1. ROLL CALL

2. APPROVAL OF AGENDA

3. APPROVAL OF MINUTES
   3.A. Approval of the minutes from November 6, 2019 Planning Commission meeting.
   3.B. Approval of the minutes from January 15, 2020 Planning Commission meeting.
   3.C. Approval of the minutes of December 18, 2019 Planning Commission meeting

4. CALL TO AUDIENCE

5. NEW BUSINESS
   5.A. 244 Vester Street - Site Plan

6. DISCUSSION ITEMS
   6.A. Marihuana Ordinance Discussion

7. ADMINISTRATIVE ITEMS

8. COMMISSION ITEMS

9. ADJOURNMENT
FROM: Justin Lyons

SUBJECT: Approval of the minutes from November 6, 2019 Planning Commission meeting.

INTRODUCTION
Please see attached minutes.

SUMMARY & BACKGROUND
Please see attached minutes.

BUDGETARY CONTEXT
N/A

CIP#
N/A

ATTACHMENTS
Minutes of 2019 11 06.docx

STRATEGIC PLANNING CONTEXT
Organizational and Financial Excellence

RECOMMENDED ACTION
Approve the minutes from the November 6, 2019 Planning Commission meeting.
PRESENT:       Dan Martin
               Christa Azar
               Michael Cascio
               Deborah Brazen
               Michelle Foster
               Kate Baker

ABSENT:       Ian Williamson
               Matthew Showalter

1) ROLL CALL

Moved by Christa Azar, seconded by Michael Cascio to approve as amended 1) ROLL CALL.

For:                           Dan Martin, Christa Azar, Michael Cascio, Deborah Brazen, Michelle Foster, Kate Baker
Against:                       None
Abstain:                       None
6 - 0 - 0

MOTION CARRIED

2) APPROVAL OF AGENDA

3) APPROVAL OF MINUTES

4) CALL TO AUDIENCE

There were no comments

5) PUBLIC HEARING

5.A  705-755 E. Bennett Street - Conditional Rezoning

Cover Page
201901106-705-755 E Bennett-Conditional Rezoning-Staff Report.pdf
755 Bennett St Ferndale Rezoning Agreement-11-1-19.pdf
705-755 E Bennett-Conditional Rezoning-PH.pdf
Justin Lyons introduced - conditional rezoning - 500’ notices sent - c-2 to r-3, existing multifamily, wants to add 10 units for total of 20 units. Current zoning is for upper level residence only; site plan done internally by staff with adjustments to fix a non-compliant maneuvering lane on the property; met conditions for required landscaping; deficient by 8 on street parking, seeking shared parking; 3 motions for tonight on this property. to meet requirements will need to seek dimensional variance by BZA; 4 units exceed max density for the area; building is non-conforming

Property owner - Jerry LeBlanc - Brad Devries - 5/8 Architecture - bringing some existing non-conforming into compliance; 181’ wide; going straight up with new units; going to 20 units instead of 16; all units will be 1 bdr apartments; parking - can park 24 on the lot, requires 32; conducted traffic study; 16 street spots, generally only 3-4 cars parked during the day at any time, working on securing additional parking, have verbal agreement for 6 at this time

Baker - show sheet 1.2 to show the layout for parking lot/landscaping
Devries - changing lane to fit

PH opened at 6:46 PM
PH closed at 6:46 PM

Foster - why rezone to R3 - Devries - more restrictive, would need more variances
Foster - have you considered 2 bdrm and going to 16 units?
It's more cost effective
Foster - more marketable?
Yes

Baker - shared parking
Foster - what will BZA do
Williamson - financial feasibility of a project typically are not accepted as a reasonable hardship by BZA
LeBlanc - 2 bdrm would increase density
Baker - as long as you're aware it will come up

Baker - can we make shared parking part of the condition?
Lyons - it's up to the commission; if they can't get shared agreement would have to come back to PC
Devries - 7 of the 16 spaces are within 500' of the property

Martin - you need to consider snow emergencies
Williamson - do you anticipate parking spaces in the lot to be used by residents and the street is for overflow?
LeBlanc - of 10 units only 5 have cars; guest parking on the street
Martin - are you assigning?
LeBlanc - 20 would be assigned
Baker - 24-324 any questions? read the ordinance - many covered in August; difference makes sense (it's consistent)
Williamson - w/current zoning this parcel could be knocked down and a strip mall built with heavy traffic; there's nothing on that street but houses, it's a buffer from 8 Mile; regardless of future land use map considered at time created, uses haven't been developed; current zoning makes it more disruptive

Foster - issues with conditional rezoning - whole street rezoning; has council reviewed language?
Lyons - staff has talked about rezoning street, anticipate it coming before commission in December; Christ reviewed and didn't love the wording but the text is contingent upon shared parking agreement

Applicant could propose to council - doesn't mean they would accept
We have given a 2-space reduction

Moved by Michael Cascio, seconded by Christa Azar to approve in the matter of 705-755 E. Bennett, the Planning Commission recommends City Council APPROVE the Conditional Rezoning, from C-2 (General Commercial) to R-3 (Single/Multiple-Family Residential), with the following findings and subject to the following conditions, after a Public Hearing was held as set and published for this date and place:

Findings:

Type Ordinance Requirement Proposed Greenbelt 1 deciduous tree for every 30’ of road frontage (310’/30’) 10 deciduous trees 9 existing deciduous trees; 1 new eastern redbud trees Parking 3 trees for every 25 parking spaces 3 trees 4 new eastern redbud trees

1. The Master Plan encourages appropriate development, diversity of housing types, and sustainable reuse of existing structures within the City. The proposed conditional rezoning is consistent with the goals of the City’s Master Plan.

2. The site features and proposed use for multiple-family residential appear to be compatible with the surrounding uses and more appropriate than the current C-2 (General Commercial) zoning.

3. City infrastructure appears to be sufficient to support the potential uses permitted in the requested zoning district.

Conditions:

1. Developer to provide 24 off-street parking spaces on Property and a shared parking agreement with the business directly across East Bennett Ave to provide six (6) additional spaces to be used by the tenants of the Property. Additionally, there are at least 16 on-street parking spaces within 500 feet of the Property. Section 24-223 (g) (2) of The City zoning code allows for the Planning Commission to consider “convenient off-street or on-street parking spaces are located within 500 feet that have the capacity to handle additional parking” as part of the parking requirement reduction ordinance.

2. Developer shall obtain a variance to build ten (10) additional units on Property for a total of twenty (20) in lieu of the 16 units allowable in the R-3 zone ordinance density due to the nature of the existing building and proposed second floor addition. Developer shall obtain a dimensional variance to allow for the construction of the four (4) units that exceed the unit density outlined in R-3 District zoning. In the event the developer does not obtain a variance, the density shall not exceed the requirements of the R-3 District.

3. Developer shall obtain a dimensional variance for the continuous width of the building face as the building is existing non-conforming.
Moved by Christa Azar, seconded by Deborah Brazen to approve in the matter of 705-755 E. Bennett Street, the Planning Commission APPROVE the Site Plan, based on plans dated received by the Planning Department on October 24, 2019, with the following findings and subject to the following conditions:

Findings:

1. The site plan and supporting documents demonstrate that all applicable requirements of the Zoning Ordinance, as well as other City ordinances, standards, and requirements, can be met subject to the condition noted below.

2. The proposed improvements should have a satisfactory and harmonious relationship with the redevelopment on-site as well as existing land uses in the adjacent vicinity.

3. The proposed redevelopment will not have an unreasonably detrimental or injurious effect upon the natural characteristics and features of the site or those of the surrounding area.

Conditions:

1. A long-term storm water maintenance agreement will be required.

2. OCWRC Soil Erosion and Sedimentation Control permit is required.

3. If the existing water service lead material is lead, the service will be required to be replaced with copper from either the main to the meter or the shut-off to the meter.

4. A tree permit shall be submit with a final site plan, demolition permit, or building permit for any new trees to be planted on site..

MOTION CARRIED
Bennett – Conditional Rezoning October 29, 2019 - Page 9 of 8 following findings and subject to the following conditions:

Findings:

1. Convenient municipal on-street spaces are located within 500 feet that have the capacity to handle additional parking.

2. Availability of other forms of travel nearby, such as transit on E. Eight Mile and bicycle lanes on Hilton Road.

3. The site design incorporates pedestrian connections to the site and on-site pedestrian circulations providing safe and convenient access to the development entrance.

Williamson - would support if they had additional 6 spaces with agreement;
Lyons - if keeping shared agreement - recommend they not move forward with this motion

Foster - motion stands with reduction of 8 spaces
Azar agrees.

For: Dan Martin, Christa Azar, Michael Cascio, Deborah Brazen, Michelle Foster, Kate Baker
Against: Ian Williamson
Abstain: None
6 - 1 - 0

MOTION CARRIED

6) OLD BUSINESS

6.A 206-216 Silman Street - Site Plan

Lyons introduced - August 7th meeting presented, additional information & requirements met; revised site plan with tree plan, $15,600 in payment in lieu fund, 6 new trees. Photometric plan presented with improvements; CED does light inspections to bring them into compliance if necessary; providing storm water retention; agreement to be presented after staff/attorney review

Longhurst - addressed site plan comments; increased site of screening wall as requested; meetings with dealership and have a long and short term plan to alleviate; test vehicles stay off residential streets; talked about parking concerns - opened adjoining properties for employee parking with shuttle service, Oct 4th looked at how every space was designated/used without additional parking spaces. Proposed parking usage is for service vehicles and changed to employee parking; the only on street parking is on Woodward for customers - 337 and now 345.
Baker - stormwater?
Long - will create 2 low points with catch basin; implementing retention, capture, store and release same as current use - Had conversation with concerned resident.

Lyons - in packet there is only 1 motion - condition #4 - staff has had neighbors on email list to notify them of meeting; 1 street requested traffic calming on Silman;

Martin - #4 should be struck per City Atty? Why
Lyons - if this were a SLU or new buildings, it would be enforceable

Music - concerns by Michael Valentine on Silman
Music - parking on Woodward isn't used; speeding on side streets; driving service vehicle on sidewalk, parking on grass; PD is writing tickets; road bump petition requested and frustrated with good neighbor policy; would like vacant houses returned

Carl - 224 Silman - talked to the civil engineer - in general ok with this, parking proposal will help resolve some issues; speed of vehicles on Silman is pretty fast, work with Ford and employees to slow down; asked Jason as construction drawings are completed, doesn't have a problem with screen wall but would like a bit of easement so he doesn't his car doors; still have issue with drainage but less concerned, 10 year event happens more frequently, water level issue/drainage should be reviewed; basement flooded a few times since new sewer went in, concerned about it increasing in frequency

Baker - address storm water retention, 10 yr storms, can we require and/or request higher than 10
Erin - current standards is 10 year, working on updates
Baker - how would resident stay informed as construction drawings are filed with city regarding wall
Lyons - they're public documents and have him review once received; applicant can reach out
Long - have information and will share with contractor
Roberta Kuhn -233 Silman - are the 2 houses taken off the table for rezoning, it was part of original plan
Lyons - they're zoned R2, not parking; staff would not recommend them zoned parking
Baker - current PC commissioners not in favor to rezoning Parking
Roberta - if plan goes through is it this year or springtime?
Baker - do you have timetable for demo
Long - have to develop engineering plans - may be spring weather dependent
236 Silman - worried about lead paint; don't want is spread into the neighborhood - do it safely
Erin - it's part of our ordinance /code -
Baker - stormwater - is there flexibility to over comply?
Foster - do we allow for breaks in curbing to allow for those approaches
Erin - yes, there are ways to restrict flow - underground
Baker - reoccupying vacant house? Code enforcement measures but city cannot enforce - it's private property
Lyons - code has been keeping up with Suburban, ticketing, we can't require but it needs to be used as a residential use, not parking
Baker - speeding resolutions
Lyons - Chief said there can be more proactive patrols with PD and Suburban; keep line of communication, letter to residents - who to contact; traffic calming is taken very seriously
Martin - city can do a lot; what kind of outreach does Suburban do for the neighborhood; city can't get in between
Long - we can put out a blast - construction timeline
Baker - is that helpful to neighborhoods?
Kuhn - yes
Foster - city app?
Lyons - See Click Fix - residents have said it doesn't work - city manager looking into
Music - certain types of parking are PD issues; and it's a burden on PDD

Baker - questions from commission
Foster - this is not a rezoning - it's a permitted use by the property owner
Williamson - this is not rezoning of any kind - this is parking use as zoned
Foster - hopefully some of these issues

Moved by Michelle Foster, seconded by Michael Cascio to approve in the matter of 206-216 Silman Street, the Planning Commission APPROVE the Site Plan, based on plans dated received by the Planning Department on October 7, 2019, with the following findings and subject to the following conditions:

Findings:

1. The site plan and supporting documents demonstrate that all applicable requirements of the Zoning Ordinance, as well as other City ordinances, standards, and requirements, can be met subject to the conditions noted below.

2. The proposed redevelopment will not have an unreasonably detrimental or injurious effect upon the natural characteristics and features of the site or those of the surrounding area.

Conditions:

1. The separate parcels shall be combined into one parcel.

2. The applicant shall provide the payment in lieu for the required tree replacement amount and apply for a tree permit prior to removal.

