

Lenart, Brett

From: Holzheuer, Bill (W.P.) <wholzheu@ford.com>
Sent: Thursday, July 12, 2018 11:30 AM
To: Planning
Subject: Midtown Ann Arbor Condominiums Site Plan _ Public Hearing

Dear Planning Department,

I received a Notice of Public Hearing, but the dates do not make sense. Please advise the correct dates.

The notice was mail marked July 3, 2018.

The public hearing is scheduled for Tuesday July 2, 2018 at 7:00pm.

This must be a typo.

Your calendar on-line does not have an agenda of any upcoming Planning Commission hearing that lists the topic of S. Maple and Pauline condominium site plan.

When is the hearing and when will the plans be available for review?

I would prefer to see single family residents built at this site, but I'm not opposed to condominiums.

I am concerned with the number of units proposed and the 3 and 4 story units. I would much rather see town house style, garage below condo similar to Oak Valley or Blue Huron at Maple and Liberty. The apartment style condo's east of Maple and North of Pauline are too congested and not as well maintained. I don't want the corner of Pauline and Maple to look like a housing project.

Additionally, the road infrastructure needs to be updated along with proper water run off management. This area floods Dicken Dr. already during heavy rainfall.

Street vehicle traffic should be directed down Pauline to Stadium or North on Maple to Liberty/Stadium. The intersection at Scio Church, Maple and Oak Valley during rush hour times can take a driver up to 6 light changes. The weight time leads to aggressive, road rage behaviors with traffic backed up from the Public library on Oak Valley all the way to the light at Scio Church and Maple. Similar in the other two directions.

I assume that many of the children will attend Dicken Elementary and utilize Dicken Woods Nature Area trails to access the school. The trail from S Maple to Dicken Road and Carroll Street at Dicken Elementary needs to improved, the pavement is currently failing and is a hazard to pedestrian and bike traffic.

With increased traffic, the trail should include a privacy / security fence from S. Maple to Dicken Rd. There has been constant graffiti vandalism to the AT&T box as well as the residence on Dicken Rd.

Thank you,
Bill Holzheuer
1495 S Maple Rd.
Ann Arbor MI 48103
wholzheu@ford.com

Lenart, Brett

From: Andrew Stevens <AStevens@lmdlaw.com>
Sent: Tuesday, July 10, 2018 11:16 AM
To: Lenart, Brett
Cc: Grand, Julie; Ackerman, Zach; Claudia Myszke; Cynthia Haywood; Higgins, Sara
Subject: RE: Objections to Special Use Application (Medical Marijuana Provision Center) at 2385 E. Ellsworth
Attachments: Legislation Details ORD18-15 (With Text) (1).pdf

Thank you Mr. Lenart. There also exists the recent ordinance enacted by the City Council limiting the number of provisioning centers to 28. ORD 18-15 was passed on May 21, 2018 amending Chapter 96 of the City Code and is attached. At the time of enactment, the Council considered 28 current and pending provisioning centers based upon applications that were received as of April 16, 2018. The 2385 E Ellsworth special use application was submitted on May 4, 2018, and not accepted by the Planning Department until June 22, 2018, after the limit was established for the current and pending applications by City Council.

As a result of ORD 18-15 and the fact that the 2385 E Ellsworth special use application was not considered as part of the 28 provisioning center limit, the 2385 E Ellsworth special use application cannot even be considered by the Planning Commission, in theory, until at least one of the pending applications submitted by April 16, 2018 is denied by the Planning Commission. This is highlighted by the fact that 6 additional petitions (not considered in the 28) violative of the 600 foot restriction "may only be considered if one of the original 28 pending applications is denied."

In addition to the previous objections submitted on behalf of Forest Hills, the 2385 E Ellsworth special use application is untimely and subject to limits prescribed in ORD 18-15.

Sincerely,

Andrew L. Stevens
Landry, Mazzeo & Dembinski, PC
37000 Grand River Avenue, Suite 200
Farmington Hills, MI 48335
p: (248) 476-6900 Ext: 33
m: (734) 377-7139
f: (248) 476-6564
www.lmdlaw.com

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From: Lenart, Brett <BLenart@a2gov.org>
Sent: Tuesday, July 10, 2018 10:36 AM
To: Andrew Stevens <AStevens@lmdlaw.com>
Cc: Grand, Julie <JGrand@a2gov.org>; Ackerman, Zach <ZAckerman@a2gov.org>; Claudia Myszke <cjmyszke@gmail.com>; Cynthia Haywood <Chaywood@universitytownhouses.org>; Higgins, Sara

<SHiggins@a2gov.org>

Subject: RE: Objections to Special Use Application (Medical Marijuana Provision Center) at 2385 E. Ellsworth

Thank you for your comments, they will be shared with the Planning Commission.

