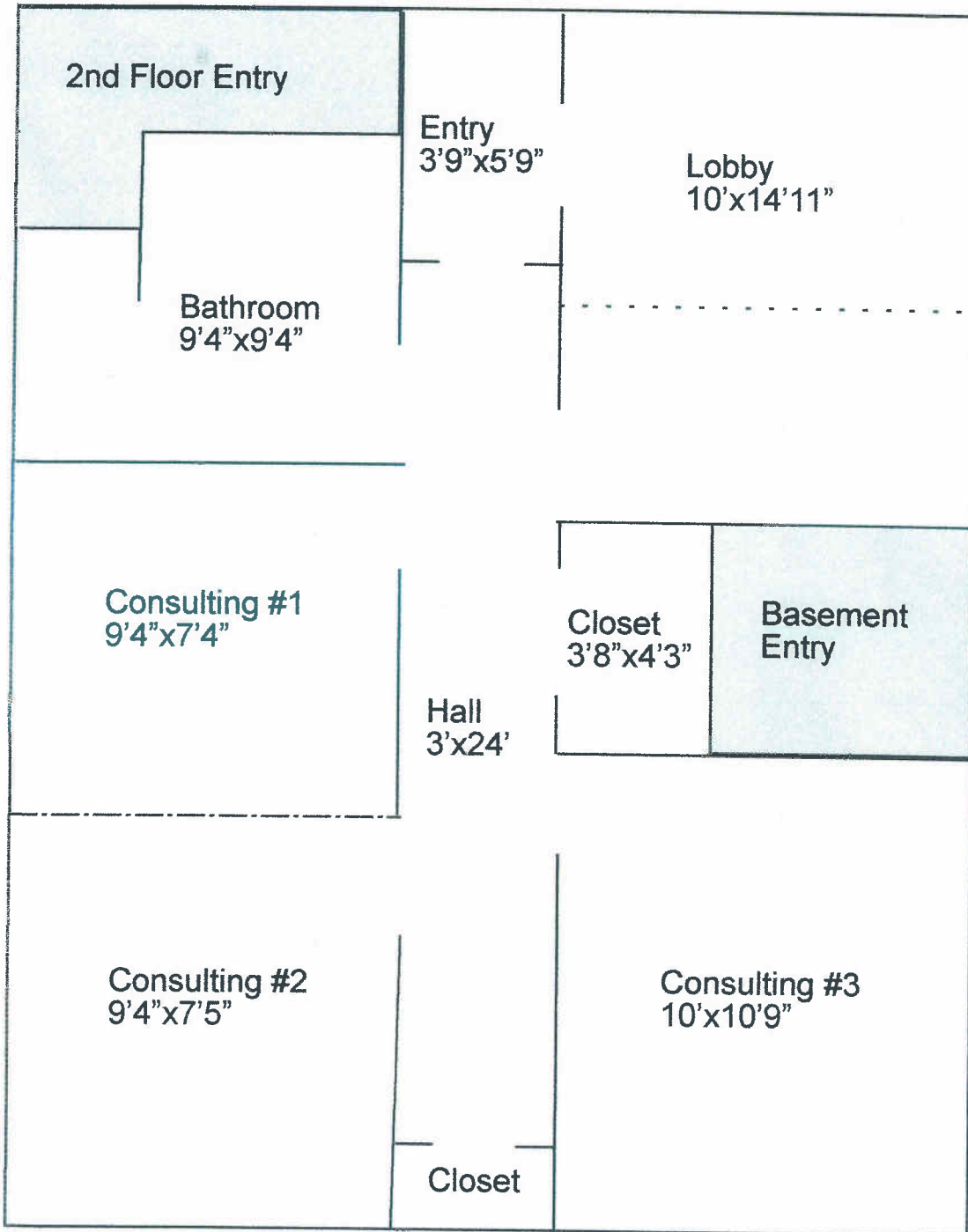
----- Wall to be Removed

..... Partial Divider



# Floor Plan

Green Planet, Inc.  
700 Tappan - First Floor



----- Wall to be Removed

..... Partial Divider



# CITY OF ANN ARBOR

Printed: October 14, 2011

100 N. FIFTH AVE • ANN ARBOR, MI 48104  
(734) 794-6267

**Receipt Number: 2012-00021022**

Permit Number: REOC11-0092

Permit Type: REOCCUPATION

Site Address: 700 TAPPAN ST

Applicant:

Owner: R & D PARTNERSHIP, LLC

Contractor:

Job Description:

## FEES PAID

---

### 0010-050-3360-0000-4325

#### ZONING COMPLIANCE FEES

COMPLIANCE REV UPTO 10,000	0010-050-3360-0000-4.	\$20.00
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<b>Total Fees for Account 0010-050-3360-0000-432</b>	<b>\$20.00</b>
--	----------------

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### 0026-033-3330-0000-4365

#### CERTIFICATE OF OCCUPANCY FEES

C OF O INSPECTION-CHANGE OF OCC CC	0026-033-3330-0000-4.	\$170.00
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<b>Total Fees for Account 0026-033-3330-0000-436</b>	<b>\$170.00</b>
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<b>Total Fees Paid:</b>	<b>\$190.00</b>
-------------------------	-----------------

Date Paid: Friday, October 14, 2011

Paid By: LOGOS

Address: , ,

Pay Method: CHECK 1531

**ATTACHMENT G**  
**Minutes Ann Arbor City Planning Commission October 5, 2010**

MINUTES  
ANN ARBOR CITY PLANNING COMMISSION

REGULAR MEETING

7:00 p.m. – October 5, 2010

Time: Chair Mahler called the meeting to order at 7:00 p.m.

Place: Guy C. Larcom, Jr. Municipal Building, 100 North Fifth Avenue, Second Floor, Council Chamber, Ann Arbor, Michigan.

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ROLL CALL

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Members Present: Bona, Briggs, Carlberg, Dereziński, Giannola, Mahler, Westphal,

Members Absent: Pratt [arriving late] Woods

Staff Present: Rampson, Thacher, Larcom

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INTRODUCTIONS

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None

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APPROVAL OF AGENDA

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**Moved by Westphal, Seconded by Giannola, to approve the agenda.**

A vote to approve the agenda showed:

YEAS: Bona, Briggs, Carlberg, Dereziński, Giannola, Mahler, Westphal, Woods

NAYS: None

ABSENT: Pratt, Woods

**Motion carried.**

---

MINUTES OF PREVIOUS MEETING

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**Moved by Giannola, Seconded by Dereziński, to approve the Minutes of August 17, 2010.**

A vote to approve the meeting minutes showed:

YEAS: Bona, Briggs, Carlberg, Dereziński, Giannola, Mahler, Westphal, Woods

NAYS: None  
ABSENT: Pratt, Woods

**Motion carried.**

---

REPORTS FROM CITY ADMINISTRATION, CITY COUNCIL,  
PLANNING MANAGER, PLANNING COMMISSION  
OFFICERS AND COMMITTEES, WRITTEN COMMUNICATIONS AND PETITIONS

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a. City Administration

None

b. City Council

Derezinski reported that the City Council had postponed taking action on the Area, Height and Placement ordinance for two weeks in order to allow a Councilmember time to review the matter. He explained that upon his request the City Council had also postponed, for two weeks, taking action on a resolution to approve an amendment to a consent judgment regarding the Glen Ann Place PUD site plan. He noted that the request was for an extension on their site plan due to financial issues.

c. Planning Manager

Rampson gave a brief summary from a workshop in Boston she attended on Climate Adaptation and Resilience. She brought the Commission's attention to items in their packet; the Committee/Work Group Assignment, the memo regarding the South State Street Corridor Survey and the October meeting schedule.

Bona suggested that new Commissioners who are on the Capital Improvement Plan Committee may want to attend various committees in order to give them a better understanding of the CIP.

d. Planning Commission Officers and Committees

Westphal reported that the Downtown Designing Guidelines Task Force will be meeting on October 6, 2010 at 5:15 pm for a mobile tour. He explained that at the Environmental Commission there were two resolutions that were brought before them for discussion. He noted that the Resolution for Partnership passed but the Peak Oil Resolution did not pass.

[7:10 pm; Enter Commissioner Pratt.]

Briggs reported that the Citizens Participation Committee had met today and were working on the framework of their committee on how they can improve the citizen's participation process.