3. A long-term storm water maintenance agreement will be required.

4. The applicant agrees to the operational route provided in the letter dated October 7, 2019.

Brazen - do we need to strike #4
Foster - yes and accepted by both
Williamson - should be able to park all service vehicles in the lot instead of the street.

For: Dan Martin, Christa Azar, Michael Cascio, Deborah Brazen, Michelle Foster, Kate Baker
Against: None
Abstain: None
6 - 0 - 0

MOTION CARRIED

7) DISCUSSION ITEMS
7.A 244 Vester Street - Discussion Item

Quetell - zoned R3, potential for development of 8 multiunit residence; current plan depict 3 story unit; parking; design is permitted but new ordinance is going to council end of month; and that would restrict current plan

Baker - 244 Vester is vacant and 265 is the house?
Quetell - yes
Jason - Kreiger - 2120 E 11th & Brad Burns property owner - just found out plans don't comply - existing site plan, had street facing garages, 2nd floor units would have attached garage; explained layout of property; elevations - stucco, hardy siding, contemporary plans, sample facade; tearing the floors to provide privacy

Burns - had a 3 unit plan but obtained property next door - now an 8 unit; will be in more cost effective range but with premium finishes; not super modern or super traditional, blends with neighborhood; engineering is done but may need to seek variance as it meets all current ordinances

Jason - front facing garage issue - parking - what can we do?
Baker - we have a parking waiver option;
Burns - would prefer onsite parking garages with 4 interior spaces;

Bruner-James - 263 Vester - this across the street from me; thanked brad & jason for attending; in favor of moderate density; concerned about design pushing so close to property line; concerned about lack of permeable spaces, lot of flooding, green stormwater retention; front porch neighborhood; front facing - would prefer greenspace in front; people will park in front of garage, aesthetically not liking the look; Neighbor - looks out of place, modern & sleek; exacerbates parking concerns; 2 interior bedrooms without windows;

Paul - 634 E Breckenridge - seems like odd fit for neighborhood; little bit tall; forward facing garages look out of place

Baker - does it fit side setbacks?
Quetell - yes, discussed but don't have final site plans
foster - front garages?
Quetell - they're accessory structures - and permitted; however, new guidelines triggered for this property in 2 weeks
Baker - stormwater management negotiation - have you had these conversations?
Quetell - did talk about design with open space in back for landscaping
Jason - engineers working on green space with bioswale - we are listening and will incorporate them
Baker - does it have to be onsite?
Quetell - not at this time

Baker - property values - do we know anything at this time
Quetell - we can ask assessors
Foster - construction prices are prohibitive - general information that would provide context; investors are trying to make money but that’s not the only thing
Quetell - we can request
Baker - ULI just presented
Quetell - we can link it to our website

Baker - architectural compatibility - front porch guidelines
Quetell - haven’t done many updates to residential
Lyons - recently recommended changes and will go to council Dec/Jan - a lot of these materials are approved
Cascio - EFIS or cement based
Burn - cement based

Foster - generally like this project; we do focus on forward facing residential designs
Quetell - updates - access shall be from alley way which would prohibit font garage
Baker - parking waivers?
Martin - Vester has no tolerance for additional parking
Williamson - people moving in will have no tolerance for on street parking
12 spaces required for this development
There are 12 with garages
Foster - agree there’s no tolerance
Martin - these are homes that stay in the family -
Cascio - the 2 drives are what hurts this property - adding 2 cuts that make 4 driveways, it’s a hardship on this area. would like them to remove curb cuts
Foster - they moved to this neighborhood knowing there is no parking on site

Williamson - like the idea of preserving green space in back you have building pushed to the front, would rather see building shifted back and garages forward facing is a no brainer

Bruner-James - if we have too much on street parking cars can't go down the street; the entire block has 4 spaces; parking passes have alleviated that concern

Williamson - could it be alleviated by making it 1 way
Cascio - if we remove garage and drives it may allow ...
Burns - we’re at current setback and can’t move it back;
Foster - Can you move front facade back?
Burns - originally talked about it but can’t put stairwells in front and you’re forcing them to walk all the way around the building to access their home
Want to mix and have it blend in but not sure how to go forward.

Baker - have we given the direction?
Lyons - didn’t hear an issue about design - projections - could have porches within 5’ into the setback - clarify residential parking zones, need info on property values from OC Equalization; construction pricing and clarify shadow study; stormwater requirements for this project; curious about modern vs existing

Cascio - no problem with contemporary design; nice addition to housing stock, it's the orientation of the building
Foster - agree; the building is quite ominous in terms of blocking out the neighborhood, the front porch feel is priority
Martin - beautiful building and design
Burns - would you be open to variance to allow this to work if we turn the building around
Lyons - average is 15’, you can go 3' forward/back
Burns - which is more - bioswale or costs
Lyons - only 70% of site can occupy the site
Foster - sounds like we're more into parking vs green
Williamson - parking area that is green

8) ADMINISTRATIVE ITEMS

Lyons - CIP - first meeting in December - Azar has been involved
upcoming uses city should consider - rec MM - Council approved amended ordinance;
Martin - it’s created interesting enforcement issues - what’s tied to MM and regular ordinance;
Commission items will be added going forward
Brazen - won't be at the 11/20 meeting
Baker - on FPS Bond on March ballot - city admin is in the loop; most conversations are involved in buildings; biggest changes in access mgmt and outdoor recreation at the high school; may see conversations about city/school sites come together
Martin - DAC has met once, appointments end of Nov; integrate them into the process in site planning and MLUP
Foster - missing meeting - OC has fair housing forums on Tues; are we in process of modifying residential zoning
Lyons - council said hold off until more information; get rid of ambiguity,

9) COMMISSION ITEMS

10) ADJOURNMENT - the meeting was adjourned at 8:55pm

____________________________________
Marne McGrath, City Clerk
CITY OF FERNDALE
REQUEST FOR COUNCIL ACTION

FROM: Justin Lyons

SUBJECT: Approval of the minutes from January 15, 2020 Planning Commission meeting.

INTRODUCTION
Please see attached minutes.

SUMMARY & BACKGROUND
Please see attached minutes.

BUDGETARY CONTEXT
N/A

CIP#
N/A

ATTACHMENTS

STRATEGIC PLANNING CONTEXT
Organizational and Financial Excellence

RECOMMENDED ACTION
Approve the minutes from the January 15, 2020 Planning Commission meeting.
MINUTES
Planning Commission Meeting
300 E Nine Mile Road, Ferndale MI 48220
December 18, 2019

1) ROLL CALL

PRESENT:  Dan Martin
           Kate Baker
           Christa Azar
           Matthew Showalter
           Brittney Hoszkiw
           Ian Williamson

ABSENT:   Michael Cascio
           Deborah Brazen

Moved by Ian Williamson, Seconded by Dan Martin to excuse absence of Commissioners Cascio and Brazen. Commissioner Foster is on her way.

For:      Dan Martin, Kate Baker, Christa Azar, Matthew Showalter, Brittney Hoszkiw, Ian Williamson
Against:  None
Abstain:  None
6 - 0 - 0

MOTION CARRIED

2) APPROVAL OF AGENDA

Moved by Ian Williamson, seconded by Brittney Hoszkiw to approve strike 3a and make 3b, 3a.

For:      Dan Martin, Kate Baker, Christa Azar, Matthew Showalter, Brittney Hoszkiw, Ian Williamson
Against:  None
Abstain:  None
6 - 0 - 0

MOTION CARRIED

3) APPROVAL OF MINUTES

3A (moved to 3B) Approval of the minutes from November 6, 2019 Planning Commission meeting removed.
3.B (moved to 3A) Approval of the minutes from the December 4, 2019 Planning Commission meeting.

Moved by Dan Martin, seconded by Christa Azar to approve the minutes of the December 4, 2019 Planning Commission meeting.

For: Dan Martin, Kate Baker, Christa Azar, Matthew Showalter, Brittney Hoszkiw, Ian Williamson
Against: None
Abstain: None
6 - 0 - 0
MOTION CARRIED

4) CALL TO AUDIENCE

no one spoke

5) PUBLIC HEARING

5.A Consideration of the zoning map amendment on E Bennett (Hilton Road to Fair Street).

Environmental Sustainability Planner Erin Quetell stated this is a zoning amendment recommendation. 13 parcels, C2 to R2. Property owners notified. E Bennett C2 between Hilton and Fair. Discussed potential for rezoning entire area as it's almost all residential; back yards back up to R2, south is Commercial.

Foster arrived at 6:38 PM

PH opened at 6:39 pm
PH closed at 6:39 pm

Baker - church parcel on corner should it be aligned with Mxd zoning on Hilton or the R zoning on Bennett
Showalter - is house tied to church and its COO?
Martin - leave church Mxd to not limit future use
Foster - agree because Hilton is the main road
Showalter - what about leaving the other two parcels?
Foster - we should base it on future uses, not current uses
Baker - keeping them together would allow for parking in future
Quetell - church owns parking lot but not the center parcel between the church and the parking lot
Baker - do the first 3 parcels need to go together
Foster - that would allow for better future use
Williamson - echo Foster, just north of existing commercial properties are already residential and in keeping, Mxd at Hilton and 3 parcels front on Hilton/8 Mile, maintaining the buffer
Azar - agree it has more of a presence to 8 Mile, will keep it viable to the market
Baker - can we do the 3 parcels tonight?
Quetell - no - need to notice
Foster - suggest rezoning those fronting 8 Mile to commercial
Baker - everything on 8 Mile is commercial.
Azar - parking lot to the east; are they tied to commercial and would it put any restrictions as R2
Quetell - it's accessory on 8 Mile, lot 631
Baker - do you know the parcel numbers we've been talking about not changing to R2
Quetell - yes 25-35-354-025, 25-35-354-027 and 14-35-354-026, will be eliminated
Hoszkiw- rezoning this would be in alignment with Master Land Use Plan

Moved by Dan Martin, Seconded by Michelle Foster to approve of the zoning map amendments to rezone the parcels listed below less 025, 026, 027 from C-2 (General Commercial) to R-2 (Single/Two Family Residential) to City Council with the following findings, after a Public Hearing was held as set and published for this date and place:

Findings:

a) The parcels to be rezoned from C-2 (General Commercial) to R-2 (Single/Two-Family Residential) are as follows: a. 2535354028, 2535354029, 2535354030, 2535354031, 2535354032, 2535354033, 2535354034, 2535354035, 2535354042, and 2535354039.

b) The Planning Commission held a public hearing on December 18, 2019 to consider zoning map amendments to rezone the parcels from C-2 General Commercial to R-2 Single/Two-Family Residential.

c) The proposed zoning map amendments are consistent with the goals and objectives of the Ferndale Master Plan.

d) The compatibility of all the potential uses allowed in the proposed R-2 zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.

e) The capacity of city infrastructure and services sufficient to accommodate the uses permitted in the requested district without compromising the health, safety and welfare of the city.

f) The apparent demand for the types of uses permitted in the requested zoning district in the city in relation to the amount of land in the city currently zoned to accommodate the demand.

For: Dan Martin, Kate Baker, Christa Azar, Matthew Showalter, Brittney Hoszkiw, Ian Williamson, Michelle Foster
Against: None
Abstain: None
7 - 0 - 0
MOTION CARRIED

6) OLD BUSINESS

6.A 221 W. Troy (the dot) - Site Plan Review

Baker - this was approved in concept

Lyons - Dan Mooney - architect; and Greg Erney - Versa Wanda; June 25, 2018 concept plan; separate parcel A, parcel B future potential residential; initial proposal 40,000 sf; this proposal is up to 30,000 sf on 4th and 5th level. Not a lot has changed; primarily modifications were to materials (included in staff report) laid out percentages for each. More glazing, vertical articulation north elevation on 4th floor, PUD deviations to show nothing has changed. Have come more into compliance but aligned with previous approvals.

Mooney - things going smoothly, 4th/5th floor have been coordinated all the way through. Will come together seamlessly, 60-90 days after parking opens. Articulation on 5th floor exterior wall, went back to drawing board for something more unique. Office building projects 10' over; opportunity to come straight into unit; patios have been scrubbed. Reserving east space; will be able to provide them more space. Concrete comes around with focus on offices. Metal panel, precast panel and glazing. Windows up to 8-9 feet. Vision glass is same as previous iteration. Parcel B will eventually cover up all of this.

West facade is for community art and commissioned spaces. Rear is already well above houses, they won't see any of this because we’re pitched so far forward toward parking lot. East elevation - potential for east facing balcony with faceted façade. View looking SW, balcony, glass, ordered elevators. If right tenant comes along would suggest balcony. Feel it’s in keeping with original.

General discussion by commissioners with a few questions regarding materials and any potential hazard to birds hitting glass. Glass is non-reflective and should reduce incidents. Consensus was that all is going according to presented plans following input from Planning Commission and meetings with residents. The site plan does align with the Master Plan and the Planned Unit Development agreement.

Moved by Dan Martin, seconded by Brittney Hoszkiw in the matter of 221 W Troy Street, the Planning Commission approve the Site Plan, based on plans dated received by the Planning Department on December 11, 2019 with the following findings and subject to the following conditions:
Findings:

1. The site plan and supporting documents demonstrate that all applicable requirements of the Zoning Ordinance, as well as other City ordinances, standards, and requirements, can be met subject to the conditions noted below.

