

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of April 2, 2024

SUBJECT: 700 Tappan Street Special Exception Use with Site Plan for Planning Commission Approval
File No. SEU24-0001

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission, after hearing all interested persons and reviewing all relevant information, including an accompanying site plan, finds the petition substantially meet the standards in Chapter 55 (Unified Development Code), Section 5.29.5 (Special Exceptions) and Section 5.16.3.G.4 (Marijuana Facilities), and therefore approves the modification to the 700 Tappan Street Special Exception Use for a Marijuana Provisioning Center. This approval is based on the following findings:

1. The proposed use will be consistent with the PUD (Casa Dominick's Planned Unit Development) District, which provides for grocery, prepared food and beverage sales and retail (as interpreted by the Zoning Board of Appeals, case ZBA11-022, January 25, 2012).
2. The PUD Supplemental Regulations were revised in December 2021 to prohibit parking and impervious surface between the structure at 700 Tappan and the public sidewalk along Monroe. Parking in this area was the main issue of concern for the Planning Commission at time of the original approval.
3. The proposed use will not adversely impact traffic, pedestrians, bicyclists, circulation, or road intersections based on the location. Tappan Street and Monroe Street provide access to the site, and the proposed use is consistent with other surrounding uses' traffic impact.
4. Through documentation submitted by the petitioner regarding waste disposal, inventory tracking, security, and other methods of operation of the facility, the provisioning center will be operated in a manner that will not have an adverse impact on the neighboring properties or area, and will not have a detrimental impact on natural features.

This modified Special Exception Use approval is based on the following conditions:

1. The petitioner obtaining and maintaining both a State of Michigan Medical Marijuana License and a City of Ann Arbor Medical Marijuana Permit, and providing documentation to Planning Services within three years of the City Planning Commission approval date of this petition.
2. The petitioner operating a medical marijuana business at this address within three years of the City Planning Commission approval date of this petition.

And that the Ann Arbor Planning Commission approves the attached Site Plan which demonstrates compliance with the applicable Special Exception Use standards as no physical development of the property is proposed.

STAFF RECOMMENDATION:

Staff recommends that the special exception use be **approved** subject to Planning Commission consideration because the modified special exception use is of such location, size and character as to be compatible with the zoning district in which the site is situated; and the location and size of the proposed use, its nature and intensity, the site layout and access, and effect of the proposed use on public services would not be hazardous or inconvenient to the neighborhood nor unduly conflict with the normal traffic of the neighborhood.

LOCATION:

This site is located at the northeast corner of Tappan and Monroe streets in Ward 3.

DESCRIPTION OF PETITION:

The petitioner is requesting Planning Commission approval of a modification to the previously approved Special Exception Use (SEU). The modification is to allow the marijuana retailer to re-open at 700 Tappan with the existing driveway retained for the sole use of the existing residential tenant, and a pervious patio surface installed between the structure and the public sidewalk along Monroe. A condition of the original Special Exception Use was the removal of the curb cut servicing 700 Tappan. This condition of approval was not met, which is why they are before the commission now. The petitioner is required to have a modified SEU approved by the Planning Commission to operate for any marijuana sales.



Figure 1 Existing Curb Cut and Residential Parking Space

Although the petitioner could obtain SEU compliance without coming before the Planning Commission by closing the single curb cut adjacent to 700 Tappan, the ownership of the property believes the residential parking spot behind the building, accessed via the curb cut, promotes the viability of this mixed use building. The parking spot (and therefore the curb cut) is important to their tenant residing in the adjacent building within the same PUD. The spot is signed for residential use only, and the PUD zoning allows this parking.

The business is currently closed but had been operating as a marijuana retailer until January 2023. To comply with the PUD zoning in early 2024, the applicant removed all asphalt between the structure and the sidewalk. Pervious pavers were installed as a patio surface with a planter box installed as a separation. The applicant's intent is to use this as an activated social space

with planters and future plans to place seating in this area. The subject parcel is now in compliance with the PUD Zoning regulations.

The 2,500-square foot site is part of a 26,600-square foot (approximately 1/2 acre) PUD zoning district. The existing two-story building on this site was originally a single-family dwelling constructed in 1850. The petitioner seeks a modification to the special exception use approval to a marijuana retailer in an existing building zoned PUD (Casa Dominick’s Planned Unit Development). The Casa Dominick’s PUD Supplemental Regulations were adopted by City Council on October 19, 2009 and are a part of the Zoning Ordinance, Chapter 55. Those Supplemental Regulations allow, among other uses, “grocery, prepared foods and beverage sales,” which was interpreted by the Zoning Board of Appeals on January 25, 2012 to include retail uses and thus a marijuana retailer with special exception use approval. The PUD Supplemental Regulations were revised in December 2021 to prohibit parking and impervious surface between the structure at 700 Tappan and the public sidewalk along Monroe.



