

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of March 1, 2022

SUBJECT: Amendments to Chapter 55 (Unified Development Code) related to Permitted Uses in the M1 district (Table 5.15-1), Marijuana Licenses (Section 5.16.3.G), Dimensional Standards in the R2A district (Table 5.17-2), Trees in the Right-of-Way (Section 5.20.10), and Landscape Modifications (Section 5.30.1)

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the amendments to Chapter 55 Unified Development Code as proposed and generally described as:

Table 5.15-1, to allow religious assembly use in the M1 (Limited Industrial) district;

Section 5.16.3.G, to eliminate marijuana license type and numbers of licenses per lot as well as reorganize for clarity;

Table 5.17-2, to decrease the minimum lot size, minimum lot area per dwelling unit, and minimum lot width in the R2A (Two-Family Dwelling) district;

Section 5.20.10, to exclude curb cuts from street tree planting frontage calculations and remove references to street tree escrow; and,

Section 5.30.1, to add eligibility and conditions to modify street tree planting requirements by landscape modifications, as well as clarifications and reorganization.

STAFF RECOMMENDATION:

Staff recommends that the amendments to the Unified Development Code be **approved**.

SUMMARY:

Five amendments are proposed to the Unified Development Code to 1) allow religious assembly uses as a primary use in the M1 (Limited Industrial) district, 2) eliminate the restrictions on marijuana facility types and licenses per lot, as well as reorganize the section, 3) decrease the minimum lot size, minimum lot area per dwelling unit and minimum lot width in the R2A (Two-Family Dwelling) district, 4) exclude curb cuts from the length calculations for street trees, and eliminate street tree escrows, and 5) include street trees for landscape modification, as well as clarify and reorganize this section.

REPORT:

Each proposed amendment is explained and analyzed individually below.

Section 1. Amendments to Table 5.15-1 in Section 5.15.1 (Primary Uses)

An amendment is proposed to **Table 5.15-1** to allow religious assembly use as a primary use in the M1 (Limited Industrial) district. Permitted primary uses have a P in the use table.

This amendment was requested by a petitioner that has operated a religious assembly use in the M1 district for many years. While exploring the necessary permits to renovate and expand the use, it was discovered to be an illegal use. The petitioners felt religious assembly uses fit in well with the other primary uses of the M1 district, and did not want to relocate their established church, so they submitted a text amendment petition.

The Ordinance Revisions Committee considered the petition and proposed amendment at their October 26, 2021 meeting. They concluded it was an appropriate primary use for the M1 district and should be offered a public hearing by the Planning Commission.

More background and analysis are provided in the October 26, 2021 Planning Staff Memo to the Ordinance Revisions Committee, attached.

Section 2. Amendments to Section 5.16.3.G (Marijuana Facilities)

Amendments to **Section 5.16.3.G (Marijuana Facilities)** are proposed that eliminates number of State marijuana licenses per lot (paragraph d) and the restrictions on types of marijuana facilities per lot (paragraph e). For simplification, the section has been reorganized to provide all use specific standards by facility rather than listing each facility that is subject to the various standards. Because of the scope of reorganization, the proposed amendment is presented as a replacement instead of tracked changes.

Section 5.16.3.G provides additional standards for several of the nine types of marijuana facilities. One paragraph (d – Number of State Marijuana Licenses Per Lot) regulates how many State marijuana licenses can operate per lot by zoning district. Lots zoned M1, M1A, or M2 (Limited Industrial, Limited Light Industrial, and Heavy Industrial) may have up to 5 licenses per lot. Lots zoned RE (Research) or ORL (Office/Research/Light Industrial) may have up to 2 licenses per lot, and lots in all other zoning districts may have just 1 license.

Another paragraph (e – Types of Marijuana Facilities Per Lot) regulates the types of uses that may be located on a lot by stating that “no more than one type of the following uses shall be located on a lot.”

Staff noted it no longer seemed necessary, or beneficial, to regulate both the number of state licenses per lot and the types of uses that may be located on a lot for several reasons. Regarding the number of licenses per lot, the State now allows the same business to “stack” licenses. Rather than allow an increased number of plants for a grower, the State now issues one business two or more licenses. Paragraph e is potentially in conflict with State procedures.

Regarding the types of facilities per lot, the current language can be interpreted two ways. One interpretation is no more than one of any listed type may be located on a lot, and therefore, lots

that may have 2 or more licenses must have two and up to five different types of uses. It can also be interpreted that no more than one of type of use is permitted per lot, and therefore, lots that may have two or five licenses must have two or five of the same uses – and maybe under different ownership in conjunction with paragraph d (Number of State Licenses Per Lot).

Staff presented three options to the Ordinance Revisions Committee at their October 26, 2021 meeting. First, to only change the number of licenses per lot. Second, to only change the regulations on types of licenses per lot, and third, to change both standards. The ORC directed staff to present amendments that eliminated both standards.

Because all other standards remain, there may still only be a maximum of 28 total provisioning center/retails, and a maximum of 28 designated consumption facilities. Further, provisioning center/retailers and microbusinesses must be at least 600 feet apart from one another, and provisioning center/retailers, growers, microbusinesses, designated consumption facilities, processors and infused product processors must be at least 1,000 feet from a K-12 school.