2. The proposed improvements should have a satisfactory and harmonious relationship with the redevelopment on-site as well as existing land uses in the adjacent vicinity.

3. The proposed redevelopment will not have an unreasonably detrimental or injurious effect upon the natural characteristics and features of the site or those of the surrounding area.

4. The proposed site plan for upper level office use on parcel A meets the goals of the Ferndale Master Plan and approved Planned Unit Development agreement dated June 25, 2018.

Conditions:

1. Future proposed multiple-family residential use on parcel B will be required to submit a site plan for Planning Commission review and approval.

For: Dan Martin, Kate Baker, Christa Azar, Matthew Showalter, Brittney Hoszkiw, Ian Williamson
Against: None
Abstain: Michelle Foster
6 - 0 - 1

MOTION CARRIED

6.B 100 W. Eight Mile - Revised Site Plan Review

Lyons - minor revision for waste receptacle placement. Previous plan with carry out restaurant, but office is proposed instead, it’s permitted, no longer needs Special Land Use, better for parking. Council did adopt access plan ordinance and is included in conditions. Applicant adjusted elevation feature so it no longer projects over city Right of Way.

Martin - billboard issue
Lyons - city attorney said existing, non-conforming
Kevin Brandon - the trash has always been an issue, plan to come off Bennett and remove parking space, now we have 51 spaces as required. Doors, goal to take off 8 Mile, move will be steel framed wood slatted and painted blue, Bennett side heavily landscaped; 8 Mile painted light gray for artist mural; 10’ approach with concrete wall
Baker - residential neighbor to west is next to cinder block wall
Brandon - we’re 15’ from drive and more than 27 - 30’ from house
Azar - gates will swing out and be secured? do they cross over the sidewalk?
Brian - about 6” when opened by trash company, wheeled out, truck stays on the road, 8” thick pour; 8 Mile side will be heavily landscaped; can do in future; Bennett side entry for office; more secure trash

Azar - to get to new office is there an opportunity to put a walk along alley; if vehicle comes, do they have to go through
Brian - can move barrier free closer to office
Azar - avoid walking through same space as vehicle
Brian - will look and do a walkway, this has been poured and there's a wall
Foster - south entry important to maintain Smart and usable
Brian - potential for 2 tenants - most likely would need one exit for each
Baker - would something less than a concrete sidewalk - striping?
Lyons - it's the city alley, island is MDOT - if alley were wider, you could stripe it
Foster - it’s not a huge thing but it would be safer
Baker - it would prevent parking
Foster - it’s more a pedestrian alley
Mike - we didn't think that far about walkability - we'll add signage and striping, crosswalk between the parking maybe some art
Foster - Portland has some great sidewalk art
Brian - will look into it
Mike - it's going really well, weather caught us by surprise, should have exterior in 4 weeks, residents in by March 1 in some of the units. Covered bike storage in the basement, heated garage
Martin - work with Chamber for spring ribbon cutting
Brian - monarch station on the MDOT - will be certified, first in the nation
Foster - can you put a walkway through the north side - next to the landscaping
Williamson - people are going to walk through regardless
Showalter - can you make it a one-way alley?
Williamson - you’re going to have people coming off 8 Mile and Bennett
Lyons - staff will look at options - Police and Fire would be involved in alley
Martin - speed bump
Baker - how to differentiate - change of materials, visual delineation
Baker - would you like that as a condition?

Moved by Brittney Hoskiw, seconded by Christa Azar in the matter of 21210 Woodward Avenue, the Planning Commission APPROVE the Revised Site Plan, based on plans dated received by the Planning Department on December 10, 2019, with the following findings and subject to the following conditions:

Findings:

1. The site plan and supporting documents demonstrate that all applicable requirements of the Zoning Ordinance, as well as other City ordinances, standards, and requirements, can be met subject to the conditions noted below.

2. The proposed improvements should have a satisfactory and harmonious relationship with the redevelopment on-site as well as existing land uses in the adjacent vicinity.
3. The proposed redevelopment will not have an unreasonably detrimental or injurious effect upon the natural characteristics and features of the site or those of the surrounding area.

4. The proposed location of the waste receptacle at the northwest corner of the site is approved by the Planning Commission due to necessary access for refuse vehicles.

5. The proposed E.I.F.S. building material percentage is approved by the Planning Commission as presented.

Conditions:

1. The applicant shall provide a final landscape plan and provide payment in lieu for any deficiency from the requirements as reviewed by city staff.

2. The applicant must provide evidence of an access agreement for the continued use of the parking area to the east by MDOT.

3. All future screening of rooftop and ground mounted utility equipment shall be reviewed by staff.

4. All signs, including the mural and billboard, the issue of compliance with the City ordinances shall be submit to the City Attorney for review, and if necessary, any appropriate body within the City.

5. The applicant will demonstrate the updated bicycle parking and electric vehicle charging station requirements on the final site plan.

6. Applicant to provide pedestrian pathway from North entrance to West Bennett Sidewalk.

For: Dan Martin, Kate Baker, Christa Azar, Matthew Showalter, Britney Hoszkiew, Ian Williamson, Michelle Foster
Against: None
Abstain: None
7 - 0 - 0

MOTION CARRIED

7) DISCUSSION ITEMS

7.A Novelty Store Use Regulations (Sec. 24-166) - Discussion Item

Lyons - discussion related to drug paraphernalia, learned some things, took the feedback and had conversation with commissioners and thought it made sense to bring it back and notice PH. People were
in support of removing 500’ from religious institutions; added language to align with state statues; included updated definition that focused on sf; gas station should be treated differently than full on retail establishment - added less than 10% floor area shall be exempt from novelty store regulation.

Martin - what’s adult novelty %
Lyons - substantial, at least 20% of floor space
Martin - if we’re doing percentage, make it consistent
Foster - also max square footage
Lyons - anything less than 5,000 is small retail
Azar - it says 10%
Hoszkiw - 10% of retail floor space
Showalter - it doesn’t say that
Lyons - we can clean that up
Williamson - use what's printed elsewhere
Lyons - if you’re a gas station, it’s only the front area dedicated to sales
Baker - less than 20%
Williamson - make it as restrictive as possible, so existing businesses are subject to regulatory compliance
Hoszkiw - identifying a % of floor space, it's qualifying what type of business
Lyons - code is based on public health code; local zoning for distance; we can shape how we want to
Foster - we require novelty stores to jump through hoops
Martin - most of the complaints were because of religious locations and they say they don't care
Williamson - I’m more concerned about being located next to each other
Baker - not much we can do about that
Williamson - MM shops should be subject to novelty shop ordinance, but I’m in minority
Lyons - state law allows them to sell at MM locations
Williamson - we can't restrict through zoning
Lyons - we can regulate but not novelty stores
Baker - would it be helpful to have a discussion with city attorney
Martin - some of the customers of MM will go across 8 Mile to make 1 stop instead of multiple
Showalter - is 24-258 saying M retailers must have less than 10% and no restrictions
Lyons - only on novelty shops
Foster - any M with more than 20%
Lyons - no, but we could add that
Baker - keep it as small as defensible, yes to the net or however we phrase it
Foster - thinking similar 10% seemed large when I first read it
Baker - include % and max sf
Williamson - it should be something much smaller, like 10 sf; a gas station with rolling papers is less competitive than a retailer with a wall
Lyons - will bring a number to next meeting - and do a tour
Baker - share information with those who missed closed session

8) ADMINISTRATIVE ITEMS

City Council approved Mxd use and CBD compatibility ordinances. Alexis Richards is looking for all the training over the last few years to present at January meeting. Will email new meeting schedule for next year. Lively BZA meeting - M1 industrial district living even though COO specifically said no. Asked for upper level residential unit - he felt it was unclear - his residence is 3 steps up, recommendation for
Planning Commission and staff consider a Special Land Use - will that give the city the residents, mezzanines, lofts, accessory units. Motion tabled and directed staff to come together and come up with something

Williamson - initially seemed like a no brainer - but realized we have no definition for upper level, only stories. Should have referenced stories instead of levels because we have a definition. We also need to think about the actual buildings in the industrial area which are mostly 1 floor. If our goal is to create exceptions for live/work environments, the current ordinance requires them to add a second story, nothing ties the occupancy to the light industrial use. In theory, someone could build a 3 story on top of an industrial building and rent them out. If we want 2nd story residence, we need to tag that, we don't have an ordinance definition.

Showalter - need to make sure it conforms to MI building code
Williamson - Detroit has a lot of live/work with mezzanine level; there was no regard for code. BZA wants ambiguity to be defined and consider how restrictive to not have to modify a 1 story building
Martin - suggest Council discussion with Planning Commission - cross functional conversation
Lyons - upper level covers many zones, need to fix that first; probably can't limit owner occupied - should be a priority
Williamson - how do we tie language
Foster - our definitions are lacking, if you see others, may be time to discuss
Lyons - might bring some from my list

Lyons - pet boarding facility adopted in 2012 related to noise, see what works/doesn't

9) COMMISSION ITEMS
Baker - chair and vice/chair
Foster - are you interested in serving?
Baker - if there's someone else who's interested, Mayor's last meeting
Martin - last meeting for anything, professionalism
Foster - expressed gratitude to Martin

10) ADJOURNMENT - at 9:31 pm

________________________________________
Barbara Miller, Deputy City Clerk
FROM: Justin Lyons

SUBJECT: 244 Vester Street - Site Plan

INTRODUCTION
Please see attached for a full staff report.

SUMMARY & BACKGROUND
Please see attached for a full staff report.

BUDGETARY CONTEXT
N/A

CIP#
N/A

ATTACHMENTS
20200205-244 Vester Staff Report.pdf
244-256 Vester - Project Narrative.pdf
244-256 Vester_SPA Resubmittal_2020-01-30.pdf
20200205-244 Vester Site Plan Application.pdf
244 Vester-Material Ratio - 2020-01-31.pdf

STRATEGIC PLANNING CONTEXT
Healthy, Connected, and Invested Neighborhoods

RECOMMENDED ACTION
Please see attached staff report for a draft motion.
REQUEST
Site Plan Review

APPLICANT
Jason Krieger (Krieger Klatt Architects, Inc.)
2120 East 11 Mile Road, Royal Oak, MI 48067

OWNER
Ferndale Townhomes, LLC
3872 Mound Road, Suite 102, Sterling Heights, MI 48310

LOCATION
Vester Street, between Bermuda and Leland

PARCEL NUMBER
24-25-27-454-007 and 24-25-27-454-008

ZONING
R-3 (Single/Multiple-Family Residential)

STAFF
Justin Lyons, Planning Manager

ATTACHMENTS
Site Plan Application – January 8, 2020
Project Narrative – January 8, 2020
Site Plan – January 30, 2020

Request Notes
- The applicant is requesting site plan approval at 244-256 Vester Street located in the R-3 (Single/Multiple-Family Residential) district.
- The proposed multiple-family residential use for eight (8 units) is permitted in the R-3 district and meets requirements for 12 off-street parking spaces.
- The landscape plan is deficient due to the number of replacement trees requirement. The applicant is requesting to provide payment in lieu to the City’s tree fund.
- The project was reviewed according to and meets ordinance requirements for off-street parking, access management, architectural compatibility, and building materials.

Summary
Krieger Klatt Architects, Inc. is requesting a site plan approval on behalf of Ferndale Townhomes, LLC for the subject site at 244-256 Vester Street. The R-3 (Single/Multiple-Family Residential) zoned properties currently contain a vacant lot and a single-family residential dwelling. The intended use of this property is to redevelop the site with a new 11,835 square foot multiple-family residential building with eight (8) units. The proposed unit schedule is four (4) one-bedroom units on the first floor and four (4) two-bedroom units with flex space. The use is permitted, and the Planning Commission is the approval body for the site plan.

The applicant previously presented a conceptual plan at the November 6, 2019 Planning Commission meeting. Since that meeting, the applicant has incorporated feedback from staff and the commission regarding off-street parking, stormwater management, and recently amended ordinances related to electric vehicle (EV) charging stations and building materials. The formal site plan has been reviewed for technical compliance with City ordinances by Community and Economic Development, City engineer, police, and fire departments. Below is a detailed site plan review and a draft motion with conditions.
Adjacent Land Uses and Zoning

The subject site is zoned R-3 (Single/Multiple-Family Residential) and adjacent to R-3 to the north, east, and west. The parcels south of the public alley are zoned Central Business District (CBD), in the Urban Flex subdistrict and Transit Oriented Development (TOD) Overlay district. The property includes two (2) parcels on the south side of Vester Street. The proposed eight (8) unit multiple-family residential use is permitted in the R-3 zoning district.

The Future Land Use Map recommends Urban Residential as the future land use designation, which is described as an area that would “accommodate a greater mix of housing types, including more dense residential development in the form of compact single-family homes; townhouses; multi-unit housing types including duplexes, triplexes, fourplexes, live-work units, and apartment buildings; and accessory dwelling units.” The future land use designation in the Master Plan aligns with the R-3 zoning district.
Site Plan Considerations
1. Building Design and Siting
The proposed design appears to meet the schedule of regulations for the R-3 district listed in the chart below.