Figure 2 Closed Parking Space and New Patio Area

SURROUNDING LAND USES AND ZONING:

	LAND USE	ZONING
NORTH	UM Central Campus	PL (Public Land)
EAST	UM Central Campus	PL
SOUTH	Residential	PUD (Casa Dominick’s)
WEST	Restaurant	PUD (Casa Dominick’s)

HISTORY AND PLANNING BACKGROUND:

The existing building was built in 1850 as a single-family residence. It was a medical/dental office in 2009 when it was included in the expanded Casa Dominick’s PUD zoning district. The Casa Dominick’s PUD, originally approved in 1977 for 812 and 814 Monroe Street, was expanded in 2010 to include other adjacent properties under the same ownership (adding 808 Monroe St, 700 and 706 Tappan St, and 705 Oakland Ave) and develop [Supplemental Regulations](#) to address the permitted uses, area, height and placement standards of the expanded district. The added properties were zoned R4C (Multiple-Family Dwelling). The Casa Dominick’s PUD Conceptual Plan represents what could be developed consistent with the PUD Supplemental Regulations. The master plan of redevelopment is not yet fully realized, but the zoning regulations are in effect.

The PUD regulations require closing some existing curb cuts to permit a maximum of two curb cuts servicing the district when development permitted in the Conceptual Plan occurs. To date there has been no site development toward realizing the conceptual plan.

On January 25, 2012, the Zoning Board of Appeals overturned Planning staff’s denial of a zoning compliance permit for establishing a medical marijuana dispensary at 700 Tappan and interpreted the Casa Dominick’s PUD Supplemental Regulations to allow retail use in this area of the PUD district. Dispensaries and provisioning centers are considered retail uses.

A Special Exception Use was approved in 2018 to permit the Provisioning Center established at 700 Tappan. As part of the Special Exception Use (SEU) and subsequent approval, Planning Commission stressed the importance of pedestrian safety and required the removal of the curb cut servicing 700 Tappan as a condition of SEU approval. The condition stated the curb cut must be removed prior to issuance of a Certificate of Occupancy (CO) for the Provisioning Center.

Although the curb cut was not removed, a CO was issued for the property due to an error. In 2021, the owner proposed a modification to the Supplemental Regulations governing the district that would allow all four curb cuts still servicing the site to remain. This modification was approved by City Council. The revision to the Supplemental Regulations was a direct result of enforcement action to bring the site into compliance.

At the same meeting in 2021, City Council also modified the Supplemental Regulations to require the removal of all impervious surface between the structure at 700 Tappan and the sidewalk. The Council also prohibited parking in that area.

In early 2024 the applicant removed all asphalt between the structure and the sidewalk. Pervious pavers were installed as a patio surface and a planter box has been installed as a separation. The driveway at 700 Tappan still connects to a legal parking space in the rear of the building that is utilized only by the residential tenant in the adjacent building.

PLANNING STAFF ANALYSIS OF SPECIAL EXCEPTION USE STANDARDS:

The Planning Commission, in arriving at its decision relative to any application for a special exception, shall apply the standards shown on the attached petition.

The special exception use requirements as they are applied to this petition are broken down into general categories below.

SEU Standards for Approval Criteria		Staff Analysis	
5.29.5.D(1)			
a.	Consistency with Comprehensive Plan objectives	(The City Comprehensive Plan includes 8 elements, adopted individually between 2009 and 2017, and together by resolution in 2015.) Together, the City Master Plan elements seek to guide the City towards sustainability, conservation, and increasing livability, affordability, transportation choices, and dense, mixed uses on vibrant, active, friendly streets. There is no site specific recommendation in the Land Use Element for this site.	Meets standard