Sincerely,

Brett Lenart, AICP - Planning Manager

City of Ann Arbor Planning & Development Services

Direct (734) 794-6000 #42606 | General (734) 794-6265

From: Andrew Stevens <AStevens@lmdlaw.com>

Sent: Friday, July 06, 2018 9:13 AM

To: Planning <Planning@a2gov.org>

Cc: Grand, Julie <JGrand@a2gov.org>; Ackerman, Zach <ZAckerman@a2gov.org>; Claudia Myszke <cjmyszke@gmail.com>; Cynthia Haywood <Chaywood@universitytownhouses.org>

Subject: Objections to Special Use Application (Medical Marijuana Provision Center) at 2385 E. Ellsworth

Dear Planning Commission,

Our firm represents the Forest Hills Cooperative a housing cooperative comprised of 306 residential units located at [2351 Shadowood Dr., Ann Arbor](#) (on Ellsworth Rd.) in Ward 3. Forest Hills received a postcard on July 2, 2018 regarding an application that was submitted for a special use permit to operate a **medical marijuana provisioning center** from Brian Fenech. Mr. Fenech is an attorney who is believed to represent the owner of a C1 parcel located adjacent to Forest Hills Cooperative at [2385 E. Ellsworth](#). Forest Hills *strongly opposes* a marijuana provisioning center facility at this location.

The proposed location, at [2385 Ellsworth Rd.](#), is a veritable island of C1 zoning surrounded by Residential zoning. We strongly urge you to examine the location of this proposed marijuana facility and take note of the area immediately adjacent to it. Forest Hills Cooperative includes 306 residential units immediately to the west. To the east is University Townhouse Cooperative which is comprised of 609 residential units. Therefore, there are 915 residential units, in Ward 3, immediately adjacent to this proposed marijuana site. In addition, the Forest Hills Cooperative play structure, a place where parents take their children, is located a mere 500 feet from this proposed location. Ellsworth Park is located immediately to the east and the South East Park is located just east on Ellsworth Road. Arbor Oaks Park is also located in the vicinity. Moreover, Bryant Elementary School, is located 999.96 feet away.

At this time, I bring to your attention the distance between Bryant Elementary School and the [2385 E. Ellsworth](#) parcel. Under ORD-17-21, effective February 12, 2018, no parcel containing a marijuana facility can be located within 1,000 feet of an elementary school parcel. Before ORD-17-21 was passed, the prior distance restriction in 5:50.1(3)(D) was measured from the location of the marijuana facility to the school parcel. Under the current ordinance, the distance is measured between the parcels. Below is the current and former distance requirements found in ORD-17-21:

Current Ordinance, 5:50.1(3)(C):

(c) No parcel containing a medical marijuana provisioning processor shall be located within 1,000 feet of a parcel on private K-12 elementary or secondary school is located.

Prior 5:50.1(3)(D):

~~(3) Locations of medical marijuana dispensaries and medical facilities. A medical marijuana dispensary or medical marijuana facility shall be located in the city only in accordance with the following~~

~~(d) — No medical marijuana dispensary or medical marijuana facility shall be located within 1,000 feet of a parcel on which a public elementary or secondary school is located.~~

I had previously requested and received a zoning analysis of the [2385 E. Ellsworth](#) property from the Planning Division which is attached. After the analysis was completed and received, I spoke with Zoning Coordinator Jon Barrett and advised that the distance between the Bryant Elementary parcel and [2385 E. Ellsworth](#) parcel was 999.97 feet. Mr. Barrett confirmed that he measured the distance between the parcels at 999.96 feet and brought the matter to the attention of his supervisor. Mr. Barrett stated that his supervisor told him to round it up to 1,000 feet, as it appears in the completed zoning analysis. As a result of the discretionary decision made by the Planning Division, the [2385 E. Ellsworth](#) property complies with the distance requirements. ORD-17-21 does not provide the Planning Division any discretion to “round up” the distance between parcels in a way that circumvents the law enacted by the City Council. Rather, this is directly contrary to the Council’s intention to protect the health, safety and welfare of its most vulnerable residents, the children. Of further concern is that the special use permit process is occurring during the summer months when schools are closed and families are on vacation. You will also notice on the proposed site plan that is attached a skewed vicinity map that excludes Bryant Elementary despite that fact that it is located less than 1,000 feet from the [2385 E. Ellsworth](#) parcel.