<table>
<thead>
<tr>
<th>Maximum Height</th>
<th>R-3</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building Height (ft)</td>
<td>45</td>
<td>40’ 2”</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Lot Size (minimum unless otherwise noted)</th>
<th>R-3</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Area (sq ft)</td>
<td>4,000</td>
<td>11,835</td>
</tr>
<tr>
<td>Lot Width (ft)</td>
<td>33</td>
<td>90</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Maximum Lot Coverage</th>
<th>R-3</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Buildings</td>
<td>70%</td>
<td>42%</td>
</tr>
<tr>
<td>Minimum % Open Space</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Maximum Density</th>
<th>R-3</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Units per Acre</td>
<td>35</td>
<td>8</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Setbacks (minimum unless otherwise noted)</th>
<th>R-3</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front (ft)a</td>
<td>Max 10</td>
<td>11’ 3”</td>
</tr>
<tr>
<td>Side (least)(ft)</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Side (total)(ft)</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>Rear (ft)</td>
<td>20</td>
<td>55’ 7”</td>
</tr>
</tbody>
</table>

Footnote a: Where 50 percent or more of the frontage on the same block has been previously built upon, the front setback shall be plus or minus three feet from a line established by using the average depth of the front yards of the five adjacent lots in either direction within the same zoning district eliminating the greatest and least distances measured from the front edge of the house, attached garage or enclosed front porch.

The site plan includes four (4) front private patios on the north elevation for the first-floor units that include a grass area, planters with shrubs, and concrete entryway from the units to the sidewalk. The front yard area includes 27% paved surface, which meets the requirements of sec. 24-193 (c) that “no more than 30 percent of the front yard area of any residentially zoned lot shall be paved.”

Elevations of all sides with color and building material denoted are denoted in the plans. Materials, including Hardie panels, masonry, and metal panels, are permitted primary and secondary materials for multiple-family residential buildings. Below is a chart denoting the primary and secondary materials with percentages as described in Sec. 24-184.

<table>
<thead>
<tr>
<th>Elevation</th>
<th>Primary Materials</th>
<th>Percentage (base/upper wall)</th>
<th>Secondary Materials</th>
<th>Percentage (base/upper wall)</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Hardie Siding Brick</td>
<td>100%/56%</td>
<td>Aluminum Composite Metal Panels</td>
<td>0%/44%</td>
</tr>
<tr>
<td>South</td>
<td>Hardie Siding Brick</td>
<td>100%/100%</td>
<td>-</td>
<td>0%/0%</td>
</tr>
<tr>
<td>East</td>
<td>Hardie Siding Brick</td>
<td>100%/99%</td>
<td>Aluminum Composite Metal Panels</td>
<td>0%/1%</td>
</tr>
</tbody>
</table>
Mechanical units are proposed on center of the rooftop and appear to be shielded by the parapet. Utility meters are proposed to be located on the east side of the building, adjacent to the pedestrian walkway, and are currently shielded by the fence on the east property line.

2. Access and Circulation

The project site plan was evaluated according to the requirements for access management and off-street parking in Article X. Vehicular access to the off-street parking area will be entirely from the rear alley at the south property line. The proposed site plan will remove two (2) residential driveways on Vester Street, which will allow for better pedestrian access and at least (2) new on-street parking spaces.

The off-street parking area includes 12 off-street parking spaces, which meets the requirement for eight (8) multiple-family residential units. One (1) electric vehicle charging station is required for developments 10,000 square feet or more (Sec. 24-223 (l)) and minimum accessible EV charging station (1 per 1-25 spaces, 2 per 26-50 spaces, etc.). One (1) accessible EV charging station has been provided on the site plan. The site plan provides a striped walkway adjacent to the garages to provide more visibility for pedestrians and walkways on the east and west sides of the building to provide access between the parking area and front of the site.

The off-street parking area meets the required minimum maneuvering lane width for 90-degree parking pattern at 24 feet. A six (6) inch concrete curb is required between the parking and landscaping in the off-street parking lot and is illustrated on the plans (Sec. 24-191 (c) (5)).

<table>
<thead>
<tr>
<th>Proposed Use</th>
<th>Off-Street Parking Standard</th>
<th>Occupancy</th>
<th>Parking Required</th>
<th>Parking Provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>Multiple-family Residential</td>
<td>1.5 per unit, plus 1 per 10 for guests</td>
<td>8 units</td>
<td>12 spaces</td>
<td>12 spaces</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>EV Parking Required</td>
<td>EV Parking Provided</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>10% or 1 space accessible space</td>
<td>1 space (accessible)</td>
</tr>
</tbody>
</table>

12 bicycle parking spaces are required for the project (7 enclosed and 5 fixed) and demonstrated on the site plan. Rack type and dimensions shall be show on the final site plan. Dimensional standards are 2 feet wide, 6 feet long, and 3 feet 4 inches tall; minimum 5 feet behind all required spaces; minimum wall clearance of 2 feet 6 inches).

<table>
<thead>
<tr>
<th>Proposed Use</th>
<th>Bicycle Parking Standard</th>
<th>% Enclosed/Fixed Bicycle Parking</th>
<th>Net Square Footage/Occupancy</th>
<th>Parking Required</th>
<th>Parking Provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td>1 per bedroom</td>
<td>60%/40%</td>
<td>12 bedrooms</td>
<td>12 spaces (7 enclosed)</td>
<td>14 spaces (9 enclosed)</td>
</tr>
</tbody>
</table>

The site is located in one of the City’s resident only parking zones. Future tenants of the proposed development that apply for parking permits would be limited to two (2) parking permits and two (2) guest permits per unit. The closure of the two existing driveways at the site would create two (2) to three...
3. **Landscaping**

The following table provides a review of the requirements of the plan in accordance with the standards of Section 24-191 and the Vegetation Ordinance:

<table>
<thead>
<tr>
<th>Type</th>
<th>Ordinance</th>
<th>Requirement</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greenbelt</td>
<td>1 deciduous tree for every 30’ of road frontage (90’/30’)</td>
<td>3 deciduous trees</td>
<td>3 trees</td>
</tr>
<tr>
<td>Parking</td>
<td>3 trees for every 25 parking spaces; Hedge row, 3’ brick wall, or 3’ wrought iron fence with hedge</td>
<td>1 tree and either a hedge row, 3’ brick wall, or 3’ wrought iron fence with hedge along the south lot line</td>
<td>1 tree and screening along the south lot line</td>
</tr>
<tr>
<td>Replacement</td>
<td>Maintain or supplement the total tree trunk area of the site so that there is no net loss of tree trunk area (square inches) at diameter breast height (DBH)</td>
<td>220’ DBH or 110 trees at 2’ DBH</td>
<td>Payment to the tree fund.</td>
</tr>
</tbody>
</table>

Proposed landscaping plan is provides four (4) trees that meet parking and greenbelt tree requirements. However, the plan is deficient in the number of required amount replacement trees. The tree survey (she TS.1) notes 120” (measured diameter at breast height or DBH) in replacement. The landscaping plan includes decorative shrubs along the front lot line in the new patio area. If there are not suitable places on-site for the total number of trees, the Planning Commission may waive this requirement in favor of funds to be place in the City’s tree fund. A tree permit shall be submit with a final site plan, demolition permit, or building permit for any new trees to be planted on site. There is not a fee for a tree permit.

Sec. 24-191 (e) requires any side of an off-street parking lot, including loading and unloading areas, maneuvering lanes and stacking spaces which abuts a public right-of-way, public walkway or park, shall be screened by one of the architectural and/or landscape elements described in this section. The applicant provided a 36” masonry screen wall along the south lot line.

4. **Lighting**

An exterior lighting plan was not submitted with the site plan, but manufacturer details for the proposed wall packs and sconces were provided. The applicant shall submit a photometric plan measured in footcandles must be provided as part of the final site plan for any lighting proposed.

5. **Waste Management**

The waste receptacle adheres to ordinance (Sec. 24-198) as it would be located in the rear yard, include a concrete pad, wood gate is visible from the alley, and screened with masonry. Access for the waste management company would be from the alley.

6. **Engineering and Stormwater Management**

The preliminary engineering plan was reviewed and recommended for approval by the City Engineer. A storm water detention outlet control structure will be required between the proposed detention system.
and the 12” sewer within the alley. A long-term stormwater maintenance agreement will require approval by City Council.

7. Fire Department
The Fire Department reviewed the plan for emergency access, fire department connections and existing infrastructure. Sprinkling system plan is required and fire department connections and Knox Box are noted on the site plan and will be on the building plan submittal.

Site Plan Recommendation
Staff recommends the application for Site Plan approval due to alignment with the Master Plan and feedback to date. Should the Planning Commission deem the proposed Site Plan application satisfactory, the property owners, architects, and designers will be notified and permitted to proceed with development and finalize the draft conditions.

Example Site Plan Approval Motion
MOTION by________________, seconded by________________, in the matter of 244-256 Vester Street, the Planning Commission APPROVE the Site Plan, based on plans dated received by the Planning Department on January 30, 2020, with the following findings and subject to the following conditions:

Findings
1. The site plan and supporting documents demonstrate that all applicable requirements of the Zoning Ordinance, as well as other City ordinances, standards, and requirements, can be met subject to the conditions noted below.
2. The proposed multiple-family residential use will not adversely affect existing uses by unreasonably increasing traffic, sound, artificial lighting, odors, emission of exhaust gases, drainage, pedestrian traffic, hours or days of operation, or by creating a public or private nuisance.
3. The proposed multiple-family residential use meets the goals of the Master Plan to diversify residential housing choices and aligns with the Urban Residential future land use description.
4. The proposed site design will not have an unreasonably detrimental or injurious effect upon the natural characteristics and features of the site or those of the surrounding area.
5. The Planning Commission waived the tree replacement requirement in favor of funds to be placed in the City’s tree fund.

Conditions
1. A photometric plan for all lighting be submit on the final site plan.
2. A long-term stormwater maintenance agreement shall be submit to the City for consideration by City Council.
January 8, 2020

Jordan Twardy, Community & Economic Development Director City of Ferndale
300 E. 9 Mile Rd.
Ferndale, MI 48220

Re: Vester Heights - 8-Unit Development
244-256 Vester Ave.
Ferndale, MI 48220

Dear Jordan,

We are proposing to construct an 8-unit residential development at the property mentioned above. The property consists of a vacant parcel with no principle or accessory buildings on the site and a vacant single-family residence. We would like to propose this 8-unit development on this R-3 zoned property as the new building will fit in with the surrounding multi-family dwelling units while raising property values.

This project will consist of a 3-story (40’-2” +/-) wood framed structure with a poured concrete foundation. The first and second floors will have 10’-0” +/- floor to ceiling heights with the third floor having a 9’-0” +/- floor to ceiling height. The first-floor units (4 total) will consist of 1 bedroom, 1 bathroom, storage space and outdoor patio spaces facing Vester Ave. The approximate square footage of each first-floor unit is 770 sq. ft. The upper units (4 total) will consist of 2 bedrooms, a flex space that could be a third bedroom or a study, 3 bathrooms, a first floor one-car garage with storage space, and a second-floor outdoor patio space facing Vester Ave. The approximate square footage of each upper unit is 1,978 square feet. Each unit is designed to have its own entrance separated from the other tenants for privacy.

The exterior building materials will be a mix of brick, metal building panels, and fiber cement siding. These materials are considered high end finishes and are meant to be maintenance free. We feel that these finishes will be consistent with similar new build projects found throughout downtown Ferndale.

The site will be developed with privacy in mind for the tenants and neighbors. We are providing 13 total parking spaces on the site with access from the public alley to the south. Four of the 13 spaces will be located inside the building on the first floor to be used for each of the four upper floor units. We are also providing a “landlord room” on the west side of the building to house the water and electrical meter. As well as a gas meter bank on the east side of the building. We feel that both maintenance areas are well hidden from view of the public. This project requires no variances and will conform to all city ordinances and design criteria. The estimated date of completion for this project is August of 2021.
We are requesting that the Planning Commission makes a recommendation for approval for this project. If you have any questions regarding this correspondence or any additional matter related to the proposed 244-256 Vester Ave. project, please feel free to contact us at your earliest convenience.

Sincerely,

Raymond J. Phillips
Krieger Klatt Architects, Inc.
ray@kriegerklatt.com
Isometric View Looking Northeast

Client:
Sunbyrnes Properties, LLC
38765 Mound Rd, Suite 102
Sterling Heights, MI 48310

Project:
244-256 Vester
Ferndale MI, 48220

Sheet Title:
3D Views

Issued Description By:
10-07-19 Prelim. SPA MB 01-08-20 SPA Submittal MB

Note:
Do not scale drawings; use calculated dimensions only.
Verify existing conditions in field.
North Arrow:

Project Number:
A.008

Sheet Number:
A.008

Scale:

Seal:

3D Views

Project:
A.008

Client:
Sunbyrnes Properties, LLC
38765 Mound Rd, Suite 102
Sterling Heights, MI 48310

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3D Views

Issued Description By:
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Note:
Do not scale drawings; use calculated dimensions only.
Verify existing conditions in field.
North Arrow:

Project Number:
A.008

Sheet Number:
A.008

Scale:

Seal:
PROJECT NUMBER: 244 Vester

PROJECT ADDRESS: 244 Vester St, Ferndale MI 48220, USA

CITY OF ABJCTIONS: City of Ferndale

ZONING DISTRICT (PER CITY ZONING MAP): R-3 (Single Family Residential)

LOT SIZE:
- 244 Vester St: 0.135 Acres
- 256 Vester St: 0.135 Acres
- Total: 0.270 Acres

LOT COVERAGE:
- Maximum % Lot Coverage (PER ZONING ORDINANCE): 70.0%
- Proposed Lot % Coverage: \( \frac{5,011}{11,835} \times 100 = 42.3\% \)

MINIMUM % OPEN SPACE (PER ZONING ORDINANCE):
- Maximum % Front Yard Paving: 30%
- Proposed Front Yard Paving: 27.2%

PARKING REQUIREMENTS:
- Parking Spaces Provided: 12 Total Spaces
- 1 ADA (Van Accessible)
- Bicycle Parking Provided: 14 (5 FIXED + 9 ENCLOSED)
- Bicycle Parking Required: 12 (5 FIXED + 7 ENCLOSED)

PROPOSED FRONT YARD PAVING:
- As calculated in accordance with the Michigan Building Code.

