



City of Ann Arbor

Formal Minutes

Planning Commission, City

301 E. Huron St.
Ann Arbor, MI 48104
[http://a2gov.legistar.com/
Calendar.aspx](http://a2gov.legistar.com/Calendar.aspx)

Wednesday, January 17, 2018

7:00 PM

Larcom City Hall, 301 E Huron St, Second
floor, City Council Chambers

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1 **CALL TO ORDER**

Chair Clein called the meeting to order at 7:00 p.m.

2 **ROLL CALL**

City Planner, Alexis DiLeo called the roll.

Present 8 - Woods, Briggs, Clein, Mills, Milshteyn, Gibb-Randall,
Trudeau, and Ackerman

Absent 1 - Weatherbee

3 **APPROVAL OF AGENDA**

Moved by Mills, seconded by Gibb-Randall, to approve the agenda as presented. The agenda was approved unanimously.

4 **INTRODUCTIONS**

None.

5 **MINUTES OF PREVIOUS MEETING**

5-a [18-0098](#) City Planning Commission Meeting Minutes of July 5, 2017

Attachments: 7-5-2017 City Planning Commission Minutes with Live Links.pdf

Unanimously approved by the Commission as presented and forwarded to the City Council.

6 REPORTS FROM CITY ADMINISTRATION, CITY COUNCIL, PLANNING MANAGER, PLANNING COMMISSION OFFICERS AND COMMITTEES, WRITTEN COMMUNICATIONS AND PETITIONS

6-a City Council

Commissioner Ackerman explained that City Council voted to adopt the Ground Mounted Solar Ordinance without the inclusion of front yard solar. He added that two Housing Commission properties, located on the corner of Henry and State and Platt Road have been deemed blighted, which allows privileges from the Brownfield Program.

6-b Planning Manager

DiLeo reported that she is representing Brett Lenart, Planning Manager at the meeting.

6-c Planning Commission Officers and Committees

None.

6-d Written Communications and Petitions

[18-0103](#) Various Correspondences to the City Planning Commission

Attachments: Email from Belew H.pdf, Email from Belew.pdf, Email from Pebbles.pdf, Email from Ramlawi .pdf, Email from Seaver.pdf, Email from Stephens.pdf

Received and Filed

7 AUDIENCE PARTICIPATION (Persons may speak for three minutes about an item that is NOT listed as a public hearing on this agenda. Please state your name and address for the record.)

Jeff Crocket, 406 East Kingsley Street, explained a request for an improved communication system. He explained that after a complaint has been submitted to A2 Fixit, there is no way to track the progress of the complaint and requested that a monitoring system be put in place to allow community members to be able to check on it. He also made suggestions regarding staffing the Building Department.

8 PUBLIC HEARINGS SCHEDULED FOR NEXT BUSINESS MEETING

None.

9 UNFINISHED BUSINESS

- 9-a **18-0099** A continued public hearing for the adoption of the Unified Development Code (UDC).
 Amendments to repeal Sections 4:16 through 4:20 and Section 4:30 of Chapter 47 (Streets and Curb Cuts), and the entirety of Chapter 55 (Zoning), Chapter 56 (Prohibited Land Uses), Chapter 57 (Subdivision and Land Use Controls, and the Land Development Regulations and Attachments A, B, C and D), Chapter 59 (Off-Street Parking), Chapter 60 (Wetlands Preservation), Chapter 61 (Signs and Outdoor Advertising), Chapter 62 (Landscaping and Screening), Chapter 63 (Soil Erosion and Sedimentation Control), and Chapter 104 (Fences) and adopt a new Chapter 55 (Unified Development Code).

The proposed Chapter 55 (Unified Development Code) is a consolidation, reorganization and clarification of the eleven chapters of the City Code regulating development, including Sections 4:16 through 4:20 and Section 4:30 of Chapter 47 (Streets and Curb Cuts), as well as the entirety of Chapters 55 (Zoning), 56 (Prohibited Land Uses), 57 (Subdivision and Land Use Controls, plus the Land Development Regulations and Attachments A, B, C, and D), 59 (Off-Street Parking), 60 (Wetlands Preservation), 61 (Signs and Outdoor Advertising), 62 (Landscaping and Screening), 63 (Soil Erosion and Sedimentation Control), and 104 (Fences). The listed sections and chapters will be repealed and a new, consolidated Chapter 55 (Unified Development Code) will be adopted. More information about the work done to consolidate, reorganize and clarify the current regulations is available on the project website at www.a2gov.org/udc <<http://www.a2gov.org/udc>> including background information, working documents, and older drafts as well as the adoption draft of the UDC.

