

**Mt. Pleasant Planning Commission
Minutes of Regular Meeting
May 3, 2018**

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

Present: Friedrich, Hoenig, Horgan, Irwin, Kostrzewa, Liesch, Ortman, Rise

Absent: Dailey

Staff: Kain, Murphy

II. Approval of Agenda:

Motion by Ortman, support by Liesch, to approve the agenda.

Motion approved unanimously.

III. Approval of Minutes

A. April 5, 2018 Regular Meeting:

Motion by Kostrzewa, support by Rise, to approve the minutes from the April 5, 2018 regular meeting as submitted.

Motion approved unanimously.

IV. Zoning Board of Appeals Report for March:

Commissioner Friedrich reported that the ZBA heard one case in April for the McDonald's on Mission Street. The applicant wanted numerous variances related to signage as part of their proposed remodeling of the building. The applicant's rationale for requesting the variances was that it kept to the spirit of the form-based zoning code, but that strictly following the code would not fit with the current character of the neighborhood and would put them at a disadvantage. The Board found that there was no practical difficulty and their request was denied.

V. Communications:

Kain reported there was one communication from Lance Boldrey of Dykema Gossett PLLC regarding the medical marihuana facilities ordinances.

VI. Public Hearings:

A. Kain introduced the proposed ordinance to add a new Chapter 112 entitled "Medical Marihuana Facilities" to Title XI of the Mount Pleasant City Code to allow certain facilities operated in accordance with state law.

Kain reminded the Board that two medical marihuana ordinances have been drafted in response to the Michigan Medical Marihuana Facilities Licensing Act (MMMFLA), which allows municipalities to "opt-in" and permit five different facility types defined by the act. Municipalities can permit any or all of

the facility types: provisioning centers, processors, safety compliance facilities, secure transporters and growers.

Kain reviewed the process that led to the draft ordinances, beginning with the joint meeting of the Planning Commission and City Commission in March 2017, followed by the ad-hoc committee that met throughout the summer of 2017. The Ad-hoc committee provided recommendations and proposed parameters, which were then reviewed and refined by the City Commission. Ordinances were ultimately prepared which reflected those parameters and which are presented for public hearing.

Kain noted that municipalities who choose to opt in generally establish the type and number of facilities they will permit; local application procedures and requirements, and zoning regulations for facilities.

Kain noted that the ordinance to add Chapter 112 is a regulatory ordinance and the Planning Commission does not typically hold public hearings on regulatory ordinances. However, in order to obtain additional public input and because the interrelationship with the proposed text amendment to the zoning ordinance related to medical marijuana facilities gets involved in regulatory ordinances, the ordinance is being presented for Planning Commission review and comment.

Kain reviewed the content of the ordinance. Kain also indicated that a graphic depicting “stacked licenses” was included in the packet as requested by the Board last month.

Kain concluded his presentation reminding the Board that the only action required on their part for this proposed ordinance is to provide comments or input to the City Commission.

Chair Hoenig opened the public hearing.

Samuel Kilberg of Dykema Gossett PLLC addressed the Board and urged the Board to reconsider using a lottery system if there are more applicants than licenses available. He also expressed concern over the requirement for pre-qualification by the state and further commented that he feels the requirement for an applicant to obtain a state operating license within 18 months of receiving conditional authorization is too much time.

Lori Gillis, who indicated her comments were as a city resident and not as a City Commissioner, addressed the Board noting her concerns with the draft ordinance. These concerns included the allowance for stacked licenses and the proposed limits on the number of facilities. Commissioner Gillis compared each type of facility to other allowed businesses. Commissioner Gillis also noted potential benefits to the City by allowing these facilities.

Craig Aronoff of Cannabis Legal Group addressed the Board noting his concern with the lottery system. Mr. Aronoff stated that a merit-based system would provide more benefit and would help to determine who would invest in the community. He also commented that although a limit on the number of provisioning centers may be beneficial, he doesn't feel that there should be a limit on the other types of facilities.

Deborah Cary, 309 W. Michigan, addressed the Board noting that she hopes to be able to open a dispensary and questioned why the City would want to put a cap on the number. She further commented that she would like to see the City provide some preference to local applicants.

There being no one else who wished to speak the public hearing was closed.

Board Discussion:

Commissioner Irwin asked if the City's legal advisor was involved in proposing a lottery system. Kain responded that they were.

Vice-Chair Horgan asked what the rationale was for the lottery system.

Kain noted several reasons why the lottery was proposed. First, staff review of criteria used by other municipalities with merit-based selection found that most criteria mirror existing state licensing criteria. Where there were exceptions to that, it was unclear that the statute empowered municipalities to exercise that discretion. In addition, the type of information required in merit-based systems is significant and it is unclear that the benefit of that information would outweigh the cost and complexity of review. Finally, Kain observed that the prospective applicants that he has communicated with through this process have all appeared highly professional and thus, even under a merit-based system, we would likely have more than 3 qualified applicants for certain facility types.

Kain added that the proposed requirement for pre-qualification by LARA prior to application to the City was to vet the applicants and ensure they were both qualified and serious.