Please advise whether the Planning Division has discretion under the Ann Arbor City Code to arbitrarily “round up” distance buffers enacted by the Council to protect children. If the Planning Division does not have discretion to arbitrarily determine a distance measurement, I ask the Planning Commission to direct the Planning Division to adhere to the Ordinance as written.

Forest Hills Cooperative implores the City of Ann Arbor not to approve this marijuana facility at this location. While they may technically be in a Commercially zoned plot of land, that plot is extremely small and completely surrounded by residences. This is not a healthy location for a marijuana facility. It cannot be the intent of the City of Ann Arbor to allow a marijuana facility in such a heavy residential area. Area residents currently have access to medical marijuana less than one mile away from the proposed location. The provisioning center at 3820 Varsity Dr., is located exclusively within a commercial/industrial park and is serviced by the Ellsworth bus route. In the event that the Planning Commission schedules a public hearing for the [2385 E. Ellsworth](#) Special Use Application, I request that the Planning

Commission not take up the matter until the summer recess is over and the families with children at Bryant have an opportunity to be heard. Thank you for your time and assistance.

Sincerely,

Andrew L. Stevens
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Legislation Details (With Text)

File #: 18-0790 **Version:** 1 **Name:** 5/7/18 Medical Marijuana Permit Ordinance
Type: Ordinance **Status:** Passed
File created: 5/7/2018 **In control:** City Council
On agenda: 5/21/2018 **Final action:** 5/21/2018
Enactment date: 5/7/2018 **Enactment #:** ORD-18-15
Title: An Ordinance to Amend Sections 7:604 and 7:606 of Chapter 96 (Medical Marijuana Facilities) of Title VII of the Code of the City of Ann Arbor (Ordinance No. ORD-18-15)
Sponsors: Christopher Taylor
Indexes:
Code sections:
Attachments: 1. 18-15 Briefed and Approved.pdf, 2. 18-05 Medical Marijuana Facilities Ordinance Briefed.pdf, 3. Ordinance Amendment draft #2 - max permits temp CofO.pdf

Date	Ver.	Action By	Action	Result
5/21/2018	1	City Council	Held and Closed	
5/21/2018	1	City Council	Adopted on Second Reading	Pass
5/7/2018	1	City Council	Approved on First Reading	Pass

An Ordinance to Amend Sections 7:604 and 7:606 of Chapter 96 (Medical Marijuana Facilities) of Title VII of the Code of the City of Ann Arbor (Ordinance No. ORD-18-15)

On April 16th, 2018 City Council approved a resolution directing the City Administrator and City Attorney to prepare an ordinance that limits the number of provisioning centers to the number of approvable petitions for special exception use that had been accepted for consideration by the City by that date. Attached is an amendment to the Chapter 96 (Medical Marijuana Facilities) that limits the maximum number of provisioning centers to 28.

As of April 16th, there were 28 pending applications for provisioning centers that were approvable because they are not on a parcel within 600 feet of another parcel with a provisioning center. There are six additional petitions pending that currently violate the 600 feet restriction that may only be considered if one of the original 28 pending applications is denied.

Prepared by: Kristen Larcom, City Attorney
Kevin McDonald, City Attorney
Reviewed by: Derek Delacourt, Community Services Area Administrator
Approved by: Howard S. Lazarus, City Administrator

Sponsored by: Mayor Taylor

ORDINANCE NO. ORD-18-15

First Reading: May 7, 2018 Approved: May 21, 2018
Public Hearing: May 21, 2018 Published: May 24, 2018
Effective: June 4, 2018

MEDICAL MARIJUANA FACILITIES

AN ORDINANCE TO AMEND SECTIONS 7:604 AND 7:606 OF CHAPTER 96 (MEDICAL MARIJUANA FACILITIES) OF TITLE VII OF THE CODE OF THE CITY OF ANN ARBOR.