PROPOSED SIDE YARD SETBACK:
- West Side: 5'
- East Side: 5'

MINIMUM REAR SETBACK:
- 20' – 0" (req'd. & prop. setback)

MINIMUM COMBINED SIDE YARD SETBACKS:
- 10' – 0" (req'd. & prop. setback)

MINIMUM % FRONT YARD PAVING:
- 27.2%

PROPOSED FRONT YARD PAVING:
- As calculated in accordance with the Michigan Building Code.

PROPOSED LOT % COVERAGE:
- 42.3%

MAXIMUM % FRONT YARD PAVING:
- 30%

MAXIMUM % FRONT YARD PAVING:
- 27.2%

MAXIMUM % FRONT YARD PAVING:
- 30%

BICYCLE PARKING PROVIDED:
- 14 (5 FIXED + 9 ENCLOSED)

BICYCLE PARKING REQUIRED:
- 12 (5 FIXED + 7 ENCLOSED)

Note: Do not scale drawings. Use calculated dimensions only. Verify existing conditions in field.
Shrub Planting Detail

Canopy Tree Planting Detail

Coniferous Tree Planting Detail

**LANDSCAPE NOTES:**

1. **ALL NEWLY PLANTED SHRUBS TO BE CONNECTED TO THE EXISTING LIVESTOCK FENCE WALL.**

2. **ALL PLANT MATERIAL SHALL BE HAND TO EXISTING DWELLING BASE.**

3. **ALL LANDSCAPED AREAS TO BE MAINTAINED IN A NESTLED, TIGHTLY PACKED TAO R soybean & LUPINUS SPP. TO REACH A MINIMUM OF CONEX & M/A NATIONAL.**

4. **PROPOSED RESIDENTIAL APARTMENT NEW CONCRETE WALK & NEW CONCRETE CURB TO BE INSTALLER TO THE RV R O.W.**

5. **ALL IMAGE AREA AREA AREA AREA AREA AREA TO BE SEEDS & MULCH OF SITE.**

6. **NEW CONCRETE AREA TO BE CONTRACTOR TO MAINTAIN IN A HEALTHY, NEAT & ORDERLY STATE, FREE FROM REFUSE & DEBRIS.**

7. **SHREDDED BARK MULCH THROUGH ALL LANDSCAPE AREAS SHALL BE 4" DEPTH.**

8. **ALL DISTURBED AREAS ARE TO BE SEDDED & MULCH OR SODDED AS REQ’D.**

9. **ALL LANDSCAPE AREAS TO HAVE 2"-3" TOPSOIL & ARE TO BE CROWNED 6" HIGHER THAN THE ADJACENT CURBS OR WALKS AFTER ANY SETTLING OF EARTH.**

10. **MIN. OF (1) CULTIVATION FOR EA. PLANT FOR WEED CONTROL WILL BE REQ'D. IN JUNE, JULY & AUGUST OF THE ESTABLISHMENT PERIOD.**

11. **THE CONTRACTORS SHALL FURTHER PERFORM ANY MAINT. OPERATIONS THAT MAY BECOME NECESSARY DURING THE COURSE OF THE ESTABLISHMENT PERIOD.**

12. **CONTRACTOR SHALL BE RESPONSIBLE FOR MAINTAIN THE PLANTS IN A HEALTHY, GROWING CONDITION WHICH SHALL INCLUDE WATER, CULTIVATION & WEED CONTROL.**

**PLANTING REPLACEMENT SCHEDULE**

<table>
<thead>
<tr>
<th>TREE TO BE REPLACED</th>
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**PLANTING GUIDELINES**

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<tr>
<th>PLANTING PERIOD</th>
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<tbody>
<tr>
<td>JUNE, JULY &amp; AUGUST OF THAT SUMMER</td>
<td>APRIL 15</td>
<td>SEPTEMBER 30</td>
<td>MARCH 31</td>
</tr>
</tbody>
</table>

**PLANTING SCHEDULE**

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<tr>
<th>PLANTING DATE</th>
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<tbody>
<tr>
<td>JUNE, JULY &amp; AUGUST OF THAT SUMMER</td>
<td>APRIL 15</td>
<td>SEPTEMBER 30</td>
<td>MARCH 31</td>
</tr>
</tbody>
</table>

**LANDSCAPE NOTES:**

1. **AN AUTOMATIC IRRIGATION SYSTEM WILL BE PROVIDED FOR ALL LANDSCAPE AND/OR LAWN AREA.**

2. **ALL PLANT MATERIAL SHALL BE HARDY TO OAKLAND COUNTY, BE FREE OF DISEASE, INSECTS & CONFORM TO THE AMERICAN STANDARD FOR NURSERY STOCK OF THE AMERICAN ASSOCIATION OF NURSERYMAN & BE GUARANTEED.**

3. **ALL LANDSCAPING SHALL BE MAINTAINED IN A HEALTHY, NEAT & ORDERLY STATE, FREE FROM REFUSE & DEBRIS.**

4. **SHREDDED BARK MULCH THROUGH ALL LANDSCAPE AREAS SHALL BE 4" DEPTH.**

5. **ALL DISTURBED AREAS ARE TO BE SEDDED & MULCH OR SODDED AS REQ’D.**

6. **ALL LANDSCAPE AREAS TO HAVE 2"-3" TOPSOIL & ARE TO BE CROWNED 6" HIGHER THAN THE ADJACENT CURBS OR WALKS AFTER ANY SETTLING OF EARTH.**

7. **MIN. OF (1) CULTIVATION FOR EA. PLANT FOR WEED CONTROL WILL BE REQ'D. IN JUNE, JULY & AUGUST OF THE ESTABLISHMENT PERIOD.**

8. **THE CONTRACTORS SHALL FURTHER PERFORM ANY MAINT. OPERATIONS THAT MAY BECOME NECESSARY DURING THE COURSE OF THE ESTABLISHMENT PERIOD.**

9. **CONTRACTOR SHALL BE RESPONSIBLE FOR MAINTAIN THE PLANTS IN A HEALTHY, GROWING CONDITION WHICH SHALL INCLUDE WATER, CULTIVATION & WEED CONTROL.**
ELEVATION KEY NOTES:
1. PRE-FIN METAL CAP
2. ACM PANELING (FINISH: CHARCOAL)
3. JAMES HARDIE PANEL (FINISH: TIMBER BARK)
4. BRICK MASONRY (FINISH: SLATE)
5. CONCRETE CAP
6. PLANTER W/ MATCHING FACADE
7. A/C CONDENSORS
8. GAS METERS IN ALCOVE
9. RECESSED KNOX BOX AND KNOX ELEC. SHUT OFF BOX
10. OVERHEAD DOOR
11. PRIVACY FENCE
12. ROOF ACCESS LADDER W/ LOCKABLE ACCESS GATE

EXTERIOR MATERIALS:
1. JAMES HARDIE PANEL (FINISH: LIGHT MIST)
2. ACM PANELING (FINISH: CHARCOAL)
3. JAMES HARDIE PANEL (FINISH: TIMBER BARK)
4. BRICK MASONRY (FINISH: SLATE)

EXTERIOR LIGHTING: FIXTURES
1. WALL MTD. SCONCE: MANUF: BEGA, MODEL: LUMINAR, LAMP: LED, FINISH: BLACK
2. WALL PACK W/ FULL CUTOFF: MANUF: LITHONIA, MODEL: WDGE3, LAMP: LED, FINISH: BLACK
3. RECESSED PATH LIGHT: MANUF: BEGA, MODEL: 33060, LAMP: LED, FINISH: BLACK

EXTERIOR MATERIAL PERCENTAGES

Client:
Sunbyrnes Properties, LLC
38765 Mound Rd, Suite 102
Sterling Heights, MI 48310

Project:
Sunbyrnes Properties
Ferndale, MI 48220

Project Number:
A.200

Sheet Title:
Elevations

Sheet Number:
A.200
Line of Sight Study

Do not scale drawings; use calculated dimensions only. Verify existing conditions in field.

Project: Sunbyrnes Properties, LLC
38765 Mound Rd, Suite 102
Sterling Heights, MI 48310

Client: Nice view of the building section with measurements and notes.
Site Plan Review Application

1. Identification

Applicant Name: Koeppen Kuehn Architects, Inc.
Address: 2120 East 11 Mile Rd.
City/State/Zip Code: Royal Oak, MI 48067
Phone: (248) 414-9270
Fax: (248) 414-9275
Interest in the Property (e.g. fee simple, land option, etc.):

Property Owner (if other than applicant): Ferndale Townhomes LLC
Address: 38725 Mound Rd, Suite 102
City/State/Zip Code: Sterling Heights, MI 48310
Phone: (586) 997-8500
Fax: ( )

2. Property Information

Street Address: 244 Vester and 256 Vester
Sidewell Number: 24-25-27-454-007 and 24-25-27-454-008
Legal Description: See Civic

244 Vester St - T1N, R11E, SEC 27 ASTONS SUB OF KNOWLES HTS W 1/2 OF LOT 26 & ALL OF LOT 27
256 Vester St - T1N, R11E, SEC 27 ASTONS SUB OF KNOWLES HTS LOT 25 & E 1/2 OF LOT 26

Zoning District: R-3 Single/Multiple-Family Residential
Area: 11835 (See Civic) Area
Current Use(s): 244 Vester - Vacant Land and 256 Vester - Single Family Rental
Zoning District of Adjacent Properties to the:

North: R-3
South: CBD
East: R-3
North-East: R-3
North-West: R-3
3. **Site Plan Required Elements.** Consult Article 11 of the Zoning Ordinance to determine when a project requires site plan review. Some projects qualify for administrative review. The site plan for the proposed development shall include all of the following information when required (refer to Article 11 of the Zoning Ordinance): Place a check mark in the right column upon completion/inclusion.

<table>
<thead>
<tr>
<th>Application</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project title and street address.</td>
</tr>
<tr>
<td>A written project description including proposed uses of buildings and site improvements.</td>
</tr>
<tr>
<td>The names, addresses and telephone numbers of all proprietors, applicants, architects, engineers and owners.</td>
</tr>
<tr>
<td>Written proof of ownership or option on subject property. If the applicant is not the owner, a written explanation of their legal relationship shall be submitted.</td>
</tr>
<tr>
<td>Proposed time of project completion and phasing schedule.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Site Plan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site plans shall consist of an overall plan for the entire development and must be drawn to a scale of not less than 1&quot; = 30'. Sites greater than three (3) acres shall be drawn at a scale not less than 1&quot; = 50'. The Director may also request copies of all plans and drawings in a reduced size format. Site plans must include:</td>
</tr>
<tr>
<td>Date of preparation of drawings and revisions.</td>
</tr>
<tr>
<td>Location map drawn at a minimum scale of 1&quot; = 2000' with north point indicated.</td>
</tr>
<tr>
<td>Architect's, Engineer's, Surveyor's, Landscape Architect's, or Planner's seal.</td>
</tr>
<tr>
<td>Legal and common description of the site with existing and proposed lot lines, and dimensions.</td>
</tr>
<tr>
<td>Centerline, existing, and proposed right-of-way lines of any streets or alleys, and proposed and existing easements.</td>
</tr>
<tr>
<td>Zoning classification of petitioner's parcel and all abutting parcels.</td>
</tr>
<tr>
<td>Gross and net buildable area.</td>
</tr>
<tr>
<td>Percentage of lot coverage including existing buildings.</td>
</tr>
<tr>
<td>Sign locations, illumination and size. Refer to the Sign Ordinance.</td>
</tr>
<tr>
<td>Other pertinent features, including entrance details, decks, porches, fences, flag poles, or other structures.</td>
</tr>
<tr>
<td>All permanent exterior lighting locations, including ornamental lighting, type of fixtures, footcandles, mounting height and method of shielding in sufficient detail to allow determination the effect of such lighting upon adjacent properties and traffic safety. A manufacturer's cut sheet of each type of fixture proposed shall also be submitted. Except as noted below, lighting fixtures shall not exceed a height of twenty-five (25') feet. In portions of a site adjacent to residential areas, lighting fixtures shall not exceed a height of twenty (20) feet. Building, ground or roof-mounted lighting intended to attract attention to the building or use and not strictly designed for security purposes is prohibited. Temporary holiday lighting and decorations are exempt from this provision.</td>
</tr>
<tr>
<td>Outdoor trash receptacle location and method of screening.</td>
</tr>
</tbody>
</table>
### Access and Circulation
Site plans must include dimensioned drawings of all existing and proposed:

- Acceleration, deceleration, passing lanes and approaches; dedicated road or service drive locations; proposed locations of driveways, access drives, street intersections; driveway locations on opposite frontage; dimensioned fire lanes, including curve radii; and surfacing materials.
- Parking spaces, circulation aisles, off-street loading/unloading area, stacking spaces, signage and surfacing materials in compliance with Article 8.
- Sidewalks and curbs and surfacing materials.