Commissioner Rise asked about preference to local applicants as part of the selection process and also if preference could be given to smaller growing licenses.

Kain commented that there was a lot of discussion regarding giving preference to local applicants early in the process; however, following feedback from the City Attorney no such preference was included in the draft ordinance.

Kain noted that the MMFLA defines three classes of growers – A, B, and C – and the City can choose to authorize any one or all of those classes.

Chair Hoenig commented that she does not see any sense in limiting each type of facility to three when there are already limits based on the zoning.

Commissioner Irwin asked if the \$5,000 annual administrative fee was in line with other municipalities. Kain responded that it was, noting this is the maximum fee allowed by the MMFLA. He further noted that a separate application fee will be charged but has not been set yet.

Commissioner Liesch asked about the decision making process that ended at three for each type of facility. Kain commented that this was a major topic for the ad hoc committee who recommended limiting provisioning centers to 10 with no limit on the other facility types. The City Commission held several work sessions and ultimately the consensus was to start with 3 and possibly increase those numbers later.

Commissioner Kostrzewa commented that he wants to support legitimate local businesses and questioned the previous speakers on how local businesses could compete with someone who has a national chain.

Kain responded that much of the concern expressed about the ability of smaller companies to participate in the MMFLA is due to the regulations established by LARA and outside the control of the City.

Commissioner Irwin questioned whether the City could legally put in a residency requirement.

Kain responded that LARA's regulations include a residency requirement.

Commissioner Rise asked if the ordinance should state that "drive-through" facilities would not be allowed. Kain responded that our ordinance states when a drive-through is allowed and thus it would be prohibited by omission.

Commissioner Kostrzewa commented that he is in favor of allowing provisioning centers in "old downtown Mt. Pleasant" and would like to see the buffer reevaluated. Kain commented that the location criteria would be discussed following the next public hearing.

Kain asked if there were any formal comments and input that should be communicated to the City Commission. As no one responded, Kain indicated that the City Commission will be encouraged to review the minutes and view the public hearing.

B. TC-18-01

Kain introduced TC-18-01 which is a proposed ordinance to add a new subsection 154.410.B.4.p and to amend Table 154.410.A of the zoning ordinance to regulate medical marihuana facilities as special uses.

Kain explained that the amendments are being proposed in conjunction with the regulatory ordinance and establish zoning standards for each type of facility.

As currently proposed, provisioning centers would be allowed in the CD-4 or CD-5 districts if they also fall within the CBD-TIFA or Mission Pickard DDA. All five facility types would be allowed in the SD-I district.

Kain noted that the Special Use Criteria would address lighting, storage and disposal, signage, odor, buffering, operational and building standards for provisioning centers, operational and building standards for growers, and violations.

Kain noted that the buffering criteria proposed would not permit a facility within 1,000 feet of a K-12 school or 500 feet of the SD-U district (unless east of CMU and east of Mission Street). Kain referred to the map of the buffer areas which depicts this.

Kain concluded by stating that a recommendation should be made to the City Commission on the proposed text change.

Chair Hoenig opened the public hearing. There being no one who wished to speak the public hearing was closed.

Board Discussion:

Commissioner Rise commented that she would like to discuss the quantity of three, noting she sees no reason to limit processors, secure transporters, or safety compliance facilities. Vice-Chair Horgan agreed.

Chair Hoenig also agreed, commenting that with the proposed buffers she doesn't feel there is a need to put a limit on provisionary centers either.

Commissioner Kostrzewa commented that he would like to see the provisioning centers be allowed in “old downtown Mt. Pleasant” and that he feels the 1,000 foot buffer is too restrictive.

Commissioner Ortman commented that even with the 1,000 foot buffer there would be areas in downtown that would be eligible.

Kain commented that the buffer issue was extensively discussed and the City Commission received correspondence from Mt. Pleasant Public Schools and Sacred Heart Academy supporting the buffer. Kain further commented that if the Board disagrees, they can propose an alternative or ask the City Commission to give this issue further consideration.

Commissioner Kostrzewa asked about buffers for drinking establishments. Kain responded that bars, nightclubs and taverns cannot locate within 50 feet of the CD-3L or CD-3 districts but may be located adjacent to a K-12 school.

Commissioner Kostrzewa reiterated that he feels 1,000 feet is too restrictive, especially considering a bar could be located right next to a school.

Commissioner Irwin made the distinction that alcohol is legal, whereas medical marihuana is not.

Kain suggested that the Commission move to approve the proposed ordinance and then propose amendments as they see fit.

Motion by Kostrzewa, support by Irwin, to recommend that the City Commission approve the proposed ordinance as presented.

Motion by Kostrzewa, support by Rise, to amend the proposed ordinance to reduce the 1,000 foot limitation from a K-12 school to 300 feet.

Board discussion ensued on the amendment. Commissioner Friedrich suggested using the same method as the City Commission used on Mission Street and suggested leaving the buffer intact with the exception of allowing provisioning centers to be located north of Broadway, provided they also fall within the CBD-TIFA. Commissioners Kostrzewa and Rise accepted this adjustment to their proposed amendment.