Attachments: UDC 1-17-18 Staff Report with Attachment.pdf, UDC Adoption Draft with Mark-ups - Revision 1-16-18.pdf

DiLeo presented information on the Unified Development Code (UDC). The complete presentation is available for viewing at the Legislative Information Center, <http://a2gov.legistar.com/Calendar.aspx>.

Public Hearing:

Ethel Potts, 1014 Elder Boulevard, described the functionality of the UDC's index. She added that she believes the amendments being proposed need to be noticed and additional Public Hearing should be held.

Joan Lowenstein, 502 Burston Place, Ann Arbor, representing various developers with existing or planned projects in downtown Ann Arbor. She explained the difference between the existing method for measuring Floor Area Ratio (FAR) exclusions and the proposed method in the UDC. She explained that the removal of the exclusion of non-habitable space will discourage development on small lots, be extremely expensive for developers, and create less density and a higher cost per unit. She encouraged the Commission to allow FAR exclusions to stay as they are.

David Depice, South State Street, expressed satisfaction with the UDC reaching the final phase. He thanked the staff and those involved for their work on it. He urged the Commission to vote "yes" on the UDC.

Sandra Sorini-Elzer, Attorney at Bodman, representing Cerca Trova, Howard Fresche, explained the difference between the existing method for measuring FAR and the proposed method in the UDC. She added that it may seem like a simplification, but it will have severe adverse impacts on developers. She suggested a fixed ratio deduction for unusable spaces.

Sean Havera, 30100 Telegraph Road, Ann Arbor, explained that he is working on developments on South University Street. He expressed agreement with the previous speakers relating to FAR exclusions. He also encouraged the Commission to review the stormwater management system in the UDC, stating that the order of requirements could be more efficient.

Jeff Crocket, 506 East Kingsley, representing the Old Fourth Ward Neighborhood Association. He expressed gratitude towards DiLeo and other Planning staff for their work on the UDC and their work with the community on the UDC. He commented on the methods for outreach stating that he was surprised about the lack of public comment at past

meetings. He suggested using Next Door as a source for noticing the public about the meetings. He encouraged including realtors and architects in the noticing process. He encouraged the Commission to develop more effective ways to notice about projects.

Victoria Pebbles, explained that she lives outside of the city limits of Ann Arbor. She expressed dissatisfaction with the proposed FAR exclusion requirements. She added that more community engagement is needed for the issue.

Main Motion:

Moved by Milshteyn, seconded by Mills that Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the amendments to Section 4:16 through 4:20 and Section 4:30 of Chapter 47 (Streets and Curb Cuts) and repeal Chapter 55 (Zoning), Chapter 56 (Prohibited Land Uses), Chapter 57 (Subdivision and Land Use Control, and the Land Development Regulations and Attachments A, B, C, and D), Chapter 59 (Off-Street Parking), Chapter 60 (Wetlands Preservation), Chapter 61 (Signs and Outdoor Advertising), Chapter 62 (Landscaping and Screening), Chapter 63 (Soil Erosion and Sedimentation Control), and Chapter 104 (Fences) and adopt a new Chapter 55 (Unified Development Code) to replace the repealed chapters.

Commission Discussion on Main Motion:

Commissioner Ackerman expressed gratitude for the work Planning staff has done to get the UDC to where it is today. He commented on the change to the FAR stating that when FAR came to City code it was intended to regulate massing, and with the advent of computer aided architectural drafting, architects are able to rearrange, slice, and dice etc., projects much easier. He explained that since that time, City staff has been taking the word of developers for whether or not they are meeting the requirements for floor area ratio because of lack of technology and staff resources to determine the accuracy of the developer's calculations. He explained that the new requirements would create a straight forward and easily enforced method for determining ratio.

DiLeo agreed with Ackerman's statement.

Commissioner Ackerman added that there would be a staggering decrease in useable space in the downtown with the proposed FAR determination. He expressed desire for finding a solution, suggesting that

an architect could sign an affidavit stating that their measurements are accurate and truthful.

City of Ann Arbor Senior Assistant City Attorney Kevin McDonald answered that an affidavit could be used for this purpose. He commented that part of the issue is the lack of clarity in the existing definition of FAR and exclusions, and that the intent of the change has been an attempt to provide clarity in the definition. He added that the definition for vertical elements would need to be clearly defined.

Commissioner Ackerman responded stating that the vertical elements that he has heard so far are Heating Ventilation and Air Conditioning (HVAC) systems, stairwells, and elevator shafts. He inquired about below grade usable space.

DiLeo answered that no change is being proposed to below grade usable space, suggesting that further discussion on that issue might be better discussed during phase two.