Mahler thanked Bona for the informative lecture that she had arranged with key speaker, Pat Murphy.

Bona explained that the Library taped the lecture and would be making it available. She hoped that the tape could be made available to the public through the Planning and Development Services website as well.

Rampson stated that the department could post the library's link to the lecture into the City's website.



e. Written Communications and Petitions

1. Email from Jon Svoboda Requesting Reconsideration of Arbor Dog Daycare Proposal.
2. Various emails regarding Arbor Dog Daycare Proposal.
3. Various emails regarding Fuller Road Station Proposal.
4. Email regarding Medical Marijuana Ordinance Proposal.

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AUDIENCE PARTICIPATION

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Margaret Svoboda, 2856 S. Main Street, Ann Arbor, owner of Arbor Dog Daycare, requested the Commission to reconsider the Arbor Dog Daycare proposal.

Jon Svoboda, 2856 S. Main Street, Ann Arbor, owner of Arbor Dog Daycare, requested Commission input on direction regarding reopening their Arbor Dog Daycare proposal.

Heather Bollingham, 6252 Aspen Way, Ann Arbor, spoke in support of Arbor Dog Daycare as a customer of their business.

Linda Coon, 935 Wildwood Lane, Ann Arbor, spoke in support of Arbor Dog Daycare and their request.

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PUBLIC HEARINGS SCHEDULED FOR NEXT MEETING

---

Mahler read the Notice of Public Hearing scheduled for the October 19, 2010 meeting.

1. Briar Cove Apartment Site Plan for Planning Commission Approval, 20 acres, 650 Waymarket Drive. A proposal to add parking spaces throughout the existing apartment community.
2. University Bank (Hoover Mansion) Planned Unit Development (PUD) Supplemental Regulations Revision and PUD Site Plan, 2.10 acres, 2015 Washtenaw Avenue. A request to revise the approved PUD supplemental regulations to increase the total number of employees and parking spaces allowed and a proposal to construct 24 additional parking spaces at the southeast corner of the site for a new total of 58 spaces.

---

REGULAR BUSINESS

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- a. Public Hearing and Action on Amendments to Chapter 55 (Zoning Ordinance) to Add Regulations Concerning Medical Marijuana Dispensaries and Home Occupations – Staff Recommendation: Approval

Thacher presented the staff report and explained the revisions made to the amendment since the Commission had previously reviewed it.

Assistant City Attorney, Kristen Larcom responded to previous inquiries about licensing requirements. She explained that the City Attorney's office is currently looking into what other communities are doing in regards to licensing but that it would be enforced through a separate ordinance, once it was adopted.

Commissioner Briggs asked if public speakers were required to give their address when addressing the Commission.

Rampson responded that it has been past practice for public speakers to give their address so that the Commission can get a clear understanding if the speakers have a stake in the issues being presented and if the speakers are residents of the City.

Public Hearing Opened.

Mark Curtis, 7678 Matthews Road, Spring Arbor, MI spoke in support of medical marijuana as a source of creating revenue for the City. He stressed the importance of the City to plan for the future, and thanked them for doing their research.

Chuck Ream, Packard Road, Ann Arbor, spoke on behalf of Ann Arbor Coalition for Compassionate Care. He thanked the voters of Ann Arbor for supporting the Medical Marijuana proposition. He also thanked the City Council and Planning Commission for their hard work on the proposed zoning amendment to Chapter 55. Ream distributed a handout to the Commission with his concerns regarding the new Section 5:52. He stated that he had concerns with the following sections of the ordinance:  
Section 3 c. dealing with parking requirements.  
Section 3 d. written permission required from owners.  
Section 4 h. requirement that cultivation needed to be indoors when he felt a greenhouse would be adequate.  
Section 5 c. State of Michigan had already covered this regulation  
Section 7 e. felt this whole section was redundant.

Michael Mead, Ann Arbor, commented on Section 5 Home Occupation. He felt that the State law was intended for caregivers growing plants which was a personal activity and thus not a business activity. Mead also felt that the staff report wasn't based on published scientific literature on the cannabis plant. He stressed the need for confidentiality of caregivers as well as patients and asked if the City could guarantee that related zoning compliance permits would and could be kept confidential. He urged the Commission to remove the section dealing with zoning compliance permits and that they postpone taking action on the items until more thought had been put into the amendment.

Mile McCloud, Ann Arbor, spoke as a representative of approximately 2000 individuals of the Ann Arbor Medical Marijuana Collective and Green Planet Collective. He stated that he had concerns that the PUD and Office zoning districts had been excluded from the ordinance. McCloud felt that requiring written permission from the owner would force owners to incriminate themselves since cultivation of marijuana was illegal under federal law. He also commented that the ordinance would exclude rental properties. He had concerns that the City didn't have the means to restrict public access to records such as zoning compliance permits.

Gersh Avery, 9205 Dexter Chelsea Road, Dexter, spoke regarding confidentiality issues, stressing that medical marijuana caregivers were not protected under the HIPPA laws but rather protected under the State medical marijuana licensing laws that require confidentiality. He noted that government workers who divulge confidential information can go to jail for six months and receive a fine. Avery requested that the City consider these confidentiality laws when drafting an ordinance around medical marijuana so not to become a test case for Michigan with government workers being arrested over confidentiality issues.

Dennis Hayes, spoke on behalf of the Ann Arbor Medical Marijuana Patient's Collective. He thanked the staff for their diligent work on the ordinance as well as for their site visits to various dispensaries in the City. Hayes noted that the Office zoned districts are low intensity uses and should therefore be included in allowable districts. He felt these would be discreet operations, where patients who were seeing their doctors could also conveniently pick up their medication.

Noting no further speakers, Mahler declared the public hearing closed.

**Moved by Westphal, Seconded by Carlberg that The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the amendment to Chapter 55 (Zoning), to add a new Section 5:50.1: Regulations Concerning Medical Marijuana.**

Bona responded to public comments regarding where medical marijuana dispensaries could be located. She suggested inserting a reference to the language of the Supplemental Regulations of the PUD zoning, noting that she believed the provisions of the PUD stipulated '*where retail is allowed*'. Bona noted that she would be in favor of adding this language but only where retail is allowed.

Rampson asked if that would allow them to interpret the Supplemental regulations differently than what was currently written.

Bona answered that she was associating dispensaries with retail and if retail was allowed in PUD districts then that might also be an appropriate place to allow a dispensary.

Rampson noted that every PUD was different and PUDs set out the standards and beneficial impacts. She suggested that if the Commission felt they wanted to include this language then she would recommend that they amend the Supplemental Regulations to include this specific language.

Thacher commented that in the future if these uses were allowed in PUD districts, then language could be added such as '*in PUDs where it's allowed by the Supplemental Regulations*'.

Westphal asked if in Section 3 (a) of the ordinance it would be easier to add, '*where retail is a permitted use in a PUD*'.

Giannola stated that she had a concern about including C1 zoning district, noting that coworkers had also brought their concerns to her regarding the uncertainty and unknown aspect of C1 districts. She asked for feedback from other Commissioners on this issue.

Carlberg noted that she had gone on the tour of dispensaries and she was impressed by how minimal of an impact these dispensaries in C-1 districts had on the surrounding residential neighborhoods. She stated that there didn't seem to be any odor or noise impact and with minimal traffic impact. Carlberg stated that C1 areas are set up to allow parking at the businesses and C1 areas are spread throughout our commercial districts with very little difference from C2 and C3 districts. She commented that she found the tour very helpful.

Briggs asked Carlberg to clarify why she felt the proposed use wouldn't be a good use for Office Districts.



Carlberg responded that she wasn't sure how to answer the question but felt that since they were allowing this use in so many other districts there were plenty of opportunities for people to create these types of businesses in those other districts without feeling that they needed to allow these uses everywhere and anywhere.

Rampson explained that retail use isn't generally allowed in Office districts unless it is of minimal nature so the most significant reason behind the uses wouldn't necessarily be traffic impact, but rather the commercial/retail usage.

Pratt enquired if the current version of the ordinance before the Commission could be considered fair and legal and if the City Attorney felt it was defensible. He also asked if taking out the distance requirements made the ordinance more of a liability.

Assistant City Attorney Kristen Larcom stated that the City Attorney has reviewed the ordinance and feel comfortable moving it forward. She expressed that the current issues being discussed are more policy related issue.