Commissioner Liesch commented that with a limit of three provisioning centers they may choose to locate in a higher traffic area.

Chair Hoenig called the question on the motion to amend the proposed buffer to allow provisioning centers north of Broadway, provided they also fall within the CBD-TIFA.

Motion approved 6:2.

Ayes: Friedrich, Hoenig, Horgan, Kostrzewa, Ortman, Rise

Nays: Irwin, Liesch

Motion by Rise, support by Friedrich, to amend the proposed ordinance under section ix. to allow no more than 3 growers and provisioning centers but remove the limit on the number of processors, secure transporters, and safety compliance facilities.

Vice-Chair Horgan asked why not lift the restriction on the number of growers. Commissioner Rise responded that she is concerned with stacked licenses and blight issues with larger growing operations whereas she didn't feel this would be a problem with the smaller grow facilities.

Commissioner Liesch commented that he is not concerned with blight issues as this type of facility is only allowed in the industrial areas. He commented that if we allow more than three of some of the facilities, why not increase the number on the other types.

Chair Hoenig called the question on the proposed amendment to keep the limit of three growers and provisioning centers and remove the number restriction on processors, secure transporters and safety compliance facilities.

Motion approved 6:2.

Ayes: Friedrich, Hoenig, Horgan, Kostrzewa, Liesch, Rise

Nays: Irwin, Ortman

Motion by Rise to amend Section xi.3 to not allow stacked licenses. Motion failed due to lack of support.

Chair Hoenig called the question to recommend the City Commission adopt the proposed Text Change TC-18-01 to add a new subsection 154.410.B.4.p and to amend Table 154.410.A of the Mt. Pleasant zoning ordinances to regulate medical marijuana facilities as special uses with the following amendments:

- Amend the proposed buffer to allow provisioning centers north of Broadway, provided they also fall within the CBD-TIFA.
- To allow no more than 3 growers and provisioning centers but remove the limit on the number of processors, secure transporters and safety compliance facilities.

Motion approved 7:1.

Ayes: Friedrich, Hoenig, Horgan, Kostrzewa, Liesch, Ortman, Rise

Nays: Irwin

C. TC-18-02

Kain introduced TC-18-02, an ordinance to amend section 154.410.B.4.p. When the new code was developed, text related to short-term rentals was inadvertently included under the SUP standards for rooming dwellings under section 154.410.B.4.s.iv. Kain commented that the regulations for short term rentals are already included under section 154.410.B.4.u. The proposed text amendment would eliminate the duplicate text.

Chair Hoenig opened the public hearing. There being no one who wished to speak, the public hearing was closed.

Motion by Friedrich, support by Kostrzewa, to recommend that the City Commission adopt Text Change 18.02.

Motion approved unanimously.

D. TC-18-03

Kain introduced TC-18-03, an ordinance to amend Article VII and Table 154.405.A to define “façade area” and to update standards for façade glazing in the CD-3L and CD-3 character districts.

Kain reported that following adoption of the code, there has been some discussion among staff and applicants on determining facade area. The proposed text change will provide a definition for “facade area” to improve clarity. In addition, a slight adjustment is proposed to the glazing standards for CD-3L and CD-3.

Chair Hoenig opened the public hearing. There being no one who wished to speak, the public hearing was closed.

Motion by Friedrich, support by Liesch, to recommend that the City Commission adopt Text Change 18-03.

Motion approved unanimously.

VII. Public Comments

Chair Hoenig opened the floor for public comments. There being no one who wished to speak the public comments session was closed.

VIII. Site Plan Reviews:

None

IX. Unfinished Business:

None

X. New Business:

A. 2019-2023 Capital Improvement Plan:

Kain reminded the Commission that each year they are provided with an opportunity to review and provide feedback on the City’s five-year Capital Improvement Plan (CIP). Kain introduced Finance Director Mary Ann Kornexl and Stacie Tewari, City Engineer, noting that Ms. Kornexl would be providing a presentation on the CIP.

Kornexl addressed the Commission, commenting that the CIP presentation was presented to the City Commission on April 23, 2018.

Kornexl provided a brief overview of the CIP, focusing on 2019 projects. A summary was also provided on projects slated for 2020-2023; projects that are not currently in the CIP plan but under consideration for future years; and reviewed the next steps in the process.

Ms. Kornexl and Ms. Tewari answered questions from the Commission regarding alley infrastructure, pedestrian lighting and the Mission Creek dam.

Motion by Rise, support by Kostrzewa, to recommend the City Commission adopt the 2019-2023 Capital Improvement Plan as presented.

Motion approved unanimously.

XI. Other:

A. Staff Report:

Kain reminded the Board that the Joint meeting with the City Commission has been rescheduled for May 8, 2018 at 5:30 p.m. Packets for this meeting have been placed on the dais. Kain also reminded the Board that the July meeting has been rescheduled to June 28th.

XII. Adjournment:

Motion by Friedrich, support by Ortman, to adjourn.

Motion approved unanimously.

Meeting adjourned at 8:32 p.m.

bam