The City of Ann Arbor Ordains:

Section 1. That Section 7:604 of Chapter 96 of Title VII of the Code of the City of Ann Arbor be amended to read as follows:

7:604. - City permit required, **Number of Permits Available.**

(1) No person shall operate a facility for which an annual permit as provided for in this chapter has not been issued. **The maximum number of permits available for each type of facility is as follows:**

- (a) Grower - no maximum.
- (b) Processor - no maximum.
- (c) Secure transporter - no maximum.
- (d) Provisioning center - 28 permits.
- (e) Safety compliance facility - no maximum.

(2) The permit requirement in this chapter applies to all facilities that exist on the effective date of this chapter or are established after the effective date of this chapter. This includes all persons who engage or have engaged in any of the activities that are included in the definitions in the MMFLA of the types of entities that may obtain a state operating license, without regard to whether they called or call their businesses "dispensaries," "cultivation facilities," "clubs," "cooperatives," or any other similar label. A person who engaged in any of the activities that are included in the definitions in the MMFLA of the types of entities that may obtain a state operating license before the effective date of the MMFLA or before obtaining a state operating license does not have a vested right to obtain a city permit.

(3) The permit requirement in this chapter applies to all facilities whether operated for profit or not for profit.

(4) The permit requirement in this chapter shall be in addition to any other requirements imposed by any other state or local law, including but not limited to state or local laws applicable to commercial entities performing functions similar to the functions performed by marijuana facilities.

(5) The issuance of any permit pursuant to this chapter does not create an exception, defense or immunity to any person with regard to any potential criminal or civil liability the person may have under any federal or state law or city ordinance.

(6) A permit issued under this chapter shall be valid for 1 year after the date of issuance. To renew an existing permit, the permittee shall submit an application in the same manner as is required to apply for a new permit no sooner than 90 days before the expiration date and no later than 60 days before the expiration date.

(7) Medical marijuana home occupations do not require permits.

Section 2. That Section 7:606 of Chapter 96 of Title VII of the Code of the City of Ann Arbor be

amended to read as follows:

7:606. - Application requirements for and issuance of city permit.

(1) Application for new annual permit. An application for a new annual permit for a marijuana facility shall be submitted to the City Clerk on a form provided by the city, which shall fulfill all of the requirements indicated on the form, including but not limited to:

- (a) The name and address of the facility and any other contact information requested on the application form.
- (b) The name and address of all owners of the real property where the facility is located.
- (c) Name and address of all business managers of the facility.
- (d) A statement with respect to each person named on the application whether the person has:
 - (i) Ever been convicted of a felony involving controlled substances as defined under the Michigan Public Health Code, MCL 333.1101 et seq., the federal law, or the law of any other state and, if so, the date of the conviction and the law under which the person was convicted;
 - (ii) Ever been convicted of any other type of felony under the law of Michigan, the United States, or another state, and, if so, the date of the conviction and the law under which the person was convicted.
- (e) Proof of applicant's ownership or legal possession of the premises.
- (f) A zoning compliance permit.
- (g) A certificate of occupancy or temporary certificate of occupancy.
- (h) If the application is for a grower's permit, the maximum number of plants that the applicant intends to grow. However, the application form for a grower's permit is the same regardless of whether the grower is applying for a state operating license for a Class A, Class B, or Class C license and 1 application fee for a grower's license shall apply without regard to the class of state operating license the permit application seeks.
- (i) Payment of a non-refundable application fee, which shall be determined by resolution of the City Council.

(2) Renewal or amendment of existing permits.

- (a) The same procedures that apply to applying for a new permit shall apply to the renewal or amendment of existing permits.
- (b) An application for renewal of an existing permit shall be submitted no sooner than 90 days before the existing permit expires.

- (c) An amended application shall be submitted under both of the following circumstances:
 - (i) When there is a change in any information the permit applicant was required to provide in the most recent application on file with the city; and,
 - (ii) When there is a change in any information the permit applicant was required to provide in the most recent application for a state operating license on file with the state of Michigan.
- (d) An application to amend an existing permit to change the location of the facility shall be submitted no later than 90 days before the existing permit expires. An application to amend an existing permit to change any other information on the most recent application on file with the city may be submitted at any time.
- (e) Applications for renewal or amendment of existing permits shall be reviewed and granted or denied before applications for new permits are considered.

Section 3: This Ordinance shall take effect ten days after passage and publication.

CERTIFICATION

I hereby certify that the foregoing ordinance was adopted by the Council of the City of Ann Arbor, Michigan at its regular session of May 21, 2018.