Pratt asked about Section 5, Home Occupation. He asked for verification if patients growing for themselves wouldn't require permits.

Thacher responded that was correct, they wouldn't require a permit.

Pratt asked if there could be a way around the signature requirement; he asked if the standard tenant lease prohibits criminal activity and if a landlord would have a right to terminate a lease if there was illegal activity going on in his building. He asked if staff had looked into this possible area of concern, since it would seem that there is some discrepancy knowing the activity is considered federally illegal but legal at the State level.

Carlberg explained that when she was on the tour she had the opportunity to talk to a building owner and the building owner had expressed that they had an interest to know what activities were going on in their building. Carlberg stated that she would opt for having the building owner responsible and would feel comfortable removing the signature requirement.

Westphal asked if the original intent for including this language was in order for the building owner [landlord] to be alerted of possible disruptive uses to other tenants in the building.

Thacher responded that the issue was raised but there wasn't much time spent on the discussion.

Derezinski thanked the staff for their hard work and research on the matter. He noted the saying about not letting the *perfect* get in the way of the *good*. Derezinski stated that the Commission should remember that the draft ordinance is only a part of what the City will be doing, since he believed the City Council will follow-up with a licensing ordinance as well.

Derezinski noted that the Planning Commission had a limited function involving this ordinance dealing mostly with zoning and planning, while there remained another dimension at the City Council level that will compliment what the City Planning Commission is doing in picking any lose ends.

Derezinski compared the Regulations Concerning Medical Marijuana ordinance process to the processes involved when the State Legislature legalized Bingo. He acknowledged that the City was working on trying to figure out the dynamics of the issue and while the ordinance might not be perfect he believed they had come a long way towards something that was very good.

Carlberg expressed her concern with the parking standards required at a cultivation location.

Thacher noted that the draft ordinance expressly noted in Section 3 (c) *In C* [commercial] districts, buildings used for dispensaries or cultivation facilities shall meet the minimum parking requirements of Chapter 59 for retail uses, with no exceptions for existing nonconforming parking.

Carlberg stated that she felt the existing language was reasonable.

Westphal asked for clarification on Section 4 (f) regarding M zoning districts and if there was any differentiation intended between what types of retail uses could be included in the M1 and M2 districts.

Thacher responded that the language in Section 4 (f) included all allowable uses and there was no differentiations intended.

Westphal asked if it would be allowable to have a dispensary on an M parcel but it wouldn't be allowed to be called a dispensary because of the minimal floor area requirement.

Thacher answered that the business would still be recognized and called a dispensary but the use for cultivation wouldn't be allowed to occupy more than 10% of the building.

Westphal asked if a cultivation facility would be classified differently than a dispensary, and if there would be additional parking requirements.

Thacher responded that both types of business, cultivation as well as a dispensary would be counted towards the total floor area of the building as outlined in Section 4 (f). She explained that having a dispensary only wouldn't be allowed as that would violate the 10% allowed, but a dispensary together with a cultivation facility would qualify. Thacher noted that the parking requirements for the M districts would apply and there wouldn't be any additional requirements.

Westphal asked if the wording in 4 (d) *express written permission* could be exchanged with the word *acknowledgement*, thereby making it less problematic for the landlord.

Thacher asked how in what form the acknowledgement would come.

Rampson explained that when the City issues a Zoning Compliance Permit they always require the property owner to give their permission to the event before the Planning Dept. will sign off.

Westphal asked what had driven the change from the first proposed draft involving the elimination of the 500 feet spacing.

Carlberg mentioned that at last week's Planning Commission meeting there was a proposal before them that involved having three banks all located in the same intersection. She noted that the Commission didn't have an issue with such close proximity and after visiting several dispensaries it didn't seem that there was any visible impact on the neighbors it was hard to find the rationale why we would set spacing limitations for this type of business when we don't do it for any other type of business.

Westphal asked about security concerns. He stated that this type of business is clearly an industry influx currently and as popularity and pricing changes adjust over time he felt having spacing requirements would be one way of stabilizing the issue. Westphal suggested that if it



proved not to be necessary it could be eliminated in the future, but leaving it in the ordinance would allow it to act as a *middle step* for now.

Pratt stated that he didn't think it onerous and given what the zoning map would look like after the ordinance was passed, he would support leaving the spacing requirement in for now with the option of amending it at a later date.

Briggs expressed that she felt the Commission might be trying to solve a problem that didn't exist yet, and by putting in too many restrictions they could be creating unforeseen hurdles, since she didn't foresee any saturation problems. She stated that she would be more comfortable addressing the issue at a later point should it prove to be an issue in our community.

Giannola agreed with Westphal and Pratt in that she felt it would be a good *middle step* since she felt the Commission was dealing with the unknown and it would be easier to amend the ordinance to remove it after the fact than have to add it at a later date.

Mahler stated that he felt it is easier to add something at a later date should it prove to be a problem rather than to *un-ring* a bell in having to take something out of an ordinance. He expressed that he wasn't quite sure of the rationale involved with the spacing or what type of a problem they might be addressing with the spacing requirement.

Mahler agreed with staff comments that the market will sort itself out and spacing will follow accordingly. He couldn't find any rationale between having no spacing requirement versus a 300, 500 or 1000 feet requirement.

Pratt explained his concern with having one or two City blocks that would be dominated by these uses and other businesses maybe feeling leery about filling in vacant spaces in such a block. He noted that it could be undesirable to have these types of businesses dominate an area much like having tattoo parlors dominate an area.

Westphal stated that what made him feel comfortable about having the spacing requirement in the ordinance was a letter from a proponent that suggested having fewer, well regulated dispensaries rather than proliferation.

He questioned staff as to what would happen if the ordinance went into affect without the spacing requirement and there were complaints brought to the City and as a follow-up the City would amend the ordinance to add spacing, what would happen to the existing businesses. Would they be considered grandfathered into the provision or would it simple leave a mess?

Thacher responded it would probably be the latter; a mess.

Rampson responded that if the businesses were established they would be considered non-conforming and would be allowed to operate until they made a change. She noted that monitoring these types of situations can become a challenge, when regulations are added at a later date.

Westphal stated that he felt it might be more difficult to have to add restrictions to businesses after they were established.

Thacher brought the Commission's attention to two letters from the public that were included in their packets.

Briggs commented regarding Section 4 (d) and (h), noting that landlords might not ask their tenants the right questions regarding occupancy while at the same time she didn't want to be creating unnecessary hurdles for new business owners that might cause issues with the federal laws in place.

Briggs asked if a secure greenhouse would be considered indoors.

Thacher responded yes, that a greenhouse is considered an accessory structure.

Westphal stated regarding home occupations, Section 5 (g) [as stricken text on the bottom of page 4, Draft Ordinance October 1, 2010] he would be in favor of restoring the requirement to deliver. He felt it would be better to be slightly more on the conservative side when it comes to the issue of generating traffic.

Westphal expressed his concern with the potential of a possible burden being placed on neighbors of home occupations noting that they might have to put up with additional traffic. He suggested restoring the prohibiting transfer on the parcel and instead therefore requiring delivery.

Carlberg commented about the Zoning Compliance Permit possibly putting the applicants in jeopardy. She asked if the permit needed to state the specific use for which it was granted, or if there could be alternate language that wasn't so specific.

Thacher explained that on the Zoning Compliance Permit the applicant needed to state the intended use in order for City staff to review and approve the proposed use.

Rampson questioned what the conflict might be if these same businesses were advertising on the web and through other means yet their Zoning Compliance Permits could be considered putting these same businesses in jeopardy.

Bona enquired if the applicant had to be the caregiver themselves or if the owner of a business could apply for the permit if the caregiver was someone else.

Thacher noted that the previous Section 4 (b) had been stricken where it stated that a *The operations of a medical marijuana dispensary or cultivation facility must be registered caregivers.*

Assistant City Attorney, Larcom responded that the way the ordinance is written it allows anyone to apply for the Zoning Compliance Permit, because the importance is on the use of that specific location and not on who is actually running the business that becomes relevant.

Rampson agreed.

Giannola asked if the business owner had to follow the State law as a caregiver.

Rampson responded that there is nothing in the State law about the dispensaries. She explained that the Commission was trying to carve out a reasonable land use regulation where the State law hasn't addressed the issue of corporate entities. She explained that the City is trying to strike the balance between accountability from a land use standpoint and other responsibilities provided under State law.