### Buildings and Structures
Location, height, and outside dimensions of all existing and proposed buildings or structures on the site, with setbacks and yard dimensions, and of all existing buildings and structures within one hundred (100) feet of the site.

Front, side and rear building elevations with all windows, lights, doors, screened roof equipment and exterior materials, including color, indicated.

### Utilities, Soil Erosion, Sedimentation Control, and Drainage
Location, size and design of existing and proposed service facilities above and below ground, including:

- (a) Water supply facilities including fire hydrants, water lines and mains.
- (b) Sanitary sewage disposal facilities including manholes, catch basins, and sewer lines and mains.
- (c) Gas, electric, telephone, fiber optic and cable lines above and below ground.
- (d) Transformers, generators, utility boxes or poles, communication equipment, satellite dishes over forty-eight (48) inches in diameter, and mechanical equipment.
- (e) Easements.
- (f) Chemical and fuel storage tanks, transfer lines, and containers above and below ground.

Grading plan showing existing and finished contours at a maximum interval of two (2) feet.

Drainage plan showing storm lines, storm drains, retention and detention ponds, existing drainage courses, proposed method of site and roof drainage, soil erosion and sedimentation control.

### Landscaping Plan
Existing trees with greater than a 4½ inch dbh.

Proposed landscaping, including berms, buffers, screens and greenbelts, lawns, shrubs, and other live plant materials.

Method of irrigation. Refer to the Vegetation Ordinance.

Screening walls and fences, including dimensions, materials and details.

### Additional Requirements for Multiple Dwelling Developments
Density (dwelling units per acre) calculations.

Designation of units by type and number of units in each building.

Garage or carport locations and details.

Architectural compatibility with surrounding area. Refer to Section 5.04.

### Additional Requirements for Commercial and Industrial Developments
Secondary containment facilities.

Number of employees at peak usage.
4. **Completing the SPR Application.** The following checklist includes all documents required for the Community Development Services Director to declare the application complete and begin the SPR process. All items are due three (3) weeks prior to the Plan Commission meeting:

- Payment in full of the required review fee.
- Copies of the completed application form.
- Four (4) folded copies of plans that comply with the above criteria and a CD with all application materials. Once a preliminary administrative review is completed, additional, revised sets of folded drawings and all supporting documentation will be required.
- A copy of the complete legal description of the property.
- Proof of property ownership.

I, __________________________ (applicant),

de hereby swear that the information given herein is true and correct.

__________________________  1-8-20
Signature of Applicant          Date

__________________________  1-8-20
Signature of Property Owner    Date

I, Brad Byrnes __________________________ (property owner), hereby give permission for City of Ferndale officials, staff, and consultants to go on the property for which the above referenced site plan is proposed for purposes of verifying information provided on the submitted application.

---

For Community Development Services Director Use

Fee:

File No:

Signature: Date:
<table>
<thead>
<tr>
<th>Level</th>
<th>North Façade Area (sq. ft.)</th>
<th>Primary Material (sq. ft.)</th>
<th>Primary Ratio</th>
<th>Secondary Material (sq. ft.)</th>
<th>Secondary Ratio</th>
<th>Openings (sq. ft.)</th>
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</thead>
<tbody>
<tr>
<td>First Floor</td>
<td>698</td>
<td>698</td>
<td>100%</td>
<td>0</td>
<td>0%</td>
<td>285</td>
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<tr>
<td>Second &amp; Third Floors</td>
<td>1561</td>
<td>880</td>
<td>56%</td>
<td>681</td>
<td>44%</td>
<td>565</td>
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<tr>
<td>Level</td>
<td>West Façade Area (sq. ft.)</td>
<td>Primary Material (sq. ft.)</td>
<td>Primary Ratio</td>
<td>Secondary Material (sq. ft.)</td>
<td>Secondary Ratio</td>
<td>Openings (sq. ft.)</td>
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<tr>
<td>First Floor</td>
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<td>672</td>
<td>100%</td>
<td>0</td>
<td>0%</td>
<td>75</td>
</tr>
<tr>
<td>Second &amp; Third Floors</td>
<td>1221</td>
<td>1208</td>
<td>99%</td>
<td>13</td>
<td>1%</td>
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</tr>
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<td></td>
</tr>
<tr>
<td>Level</td>
<td>South Façade Area (sq. ft.)</td>
<td>Primary Material (sq. ft.)</td>
<td>Primary Ratio</td>
<td>Secondary Material (sq. ft.)</td>
<td>Secondary Ratio</td>
<td>Openings (sq. ft.)</td>
</tr>
<tr>
<td>First Floor</td>
<td>624</td>
<td>624</td>
<td>100%</td>
<td>0</td>
<td>0%</td>
<td>359</td>
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<tr>
<td>Second &amp; Third Floors</td>
<td>1749</td>
<td>1749</td>
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<td>420</td>
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<tr>
<td>Level</td>
<td>East Façade Area (sq. ft.)</td>
<td>Primary Material (sq. ft.)</td>
<td>Primary Ratio</td>
<td>Secondary Material (sq. ft.)</td>
<td>Secondary Ratio</td>
<td>Openings (sq. ft.)</td>
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<tr>
<td>First Floor</td>
<td>672</td>
<td>672</td>
<td>100%</td>
<td>0</td>
<td>0%</td>
<td>75</td>
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<tr>
<td>Second &amp; Third Floors</td>
<td>1221</td>
<td>1208</td>
<td>99%</td>
<td>13</td>
<td>1%</td>
<td>75</td>
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CITY OF FERNDALE
REQUEST FOR COUNCIL ACTION

FROM: Justin Lyons

SUBJECT: Marihuana Ordinance Discussion

INTRODUCTION
As required by Section 24-165, “a report and recommendation to Council regarding the types and limits of marihuana facilities allowed under Sec. 24-165 (A)(2) within six (6) months after the opening and operation of a marihuana facility and/or provisioning center.” The report was presented to City Council at the January 27, 2020 meeting and also included details regarding the existing facilities and an update regarding the marihuana retailer application process.

SUMMARY & BACKGROUND
As part of the presentation, City Council passed a motion that staff and the Planning Commission review and recommend whether to increase the number of medical marihuana provisioning centers and marihuana retailers by two (2) additional permits, which would increase each permit type to a total of five (5) permits and requesting that Planning Commission undertake such review as soon as practical. Staff’s recommendation for the Planning Commission to review the amount was based on the report’s findings that there was no adverse impact for the existing provisioning centers, five (5) facilities aligned with the original marihuana ordinance, and applicants in the provisioning center queue originally submit applications to the City in June 2018. Staff suggested a preliminary discussion to determine information the Planning Commission would need to appropriately review a draft ordinance at an upcoming public hearing.

BUDGETARY CONTEXT
N/A

CIP#
N/A

ATTACHMENTS
20200127-Marihuana Report Presentation.pptx

2020 City Council Marihuana Report-1-20-20.docx

2019.10.22 Zoning Ord Amendments.pdf

2019.10.22 Chap 7, 7-410 thru 7-418 (clean).pdf

STRATEGIC PLANNING CONTEXT
Organizational and Financial Excellence

RECOMMENDED ACTION
No action required.
Marihuana Report and Recommendation

City Council – January 27, 2020
AGENDA

• EXISTING MARIHUANA LANDSCAPE
• REPORT AND RECOMMENDATION
• NEXT STEPS
MARIHUANA REGULATION TIMELINE

**MEDICAL**
- Michigan Medical Marihuana Act (2008)
- Michigan Marihuana Facilities Licensing Act (2016)

**RECREATIONAL**
  - Emergency rules issued July 3, 2019
  - LARA accepted applications November 1, 2019
MEDICAL MARIHUANA REVIEW

- Three (3) permitted provisioning centers approved in the City
  - 2625 Hilton (LIV Wellness)
  - 1551 Academy (Gage)
  - 1921 Hilton (Green Buddha)

- Reporting period began on September 13th

- Seven (7) provisioning center applications in the queue

- Ordinance permits one (1) safety compliance facility – 0 applications so far

- Two (2) existing, non-conforming medical marihuana facilities (MMMA) allowed to continue to operate under original State regulations and special land use conditions
  - 1915 E. Nine Mile
  - 1521 E. Eight Mile
RECREATIONAL MARIHUANA

- New definitions for marihuana establishments to align with Michigan Regulation and Taxation of Marihuana Act (MRTMA)
- Permit three (3) state licensed marihuana retailers
- Permit provisioning centers to co-locate with retailers (if they have a State operating license for retailer)
- Application period began December 1, 2019
- Review process begins on March 1, 2020
- City Council will review applications based on criteria in Sec. 7-412
- Zero (0) applicants as of January 19, 2020

Marihuana ArcGIS Map: http://ferndale.maps.arcgis.com/apps/View/index.html?appid=5353dc76d7d5420d9c560b46730100eb
REPOR T

• Staff review by Community and Economic Development, Building, Fire, and Police Departments since September 13, 2019
• Multiple inspections as part of the building permit and Certificate of Occupancy process
• Consistent, periodic inspections by the Police Department since opening
• No observed issues related to safety, security or code enforcement
• All three (3) provisioning center licenses confirmed valid by Michigan Regulatory Agency (MRA)

RECOMMENDATION

• Recommendation to increase the number of licenses for:
  • Medical marihuana provisioning centers from 3 to 5
  • Marihuana retailers from 3 to 5
• Aligns with the prior license amount that City Council authorized for medical marihuana facilities under the MMMA
• Gives an opportunity for the next two (2) applicants in the medical marihuana provisioning center queue
NEXT STEPS

• January 27th: Staff presents report to City Council
• February 5th: Ordinance discussion at Planning Commission
• February 19th: Ordinance public hearing at Planning Commission
• March 1st: Marihuana retailer application period closes
• March 1st: City Clerk shall forward applications to City Council
• March 9th: Ordinance public hearing at City Council
• May 1st: Last day to notify applicants of rejected marihuana retailer applications
January 19, 2020

RE: City of Ferndale – Marihuana Report and Recommendation

As required by Section 24-165, below is a “a report and recommendation to Council regarding the types and limits of marihuana facilities allowed under Sec. 24-165 (A)(2) within six (6) months after the opening and operation of a marihuana facility and/or provisioning center.” The report also includes details regarding the existing facilities and an update regarding the marihuana retailer application process.

MEDICAL MARIHUANA
Approved and permitted provisioning centers under the Michigan Marihuana Facilities Licensing Act (MMFLA) and City’s regulatory ordinance, 7-410, et seq. of the Ferndale Code:

- 2625 Hilton (LIV Wellness): Certificate of Occupancy issued June 19, 2019; Opened September 13, 2019
- 1551 Academy (Gage): Certificate of Occupancy issued June 25, 2019; Opened September 14, 2019
- 1921 Hilton (Green Buddha): Certificate of Occupancy issued June 26, 2019; Opened October 31, 2019

Seven (7) provisioning center applications have been submitted to the City, are in the queue, in the clerk’s office. Section 24-165(A)(2) also permits one (1) safety compliance facility, but zero (0) safety compliance facility applications have been submit to the City.

Two (2) existing, non-conforming medical marihuana facilities under the Michigan Medical Marihuana Act (MMMA) are allowed to continue to operate under the original State regulations and the City approved special land use conditions:

- 1915 E. Nine Mile
- 1521 E. Eight Mile

RECREATIONAL MARIHUANA
Sec. 24-165 (A)(2) of the City’s zoning ordinance was amended by Council in October 2019 to permit up to three (3) marihuana retailer facilities under the Michigan Regulation and Taxation of Marihuana Act (MRTMA). The application period began on December 1, 2019, but there have been zero (0) marihuana retailer applications submit to the City as of January 19, 2020. The criteria that City Council will use to review retailer applications is listed on the application and in Chapter 7-412, (f)-(h). On March 1, 2020, City clerk shall forward to Council all completed applications for marihuana retailers received to that date and Council shall consider and authorize a permit as prescribed in 7-142(f) until the number of permits authorized for marihuana retailers provided in the zoning ordinance, Sec. 24-165(A)(2) is met. City Council will start the review process on March 1, 2020 and have 60 days to select three (3) marihuana retailer applicants for permits under City’s regulatory ordinance, 7-410, et seq. of the Ferndale Code. Ordinance also permits the city to “engage professional expert consultant assistance in performing any of the duties and responsibilities under this section.”
MARIHUANA REPORT
Community and Economic Development staff conferred with the Building Department, Fire Department, and Police Department teams to review the last five (5) months of operations for the three (3) marihuana provisioning centers. Each department visited each location multiple times as part of the building permit and Certificate of Occupancy process. Since that time, the Police Department conducted consistent, periodic inspections. At the time of this report, there have not been any observed issues related to safety, security, traffic or code enforcement. Staff also confirmed with the Michigan Regulatory Agency (MRA) that the three (3) provisioning centers have valid state-issued licenses. There have been two applications to the Board of Zoning Appeals regarding sign variances, but staff views those requests as typical for new businesses.

