

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of August 16, 2011

**SUBJECT: Clark Rezoning (1712 South State Street)
File No. Z11-009**

PROPOSED CITY PLANNING COMMISSION MOTION

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).

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby waives the area plan requirement for the Clark Rezoning petition because no improvements or alterations to the site area are proposed.

STAFF RECOMMENDATION

Staff recommends this petition be **denied** because the proposed C1 zoning is not consistent with the adjacent zoning, surrounding land uses and the Master Plan recommendations.

Staff recommends that the area plan requirement be **waived** if the proposed rezoning is approved by City Council, because no improvements or alterations to the site are proposed and a survey of the improvements has been provided.

LOCATION

This site is located on the west side of South State Street between Stimson Street and Oakbrook Drive (South Area). This site is in the Malletts Creek Subwatershed.

DESCRIPTION OF PETITION

The petitioner requests rezoning of a 5,520 square foot site from O (Office) to C1 (Local Business). The site contains a 1,310 square foot converted single-family home that currently is used as a medical marijuana dispensary, and a 583 square foot detached garage that is rented out to a physician one day per week and used for member meetings one day per month.

There are currently nine gravel parking spaces on the site, and about 30 vehicles visit the site daily, according to the applicant. If the spaces were formalized, staff estimates that it might be possible to fit six or seven legal parking spaces behind the house. Spaces for employees are also rented from Hawk Industries across the street.

The petitioner has requested a waiver of the area plan requirement because no new construction is proposed. A survey drawing of the site improvements has been provided.

The petitioner notified owners and occupants within 1000 feet of the property of a citizen participation meeting for the rezoning request; no one attended the scheduled meeting.

SURROUNDING LAND USES AND ZONING

	LAND USE	ZONING
NORTH	Office and residential	O (Office), R1D (Single-Family Dwelling)
EAST	Light industrial, office	Twp (Township), M1 (Limited Light Industrial)
SOUTH	Office	O (Office)
WEST	Golf course	PL (Public Land)

COMPARISON CHART

	EXISTING	REQUIRED: CURRENT	REQUIRED: PROPOSED
Zoning	O (Office District)	O (Office District)	C1 (Local Business District)
Min Lot Size	5,520 sq ft	6,000 sq ft MIN	2,000 sq ft MIN
Lot Width	40 ft	50 ft MIN	20 ft MIN
Usable Floor Area in % of Lot Area	34% (1,893 sf)	75% (4,140 sf) MAX	100% (5,520 sf) MAX
Setback	Front	Approx. 12 ft	15 ft MIN/40 ft MAX
	Side	Approx. 10 ft each	None
	Rear	Approx. 75 ft	None
Height	1 ½ stories	None	35 ft/3 stories
Parking - Automobiles	6-9 spaces (unimproved)	4 MIN, 6 MAX	5 MIN
Parking - Bicycles	None	1 Class A MIN	1 Class B MIN

HISTORY AND PLANNING BACKGROUND

In 2008, this site was annexed into the city from Ann Arbor Township and zoned O (Office). The previous tenant was MPC, a property management company. The current medical marijuana dispensary use occupied the building in 2010. Recent amendments to Chapter 55 (Zoning) do not allow medical marijuana dispensaries in O zoning districts. These amendments go into effect on August 22, 2011. The applicant has opted to request rezoning of the site instead of relocating the business to a district that will allow medical marijuana dispensaries.

The City of Ann Arbor Master Plan: Land Use Element calls out this general location in the south area and recommends the following:

Site 5: Both sides of State Street to the south end of the U of M Golf Course, and the north end of South Industrial. As sites are annexed into the City, uses consistent with the light industrial district should be encouraged. Residential and commercial uses should be discouraged, except for the parcels adjacent to the Stimson and South Industrial commercial area...**Sites on the west side of State Street should be office use...**

This site is significantly south of the Stimson commercial area, and is part of a row of ten parcels zoned O (plus two township islands) on the west side of State Street.

ZONING/REZONING JUSTIFICATION

Per Chapter 55 Section 5:107(1), the Zoning Map shall not be amended except to address changed or changing conditions in a particular area or in the municipality generally, or to extend the boundary of an existing zoning district

The petitioner's Petition For Changes In Or Additions To The Zoning Chapter, a form provided by the Planning Department to assist petitioners in providing the required information per Chapter 55 Section 5:108(2)(a)-(g), is reprinted below. The questions are not standards for approval, rather guides to providing sufficient evidence of changed or changing conditions as quoted above. Petitioner's response in regular type, *staff response in italics*.