Mahler stated that in regards to Section 4 (d) and Section 7 (e) he had concerns that the Commission was incorporating a whole realm of other tenant/landlord statutes into the zoning ordinance. He also expressed his concerns with the possibility of putting a burden on the tenant

as well as the landlord. He felt that the City wanted responsible landlords and it should be their responsibility to deal with their tenants.

Mahler noted that since Section 7 (e) was written in the affirmative the City was taking on the enforcement of the Michigan Medical Marijuana Act or the responsibilities of the Michigan Department of Community Health which he didn't think was the intention of the proposed ordinance. He questioned if it might be better reworded to read, *Nothing in the ordinance shall be interpreted to be in conflict with the Medical Marijuana Act or the administrative enforcement of the Michigan Department of Community Health.*

Mahler asked the City Attorney to weigh in on the legal issue involving undefined language in the Medical Marijuana Act itself in Section 7 B 2 b. where it specifically states that you cannot possess marijuana or otherwise *engage in the medical use* of marijuana on the grounds of any preschool, secondary or primary school. Given that the inclusion of one thing would usually mean the exclusion of another, Mahler believed that the statutory intent was the inclusion of the school property but excluded with intent what to do with the area around it.

He noted that the 1000 feet may be the Drug-free Zone Act but this specific exclusion in the Medical Marijuana Act now becomes a part of a legal activity, and he would like to know from the City Attorney as well as the staff what their intent was when they wrote this language. Mahler also asked staff and the City Attorney's office to consider how they might handle future litigation involving someone who might be caught with marijuana 997 feet from a school.

Larcom explained that her understanding was that the 1000 feet in the ordinance was for the allowable distance of a dispensary from a school, and since the State statute doesn't provide for dispensaries she didn't feel it wouldn't be a conflict.

Mahler asked if a dispensary *possesses* marijuana as defined in the Medical Marijuana Act.

Larcom asked for Mahler's question to be rephrased.

Mahler stated that the way he understood the activities involving dispensaries, in accordance with the definitions of *possessing* medical marijuana as well as *engaging in the medical use* of marijuana, the statute would have to be applicable. He was concerned if the inclusion in the City's ordinance of the 1000 feet limitation from any school would be a conflict to what the State intended, since they left out the addition of adding any barrier or buffer around any school.

Larcom responded that she wasn't able to respond to that enquiry at this time.

Westphal noted in Section 4 (g) the work *drive-in* should be defined as *drive-thru*.

Thacher responded that staff had checked the reference against the ordinance of C districts and it does state *drive-in*.

Westphal noted that there seemed to be duplicated letters under Section 5 and Section 6 was missing totally.

He also asked for clarification on Section 5 (h) that visitors to a home occupation may not park on the street but must be provided with parking on the parcel.

Thacher answered that the language was in the current home occupation ordinance.

Rampson explained that the current intent is that any parking generated from a home occupancy business shall be on the site and not on the street.

**Moved by Westphal, Seconded by Pratt to amend the Motion to include the restoration of Page 2, Section 3 (d).**

A vote on the motion showed:

YEAS: Gianniola, Pratt, Mahler, Westphal (4)  
NAYS: Bona, Briggs, Carlberg, Dereziński, (4)  
ABSENT: Woods

**Motion failed.**

**Moved by Briggs, Seconded by Pratt to amend the Motion to remove Section 4 (d) or amend the language to remove the wording *written permission* from Section 4 (d).**

**Friendly amendment made by Carlberg, Seconded by Pratt, to eliminate the words *prior express written* and allow it to say *...without permission of the owner of the property for such use*.**

Westphal stated that he would like to know what we would be requiring from a Planning standpoint.

Gianniola asked if the permission could simply be verbal and not written.

Rampson stated that we would require them only to sign the Zoning Compliance Permit application, which is our current practice.

Bona stated that she would prefer to simply take the Section since she felt we didn't have any responsibility to manage the relationship between a landlord and a tenant.

Westphal asked if we were to remove the Section would the owner still be required to sign the Zoning Compliance Permit application.

Rampson responded that the department would continue their practice unless they were told not to continue doing so. She noted that it had been a good practice in the past to require the owner and the applicant to sign the application.

**Moved by Carlberg, Seconded by Pratt, to withdraw and eliminate her friendly amendment as previously stated.**

Westphal stated that he agreed on eliminating the Section, and he hoped that the City could in some way reach out to the landlords with some sort of services to assist them in dealing with this issue.

A vote on the motion showed:

YEAS: Bona, Briggs, Carlberg, Gianniola, Pratt, Mahler, Westphal (7)  
NAYS: Dereziński, (1)  
ABSENT: Woods



**Motion carried.**

**Moved by Bona, Seconded by Carlberg to amend the Motion to add to Section 3 (a) the language, ...or in PUD districts where retail is permitted in the Supplemental Regulations.**

Briggs stated that she was uncomfortable based on her experience with PUDs.

Bona explained that it helped her to understand the rationale if it was an allowable use in C1 districts, which are retail uses next to neighborhoods. In PUDs she noted that they are intentionally mixing space; as well as what they allow in the downtown where there is a mix of retail and residential.

Westphal asked staff if there are R [residential] districts that get rezoned to PUDs or typically commercial districts.

Rampson responded that they are currently all over the zoning map with close to 200 PUDs throughout the City.

A vote on the motion showed:

YEAS: Bona, Carlberg, Derezhinski, Giannola, Mahler, Westphal (6)  
NAYS: Briggs, Pratt, (2)  
ABSENT: Woods

**Motion carried.**

**Moved by Westphal, Seconded by Giannola to amend the Motion to reinstate Section 5 (g) [currently stricken] requiring persons involved in home occupations to deliver products to their customers.**

Pratt asked how the City would handle the previously permitted uses when and if this language would be reinstated in the future. He asked if the City would consider them grandfathered in.

Rampson stated that her initial interpretation would be that it wouldn't be considered a vested right in terms of the property but rather a condition based on the activity of the property.

Giannola asked what recourse someone might have if they encountered a problem.

Rampson responded that they would first hope that the complainant could be able to work out their problem with their neighbor but if they didn't feel comfortable doing that they could file a complaint with our dept and we would conduct an investigation. If that investigation gave us reason to believe that they were not in compliance then we would typically send warning letters, offer to meet and explain what the requirements are and ultimately we can ticket activity on a daily basis if the specific violations continue. She explained these violations are considered to be civil infractions with fines going up to \$ 500.00 for a violation of the Zoning Ordinance.

Westphal reiterated that he felt it really placed a burden on the neighbors to document the activities going, along with the generating of traffic and possibly unsafe conditions for those living close to these facilities. He also felt that the limit of having only five customers a day will have to be tested over time.

A vote on the motion showed:



YEAS: Bona, Briggs, Giannola, Pratt, Westphal (5)  
NAYS: Carlberg, Mahler, Derezinski (3)  
ABSENT: Woods

**Motion carried.**

Bona enquired if Section 5 (g) had been reinstated did they have to strike Section 5 (h).

Thacher responded that they didn't need to because it contained the standard home occupation language.

Mahler asked if the Commission passed the Motion with the approved amendments would they be defeating the intent of what they originally set out to do, in that they could have PUD's such as the *Near North* project with residents and dispensaries together in the same building.

Westphal stated that since the issue involved home occupation only it would mean that they could have a home occupation upstairs but they would have to deliver the product while they would also be allowed to have a dispensary on the ground floor.

Mahler responded that since it is described as a parcel and not as a unit or a dwelling it would allow such mixed uses.

[Power outage at 9:11 pm]

**Moved by Derezinski, Seconded by Giannola that The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council institute a medical marijuana business license to address issues important to the health, safety, and welfare of residents but outside of the scope of the zoning ordinance, such as security, building safety, and other code compliance.**

Carlberg asked to whom the licensing would apply.

Larcom responded that since the City hadn't drafted anything yet, she couldn't answer that question, but she believed that the City Council would ultimately decide on the licensing matter.

Westphal asked if this would be an appropriate time to add license capping of dispensaries.

Larcom answered that she believed the present time could be an appropriate time.

A vote on the motion showed:

YEAS: Bona, Briggs, Carlberg, Derezinski, Giannola, Pratt, Westphal (7)  
NAYS: Mahler, (1)  
ABSENT: Woods

**Motion carried.**

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AUDIENCE PARTICIPATION

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Gersh Avery, 9205 Dexter Chelsea Road, Dexter, spoke regarding confidentiality issues. He noted that government workers who divulge confidential information according to the Medical Marijuana Act can go to jail.