(Date)

Jacqueline Beaudry, Ann Arbor City Clerk

Christopher Taylor, Mayor

I hereby certify that the foregoing ordinance received legal publication on the City Clerk's Webpage on May 24, 2018.

Jacqueline Beaudry, Ann Arbor City Clerk

Lenart, Brett

From: Andrew Stevens <AStevens@lmdlaw.com>
Sent: Friday, July 06, 2018 9:13 AM
To: Planning
Cc: Grand, Julie; Ackerman, Zach; Claudia Myszke; Cynthia Haywood
Subject: Objections to Special Use Application (Medical Marijuana Provision Center) at 2385 E. Ellsworth
Attachments: Site Plan.pdf; School to 2385 E Ellsworth Distance Plot.pdf; Zoning Analysis Report - 2385 E Ellsworth.docx Amended version.pdf

Dear Planning Commission,

Our firm represents the Forest Hills Cooperative a housing cooperative comprised of 306 residential units located at [2351 Shadowood Dr., Ann Arbor](#) (on Ellsworth Rd.) in Ward 3. Forest Hills received a postcard on July 2, 2018 regarding an application that was submitted for a special use permit to operate a **medical marijuana provisioning center** from Brian Fenech. Mr. Fenech is an attorney who is believed to represent the owner of a C1 parcel located adjacent to Forest Hills Cooperative at [2385 E. Ellsworth](#). Forest Hills *strongly opposes* a marijuana provisioning center facility at this location.

The proposed location, at [2385 Ellsworth Rd.](#), is a veritable island of C1 zoning surrounded by Residential zoning. We strongly urge you to examine the location of this proposed marijuana facility and take note of the area immediately adjacent to it. Forest Hills Cooperative includes 306 residential units immediately to the west. To the east is University Townhouse Cooperative which is comprised of 609 residential units. Therefore, there are 915 residential units, in Ward 3, immediately adjacent to this proposed marijuana site. In addition, the Forest Hills Cooperative play structure, a place where parents take their children, is located a mere 500 feet from this proposed location. Ellsworth Park is located immediately to the east and the South East Park is located just east on Ellsworth Road. Arbor Oaks Park is also located in the vicinity. Moreover, Bryant Elementary School, is located 999.96 feet away.

At this time, I bring to your attention the distance between Bryant Elementary School and the [2385 E. Ellsworth](#) parcel. Under ORD-17-21, effective February 12, 2018, no parcel containing a marijuana facility can be located within 1,000 feet of an elementary school parcel. Before ORD-17-21 was passed, the prior distance restriction in 5:50.1(3)(D) was measured from the location of the marijuana facility to the school parcel. Under the current ordinance, the distance is measured between the parcels. Below is the current and former distance requirements found in ORD-17-21:

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Please advise whether the Planning Division has discretion under the Ann Arbor City Code to arbitrarily “round up” distance buffers enacted by the Council to protect children. If the Planning Division does not have discretion to arbitrarily determine a distance measurement, I ask the Planning Commission to direct the Planning Division to adhere to the Ordinance as written.

Forest Hills Cooperative implores the City of Ann Arbor not to approve this marijuana facility at this location. While they may technically be in a Commercially zoned plot of land, that plot is extremely small and completely surrounded by residences. This is not a healthy location for a marijuana facility. It cannot be the intent of the City of Ann Arbor to allow a marijuana facility in such a heavy residential area. Area residents currently have access to medical marijuana less than one mile away from the proposed location. The provisioning center at 3820 Varsity Dr., is located exclusively within a commercial/industrial park and is serviced by the Ellsworth bus route. In the event that the Planning Commission schedules a public hearing for the [2385 E. Ellsworth](#) Special Use Application, I request that the Planning Commission not take up the matter until the summer recess is over and the families with children at Bryant have an opportunity to be heard. Thank you for your time and assistance.

Sincerely,

Andrew L. Stevens
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37000 Grand River Avenue, Suite 200

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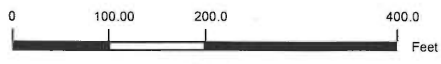
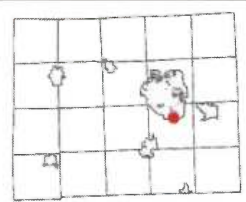
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L-10-SW

Clifford E. Bryant Elementary School

Total: 999.97 ft

999.97 ft



1: 2,400

2/14/2018



NOTE: Parcels may not be to scale.

