

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of August 8, 2018

SUBJECT: 202 Miller Avenue Special Exception Use with Site Plan for Planning Commission Approval

File No. SEU18-013

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 (Zoning Ordinance), Section 5:104 (Special Exceptions) and Section 5:50.1 (Regulations Concerning Medical Use of Marijuana), and therefore approves the 202 Miller Avenue Special Exception Use for a medical marijuana Provisioning Center. This approval is based on the following findings:

1. The proposed use will be consistent with the D2 (Downtown Interface) District, which provides for commercial and retail activities as well as office and residential uses.
2. The proposed use will not adversely impact traffic, pedestrians, bicyclists, circulation, or road intersections based on the location. Both Miller Ave. and N. Ashley Street provides adequate access to the site, and the proposed use is consistent with other surrounding uses' traffic impact.
3. 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 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.
3. Submit a License Agreement Application prior to applying for a Zoning Permit and to enter into a License Agreement prior to applying for a Certificate of Occupancy to address the encroachment of the existing building in the public right-of-way.
4. The petitioner will close the Miller Ave. curb cut, reduce the N. Ashley Curb cut and stripe parking spaces and install bumper blocks as shown on sheet c1.0. The closed curb cuts and parking spaces must be installed by October 31, 2018.
5. The petitioner will maintain the operating hours of 10:00 am to 8:00 pm Monday thru Saturday and 11:00 am to 6:00 p.m Sunday.
6. Occupancy of the building shall be conditional on the indoor air sampling demonstrating no unacceptable exposure to occupants conducted by a qualified environmental consultant.

And that the Ann Arbor Planning Commission approves the attached Site Plan which demonstrates compliance with the applicable Special Exception Use standards.

STAFF RECOMMENDATION:

Staff recommends that the special exception use be **approved with conditions** subject to Planning Commission consideration because the proposed 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 northwest corner of Miller Avenue and North Ashley Street. Downtown Development Authority area, Downtown planning area, Ward 1.

DESCRIPTION OF PETITION:

The petitioner seeks special exception use approval to operate a medical marijuana provisioning center in an existing building zoned D2 (Downtown Interface). Per the

Zoning Ordinance, Chapter 55, the D2 district allows medical marijuana provisioning centers with special exception use approval.

The 2,920-square foot site contains a vacant 1,153-square foot, one-story commercial building. The petitioner proposes closing the curb cut off Miller Ave. and reducing the 51-foot wide curb cut off N. Ashley to 30 feet to meet City Code. Two parking spaces are proposed at the southeast corner of the site with 6 bicycle parking locate in the southwest corner.

SURROUNDING LAND USES AND ZONING:

	LAND USE	ZONING
NORTH	Downtown residential	D2 (Downtown Interface)
EAST	Downtown commercial	D2
SOUTH	Downtown residential	D2
WEST	Downtown residential	D2

HISTORY AND PLANNING BACKGROUND:

The existing building was built in 1925 and used as a gasoline service station for approximately 40 years. This was before modern site plans were required for development on platted lots. It is within the Downtown Development Authority area which was created in 1982. The survey provided as part of this petition revealed the existing building encroaches into the West Jefferson Street right-of-way by several inches.

The recommendations in the [2009 Downtown Plan](#) for the site and surrounding blocks to be zoned D2 base district and Kerrytown character overlay district were achieved by the Ann Arbor Discovering Downtown (A2D2) rezoning approved in 2009.

Also of note, the frontage designation of the site per the Zoning Ordinance is front yard street. The [Downtown Street Design Manual](#), an approved policy, assigns the functional emphasis of both Miller Ave. and N. Ashley Street as “bicycle” and the frontage context of both streets as “mixed.”

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](#).

In addition, the following information is required to be submitted for provisioning centers per 5:50.1(8) 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 linked to this report.

PLANNING STAFF COMMENTS:

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

Master Plan: (The [City Master 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. Recommendations specific to the site include the future land use recommendations in the [Downtown Plan](#) for downtown interface zoning designation and active streetlevel uses, which have been satisfied.

Compatibility with the general vicinity: The use is similar to other downtown retail establishments in its hours of operation, customer volumes, and general activities.

The existing development is well within the normal FAR limit, off-street parking requirements are satisfied by the on-site spaces in addition to the assumption of parking for private developments downtown by the on-street parking spaces and parking structures open to the public for the benefit of all downtown developments.

Consistent with the neighborhood and not detrimental: The intensity and character of the provisioning center are compatible with downtown activities. This petition is seeking approval to open a new business and so there is no history of complaints or compliments received. (Note that complaints have been received about the increasing number of provisioning centers in general.)

Parking: The site is in a parking-exempt area for developments at or below the normal FAR maximum. In those cases, off-street parking requirements are assumed by the on-street spaces and parking structures open to the public for the benefit of all downtown developments. Three bicycle hoops, providing 6 spaces, is provided on the site at the southwest corner of the building.

Pedestrian Safety: Public sidewalks, in good condition, are present along Miller Ave. and N. Ashley Street as well as throughout downtown. The site has an undefined parking lot where each car pulls in, and backs out, over the public sidewalk. Statistically this is less safe for pedestrians than parking lots accessed by a traditional driveway.

Vehicle movement and traffic: The vehicle trips generated by a provisioning center are consistent with general retail uses found in D2 district. This provisioning center will have a neutral affect on vehicular movements and traffic patterns downtown.

Natural Features: There are on natural features on this site.