Chuck Ream, Packard Road, Ann Arbor, thanked the Commission and staff for all their hard work on the issue noting that he had been involved with this issue for six years. He felt that the Commission had created an historical event that would restore the quality of lives of many.

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COMMISSION PROPOSED BUSINESS

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Mahler brought up the request previously mentioned by Derezsinski from Jon and Margaret Svoboda to reconsider the Arbor Dog Daycare Proposal. He explained that the Commission would need unanimous support to consider a reconsideration, and they would not have to vote on the issue at tonight's meeting, but could table the issue until the next public meeting if they so chose.

**Moved by Giannola, Seconded by Carlberg that The Ann Arbor City Planning Commission reconsider the Arbor Dog Daycare Proposal at the next meeting.**

Bona stated that she would like to discuss the issue at the next meeting after they have had a chance to view the video made by the Svobodas.

Derezsinski thanked the Svododas for coming and applauding the perseverance of the applicants, noting that he would like to hear what they have to say.

A vote on the motion showed:

YEAS: Briggs, Bona, Carlberg, Giannola, Derezsinski, Mahler, Pratt, Westphal (8)  
NAYS:  
ABSENT: Woods (1)

**Motion carried unanimously.**

**Moved by Bona, Seconded by Derezsinski that The Ann Arbor City Planning Commission postpone the reconsideration the Arbor Dog Daycare Proposal until the next meeting.**

Westphal commented that he would feel more comfortable if the folks who had written notes to the Commission would be re-notified of the upcoming meeting, since reconsiderations are considered quite rare.

Rampson suggested re-notifications be sent to the residents within 300 ft of the proposed location as well as to the neighborhood groups involved and to the ones who had written in regards to this proposal. She stated that it wouldn't be possible to get the notifications sent out with the full 15 day prior notice but they could be mailed out by the end of the week.

Carlberg stated that as being one who was opposed to the business last time, not because it isn't a good business but because of the noise concerns with increasing the dogs by 100 on site and the need for those dogs all needing to use the outside run at times. She explained that she had spent 1 ½ hour at the location today, being parked across the street at the Balmoral Condo parking area, and she could report that she heard continuous barking while she was there.

Carlberg noted that she is accustomed to dogs and their behavior of natural barking, and she doesn't consider herself having sensitive hearing, yet she could hear the barking even when she drove to the back of the property. She stated that the noise issue is of great concern to her, since it isn't simply a matter of background noise and raises above traffic noise.

Carlberg stressed that she had no concern with increasing the number of on-site dogs inside the building, but unless the noise coming from outside can be controlled she found it to be unacceptable. She noticed that there were employees present while the dogs were barking. She didn't believe that the residents living on Main Street were impacted, rather the Balmoral Condo residents.

Carlberg stated that residents are home during the daytime who are retired or need to sleep etc. She didn't believe the Special Exception Use standard was being met with not causing a nuisance to the neighbors. She felt that the noise issue had to be addressed otherwise the Commission would be doing a disservice to the residents neighboring this business. While she didn't have an answer to the outside noise she did say that there was one option available and that would be containing the dogs inside the building.

A vote on the motion showed:

YEAS: Briggs, Bona, Carlberg, Giannola, Derezinski, Mahler, Pratt, Westphal (8)  
NAYS:  
ABSENT: Woods (1)

**Motion carried unanimously.**

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ADJOURNMENT

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**Moved by Bona, Seconded by Westphal, to adjourn the meeting at 9:30 p.m.**

A vote on the motion showed:

YEAS: Briggs, Bona, Carlberg, Giannola, Derezinski, Mahler, Pratt, Westphal (8)  
NAYS:  
ABSENT: Woods (1)

**Motion carried unanimously.**

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Wendy L. Rampson, Planning Manager  
Planning and Development Services

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Diane Giannola, Secretary

**ATTACHMENT H**

**Written Comments submitted to Ann Arbor City Planning Commission on October 5, 2010**

**DATE:** October 5, 2010

**FROM:** Michael McLeod, representing the Ann Arbor Medical Marijuana Patient Collective and Green Planet Patient Collective

**TO:** Ann Arbor City Planning Commission

**RE:** Comments on Draft City Medical Marijuana Zoning Ordinance

I represent approximately 2,000 medical marijuana patients that have joined together to protect their rights. We have reviewed the proposed City Medical Marijuana Ordinance and have the following comments.

1) The City has proposed that: *“(3) a) Medical marijuana dispensaries shall only be located in a district classified pursuant to this chapter as D, C, or M.”*

PUDs need to be included. For example, Green Planet Patient Collective is located in a PUD at 700 Tappan. The PUD approved by the City of Ann Arbor at this location allows restaurants, groceries, beauty salons, medical clinics, non-profit organization offices, and retail sales.

We also believe Office districts should not be excluded in total. The City claims that office districts “are more integrated into neighborhoods and are designed to buffer residential areas from more intense uses.” However, this is simply not the case with many office locations throughout the city. We believe that the City can limit the use of office space based on immediate surrounding land use.

Dispensaries operate as private non-profit clubs and do not serve the general public. Medical offices and similar non-residential office locations are ideal locations for patients to meet privately with caregivers.

2) The City has proposed that: *“(3) b) Medical marijuana cultivation facilities shall only be located in a district classified pursuant to this chapter as C, M, RE, or ORL.”*

We believe that Office districts should not be excluded for cultivation. Cultivation is a private activity involving only a few people without any public involvement. The City of Ann Arbor contains many vacant office properties that would be ideal for growing.

The City claims that office districts “are more integrated into neighborhoods and are designed to buffer residential areas from more intense uses.” However, this is simply not the case with many office locations throughout the city. We believe that the City can limit the use of office space based on immediate surrounding land use.

3) The City has proposed that:



*“(4) d) No person shall lease or sub-lease any property for the purpose of using said property for a medical marijuana dispensary or cultivation facility without the prior express written permission of the owner of the property for such use.”;*

*“(4) e) An annual zoning compliance permit signed by the owner shall be required, and must be renewed prior to the anniversary date of the issuance of the original permit.”; and,*

*“(5) c) An annual zoning compliance permit signed by the owner shall be required, and must be renewed prior to the anniversary date of the issuance of the original permit.”*

We object to these proposed requirements because Medical Marijuana is illegal under Federal Law. Landlords will incriminate themselves under Federal Law if they approve such uses in writing and will become subject to possible seizures of their property.

Currently, real estate agents will not rent property for medical marijuana facilities. Requiring property owners to incriminate themselves in writing, will likely have the net effect of excluding all rental property for medical marijuana facilities.

4) The City has proposed *“annual zoning compliance permits”*.

We object to the concept of an annual permit. Although Caregivers are required to comply with State and local law, their activities are illegal under Federal Law. Caregiver permits are self-incriminating under Federal Law. There is already concern about the level of security provided by the State registration database. We do not believe that the City of Ann Arbor is equipped to provide the level of security needed for this type of information.

5) The City has proposed that: *“(4) c) No smoking, inhalation, or consumption of medical marijuana shall take place on the premises.”*

We object to this requirement. The City claims it’s to “minimize conflicts with neighbors over such things as marijuana smoke odors and persons leaving the facility that could be a hazard to others (driving under the influence of marijuana is prohibited in Michigan).”

The private use of marijuana is expressly allowed under State law. Most of the workers at these facilities are patients and many have a need to medicate. Requiring patients to leave private property to medicate, only compounds the problem with patients medicating in parked cars and on the street.

The proposed zoning rules already deal with odor issues. Driving under the influence is a vehicular law for State roadways and has nothing to do with what a patient can or cannot do on private property.

**ATTACHMENT I**

**Article – “Medical Marijuana Zoning Heads to Council”, The Ann Arbor Chronicle, October 13, 2010**

# the ann arbor chronicle

it's like being there

See page 5 + 6

ANN ARBOR, MICHIGAN

## Medical Marijuana Zoning Heads to Council (<http://annarborchronicle.com/2010/10/13/medical-marijuana-zoning-heads-to-council/>)

Also, Arbor Dog Daycare expansion gets second chance

BY MARY MORGAN

([HTTP://ANNARBORCHRONICLE.COM/AUTHOR/MARY-MORGAN/](http://ANNARBORCHRONICLE.COM/AUTHOR/MARY-MORGAN/))

OCTOBER 13, 2010 at 8 pm

**Ann Arbor Planning Commission meeting  
(Oct. 5, 2010): Zoning for medical marijuana**

businesses was the main agenda item for the commission's Oct. 5 meeting. The issue drew more than a dozen people to council chambers, and six people spoke at a public hearing on the topic.