- **The extent to which the zoning/rezoning requested is necessary:**

The rezoning is necessary because a medical marijuana dispensary will not be a permitted use in the O zoning district when the new licensing ordinance takes effect.

On August 22, 2011, zoning ordinance amendments will go into effect that allow medical marijuana dispensaries in the two downtown zoning districts, all of the commercial districts, and some industrial districts. Under the medical marijuana license requirements that also go into effect on August 22, this business owner may apply for a medical marijuana license in a new location that conforms to zoning.

- **This zoning/rezoning will affect the public welfare and property right of persons located in the vicinity in the following ways:**

This rezoning will not involve any change of use or any new construction. The rezoning is only being requested because the City is creating a new zoning ordinance governing dispensaries. There will be no effects on the public welfare and property right of persons located in the vicinity due to this rezoning. We are located more than 1,000 feet from any school in compliance with the new dispensary licensing ordinance. We do not believe that our patients have created any traffic problem along South State Street. One of our neighbors is a psychic palm healer. The other is a massage parlor. The dispensary is not next to residential housing.

- **This zoning/rezoning will be advantageous to the City of Ann Arbor in the following ways:**

This rezoning will allow an ongoing business to continue to provide services to patients qualifying to receive marijuana under the Michigan Medical Marijuana Act.

- **This particular location will meet the convenience and service requirements of potential users or occupants in the following ways:**

Our dispensary is conveniently located for our patients. They have told us that they do not want to have to go downtown to obtain their medicine. Many patients have disabilities, and cannot travel around downtown easily. We have ample off-street parking around the back to protect our patients' privacy.

- **Any changed or changing conditions in any particular area, or in the municipality generally which may have bearing on the proposed zoning/rezoning are:**

The 2008 Medical Marijuana Act created a demand for ways that qualifying patients can obtain medical marijuana. The City has recognized this demand by adopting its new ordinances. This new business is, naturally, not recognized in the South Area Plan, which was adopted in the late 1980s. We believe that this dispensary would be a good "fit" with its neighborhood. One reason for our belief is that no one appeared at our recent citizen participation meeting.

Staff agrees that a medical marijuana dispensary was not considered as a land use at the time the Master Plan: Land Use Element was being written. The Land Use Element deals with categories of land uses, however, not specific ones. Through recent amendments to Chapter 55 (Zoning), City Council determined that O Office districts are not appropriate locations for dispensaries, in part because of dispensaries' commercial nature. The Land Use Element specifies office uses for this area, and with the exception of increased traffic along South State Street, significant changes in condition have not been identified.

- **Other circumstances which will further justify the requested zoning/rezoning are:**

If the dispensary does not stay at this location, other permitted principal uses in the C1 Local Business District are appropriate. The neighborhood is a mix of uses at present.

Permitted principal uses in the C1 district include:

- *R4 permitted principal uses*
- *O permitted principal uses of not more than 8,000 square feet in gross floor area*
- *Retail sales of not more than 8,000 square feet in gross floor area (including, but not limited to, food, apparel, restaurants, furniture, auto parts without service, hardware, drugs, alcoholic beverages, antiques, etc.)*
- *Personal services of not more than 8,000 square feet in gross floor area (barber, dry cleaning, photography, etc.)*

COMMENTS PENDING, DISMISSED OR UNRESOLVED

Planning – Information on the design and location of required class A or B bicycle parking was not provided by the applicant. Staff had requested a copy of the building permit application for a ramp on the rear of the building that was constructed without permits, but that application has not been submitted to the Building permit desk as of this writing. Based on the surrounding zoning, the parcel's small size, and recommendations from the Land Use Element, staff feels that this rezoning would not be appropriate and would constitute an improper spot zoning.

Project Management – Trip generation for uses allowed under the new zoning needs to be provided. Restaurant and retail uses could be significantly higher traffic generators. Impacts to the already congested corridor are likely, and there are not good pedestrian crossing opportunities in the area.