Chair Clein commented that in building standards there are different items allowed for usable space, leaseable space, etc. He explained that under some circumstances you're allowed to remove shafts, bathrooms, storage rooms, which adds to the confusion. He added that the impact on floor area is real, but a good reason to have it clearly defined is because there are spaces that are not originally counted as floor area but can be converted to floor area late, like a basement, and that would impact parking, zoning, and egress, and those are things that need to be considered by the City. He added that a simple form of calculation would be best. Addressing mechanical space, he expressed that that might not be a valid argument for a residential building.

Commissioner Gibb-Randall suggested that this simplification might be best served during a phase two.

Commissioner Briggs agreed with Gibb-Randall's comments. She added that the change to the calculation of FAR exclusions could lead to better development that is more closely aligned with the goals of the community.

Commissioner Trudeau commented that changing this definition seems significant.

Commissioner Mills explained that this is an issue that has been brought

to the Commission's attention in the past, however it is in need of further discussion. She inquired about altering the definition.

McDonald answered that the issue being discussed is the lack of clarity in the definition and the goals of the changes are to provide clarity. He added that keeping the definition the same is not the goal.

Commissioner Mills inquired about the stormwater management issue discussed in the Public Hearing.

DiLeo explained that stormwater management must be implemented first, before construction, explaining that it is considered a utility. Explaining further that it is a phase 2 issue, and that there are processes within the City for flexing sequence to accommodate for projects.

McDonald added that the Planners do have internal experience with using the UDC, and that errors in the code would be handled on a case by case basis.

Commissioner Woods inquired about what other communities do for determining FAR exclusions.

DiLeo answered that the majority of communities have a definition similar to what is being proposed, and the second most common method is like what is being proposed with exclusions for items like elevator shafts or a flat percentage. DiLeo added that the conclusion that has been come to in the past by the Commission is that the determination of FAR and exclusions needs to be more reflective of the actual mass of the building.

Commissioner Milshteyn explained that he has been using the UDC as a reference when working with clients and added that it has been a great resource. He explained that he has been having conversations with developers and that this FAR change could potentially cost a developer hundreds of thousands of dollars.

Chair Clein inquired about the current interpretation of the definition of FAR as it relates to making exclusions.

DiLeo answered that staff has been consistent in the definition used as whats in the code. She added that developers may not be using that definition.

Commissioner Ackerman inquired about postponement or approval

contingent on conditions placed.

McDonald explained that it would make sense to solve any problems with this phase of the UDC with the Commission before it it passed onto City Council.

Moved by Milshteyn, seconded by Mills to postpone decision until the February 6, 2018 Planning Commission meeting.

Discussion on Motion to Postpone:

Commissioner Trudeau expressed support for postponement.

Chair Clein clarified that the reason for postponment is to codify current practice for the FAR exclusions. He added that he would like to see one definition instead of a definition for residential and non-residential purposes.

Commissioner Mills clarified residential and non-residential impacts.

Commissioner Gibb-Randall added that the appendicies and maps could be addressed in the next meeting.

DiLeo agreed.

On a voice vote, the vote was as follows with the Chair declaring the motion to postpone approved. Vote: 8-0

Yeas: 8 - Wendy Woods, Erica Briggs, Kenneth Clein, Sarah Mills, Alex Milshteyn, Shannan Gibb-Randall, Scott Trudeau, and Zachary Ackerman

Nays: 0

Absent: 1 - Julie Weatherbee

10 REGULAR BUSINESS - Staff Report, Public Hearing and Commission Discussion of Each Item

Chair Clein explained that items 10-a and 10-b on the agenda will need to be postponed to a future meeting because the ordiance that they are requesting special exception from has been passed by City Council but it has not gone into effect yet.

(If an agenda item is tabled, it will most likely be rescheduled to a future date. If you would like to be notified when a tabled agenda item will appear on a future agenda, please provide your email address on the form provided on the front table at the meeting. You may also call Planning Services at 734-794-6265 during office hours to obtain additional information about the review schedule or visit the Planning page on the City's website (www.a2gov.org).)

(Public Hearings: Individuals may speak for three minutes. The first person who is the official representative of an organized group or who is representing the petitioner may speak for five minutes; additional representatives may speak for three minutes. Please state your name and address for the record.)

(Comments about a proposed project are most constructive when they relate to: (1) City Code requirements and land use regulations, (2) consistency with the City Master Plan, or (3) additional information about the area around the petitioner's property and the extent to which a proposed project may positively or negatively affect the area.)

- 10-a **18-0100** Arbor Wellness Special Exception Use for Planning Commission Approval - A request for a Special Exception Use by Arbors Wellness at 321 East Liberty Street for a proposed medical marijuana provisioning center.

Attachments: 321 E Liberty SEU Staff Report with Attachments011218x.pdf

City Planner, Jill Thacher presented the staff report, explaining that when the item is before the Planning Commission in the future, more information will be provided.

Public Hearing:

James Daly, petitioner, explained that he is available for any questions.