The draft ordinance that was ultimately approved unanimously, and forwarded to the city council, contained several changes from the version that the commission considered at its Sept. 21 meeting

(<http://annarborchronicle.com/2010/09/27/fuller-road-station-plan-gets-green-light/>).

During the Oct. 5 deliberations, commissioners also approved three out of four proposed amendments, some of them in response to input from the public.

In a separate vote, the commission approved a motion to recommend that the city council institute a medical marijuana business license. Eric Mahler cast the lone vote of dissent. There was little discussion and no details about what the license would entail, aside from a general intent "to address issues that fall outside the scope of the zoning ordinance, such as building security and code compliance for electrical use, fire suppression, and ingress/egress."



(<http://annarborchronicle.com/wp-content/uploads/2010/10/Jill-Thacher.jpg>)

Jill Thacher, left, of the city of Ann Arbor's planning staff, has been the point person in drafting a zoning ordinance to address medical marijuana businesses. She outlined changes to the draft ordinance at the Oct. 5 planning commission meeting. Next to Thacher is planning commissioner Bonnie Bona. (Photos by the writer.)

Commissioner Jean Carlberg questioned Kristen Larcom of the city attorney's office about whether the license would only apply to dispensaries, or if it would be required of cultivation facilities and "home occupation" businesses as well. In reply, Larcom said she didn't know - they hadn't yet drafted it. Commissioner Kirk Westphal asked if the license might include a cap on the number of dispensaries in the city - Larcom said that it might.

In their final item of business, planning commissioners unanimously agreed to reconsider a petition they had rejected at their Sept. 21 meeting - to a special exception use that would allow for the expansion of Arbor Dog Daycare (<http://www.arbordogdaycare.com/>), a business located at 2856 S. Main St., near the corner of Eisenhower. They then immediately tabled action on the item until their Oct. 19 meeting. The owners spoke during public commentary urging commissioners to reconsider, but later in the meeting commissioner Jean Carlberg said she'd spent more than an hour in the neighborhood near the business, and was disturbed by the level of noise coming from barking dogs there.

### Medical Marijuana Zoning, Licensing



City Council of the City's planning staff has been researching the medical marijuana issue, and gave the staff report on the proposed zoning ordinance. She reviewed the substantive changes made since the previous version, which had been presented to the commission at their Sept. 21 meeting (<http://annarborchronicle.com/2010/09/27/fuller-road-station-plan-gets-green-light/>). [Some of these changes were amended by the commission later in the meeting.]

Highlights of the changes include:

- The definition of drug paraphernalia was removed.
- The definition of a medical marijuana cultivation facility was changed from three or more caregivers growing plants to anyone growing more than 72 plants. This reflects changes to the home occupation language, which has been capped at 72 plants per single-family dwelling.
- The definition of dispensary was changed to include all caregiver transfers of medical marijuana that are not home occupations.
- The requirement of a 200-foot buffer between dispensaries and residential properties was removed.
- C<sub>1</sub> (local commercial) zoning districts were added to the list of permitted districts for dispensaries.
- The 500-foot spacing requirement was removed. Previously, no dispensary or cultivation facility could be located within 500 feet of another dispensary or cultivation facility.
- The requirement that operators of a dispensary or cultivation facility be caregivers was removed.
- The restriction on sales of drug paraphernalia has been removed – state law allows such transfers to medical marijuana patients from caregivers, and it was deemed unnecessary.
- Previously, only two caregivers were allowed per single-family home. That was changed to a maximum of 72 plants, regardless of the number of caregivers living there.
- The number of trips allowed was changed to be the same as for all home occupations: 10 trips per day, or 5 round trips. A restriction on picking up medical marijuana – forcing caregivers to deliver the product – was removed. This change acknowledged the fact that some patients prefer to pick up their medical marijuana, in order to keep their addresses confidential. [Commissioners later voted to put that restriction back in place.]
- The section on medical marijuana in dwellings other than single-family homes was clarified to say that patients in any zoning district may grow their own 12 plants in their dwelling unit, with the same restrictions on odor, etc., as dispensaries, cultivation facilities, and home occupations.

In addition, Thacher noted several other items in the draft ordinance. They include:

- Cultivation facilities are defined as anyone growing more than 72 plants, and a dispensary is defined as any number of caregivers that are not operating as a home occupation.
- All dispensaries and cultivation facilities in C (commercial) districts must meet minimum parking requirements, without exception.
- Dispensaries and cultivation facilities are excluded from O (office) districts. The rationale given in the staff report is the retail and agricultural nature of dispensaries and cultivation facilities, and the large number of more appropriate zoning districts in which these uses would be allowed.
- The requirement that medical marijuana dispensaries and cultivation facilities be located outside of 1,000-foot drug-free school zones remains in place.
- Smoking, inhalation, and consumption of medical marijuana is prohibited at dispensaries and cultivation facilities to minimize conflicts with neighbors.
- Written permission of the property owner was proposed to be required, so that landowners know up front before the lease is signed that the proposed use is one that is deemed legal by the state, but not by the federal government. [Commissioners later deleted this requirement.]
- Zoning compliance permits are required annually for dispensaries, cultivation facilities, and home occupations. This is to insure compliance with zoning ordinances, and involves filling out an application and submitting a fee (currently \$50). There is no inspection of the premises associated with a zoning compliance permit.

The plan report stated that outdoor growing and dispensing of medical marijuana is undesirable as a land use because of the controls required to secure the area.

- The language on noise, odor, and other restrictions for dispensaries, cultivation facilities, and home occupations is taken directly from the language for general home occupations.

Staff recommended approval of the zoning ordinance. [[pdf of draft ordinance, with revisions noted \(http://annarborchronicle.com/wp-content/uploads/2010/10/MedicalMJdraft5Oct10.pdf\)](http://annarborchronicle.com/wp-content/uploads/2010/10/MedicalMJdraft5Oct10.pdf)]

### Medical Marijuana Zoning: Public Hearing

Six people spoke during a public hearing on the topic, including several who had spoken at the Sept. 21 meeting (<http://annarborchronicle.com/2010/09/27/fuller-road-station-plan-gets-green-light/>). Before they began, commissioner Erica Briggs asked whether it was possible that they not state their address – typically, speakers are asked to give their street address. At the public hearing on Sept. 21, Eric VanDussen of Traverse City told commissioners it was asinine for speakers to be required to state their home address – the meeting was broadcast on live TV, and many of the speakers grow medical marijuana in their homes.

At the Oct. 5 meeting, Wendy Rampson, head of the city's planning staff, said the point of stating an address was to indicate whether the speaker has a stake in the community. Though it's not required by law or by the commission's bylaws, it's been the commission's practice, she said. Ultimately, she added, it was up to the speaker as to whether they wanted to comply.

Mark Curtis of Spring Arbor, Michigan, said he had emailed commissioners and wanted to reiterate some points in his letter. He thanked commissioners and staff for doing their research by visiting some local dispensaries. He'd heard on NPR recently that California is considering legalizing recreational marijuana, and that it could bring in more than \$17 billion in tax revenue. That's something that Michigan should think about, he said. The state is losing other industries, but "this is a bird in the hand," he said. Curtis noted that such funding could help pay for projects like Fuller Road Station, which the planning commission had approved at its Sept. 21 meeting. [At that meeting, Fuller Road Station was on the agenda prior to consideration of the medical marijuana zoning, so marijuana activists sat through lengthy deliberations on that project.]

Chuck Ream said he was speaking on behalf of the Ann Arbor Coalition for Compassionate Care, and wanted to thank the compassionate and intelligent voters of Ann Arbor who voted to make the "ancient cannabis herb" available to patients. He also thanked city council and the planning commission, saying they'd shown extraordinary intelligence, common sense and a willingness to listen. However, he still had several concerns. The parking requirements for cultivation facilities makes no sense, he said. He objected to requiring that dispensaries or cultivation facilities get written permission from their landlords, saying that by doing so, landlords would be violating federal drug laws and incriminating themselves. He suggested instead saying that the lease was for "uses that are safe, clean and legal under Michigan law."