The information contained in this cadastral map is used to locate, identify and inventory parcels of land in Washtenaw County for appraisal and taxing purposes only and is not to be construed as a "survey description". The information is provided with the understanding that the conclusions drawn from such information are solely the responsibility of the user. Any assumption of legal status of this data is hereby disclaimed.



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

Zoning Analysis Report

The Planning & Development Services Unit is responsible for the administration and enforcement of the Zoning Ordinance, Chapter 55 of the Ann Arbor City Code. The following zoning information is believed to be accurate and based upon the information provided by the applicant, as well as information on file with the City of Ann Arbor and staff's knowledge of the City and its ordinances, plans, procedures, and policies. The City of Ann Arbor assumes no liability for errors or omissions. Additional zoning information may be found at www.a2gov.org/zoning.

Date: 2/23/2018

The parcel at 2385 East Ellsworth Road , tax code number 09-12-10-300-011 is in the City of Ann Arbor.

1. Zoning Classification:

Base Zoning District: C-1, local business district

Overlay Zoning District: N/A

Building Frontage Designation: N/A

2. Current Use:

The current use of the parcel, as provided by the applicant, is: Marijuana cultivation facility

- The current use of the parcel, as provided by the applicant, is a permitted principal use.
- The current use of the parcel, as provided by the applicant, is a special exception use.
- The current use of the parcel, as provided by the applicant, is a nonconforming use.
- The current use of the parcel, as provided by the applicant, is not a permitted use.

3. Parcel Conformance:

- The subject parcel conforms to the minimum lot size and minimum lot width standards for its zoning classification. It is a conforming lot.
- The subject parcel does not conform to the minimum lot size and/or minimum lot width standards for its zoning designation. It is a nonconforming lot.

4. Floodplain Category:

- The subject parcel is not in a 100-year floodplain.
- The subject parcel is within a 100-year floodplain.
- The subject parcel is within the floodway of a 100-year floodplain.

5. Historic District Information:

- The subject parcel is not in a historic district.
- The subject parcel is in a historic district.

6. Violations

- There are no open investigations or unresolved zoning violations on the subject parcel.
- There is an open investigation and/or unresolved zoning violation on the subject parcel (documentation attached)

7. Special Exception Use Approval and Conditions:

- There is no known special exception use approval for this parcel.
- Special exception use was granted by the City Planning Commission
Approval date: [Click here to enter a date.](#)
Conditions: [Click here to enter text.](#)

8. Site Plan Approvals, including Premiums, Planned Project Modifications, and Landscape Modifications

- There is no approved site plan on file for this parcel.
- An approved plan is on file for this parcel:
Project name: Quik Pik Convenience store
Approval date: 6/19/1973
File number: 12103B19.5
- The site plan approval was conditioned upon execution of a development agreement. (documentation attached)
- The site plan approval included premium floor area option(s).
- The site plan approval included planned project modifications.
Approved modifications: [Click here to enter text.](#)
Conditions: [Click here to enter text.](#)
- The site plan approval included landscape modifications.
Approved modifications: [Click here to enter text.](#)

9. Variances

- There are no known variances for this parcel.
- A variance was granted by the Zoning Board of Appeals
Variance(s) approved: [Click here to enter text.](#)
Approval date: [Click here to enter a date.](#)

10. Site Plan Compliance

Upon submittal of an existing conditions survey of the subject, including dimensions to all property lines and all existing improvements on the site, staff will determine whether the existing conditions are in compliance with an approved site plan. This analysis is not available if there is no approved site plan on file for comparison.

Comments: Existing conditions survey was not submitted.

11. Specific Question Responses

1. Was the parcel originally zoned residential? According to our records the property was annexed into the City in approximately 1970 and has been zoned C1 since that time.
2. See question 1.
3. Copies are not available.
4. The parcel is not within the 1000 foot distance requirement of the Bryant Elementary School.
5. The subject property was issued a Zoning Compliance permit (ZCOM16-0220) on August 17, 2016 for a marijuana cultivation facility (not to exceed 72 plants). Since the issuance of this permit, the City of Ann Arbor zoning ordinance no longer allows marijuana cultivation facilities in the C1 Local Business district. The subject property therefore is legal non-conforming.

This report was requested by: Andrew Stevens-attorney

This report was prepared by: Jon Barrett, Zoning Coordinator.