Prepared by Jill Thacher
Reviewed by Wendy Rampson

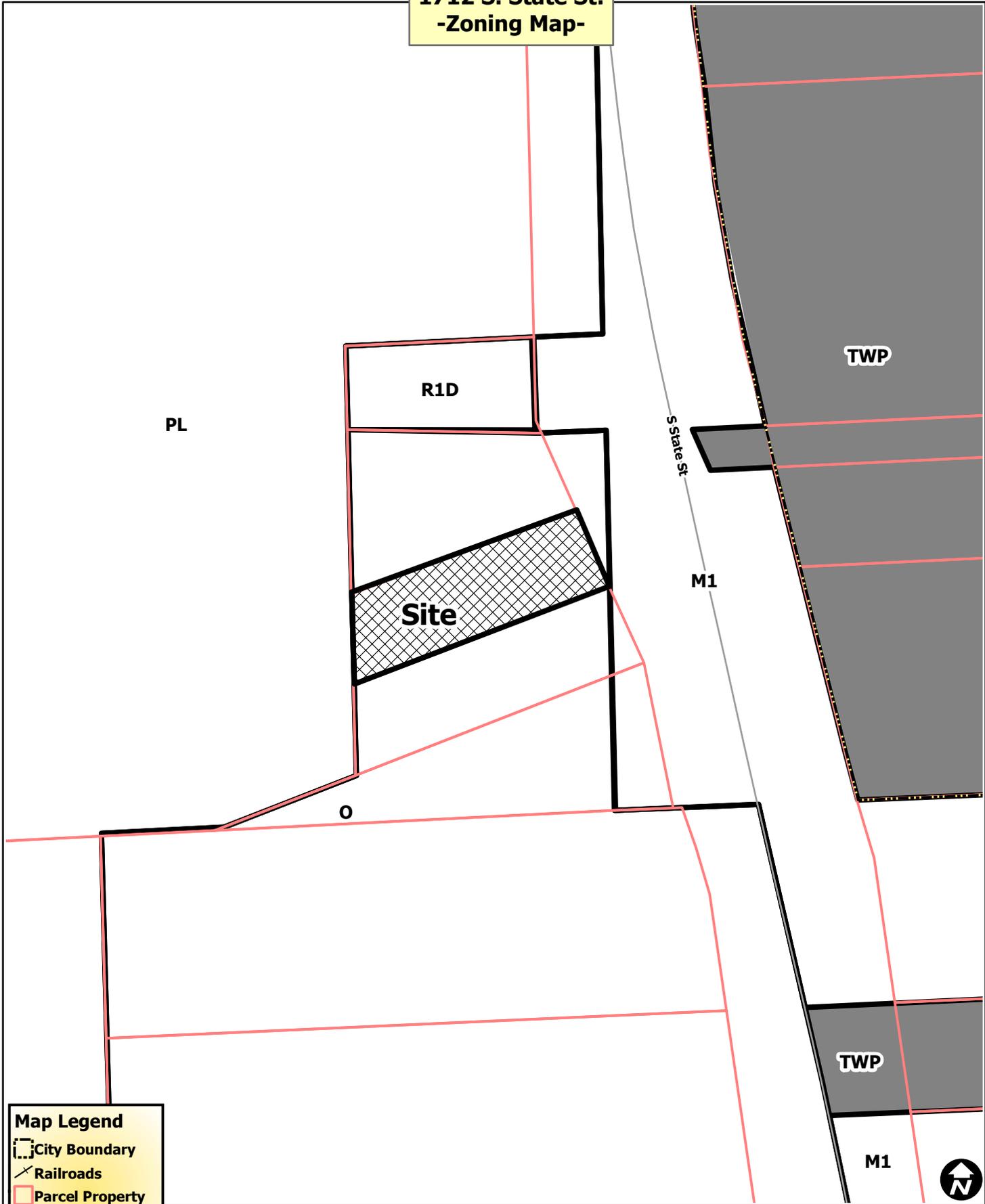
Attachments: Zoning/Parcel Maps
Aerial Photo
Site Survey