Ream objected to the entirety of section 5, which covers zoning of home occupations. This is already covered by state law, he said. Further, city council didn't ask for input regarding licenses or new regulations on home occupations, Ream said. The regulation requiring a zoning compliance permit would be immediately litigated, he contended – no other home occupation requires this kind of permit, so it's clearly discriminatory against medical marijuana providers. He also argued that requiring caregivers to divulge their locations would be terrifying to them, and illegal as well.

Michael Meade cited several objections to the draft. He argued that the city had created a new definition of "home occupation," with rules tied to that. But growing medical marijuana is an activity for caregivers and patients – it's not a business activity, and is no different than having a sewing room or a home gym, he said. Meade contended that the section laying out a rationale for restricting the number of



(<http://annarborchronicle.com/wp-content/uploads/2010/10/Chuck-Ream.jpg>)

Chuck Ream, reviewing a draft zoning ordinance for medical marijuana businesses at the Oct. 5 planning commission meeting. Ream spoke during a public hearing on the topic, representing the Ann Arbor Coalition for Compassionate Care.



patients to 12 per dwelling, regardless of how many caregivers live there, is not based on evidence or science. Finally, requiring patients and caregivers to file an annual zoning compliance permit violates their privacy, he said – it's not required by state law. Meade urged commissioners to postpone action until these issues could be addressed – the ordinance is too important to rush through without careful consideration.

**Michael McLeod** said he represented the **Ann Arbor Medical Marijuana Patients Collective** (<http://www.a2m2pc.org/>) and the **Green Planet Patient Collective** – representing 2,000 medical marijuana patients. In addition to the zoning districts that are recommended for dispensaries, planned unit developments (PUDs) need to be included, he said. The **Green Planet Patient Collective** is located in a PUD at 700 Tappan, in an area that's been approved for other retail uses. He also argued that office districts should not be excluded, since dispensaries do not serve the general public and are ideal for meeting patients in private settings like offices. Nor should cultivation be prohibited from office districts, McLeod said, since it's a private activity that involves only a few people. McLeod also objected to the requirement that landlords give prior express written permission to use their property for a dispensary or cultivation facility, saying that if landlords are forced to incriminate themselves – medical marijuana is still illegal under federal law – it will have the effect of excluding all rental property for use by medical marijuana businesses.

**Gersh Avery of Dexter** raised the confidentiality issue. When he brings it up, he said, typically people think he's talking about HIPAA laws and regulations (<http://www.hhs.gov/ocr/privacy/>), but he's not. The state licensing records are subject to rules of confidentiality written into the Michigan medical marijuana act, he said. That law states that if someone divulges information about patients or caregivers, they'll be guilty of a criminal offense that they could go to jail for. This is not something that's being made clear by groups like the Michigan Municipal League, he said. So government employees who handle this information – divulging it by putting it into a computer system, for example, where other could access it – could go to jail for six months and get fined up to \$1,000. Whatever licensing or registration is required by the city, they're opening up employees to this risk. The law hasn't been tested yet, he said, adding that it will be tested eventually by arresting a government employee who handles this confidential information. He urged Ann Arbor not to put something into place that would make local government employees one of those test cases.

**Dennis Hayes** said he represented the Ann Arbor Medical Marijuana Patients Collective, and joked that they should be on a first name basis by now, since he'd spoken to commissioners so frequently. He thanked commissioners and staff for their work, and especially for taking a tour of some of the city's dispensaries. Regarding the proposed ordinance, he objected to the exclusion of office districts from allowable zoning for dispensaries, arguing that it would be a low intensity use and not out of place there. He said it would be useful for patients to have as much access as possible, and the city ought to encourage the use of locations to facilitate that goal. He also said he agreed with Chuck Ream regarding the parking requirements – it was hard to wrap their heads around why cultivation facilities needed to meet the minimum parking requirements for a retail use, he said – traffic to those facilities would be minimal. But overall, "we're almost there," Hayes said, referring to a final version they could support.

### **Medical Marijuana Zoning: Commissioner Amendments**

Commissioners had a wide-ranging discussion about the proposed ordinance, and ultimately considered four amendments.

#### **Amendment: Restore the 500-foot spacing requirement between dispensaries or cultivation facilities**

Kirk Westphal asked what drove the change to eliminate that requirement from the original draft. Jean Carlberg responded, saying that at their Sept. 21 meeting (<http://annarborchronicle.com/2010/09/27/fuller-road-station-plan-gets-green-light/>), the planning commission had approved a request for Lake Trust Credit Union to be located at an intersection with two other banks. That didn't seem like too much saturation, she said. And after visiting some dispensaries and seeing no impact on the neighborhood, it was hard to justify putting the restriction on medical marijuana businesses when other businesses didn't have that requirement. Westphal clarified that they had considered the potential security risk.

Westphal noted that the medical marijuana sector is in flux, with new businesses opening and price levels fluctuating. It seemed to him that the 500-foot space requirement was one way of stabilizing it.

Evan Pratt said he didn't feel the 500-foot requirement was onerous – you could still have plenty of medical marijuana businesses in the city, he said.

Erica Briggs said she wasn't inherently opposed to the requirement, but it seemed like they were trying to solve a problem that didn't exist, and creating hurdles that they don't need. She said she'd feel comfortable revising the ordinance later to include the requirement, if it became necessary.

Diane Giannola said the spacing requirement seemed like a good intermediate step – it would be hard to undo later, she said. Eric Mahler disagreed, saying it would be easier to leave out, then revise if they needed to. He couldn't find a rationale for the 500-foot measurement – why not 400 feet, or 600? He thought the market would sort itself out.

Pratt sketched out a scenario in which several dispensaries opened on the same block. If some of them failed, other businesses might be leary of opening there. Sprinkling the medical marijuana businesses throughout the city seemed like a better approach. He also said he wasn't a big fan of having three banks on the same street corner, either.

Westphal noted that they'd received a letter from a proponent of medical marijuana, who argued in favor of having a few well-regulated dispensaries rather than several that might not be in business very long. He proposed an amendment to restore the requirement.

*Outcome: The proposed amendment to reinstate a 500-foot distance between dispensaries or cultivation facilities failed on a 4-4 vote. Voting for the amendment were Giannola, Mahler, Pratt and Westphal. Voting against it were Bona, Briggs, Carlberg and Derezinski. Wendy Woods was absent.*

**Amendment: Remove the requirement that property owners give their prior express written permission to lease to a dispensary or cultivation facility.**

Erica Briggs proposed this amendment. Jean Carlberg made a friendly amendment to the amendment, which Briggs accepted, to simply remove the words "prior express written" – that would eliminate the concern of self-incrimination, but signal a desire for the landlord and tenant to communicate about the nature of the business.

Bonnie Bona said she'd just prefer to remove the whole requirement – they don't have responsibility to manage the landlord/tenant relationship. Carlberg withdrew her amendment.

Kirk Westphal said he was fine with removing this requirement, but he hoped that the city would do some kind of outreach to landlords on this issue, as a community service.

*Outcome: The amendment passed, with dissent from Derezinski. Wendy Woods was absent.*

**Amendment: Add planned unit development (PUD) as a permitted zoning district, where retail is permitted in the supplemental regulations.**

When Bonnie Bona proposed this amendment, Erica Briggs noted that they hadn't discussed allowing dispensaries in a residential area. Bona noted that dispensaries are allowed in C<sub>1</sub> districts, which are adjacent to residential. They're also allowed downtown, which has a mix of retail and residential uses, she said.

*Outcome: The amendment adding PUDs as a permitted zoning district – where retail is permitted in the PUD's supplemental regulations – passed, with dissent from Pratt and Briggs. Wendy Woods was absent.*

**Amendment: Restore a home occupations provision that stated: "No transfer of medical marijuana to patients other than those residing on the parcel shall occur on the parcel."**

Kirk Westphal said that under the previous draft, which required that people growing medical marijuana as a home occupation deliver their product to patients, there wouldn't have been a problem with traffic. But without that provision, he was concerned that traffic would be an issue in residential areas.