Attachment: General Statements regarding Ann Arbor Zoning Ordinance

Additional Attachments:

1. The approved site plan on file has been uploaded to our website. To access:
 - Visit www.a2gov.org/permits
 - Click on "Search" in the Properties box
 - In the search string, select "Address" "contains" "2385 E Ellsworth" and hit enter
 - Click on the address then scroll down the page to Attachments; the site plan will be listed as a PDF.

Click here to enter text.

General Statements Regarding Uses

Permitted principal uses are uses that are permitted by right and may or may not have use specific standards.

Special exception uses are uses that require prior approval by the City Planning Commission and may have conditions or restrictions associated with that approval.

Nonconforming uses are uses that were permitted principal uses in the zoning district in which the property is located when the use was first developed but are no longer permitted due to a change in the regulations of the district, a rezoning of the parcel from another classification, or annexation from another jurisdiction. Nonconforming uses may continue as provided in the Zoning Ordinance. In general, a nonconforming use may continue to be operated but may not be expanded and may not be changed to another nonconforming use. Nonconforming uses cannot be re-established if they have been discontinued for one year, and cannot be re-established if the building they are in has been damaged more than 50% or 70% depending on the specific circumstances. See City Code, Title V, Chapter 55, Article VII, Section 5:86 for Use Nonconformance.

Not permitted uses are uses that are not permitted in the zoning district in which the property is located. There are no protections in the Zoning Ordinance for uses that are not permitted and they are subject to enforcement action for compliance at any time, including but not limited to, discontinuing use.

General Statements Regarding Lots and Structures:

A conforming lot may be developed or redeveloped with the uses permitted in its zoning classification to the minimum or maximum area, height and placement standards in place at the time of development/redevelopment.

A nonconforming lot may be developed or redeveloped with a single family residential dwelling to the minimum or maximum area, height and placement standards of the current zoning classification if possible, or a single family residential zoning district if not. See City Code, Title V, Chapter 55, Article IV, Section 5:61 for Application to Lots of Record.

A nonconforming single family structure in a residential zoning district may be maintained or expanded if the expansion conforms to the area, height and placement regulations of its zoning classification. Otherwise, a nonconforming structure may be maintained or expanded with approval of the Zoning Board of Appeals. See City Code, Title V, Chapter 55, Article VII, Section 5:87.

All nonconforming structures may not be replaced or reconstructed if the work will be more than 75% of its appraised value. See City Code, Title V, Chapter 55, Article VII, Section 5:87.

General Statement Regarding PUD Planned Unit Development Districts

Each PUD Planned Unit Development zoning district has Supplemental Regulations, a written document approved by City Council and made part of the Zoning Ordinance which contains the zoning and development requirements for that PUD zoning district. A copy of the Supplemental Regulations will be provided if the subject property is in a PUD zoning district.

Lenart, Brett

From: Allexan, Sarah <sallexan@med.umich.edu>
Sent: Sunday, June 24, 2018 8:43 AM
To: Planning
Subject: Dispensary concerns

Dear Ann Arbor Planning Committee-

I am writing to express my significant concerns regarding the potential approval of a medical marijuana provisioning center at 3152 Packard St due to its close proximity to May's Bilingual Preschool. As a pediatrician, in this community, I am both alarmed and disappointed to learn that the neither City Council nor the Planning Commission have taken appropriate steps to safeguard our children, including infants and toddlers as well as K-12 aged-children outside of formal elementary/secondary school locations, from negative effects of marijuana exposure. The decision to afford the 1000 foot minimum distance between K-12 schools and marijuana-related business only to children in a K-12 school is medically arbitrary, inadequate and irresponsible as all ages of children are equally at risk for harm from marijuana regardless of specific location. It is further upsetting to learn that the city has approved two dispensary locations located near daycare/preschool facilities without regard for the negative medical impact.

Given that marijuana remains a schedule I drug under the federal Controlled Substance Act due to the extremely high risk for addiction, that medical marijuana is not regulated by the FDA and is therefore not mandated to have child-safe packaging, that ingestion and inhalation, including second-hand inhalation, of marijuana is documented to have both negative immediate impacts on child health and longer-term impacts on brain development and that the American Academy of Pediatrics has raised notable concerns related to "normalization" of marijuana use secondary to adult modeling, I urge you to prioritize the safety of all children in our community and disapprove any medical marijuana provisioning center permits that are proximate to children.