c: Owner: Francis Clark
616 Church
Ann Arbor, MI 48104

Petitioner: Dori Edwards
2904 Maplewood Ave
Ann Arbor, MI 48104

City Assessor
City Attorney
Systems Planning
File No. Z11-009

**1712 S. State St.
-Zoning Map-**



Map Legend

- City Boundary
- Railroads
- Parcel Property

Zoning

- Township
- City of Ann Arbor



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Map Created: 7/26/2011

**1712 S. State St.
-Aerial Map-**



Map Legend

- City Boundary
- Railroads
- Parcel Property



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Map Created: 7/26/2011

MORTGAGE SURVEY

Certified to: STERLING BANK & TRUST

Applicant: FRANCIS CLARK

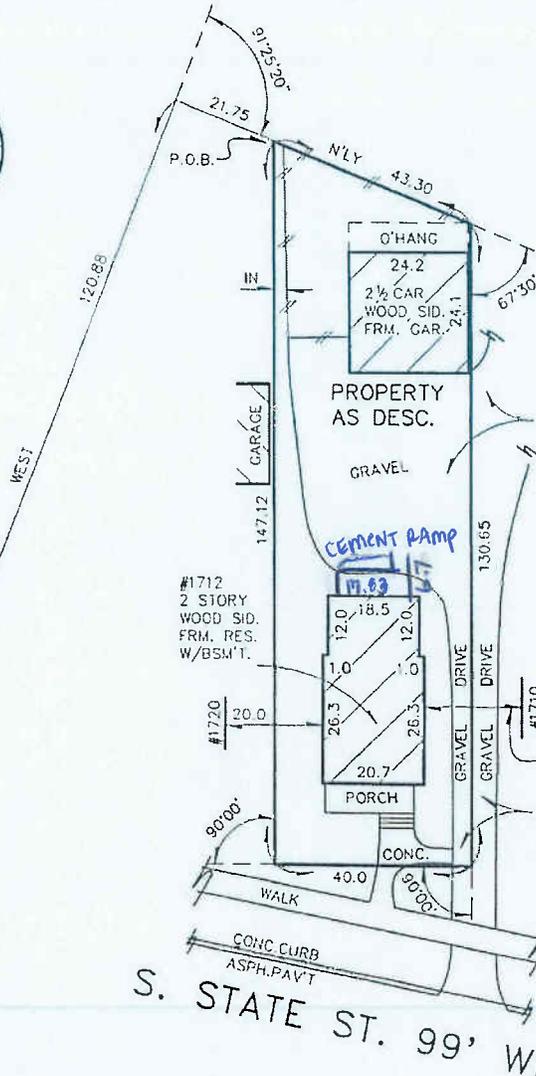
Property Description:

Land located in the Township of Ann Arbor, County of Washtenaw, State of Michigan, described as follows:
 Commencing at the Southeast 1/4 of Section 32; thence West 120.88 feet in the South line of Section; thence deflecting 91 degrees 25 minutes 20 seconds to the right 21.75 feet for a Place of Beginning; thence continuing Northerly 43.30 feet; thence deflecting 67 degrees 30 minutes to the right 130.65 feet; thence deflecting 90 degrees 00 minutes to the right 40 feet; thence deflecting 90 degrees 00 minutes to the right 147.12 feet to the Place of Beginning, being a part of the Southwest 1/4 of Section 33 and part of the Southeast 1/4 of Section 32, Town 2 South, Range 6 East, Township of Ann Arbor, Washtenaw County, Michigan.

Note: The property description is as furnished by client.



S.E. 1/4 OF SECTION 32 T.2S., R.6E.



NOTE: A BOUNDARY SURVEY IS NEEDED TO DETERMINE EXACT SIZE AND/OR LOCATION OF PROPERTY LINES, AND FENCE LOCATIONS.

NOTE: GRAVEL DRIVE CROSSES PROPERTY LINE AS SHOWN.

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S. STATE ST. 99' WD



CERTIFICATE: We hereby certify that we have surveyed the above-described property in accordance with the description furnished for the purpose of a mortgage loan to be made by the forementioned applicants, mortgagor, and that the buildings located thereon do not encroach on the adjoining property, nor do the buildings on the adjoining property encroach upon the property heretofore described, except as shown. This survey is not to be used for the purpose of establishing property lines, nor for construction purposes, no stakes having been set at any of the boundary corners.

THIS SURVEY DRAWING IS VOID IF THE PROFESSIONAL SEAL IS NOT IN BLUE INK.

(Signature)

JOB NO: 06-07694 SCALE: 1"=30'
 DATE: 03-29-06 DR BY: LAO

KEM-TEC
 LAND SURVEYORS

22556 Gratiot Avenue
 Eastpointe, MI 48021-2312
 (586) 772-2222
 FAX: (586) 772-4048

KEM-TEC WEST
 LAND SURVEYORS

800 E. STADIUM
 Ann Arbor, MI 48104-1412
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 FAX: (734) 994-0667



Modified by Dori Edwards to show handicap ramp 7/21/11