More background and analysis are provided in the October 26, 2021 Planning Staff Memo to the Ordinance Revisions Committee, attached.

Section 3. Amendment to Table 5.17-2 (Two-Family Residential Zoning District Dimensions)

Amendments are proposed to **Table 5.17-2** to reduce the minimum lot size, minimum lot area per dwelling unit, and minimum lot width standards in the R2A (Two-Family Dwelling) district.

The R2A district is intended to “create areas of essentially single-family residential character utilizing two single-family dwelling units that are attached either side to side or vertically,” and be “similar to the higher density single-family [residential] zoning districts.” Since its creation in 1963, the minimum lot size and minimum lot area per dwelling unit requirements of the R2A district have increased from 6,000 square feet to 8,500 square feet.

The R2A is now more in line with the lower density single-family residential districts than the higher density ones. The increases in minimum lot area standards have made 68% of lots zoned R2A nonconforming lots for area. More than 2/3 of lots currently zoned for two-family residential use cannot legally have a two-family dwelling.

To return the R2A district closer to its intent for higher density, single-family-character neighborhoods, and make the majority of lots in this district conforming, staff proposed reducing the minimum lot size from 8,500 square feet to 5,000 square feet. This change will make the R2A district have the same physical characteristics – in terms of lot area, required setbacks, height limits – as the R1D (Single-Family Dwelling) district. Staff also propose reducing the minimum lot area per dwelling unit from 4,250 square feet to 2,500 square feet, so that a two-family dwelling can be developed on a conforming, 5,000 square foot lot. The minimum lot width standard is also proposed to be reduced from 60 feet to 40 feet, again consistent with the standard of the R1D district.

More background and analysis are provided in the September 28, 2021 Planning Staff presentation (pdf) to the Ordinance Revisions Committee, attached.

Section 4. Amendment to Section 5.20.10 (Trees in the Public Right-of-Way)

An amendment is proposed to Section 5.20.10 to exclude curb cut widths from the frontage calculations for required street trees and to remove references to street tree escrows. The change to exclude curb cuts when measuring frontage for street tree requirements will reduce or prevent harm to the trees from being planted too closely.

Eliminating the street tree escrow has several benefits, but will not result in significant changes overall. First, the change will relieve developers from the redundancy of depositing an escrow as well as posting security (sometimes referred to as a bond) for incomplete work when a certificate of occupancy is requested. For example, some projects near completion outside of planting seasons and are permitted to post security for plants until the next planting season. Another benefit is staff will no longer have to manage escrow deposits and refunds along with routine inspections, compliance monitoring, and the work related to collecting, managing, and refunding security.

Because the security requirements for incomplete work remain (see Section 5.28.8), there are still assurances that street trees will be planted despite eliminating the street tree escrow provisions.

A heading is proposed for paragraph A for consistency. The amendments to this section were requested by Public Services staff.

Section 5. Amendment to Section 5.30.1 (Landscape Modification)

Amendments are proposed to **Section 5.30.1** to include a new eligible requirement for modification (street trees) and provide the acceptable conditions for such modifications, to generally update the acceptable conditions to better match actual scenarios and common conditions, and to reorganize the section in a simpler, more straightforward layout.

Regarding new eligibility, staff propose to allow Section 5.20.10 (Trees in the Public Right-of-Way) to be considered for a landscape modification when “planting a new street tree is prevented by an existing and unmovable obstruction, impediment, or public infrastructure such as, but not limited to, fire hydrants, overhead utility lines, poles, traffic control devices, transit shelters, barrier-free access routes, etc.”

Regarding general updates to acceptable conditions, staff propose the following changes:

1. Revising awkward wording about topographic features, and more clearly explaining that modifications may be acceptable when the topography or elevation of a site relative to an adjacent site make the normal requirements less effective than an alternative design.
2. Revising awkward wording about existing vegetation, and more clearly explaining that modification may be acceptable if strictly following the normal requirements does more damage to existing vegetation than overall good.
3. Replacing currently acceptable conditions regarding bioretention areas, native or prairie plantings, structural amenities or xeriscaping and newly addressing increasing scenarios involving contaminated soils and sizable underground culverts such as Allen Creek drain.

4. Eliminating planned projects as these have been retired from the code.

Regarding reorganization, this section is proposed to be dividing into paragraphs that address eligible requirements sections, modification conditions, standards for approval, and approval procedures in a step-by-step, easier to follow format.

The amendments in this section are suggested jointly by Planning and Public Services staff.

Prepared by Alexis DiLeo
Reviewed by City Planners
2-24-22

Attachments: Ordinance to Amend UDC (M1 Permitted Use, Marijuana Licenses, R2A Dimensional Standards, Trees in the Right-of-Way, Landscape Modifications)
October 26, 2021 Memo – Amendment to M1 District to Allow Religious Assembly Use
October 26, 2021 Memo – Amendment to Marijuana Facility Use Specific Standards
September 28, 2021 Presentation – R2A Lot Size
Chronology of Planning Efforts Related to R4C/R2A Zoning Districts

c: City Attorney's Office