b.	Compatibility with general vicinity	<p>The use is compatible with other adjacent uses in the same PUD zoning district and the university uses across the street. There was a grocery store on the block in 1959, and a restaurant was opened at 812 Monroe shortly thereafter. That restaurant received a liquor license in the 1970's, becoming the locally famous Casa Dominick's Café. When 700 Tappan became a medical/dental office is unclear, but medical/dental office uses were permitted in the R4C district when it was first established in 1963.</p> <p>This history of nonresidential uses on the south side of Monroe Street suggests a dispensary would be compatible with the general vicinity, and the neighborhood.</p>	Meets standard
c.	Consistency with the neighborhood	The intensity and character of the marijuana retailer is consistent with the neighborhood land uses and functions south of the UM Law Quad and west of the Business School.	Meets standard
d.	Neighboring property or neighborhood impacts	As noted above, this neighborhood and block have a particular history of nonresidential uses side-by-side with multiple-family residential buildings, often housing college students. No complaints have been received by Planning and Building about this particular business in the past.	Meets standard
e.	Natural environment impacts	There are no natural features on this site.	Meets standard
5.29.5.D(2)			
a.	Parking access and pedestrian safety	<p>Public sidewalks, in good condition, are present along Monroe and Tappan streets as well as all surrounding blocks. The PUD regulations require the removal of asphalt and prohibition of parking in the area between 700 Tappan and the sidewalk. While a driveway remains it leads to a single vehicle parking space for use only by a resident, there will be no retail use of the parking space. In addition, see Transportation Review comments below.</p> <p>Off-street parking requirements for this PUD (Casa Dominick's Planned Unit Development) have been customized based on the existing and permitted land uses. The Supplemental Regulations call for a minimum of 2 and a maximum of 10 vehicle spaces to be shared by all uses within the district. Bicycle parking requirements are also addressed district-wide.</p>	Meets standard
b.	Streets and traffic	There are no anticipated detrimental impacts or changes to streets or traffic.	Meets standard
c.	Turning movements	Turning movements will remain unchanged.	Meets standard
d.	Traffic and parking intensity	The vehicle trips generated by a marijuana retailer are consistent with general retail uses found in commercial districts. This provisioning center will have a neutral effect on vehicular movements and traffic patterns in the area.	Meets standard
e.	Additional public services impacts	None	Meets standard

In addition, the following information is required to be submitted for provisioning centers per 5.16.3.G.4 Special exception use regulations for medical marijuana facilities:

- 1) an operations statement that describes the life cycle of marijuana on site, and general business operations;
- 2) a safety and security plan that addresses marijuana, customers, employees, and the neighborhood;
- 3) a description of methods to be used to contain all odors within the building;
- 4) a waste disposal plan for marijuana; and
- 5) hours of operation.

This required information is attached to the meeting agenda as well as linked below.

Additional required Medical Marijuana SEU information			
5.16.3.G.4			
a.	Operations statement	The referenced operation plan describes intakes, storage and packaging, patient consultations, and cash handling.	Provided
b.	Safety and Security	It should be noted that the state licensing process requires an extremely detailed and comprehensive security system. Staff does not ask for the particulars of provisioning centers' security plan since our documents are all public, unlike the state license permit application which is not. The applicant has provided an abbreviated security plan that describes the facility layout and restricted access areas, physical barriers, electronic surveillance systems, operational procedures, and safety.	Provided
c.	Odor Control	Lack of odor control is the most frequent complaint heard by staff about provisioning centers. The applicant has stated that medical marijuana is stored in air-tight containers and packages, and the packaging room is equipped with an air purifier that operates 24/7.	Provided
d.	Waste Disposal	The applicant has stated that any marijuana waste will be reported, rendered unusable, and disposed of in a dumpster for landfill disposal.	Provided
e.	Hours of operation	Normal hours of operation will be 9:00am to 9:00pm, Monday through Sunday.	Provided

DEPARTMENT COMMENTS:

Transportation: The previous issue of Planning Commission concern for the site was the parallel space between the structure and the public sidewalk. With the modified PUD regulations, parking is no longer permitted in this area and the asphalt has been replaced with a paver patio. The curb cut at 700 Tappan continues to provide access to an existing on-site parking space behind 700 Tappan. This space is only used for residential parking for the adjacent tenant. The use of this driveway is infrequent compared to a retail use. Transportation review does accept keeping the curb on Monroe Street to provide access to the residential use at 702 Tappan.

Prepared by Matt Kowalski, City Planner
Reviewed by Hank Kelley, Deputy Planning Manager
03-28-2024

Attachments: Site Plan dated 02-01-24
 Zoning/Parcel Maps
 Aerial Photo
 SEU Petition Application
 SEU Marijuana Attachments

c: Petitioner – Alexander Betterly – Meds Cafe
 Property Owner – Richard DeVarti
 Petitioner’s Agent – Washtenaw Engineering Co. (Joe Maynard)
 City Attorney’s Office
 Systems Planning
 File No. SEU24-0001