Main Motion:

Moved by Milshteyn, seconded by Mills that the Ann Arbor City Planning Commission, after hearing all interested persons and reviewing all relevant information, finds the petition to substantially meet the standards in Chapter 55 (Zoning Ordinance), Section 5:104 (Special Exceptions) and, therefore approves the 321 East Liberty Special Exception Use for a medical marijuana provisioning center.

Commission Discussion on Main Motion:

Commissioner Woods inquired about parking at the site.

Thacher answered that parking would not be impacted because there is no required parking at the site.

Commissioner Gibb-Randall inquired about submission requirements for Medical Marijuana Special Exception Use (SEU) applications.

Thacher answered that at this time there does need to be a survey, but a site plan could be required in the future.

Commissioner Milshteyn inquired about how much control the Commission will have over sites relating to improvements to the sites. He also inquired about restrictions on hours.

Thacher answered that she is encouraging SEU applicants to make improvements to sites to make them more compatible with the neighborhood they're in. Thacher answered that the Commission will be able to review hours of operation.

Commissioner Mills inquired about the hours of the provision centers changing.

Thacher explained that specific restrictions can be added to the motion.

None.

Moved by Mills, seconded by Trudeau to postpone the Arbor Wellness Special Exception Use for Planning Commission Approval to a future meeting.

Commission Discussion on Postponement:

None.

On a voice vote, the vote was as follows with the Chair declaring the motion to postpone carried. Vote: 8-0

Yeas: 8 - Wendy Woods, Erica Briggs, Kenneth Clein, Sarah Mills, Alex Milshteyn, Shannan Gibb-Randall, Scott Trudeau, and Zachary Ackerman

Nays: 0

Absent: 1 - Julie Weatherbee

Approval - A request for a Special Exception Use by Treecity Health Collective at 2730 Jackson Avenue for a proposed medical marijuana provisioning center.

Attachments: 2730-2734 Jackson SEU Staff Report with Attachments.pdf

City Planner, Jill Thacher presented the staff report, explaining that when the item is before the Planning Commission in the future, more information will be provided.

PUBLIC HEARING:

Alec Riffle, 1729 Covington Drive, applicant, stated that he is available for questions.

Main Motion:

Moved by, Mills seconded by Briggs, that the Ann Arbor City Planning Commission, after hearing all interested persons and reviewing all relevant information, finds the petition to substantially meet the standards in Chapter 55 (Zoning Ordinance), Section 5:104 (Special Exceptions) and, therefore approves the 2730-2734 Jackson Special Exception Use for a medical marijuana provisioning center.

Commission Discussion on Main Motion:

Commissioner Milshteyn inquired about where on the site the applicant is able to operate. He also inquired about the measuring practice for determining the proximity between provisioning centers and schools.

Thacher answered that one provisioning center is allowed to operate on the site, and that the exact location could be determined by the Commission. Thacher added that the method for measurement is from the closest point on a parcel to the closest point on parcel it is being measured to.

Commissioner Woods inquired about hours of operation. She also inquired about lighting and security.

Riffle answered that their hours will never exceed 9:00 a.m. to 9:00 p.m. He added that the facility is monitored by 24 hour surveillance.

Chair Clein inquired about the differences in ordinances since the applicants Site Plan has been approved.

Thacher answered that at this time the site plan presented is allowed as long as the existing site is the same.

Commissioner Briggs inquired about an interstate being considered a barrier between other provisioning centers or schools and allowing the 600 foot operation limit to be waved.

Thacher answered that a zoning variance could be sought, however she does not encourage it.

Moved by Ackerman, seconded by Milshteyn to postpone the Treecity Health Collective Special Exception Use for Planning Commission Approval to a future meeting.

Commission Discussion on Postponement:

None.

On a voice vote, the vote was as follows with the Chair declaring the motion to postpone carried. Vote: 8-0

Yeas: 8 - Wendy Woods, Erica Briggs, Kenneth Clein, Sarah Mills, Alex Milshteyn, Shannan Gibb-Randall, Scott Trudeau, and Zachary Ackerman

Nays: 0

Absent: 1 - Julie Weatherbee

11 AUDIENCE PARTICIPATION (Persons may speak for three minutes on any item.)

None.

12 COMMISSION PROPOSED BUSINESS

None.

13 ADJOURNMENT

Unanimously adjourned at 9:26 p.m.

Ken Clein, Chair
/mg

These meetings are typically broadcast on Ann Arbor Community Television Network Channel 16 live at 7:00 p.m. on the first and third Tuesdays of the month and replayed the following Thursdays at 8:00 AM and Saturdays at 8:00 PM. Recent meetings can also be streamed online from the CTN Video On Demand page of the City's website (www.a2gov.org).

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