NEXT STEPS
City staff discussed a recommendation to increase the number of medical marihuana provisioning centers and marihuana retailers by two (2) additional permits, which would increase each permit type to a total of five (5) permits. The increase in permits would align with the number of medical marihuana facilities (MMMA) originally permitted by City Council and give provisioning center applicants currently in the queue an opportunity to move forward after applying in July 2018 (Provisioning center permits, if the number authorized is increased, would be issued in the order of receipt to the City. If City Council is interested in considering a change to the number of permits for provisioning centers and retailers, the Council may wish to direct staff and the Planning Commission to evaluate the existing ordinance and report back to City Council in March. The City Council may also wish to consider engaging a professional expert consultant to assist in the marihuana retailer application process.

Justin Lyons
Planning Manger
City of Ferndale
248-336-4370
jlyons@ferndalemi.gov
ORDINANCE NO.
CITY OF FERNDALE
OAKLAND COUNTY, MICHIGAN

AN ORDINANCE TO AMEND ARTICLE VIII, USE REGULATIONS, SECTION 24-165 TO THE ZONING ORDINANCE NO. 1087, OF THE FERNDALE CODE OF ORDINANCES.

THE CITY OF FERNDALE ORDAINS:

Part I.

The City of Ferndale Zoning Ordinance, being Ordinance No. 1087, Section 24-165 is amended as follows:

Sec. 24-165.  Medical Marihuana Facility, Provisioning Center, Marihuana Retailer and Safety Compliance Facility.

(A)  Applicability and Enabling Provision.

(1)  Pursuant to Section 205(1) of the Medical Marihuana Facilities Licensing Act, Act 281 of 2016, as amended, and pursuant to Section 6 of the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, as amended, being MCL 333.27956 and the rules established by the Marihuana Regulation Agency, approved by the governor of the State of Michigan, filed with the Michigan Secretary of State, the city shall authorize the following types of medical marihuana facilities and marihuana establishments.

(2)  The city shall limit the number of medical marihuana facilities and marihuana establishments authorized under this ordinance for each category of medical marihuana facilities or marihuana establishments and may revise those categories and limits, by ordinance amendment, from time to time:

a.  Designated consumption establishment – the city shall not authorize any designated consumption establishment within the city.

b.  Growers – the city shall not authorize any growers within the city.

c.  Marihuana microbusiness – the city shall not authorize any marihuana microbusiness within the city.

d.  Marihuana retailer – the city shall authorize not more than three (3) marihuana retailers within the city.

e.  Processors – the city shall not authorize any processors within the city.
f. Provisioning Centers – the city shall authorize not more than three (3) provisioning centers within the city.


g. Secure Transporters – the city shall not authorize any secure transporters within the city.


h. Safety Compliance Facility – the city shall authorize not more than one (1) safety compliance facility within the city.


i. Temporary marihuana event – the city shall not authorize any temporary marihuana event within the city.

(3) No person or entity that was open or operating any facility purporting to grow, produce, manufacture, test, sell, transfer or transport medical marihuana or marihuana prior to the adoption of this ordinance shall be considered a lawful use or lawful nonconforming use to conduct activity as a provisioning center or safety compliance facility under this ordinance.

(4) This ordinance does not apply to, or regulate, any protected patient or caregiver conduct pursuant to Initiated Law 1 of 2008.

(B) A medical marihuana facility shall be subject to the following requirements:

(1) Primary caregivers and/or qualified patients at the medical marihuana facility must be legally registered by the Michigan Department of Community Health (MDCH) to assist qualified patients with the medical use of marihuana in accordance with the Michigan Medical Marihuana Act, as amended.

(2) A medical marihuana facility shall not be allowed within 500 feet of an educational institution, nursery school, or child care center, or another medical marihuana facility provisioning center or safety compliance facility.

(3) A medical marihuana facility shall be available for reasonable inspection, during business hours, by the city code enforcement official or police to confirm the medical marihuana facility is operating in accordance with all applicable laws, including state law and city ordinances.

(4) The facility shall open no earlier than 9:00 a.m. and close no later than 9:00 p.m. Monday through Sunday.

(5) A medical marihuana facility shall not be permitted to have drive-thru facilities.

(6) No use of medical marihuana shall be permitted at a medical marihuana facility.

(7) No patients shall be allowed in a medical marihuana facility after hours.
(8) The parking requirements for a medical marihuana facility shall be consistent with the parking requirements for medical clinics and not subject to any parking waiver under the zoning ordinance.

(9) A security plan and floor plan shall be submitted with applications for a medical marihuana facility. The medical marihuana facility shall identify the chemical storage, space and other critical aspects of the layout. The security and floor plan shall be a confidential document by the city exempt from disclosure under the Freedom of Information Act.

(10) A waste disposal plan shall be included with all applications for a medical marihuana facility detailing plans for any chemical, water and/or plant waste disposal.

(C) A provisioning center and safety compliance facility, in accordance with the provisions of state law, shall be subject to the following requirements:

(1) Prior to opening, a provisioning center or safety compliance facility must be licensed by the State of Michigan as required by the Medical Marihuana Facilities Licensing Act, Act 281 of 2016, being MCL 333.27101 et seq. and then must be at all times in compliance with the laws of the State of Michigan, including but not limited to the Michigan Medical Marihuana Act, MCL 333.26421 et seq., and the Marihuana Tracking Act, Act 282 of 2016, being MCL 333.27901 et seq. and all other applicable rules promulgated by the State of Michigan.

(2) The provisioning center or safety compliance facility must be at all times in compliance with all applicable laws, ordinances and regulations of the city.

(3) The provisioning center or safety compliance facility shall be subject to inspection at any time by the police department or the department of state police consistent with the ordinances of the city and state law.

(4) A provisioning center or safety compliance facility shall be available for inspection, during business hours, by the city manager or the city manager's designee, code enforcement official, and police to determine whether the provisioning center or safety compliance facility are operating in accordance with all applicable laws, including state law and city ordinances.

(5) A provisioning center shall not be allowed within 500 feet of an educational institution, nursery school, or child care center, or another provisioning center or medical marihuana facility or marihuana retailer. This section shall not apply to a provisioning center licensee that also has a marihuana retailer license that is co-located.

(6) A provisioning center or safety compliance facility shall open no earlier than 9:00 a.m. and close no later than 9:00 p.m. Monday through Sunday.

(7) No use of medical marihuana shall be permitted at a provisioning center or safety compliance facility.
(8) Marihuana products shall not be smoked, ingested, or otherwise used in the building space or on the subject property occupied by a provisioning center or safety compliance facility.

(9) No person other than employees or consultants shall be allowed in a provisioning center or safety compliance facility after hours.

(10) The parking requirements for a provisioning center or safety compliance facility shall be consistent with the parking requirements for medical clinics and not subject to any parking waiver under the zoning ordinance.

(11) A security plan and floor plan shall be submitted with applications for a provisioning center or safety compliance facility. The provisioning center or safety compliance facility shall identify the chemical storage, space and other critical aspects of the layout. The security and floor plan shall be a confidential document by the city exempt from disclosure under the Freedom of Information Act.

(12) A waste disposal plan shall be included with all applications for a provisioning center or safety compliance facility detailing plans for any chemical, water and/or plant waste disposal in compliance with state and local laws and regulations.

(13) If only a portion of a building is being used by a provisioning center or safety compliance facility the remainder of the building shall not be accessible or have an entrance or entry way into the provisioning center or safety compliance facility.

(14) A maximum floor area of 5,000 square feet of retail usable floor space for merchandise and service area open to the public may be used by a provisioning center on the subject property. A provisioning center may have not more than an additional 5,000 square feet of space that shall not be open to the public, for storage and other administrative uses necessary for the provisioning center.

(15) The provisioning center or safety compliance facility shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.

a. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.

b. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress and egress the provisioning center or safety compliance facility.

c. An alternative odor control system may be proposed if the applicant submits a report certified by a mechanical engineer licensed in the State of Michigan demonstrating that the alternative system will control odor as well or
better than the activated carbon filtration system otherwise required. The city may allow the alternative odor control system if it determines it will control odor as well as the activated carbon filtration system.

(16) Security cameras shall be required for ingress/egress to the provisioning center or safety compliance facility to record the subject property and shall also have cameras showing any point of sales.

(17) All activities of a provisioning center, including all transfers of marihuana, shall be conducted within the building and out of public view. A provisioning center shall not have a walk-up window or drive-thru window service.

(18) The exterior appearance of the building shall remain compatible with the exterior appearance of buildings or structures already constructed or under construction within the immediate area, and shall be maintained so as to prevent blight or deterioration or substantial diminishment or impairment of property values within the immediate area.

(19) Upon request, the city shall provide the following to the State of Michigan’s Marihuana Regulatory Agency:

a. A copy of this ordinance;

b. A copy of any additional ordinances that apply to the medical marihuana regulation in the city;

(20) Licensed medical marihuana patients or caregivers authorized by the State of Michigan under Initiated Law 1 of 2008 shall not be required to receive special use approval to conduct legal activities, within the limits established under the Michigan Medical Marihuana Act, in any zoning district, but must comply with all applicable city ordinances, including those governing odor, and all applicable State laws.

(21) The limits established in Sec. 24-165 (A)(2) of this ordinance regarding types and number of particular categories of marihuana facilities allowed shall be evaluated by the city manager or city manager’s designee with a report and recommendation to Council regarding the types and limits of marihuana facilities allowed under Sec. 24-165 (A)(2) within six (6) months after the opening and operation of a marihuana facility and/or provisioning center authorized under Sec. 24-165 (A)(2).

(D) A marihuana retailer, in accordance with the provisions of state law, including the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, as amended, shall be subject to the following requirements:

(1) Prior to opening, a marihuana retailer must be licensed by the State of Michigan as required by the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, as amended, being MCL 333.27951 et seq. and then must be at all times in compliance with the laws of the State of Michigan, including but not limited to the Michigan Medical Marihuana Act, MCL 333.26421 et seq., and the Marihuana Tracking
Act, Act 282 of 2016, being MCL 333.27901 et seq. and all other applicable rules promulgated by the State of Michigan.

(2) The marihuana retailer must be at all times be in compliance with all applicable laws, ordinances and regulations of the city.

(3) The marihuana retailer shall be subject to inspection at any time by the police department or the department of state police consistent with the ordinances of the city and state law.

(4) A marihuana retailer shall be available for inspection, during business hours, by the city manager or the city manager's designee, code enforcement official, and police to determine whether the marihuana retailer is operating in accordance with all applicable laws, including state law and city ordinances.

(5) A marihuana retailer shall not be allowed within 500 feet of an educational institution, nursery school, or child care center, or another marihuana retailer facility, provisioning center or medical marihuana facility. The distance requirement in this paragraph shall not apply to a safety compliance facility. This distance requirement shall not apply to a marihuana retailer licensee that has a provisioning center license and is trying to co-locate at a single location.

(6) A marihuana retailer shall open no earlier than 9:00 a.m. and close no later than 9:00 p.m. Monday through Sunday.

(7) No use of marihuana shall be permitted at a marihuana retailer.

(8) Marihuana products shall not be smoked, ingested, or otherwise used in the building space or on the subject property occupied by a marihuana retailer.

(9) No persons, other than employees or consultants, shall be allowed in a marihuana retailer after hours.

(10) The parking requirements for a marihuana retailer shall be consistent with the parking requirements for medical clinics and not subject to any parking waiver under the zoning ordinance.

(11) A security plan and floor plan shall be submitted with applications for a marihuana retailer. The marihuana retailer shall identify the chemical storage, space and other critical aspects of the layout. The security and floor plan shall be a confidential document by the city exempt from disclosure under the Freedom of Information Act.

(12) A waste disposal plan shall be included with all applications for a marihuana retailer detailing plans for any chemical, water and/or plant waste disposal in compliance with state and local laws and regulations.
(13) If only a portion of a building is being used by a marihuana retailer, the remainder of the building shall not be accessible or have an entrance or entry way into the marihuana retailer.

(14) A maximum floor area of 5,000 square feet of retail usable floor space for merchandise and service area open to the public may be used by a marihuana retailer on the subject property. A marihuana retailer may have not more than an additional 5,000 square feet of space that shall not be open to the public, for storage and other administrative uses necessary for the marihuana retailer.

(15) The marihuana retailer shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter.

a. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM.

b. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress and egress the marihuana retailer.

c. An alternative odor control system may be proposed if the applicant submits a report certified by a mechanical engineer licensed in the State of Michigan demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required. The city may allow the alternative odor control system if it determines it will control odor as well as the activated carbon filtration system.

(16) All sales of a marihuana retailer shall be conducted within the building and out of public view. A marihuana retailer shall not have a walk-up window or drive-thru window service.

(17) The exterior appearance of the building shall remain compatible with the exterior appearance of buildings or structures already constructed or under construction within the immediate area, and shall be maintained so as to prevent blight or deterioration or substantial diminishment or impairment of property values within the immediate area.

(18) Upon request, the city shall provide the following to the State of Michigan’s Marihuana Regulatory Agency or department:

a. A copy of this ordinance;

b. A copy of any additional ordinances that apply to the medical marihuana regulation in the city;
c. If the department does not issue rules and the city issues a permit, pursuant to Section 16 of the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, as amended, the city shall notify the department upon issuance of any city permit to a marihuana establishment.

