



City of Ann Arbor

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

Meeting Minutes City Planning Commission

Tuesday, August 16, 2011

7:00 PM Ann Arbor Municipal Center, 301 E. Huron Street, 2nd Flr.

9-c 11-1006

Public Hearing and Action on Clark Rezoning - A request to rezone the 0.13 acre parcel at 1712 South State Street from "O" Office District to "C1" Local Business District and waive the Area Plan Requirement. Staff Recommendation: Denial

Cheng presented the staff report.

Dorie Epperz, the petitioner, said they are a non-profit medical marijuana dispensary. She said the neighborhood on the west side of State is made up of converted homes, containing uses such as massage therapy and palm reading. She said they have been open for a year and use the entire building. Staff told them that a barrier to rezoning is in the master plan, but she noted that City Council has broad discretion. She said the purpose of the master plan is to provide guidance to city residents about land use. She could find nothing in the plan that said departing from the plan is illegal. She said that spot zoning is in the public interest, such as PUDs. She referred to a report she distributed from the State that talks about 60% of population served are low-income. She said that clients prefer easy access. She believes it is in the public interest to allow the dispensary to remain in the current location to serve their clients.

Mahler declared the Public Hearing closed at 8:25 pm.

Moved by Westphal, seconded by Briggs, that the Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Clark Rezoning from O (Office) to C1 (Local Business) and that the Ann Arbor City Planning Commission hereby waives the area plan requirement because no new improvements or alterations to the site area are proposed.



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COMMISSION DISCUSSION:

Giannola stated that this is another reason why a complete study needs to be done for the South State Street area. She reiterated the difficulty in deciding on zoning for these businesses, specifically since they are only a few parcels apart. She asked that the Commission look at the precedent that they are setting if they follow or don't follow the existing plan. She asked why Office zoning wasn't included in the medical marijuana dispensaries ordinance.

Cheng responded that from his discussion with Jill Thacher, he understood that the reasoning was that a dispensary was more like a pharmacy than a doctor's office, which brings it closer to the commercial use than an office use.

Bona noted that was her observation on commercial zonings. She asked why C1 was chosen for this designation.

Cheng responded that C1 was the least intense commercial zoning that would allow for a medical dispensary, noting that C2B and C3 would be for more intense uses than what C1 would allow.

Bona asked if the neighboring massage therapist and the palm reader businesses would be allowed in an Office-zoned district.

Cheng responded that the massage therapist would be allowed, and he wasn't sure about the palm reader business, noting that it had recently been annexed into the City.

Bona commented that the PUD classification was something that was written into the site plan and required the petitioner to give something in order to get something.

Woods asked Derezinski what the City Council's view is on dispensary locations and if they intended them to relocate to appropriately-zoned districts.

Derezinski responded that the City Council wanted to allow existing dispensaries to continue in their existing locations given specific requirements as well as the added moratorium on new dispensaries. He said Council took the issue very seriously and reviewed the licensing ordinance and zoning ordinance separately in order to make sure they had a balance of the issues. He noted that there are currently several bills waiting for action at the State level, which have come about because of the ambiguity of the way the state medical marijuana law was originally written and passed.

Woods asked if there are other dispensaries in the City that are in non-C1 zoned districts that will come before the Commission in the future asking to be rezoned.

Rampson responded that there are several located in office districts and given the City's licensing ordinance, a few have notified the City that they are looking for alternative locations.

Cheng stated that the petitioner had notified residents and owners within 1,000 ft of the parcel and held a public meeting; however, no one had attended the meeting.

Briggs stated that she feels the business seems to fit well into the Office district and she feels that it differs from the previous applicant in that it doesn't border a compatible commercial district. She said she supports the placement of the business in this location and expressed her frustration with the situation.

Westphal asked if for-profit or non-profit had any bearing on zoning.

Cheng responded no.

Westphal verified that this zoning would also stay with the parcel and not follow the business.

Cheng said that is correct.

Westphal said he feels for the petitioner being in their current situation because of laws changing. He said he wouldn't be able to support the rezoning request.

Giannola asked staff if there was any way to allow for a Special Exemption Use for this request at this location.

Cheng responded, no, not in the Office districts.

Giannola asked if the City Council could add the Office districts to the existing allowable districts.

Rampson explained that the City Council would have to ask the Planning Commission to review and rewrite the medical marijuana zoning amendments before this could happen.

On a roll call, the vote was as follows with the Chair declaring the motion failed, which will move forward to Council as a recommendation for denial of the rezoning request.

Yeas: 0

Nays: 8 - Eric A. Mahler, Wendy Woods, Tony Derezinski, Erica Briggs, Kirk Westphal, Diane Giannola, Eleanore Adenekan, and Bonnie Bona

Absent: 1 - Evan Pratt