Additionally, I specifically urge you to amend the 5:50.1(3)(c) city ordinance to create a minimum requirement of a 1000 foot buffer between any marijuana-related business and locations caring for or educating children such as daycares, preschools and locations with pre/after school or summer programs in addition K-12 schools to protect the health of all infants, children and adolescents in Ann Arbor.

Sincerely,

Sarah S. Allexan, MD

University of Michigan
House Officer II
Internal Medicine & Pediatrics
sallexan@med.umich.edu

Electronic Mail is not secure, may not be read every day, and should not be used for urgent or sensitive issues

Lenart, Brett

From: Angie Smith <smitha8014@yahoo.com>
Sent: Friday, June 22, 2018 3:18 PM
To: Planning; CityCouncil
Subject: Burton Road Development

Dear members of the Planning Commission,

I am writing to you regarding a memo that you received last week about a potential development called Brightdawn Village. As a neighbor and someone who knows and loves the area well, I'd like the chance to respond to that memo. That way you have a peek through the lens of the established community in making your decision.

I love my community & neighborhood that we've raised our family in for the last 15 years. I've been active in supporting, establishing, and fundraising for neighborhood watch, non-profits, and local businesses in our corner of Ann Arbor that sometimes feels like its own small town nestled into the greater Ann Arbor community. I support change and growth and access to this same love of community for anyone who might want to live here affordably. But my support is for housing of good quality, that is well-considered and connected, as I am sure yours is too. There are many pieces of the Brightdawn Village plan that sound good on paper—but community members who live here have a good understanding of why the plans and request for rezoning do not serve the city or the potential residents well.

A few examples:

- **Increased capacity:** The developer is asking to rezone this residential area to R4E to allow for more tenants – a zoning code not used in any other area of the city. This change would allow for a significant change in the number of units the apartment would hold, and the percentage of open space that is required. But the developer does not explain why there is any *need* for the city to change the current R4B zoning.

According to Tina Fix's memo, "the Brightdawn Village site would seem to meet the intent of the R4E zoning classification" because it abuts a 'signature transit corridor.' She goes on to explain its proximity to US 23, which residents can see, hear, and smell from their open balcony 4 story apartment building, but cannot access easily. The city does not define US-23 as a signature transit corridor. Washtenaw Avenue is, but there is also no access to Washtenaw from Burton Rd. Both Washtenaw and US-23 are only accessible by taking three consecutive left turns on 2 of the county's top three dangerous intersections... OR a by cutting through the established neighborhood side streets.

- **Traffic:** If the tenants want to take the *three left turn route* to access the signature transit corridor there will be no street light at the corner to help them do so. The *short cut route* would allow for 160 apartments with capacity for 640 tenants access to Yost Blvd, and the other neighborhood streets that are already flux with cut-through traffic. (Ms Fix describes the potential tenants as "workforce" and therefore car-owning; let's not even get into where they might be parking.) The developer's traffic study is what Councilmember Julie Grand calls illegitimate because it calls for the opening of Eli Rd. which dead ends into the park property north of the project. Developers have promised that they will not open that road for several reasons, most importantly, traffic safety.

- **Environmental Impacts:** Neighbors know that we rely on our Burton Rd trees to mitigate all types of pollution from the highway. What are the lead levels, air quality, and sound pollution risks this close to the

highway? What will be done to protect the wetlands and potential champion trees that are nominated? The Planning and Development Services Unit wants the developer to do more, calling for the removal of a planned tennis court due to its impact on the woodlands and landmark trees that would be disturbed. Park Planner, Hillary Hanzel says the city's park contribution formula calls for \$100,000 to improve and keep pace with the flux of new users. Instead, the developers have promised significantly less as the amenities to the community:

- extra parking spaces on the street intended not for residents but for nearby Sylvan Park.
- Only 15% of the recommended contribution over three years to the local non-profit pool on Yost and Eli.

Allowing a change in zoning is going to further impact the environment, traffic, and neighbors in more ways than I have touched on here. As specialists in the field, I ask you to look carefully at the design of this development before deciding if a denser zoning change is necessary or beneficial to our community.

Most sincerely,

Angela Smith

2803 Lillian, Ann Arbor

Gale, Mia

From: Allexan, Sarah <sallexan@med.umich.edu>
Sent: Sunday, June 24, 2018 8:43 AM
To: Planning
Subject: Dispensary concerns

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Sincerely,

Sarah S. Allexan, MD

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