Additional required Medical Marijuana SEU information:

Operations Plan: The referenced [operation plan](#) describes patient workflow, employee workflow, storage and deliveries, packaging and product tracking, cash handling, staffing hiring and training, and opening and closing.

Safety & 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 an alarm and surveillance system, facility security, and policies and training to prevent or mitigate any breaches.

Odor Control: Lack of odor control is the most frequent complaint heard by staff about provisioning centers. The applicant has [stated](#) that the entire building is equipped with constant, continuously running charcoal/carbon fans to control and eliminate all odors from leaving the building.

Waste Disposal: The applicant has [stated](#) that typical waste will be recycled or disposed into standard carts provided by the City, stored in a screened enclosure at the rear of the site. Any marijuana waste will be made into an unusable form, tracked, and disposed of securely.

Hours of Operations: Normal [hours](#) of operation will be 10:00am to 8:00pm, Monday through Saturday and 11:00 am to 6:00 pm Sunday.

DEPARTMENT COMMENTS:

Environmental Coordinator – 202 Miller, LLC is proposing to perform response actions to prevent or mitigate unacceptable exposure. These actions include removal of the known contamination above residential criteria, monitoring for indoor air issues, notifying appropriate persons and maintaining all exposure barriers.

The City has been provided with environmental data showing that the petitioner has demonstrated no contamination under the building and is proposing response actions to remove the potential for unacceptable exposure. Because the petitioner is proposing to perform indoor air sampling, Occupancy will be conditional on the indoor air sampling demonstrating no unacceptable exposure to occupants.

Planning – The petitioner proposes to close a curb cut off Miller Ave. and reduce the existing curb cut off N. Division to prevent vehicles from backing in the streets. The proposed layout allows for vehicles to back up in the existing lot and exit the site safely.

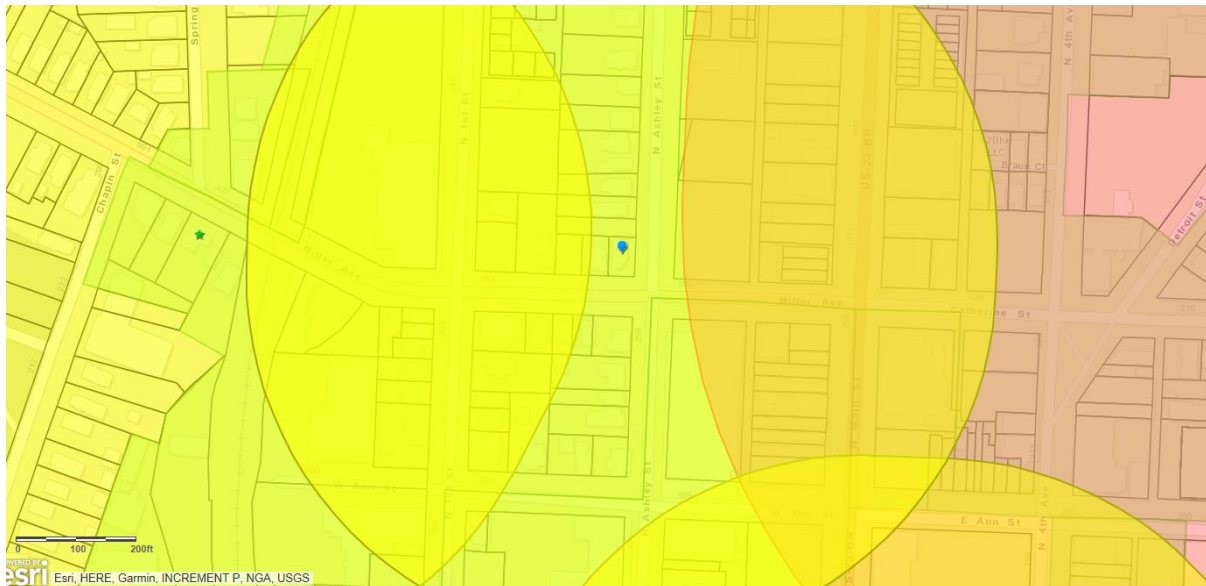
This project has gone through a Phase 1 and Phase 2 Environmental Assessment. The entire site was tested including within the building. The petitioner is requesting an "Inconsequential Determination" from the MDEQ (attached).




The petitioner responded to neighborhood concerns and a summary of their responses is linked.

STREET VIEW IMAGE: (© 2018 Google, image capture August 2016)



MEDICAL MARIJUANA APPLICATIONS MAP:



-  600 foot buffer from provisioning center
-  1,000 foot buffer from public school
-  Allows provisioning centers

202 Miller Ave. Special Exception Use and Site Plan
August 8, 2018
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Prepared by Chris Cheng, City Planner
Reviewed by Brett Lenart, Planning Manager

Attachments: [Zoning/Parcel Maps](#)
[Aerial Photo](#)
[SEU Petition Application](#)
[Security Plan, Operations Statement, Waste Disposal Plan](#)
[Site Plan](#)
[Neighborhood Comments](#)
[MDEQ Letter](#)

c: Petitioner – Damian Farrell Design Group

Property Owner – Scientific Method Holdings, Inc.
Drew Hutton, Owner
339 East Liberty Street, Suite 220
Ann Arbor, MI 48104

City Attorney's Office
Systems Planning
File No. SEU18-013

202 Miller Ave



- Railroads
- Huron River
- Tax Parcels



Map date 2/6/2018
Any aerial imagery is circa 2015
unless otherwise noted
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202 Miller Ave



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