Westphal said he understood the patients' concerns with confidentiality – wanting to keep their addresses private, and preferring to pick it up rather than have it delivered. But in that case, he observed, they could go to a dispensary instead. Especially since there had been complaints about people smoking in cars outside of the home occupation residences, it seemed better to be more conservative – there's too much potential to burden neighbors, he said.

Diane Giannola wondered what recourse there'd be if neighbors had a problem. Wendy Rampson, head of the planning staff, said the city would prefer if the person with a complaint dealt directly with their neighbor. Otherwise, they could complain to the planning staff and it would be handled like any other zoning ordinance complaint. The staff would investigate, and if they found that the home



Occupation was out of compliance, they'd send warning letters and meet with the subject of the complaint. It's a civil infraction, and the violator could be ticketed each day they're out of compliance, with a fine of up to \$500.

*Outcome: The amendment passed, with dissent from Carlberg, Derezhinski and Mahler. Wendy Woods was absent.*

Commissioners then voted on the ordinance as amended.

*Outcome: The medical marijuana zoning ordinance was unanimously recommended by the planning commission for subsequent approval by the city council. Wendy Woods was absent.*

### Medical Marijuana Licensing

The commission considered a second motion related to medical marijuana:

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council institute a medical marijuana business license to address issues important to the health, safety, and welfare of residents but outside of the scope of the zoning ordinance, such as security, building safety, and other code compliance.

There were no additional details in the planning staff report about a possible license. Although it had been mentioned at previous meetings that the city attorney's office was developing a proposal about licensing medical marijuana businesses, planning commissioners had not previously discussed the topic in depth.

Deliberations were brief. Jean Carlberg asked whether a license would only apply to dispensaries, or if it would be required of cultivation facilities and "home occupation" businesses as well. Kristen Larcom of the city attorney's office said she didn't know, because they hadn't yet drafted a proposal for the license. Kirk Westphal asked if the license might include a cap on the number of dispensaries in the city, or require that there be building security. Larcom said that it might.

*Outcome: In a 7-1 vote, the planning commission approved a motion to recommend that city council institute a medical marijuana business license. Eric Mahler dissented, and Wendy Woods was absent from the meeting.*

Mahler did not comment during the public meeting on this issue. When asked by The Chronicle following the meeting about his reason for voting against it, Mahler indicated that they didn't know what the license would entail at this point, and it was difficult to support something without that information.

### Arbor Dog Daycare Expansion

At its Sept. 21 meeting (<http://annarborchronicle.com/2010/09/27/fuller-road-station-plan-gets-green-light/>), the planning commission rejected a petition from the owners of Arbor Dog Daycare to expand their facility, which is located at 2856 S. Main St., near the corner of Eisenhower. The primary concern from some commissioners had been noise complaints from neighbors, who objected to the amount of barking from dogs in an outdoor dog run.

The request had been for an amendment to the firm's existing special exception use, which would have increased the firm's square footage within an existing building from 3,200 square feet to a maximum of 8,800 square feet, extended the hours of operation and allowed a maximum of 125 dogs on site, with no more than 25 dogs outside at any one time.

At the Oct. 5 meeting, owners Jon and Margaret Svoboda returned to the commission to ask for reconsideration of their petition.

### Arbor Dog Daycare: Public Commentary



(<http://annarborchronicle.com/wp-content/uploads/2010/10/Arbor-Dog-Daycare.jpg>)

commissioners to reopen the firm's petition, saying she believed there was a misunderstanding at the last meeting about what the commissioners were voting on. She said she made a video that was taken outside in various areas near the business, to demonstrate that the barking wasn't a problem. She said she thought they could work with the commission to address any remaining concerns, and that they had received an outcry of support after their petition had been rejected in September.

Jon and Margaret Svoboda, owners of Arbor Dog Daycare, at the Oct. 5 planning commission meeting.

**Jon Svoboda** also addressed the commission, referring them to a letter he'd sent to commissioners following last month's meeting. [[.pdf of letter \(http://annarborchronicle.com/wp-content/uploads/2010/10/Svoboda-Letter.pdf\)](http://annarborchronicle.com/wp-content/uploads/2010/10/Svoboda-Letter.pdf)] He said he understood that to reopen their petition, they'd need to get a unanimous vote from commissioners, and he asked them to allow the petition to be reconsidered. After meeting with representatives from the neighborhood condo associations and getting their buy-in, Svoboda said, he had thought they had addressed the neighbors' concerns. He noted that they had planned to have the same number of dogs outside at any one time – 25 – but now were proposing to reduce that number to 20. "I'm really putting myself at your mercy," he said.

Two women spoke in support of the firm's expansion, including **Linda Coon**, who made the same economic development argument that she'd stated during public commentary at the Sept. 21 meeting. The expansion would bring more jobs to this area, she said, which is a win-win.

### Arbor Dog Daycare: Commissioner Deliberations

Diane Giannola moved that the commission reconsider the Arbor Dog Daycare petition – a motion to reconsider must be made by someone on the prevailing side of the vote, and Giannola had voted against it.

*Outcome: Planning commissioners voted unanimously to reconsider the Arbor Dog Daycare petition.*

Bonnie Bona said she'd like additional time to view the video that the Svobodas made, as well as to review previous documents related to the petition.

Kirk Westphal said it would make him feel more comfortable if people in the neighborhood could be notified again that the expansion was being reconsidered. Wendy Rampson, head of the city's planning department, said they would notify everyone within 300 feet of the business, as well as members of the neighboring condo associations.

Jean Carlberg then told her colleagues that she'd spent about 90 minutes near the business earlier in the day, to hear for herself what the noise levels were like. Unfortunately, she said, what she heard was almost continuous barking. It was very clear from the nearby Balmoral Park condominium complex, she said, which is north of the business. "And I don't have sensitive ears," she added. None of the barking dogs were taken back inside, she noted, and that's way too long to have to listen to barking dogs. She said she doesn't have a problem with keeping the dogs inside.

*Outcome: The commission voted unanimously to table action on the item until their Oct. 19 meeting.*

**Present:** Bonnie Bona, Erica Briggs, Jean Carlberg, Tony Derezinski, Diane Giannola, Eric Mahler, Evan Pratt, Kirk Westphal.

**Absent:** Wendy Woods

**Next regular meeting:** The planning commission next meets on Tuesday, Oct. 19 at 7 p.m. in the second-floor council chambers of city hall, 100 N. Fifth Ave. [[confirm date \(.../2010/09/27/events-listing/\)](http://annarborchronicle.com/2010/09/27/events-listing/)]

**Section:** Business (<http://annarborchronicle.com/category/business/>), Govt. (<http://annarborchronicle.com/category/government/>), Meeting Watch (<http://annarborchronicle.com/category/meeting-watch/>)

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## 2 Comments

1.  BY JOHN GALLIAS  
OCTOBER 14, 2010 at 11:52 am | PERMALINK

Actually, the latest release of the proposed ordinance removes the requirement for Dispensaries and Cultivation Facilities to obtain a yearly zoning compliance permit, but it wasn't stricken out in the PDF linked in the article. Here is a link to what I am referencing: [\[link\]](#)

Thoughts?

2.  BY CHUCK REAM  
OCTOBER 14, 2010 at 2:36 pm | PERMALINK

Dear Mary

Without your work the citizens of A2 would have no way of knowing what is really going on. If I could get as much done as you get done cannabis policy would have changed long ago. Thank you for all the information!

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**ATTACHMENT J**  
**Video Link References of Ann Arbor City Planning Commission October 5, 2010**

Planning Commission Meeting 10/5/10 Part 1

<http://a2govtv.pegcentral.com/player.php?video=38f5b5cf818b0743e0717927bba95b1d>

Michael McLeod requesting that PUDs including the one at 700 Tappan be included in the zoning starts at 44:00 minutes

Discussion of adding PUDs: 55:00 – 1:04

Discussion of adding PUDs and motion: 1:57 – 2:04

**RE: Planning Staff denial of Zoning Compliance permit for medicinal marijuana dispensary - application for review by Michael McLeod.**

I received a notice in the mail in reference to the above dispensary permit that has apparently been denied. I would like to go on record as saying that I live next to 700 Tappan and have no complaints. To the contrary, I am actually glad they are at the property, there are no disruptions, problems or issues and they actually keep the property clean throughout the seasons. They have been responsible, quiet and I do not feel they should be denied. By far, they are excellent neighbors.

Pat Anderson  
814 Monroe  
Ann Arbor, MI 48104