(19) Licensed medical marihuana patients or caregivers authorized by the State of Michigan under Initiated Law 1 of 2008 shall not be required to receive special use approval to conduct legal activities, within the limits established under the Michigan Medical Marihuana Act, in any zoning district, but must comply with all applicable city ordinances, including those governing odor, and all applicable State laws.

(20) The limits established in Sec. 24-165 (A)(2) of this ordinance regarding types and number of particular categories of marihuana facilities or marihuana establishments allowed shall be evaluated by the city manager or city manager’s designee with a report and recommendation to Council regarding the types and limits of marihuana facilities and marihuana establishments allowed under Sec. 24-165 (A)(2) within six (6) months after the opening and operation of a marihuana facility and/or provisioning center authorized under Sec. 24-165 (A)(2) and within six (6) months after the opening of a marihuana establishment authorized under Sec. 24-165(A)(2).

Part II. Savings Clause.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect are saved and may be consummated according to the law enforced when they are commenced.

Part III. Severability.

The various parts, sections and clauses of this ordinance are declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected.

Part IV. Repeal.

All regulatory provisions contained in other city ordinances which are inconsistent with the provisions of this ordinance, are repealed.

Part V. Effective Date; Publication.

This ordinance shall become effective seven (7) days after publication.

________________________________
DAN MARTIN, MAYOR

________________________________
MARNE MCGRATH, CITY CLERK

Date of Adoption: ________________

Date of Publication: ______________

CERTIFICATE OF ADOPTION

I certify that the foregoing is a true and complete copy of the Ordinance passed at a meeting of the Ferndale City Council held on the ___ day of ____________, 2019.

________________________________
MARNE MCGRATH, CITY CLERK
CITY OF FERNDALE
NOTICE OF ADOPTION
ORDINANCE ______

The City of Ferndale has adopted Ordinance No. ____ amending Section 24-165 to the Ferndale Zoning Ordinance, Ordinance No. 1087. This Ordinance shall become effective seven (7) days after publication. A true copy of the ordinance may be inspected or obtained at the office of the City Clerk.

MARNE MCGRATH, CITY CLERK
ORDINANCE NO. _____

CITY OF FERNDALE
OAKLAND COUNTY, MICHIGAN

AN ORDINANCE TO AMEND SECTIONS 24-62 AND 24-102 TO THE ZONING ORDINANCE, ORDINANCE NO. 1087, OF THE FERNDALE CODE OF ORDINANCES.

THE CITY OF FERNDALE ORDAINS:

Part I.

The City of Ferndale Zoning Ordinance, being Ordinance No. 1087, Section 24-62 and 24-102 are amended as follows:

Section 24-62 Uses

<table>
<thead>
<tr>
<th>Commercial and Office Districts Permitted (P) and Special Land Uses (S)</th>
<th>CBD</th>
<th>C-2</th>
<th>C-3</th>
<th>OS</th>
<th>Additional Requirements</th>
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<tbody>
<tr>
<td><strong>Health Care Facilities:</strong></td>
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<tr>
<td>Hospitals and other medical facilities permitting overnight patients</td>
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<tr>
<td>Marihuana Retailer</td>
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<tr>
<td>Medical, dental and physical therapy offices, clinics, medical and dental laboratories and similar uses (overnight patients not permitted)</td>
<td>P</td>
<td>P</td>
<td>P</td>
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<tr>
<td>Provisioning center, licensed as a marihuana facility under the Medical Marihuana Facilities Licensing Act.</td>
<td></td>
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<td></td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>State licensed day care centers</td>
<td>P</td>
<td>-</td>
<td>-</td>
<td>S</td>
<td>Section 24-142</td>
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</table>

Section 24-102 Uses

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<tr>
<th>Industrial Districts Permitted (P) and Special Land Uses (S)</th>
<th>M-1</th>
<th>M-2</th>
<th>Additional Requirements</th>
</tr>
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<tbody>
<tr>
<td><strong>Health Care Facilities</strong></td>
<td></td>
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</tr>
<tr>
<td>Marihuana Retailer</td>
<td>P</td>
<td></td>
<td>P</td>
</tr>
<tr>
<td>Medical, dental and physical therapy offices, clinics, medical and dental laboratories and similar uses (overnight patient not permitted)</td>
<td>P</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Provisioning center and safety compliance facility, licensed as a marihuana facility under the Medical Marihuana Facilities Licensing Act.</td>
<td>P</td>
<td></td>
<td>P</td>
</tr>
</tbody>
</table>
Part II. Savings Clause.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect are saved and may be consummated according to the law enforced when they are commenced.

Part III. Severability.

The various parts, sections and clauses of this ordinance are declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected.

Part IV. Repeal.

All regulatory provisions contained in other city ordinances which are inconsistent with the provisions of this ordinance, are repealed.

Part V. Effective Date; Publication.

This ordinance shall become effective seven (7) days after publication.


________________________________________
DAN MARTIN, MAYOR

________________________________________
MARNE MCGRATH, CITY CLERK

Date of Adoption: _______________________

Date of Publication: ____________________

CERTIFICATE OF ADOPTION

I certify that the foregoing is a true and complete copy of the Ordinance passed at a meeting of the Ferndale City Council held on the ___ day of ____________, 2019.

________________________________________
MARNE MCGRATH, CITY CLERK
CITY OF FERNDALE
NOTICE OF ADOPTION
ORDINANCE ______

The City of Ferndale has adopted Ordinance No. ____ amending Section 24-62 and 24-102 to the Ferndale Zoning Ordinance, Ordinance No. 1087. This Ordinance shall become effective seven (7) days after publication. A true copy of the ordinance may be inspected or obtained at the office of the City Clerk.

MARNE MCGRATH, CITY CLERK
ORDINANCE NO. _____

CITY OF FERNDALE
OAKLAND COUNTY, MICHIGAN

AN ORDINANCE TO AMEND SECTION 24-458 OF THE ZONING ORDINANCE, BEING ORDINANCE NO. 1087, OF THE FERNDALE CODE OF ORDINANCES.

THE CITY OF FERNDALE ORDAINS:

Part I.

The City of Ferndale Zoning Ordinance, being Ordinance No. 1087, Section 24-458 is amended as follows:

Section 24-453. Definitions C-D

Carport. A roof projecting from a building, or a freestanding structure without walls, used as a shelter for a vehicle or recreational vehicle.

Cemetery. A parcel of land intended for the burial of multiple deceased humans (or pets within pet cemeteries). Cemeteries may include columbariums and mausoleums.

Change of use. A use that changes which affects any of the usual elements involved with site plan review i.e. parking, drainage, circulation, landscaping, signage and building arrangement.

Churches, temples and other places of worship. A site used for or intended for the regular assembly of persons for the conducting of religious services and accessory uses. Such accessory uses may include rectories, living quarters for ministry and other members of the religious order who carry out their duties primarily on the site, religious education classes, day care, playgrounds, religious office space, counseling, youth centers and other similar activities. Rescue missions, tent revivals and other temporary assemblies are not included in this definition.

City. The City of Ferndale.

City council. The city council of the City of Ferndale.

Commercial use. The use of property for retail sales, office use or similar businesses where goods or services are sold or provided directly to the consumer. As used in this Ordinance, commercial use shall not include industrial, manufacturing or wholesale businesses.

Commercial vehicle. Any truck over one and one-half-ton payload and any vehicle or trailer, with or without an attached delivery body, used to transport people, equipment, materials or supplies for commercial purposes and which requires commercial license plates. Commercial vehicles include but are not limited to:

1. Truck tractor.
2. Semi-trailer, which shall include flat beds, stake beds, roll-off containers, tanker bodies, dump bodies and full or partial box-type enclosures.
3. Vehicles of a type that are commonly used for the delivery of ice cream, milk, bread, fruit or similar vending supply or deliver trucks. This category shall include vehicles of
a similar nature which are also of a type commonly used by electrical, plumbing, heating and cooling, and other construction oriented contractors.

(4) Tow trucks.

(5) Commercial hauling trucks.

(6) Vehicle repair service trucks.

(7) Snow plowing trucks.

**Compatibility.** The characteristics of different uses or activities that permit them to be located near each other in harmony and without conflict.

**Condominium.** A development containing residential, commercial, office, industrial or other structures or improvements permitted in the zoning district where it is located in which each co-owner owns exclusive rights to a volume of space within which a structure or structures may be constructed and shared rights to associated general common elements, as described in the master deed. The following additional definitions are provided:


(2) *Condominium documents.* The master deed, recorded pursuant to the Condominium Act, and any other instrument referred to in the master deed or bylaws which affects the rights and obligations of a co-owner in the condominium.

(3) *Condominium lot.* The condominium unit and the contiguous limited common elements surrounding the condominium unit, which shall be the counterpart of "lot" as used in connection with a project developed under the Land Division Act, as amended.

(4) *Condominium subdivision plan.* Drawings and information that show the size, location, area and boundaries of each condominium unit; building locations; the nature, location and approximate size of common elements; and other information required by Section 66 of the Condominium Act.

(5) *Condominium unit.* The portion of a condominium project designed and intended for separate ownership and use, as described in the master deed.

(6) *General common element.* Area designated for the use of all co-owners, including yards, foundations, basements, floors, walls, hallways, stairways, elevators and all other elements of the condominium project intended for common use or necessary to the existence, upkeep and safety of the project.

(7) *Limited common element.* Area reserved in the master deed for the exclusive use of less than all of the co-owners.

(8) *Master deed.* The document recording the condominium project, including the bylaws and the condominium subdivision plan for the project, and all other information required by the Condominium Act, as amended.

**Construction equipment.** Equipment required for the demolition, excavation, repair or construction of any building or structure or the transport of construction materials.

**Curb cut.** An opening from the public street to a private driveway or public drive serving an individual site or group of sites.

**Deck.** An accessory platform structure that is open and unenclosed by a roof or walls, either freestanding or attached to the principal structure that is supported by posts.
Density. The number of dwelling units situated on or to be developed per net acre of land, exclusive of right-of-ways.

Designated consumption establishment. A commercial space that is licensed by the Marihuana Regulatory Agency and authorized to permit adults 21 years of age and older to consume marihuana products at the location indicated on the state license.

Detention/retention pond. An artificially created pond or basin that holds collected storm water. A detention pond has an outlet that releases water at a controlled rate. Detention basins are designed to reduce how quickly runoff enters our natural waterways to protect downstream areas from flooding and erosion. Retention ponds are designed to hold water until it infiltrates the soil or evaporates without an outlet to a drainage way, except emergency overflows. Where this chapter specifies requirements or restrictions on detention ponds, these regulations shall also apply to retention ponds, and vice versa.

Development. The construction of a new building or other structure on a lot, the relocation of an existing building on another lot, or a new use of land.

Director. The director of the community development department or their designee.

District. A portion of the city within which certain uses, buildings and structures are permitted and within which certain regulations and requirements apply under the provisions of this chapter.

Drive-through facility. A facility where patrons are served in their vehicles.

Dwelling. A building or portion of a building which is used principally as a residence, including:

1. Apartment. An attached dwelling unit with common walls, contained in a building with other dwellings or uses, typically accessed by a common stair landing or walkway.
2. Efficiency unit. A dwelling consisting of one room containing living, sleeping and kitchen facilities and a separate bathroom.
3. Live/work. A multi-story dwelling unit wherein the first floor is designed as a storefront for retail, service, office or artisan studio and the upper floors as one or more dwellings. The live/work unit shall be designed as an integral unit with interior stairway connections between floors. The first floor storefront shall be owned and operated by the occupant an upper floor dwelling. Live/work dwellings may be attached to similar dwelling units with common walls, each with a separate entryway with direct access to the outdoors at ground level.
4. Manufactured dwelling. A building or structure constructed in accordance with state or federal laws that is pre-constructed and transported to the building site.
5. Multiple-family dwelling. A building designed for and occupied by three or more families in separate units, living independently of each other.
6. Single-family dwelling. A building containing not more than one dwelling unit entirely surrounded by open space on the same lot.
7. Single-family attached dwelling. A building designed for and occupied by three or more families living independently of each other in separate units with shared common walls and a ground floor entry for each individual unit, also called townhomes or rowhouses.
(8) **Two-family dwelling.** A single building designed for or occupied exclusively by two families living independently of each other, also called a duplex.

**Part II. Savings Clause.**

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect are saved and may be consummated according to the law enforced when they are commenced.

**Part III. Severability.**

The various parts, sections and clauses of this ordinance are declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected.

**Part IV. Repeal.**

All regulatory provisions contained in other city ordinances which are inconsistent with the provisions of this ordinance, are repealed.

**Part V. Effective Date; Publication.**

This ordinance shall become effective seven (7) days after publication.


______________________________
DAN MARTIN, MAYOR

______________________________
MARNE MCGRATH, CITY CLERK

Date of Adoption: ________________

Date of Publication: ______________

**CERTIFICATE OF ADOPTION**

I certify that the foregoing is a true and complete copy of the Ordinance passed at a meeting of the Ferndale City Council held on the ___ day of _____________, 2019.

______________________________
MARNE MCGRATH, CITY CLERK
The City of Ferndale has adopted Ordinance No. ____ amending Section 24-165 to the Ferndale Zoning Ordinance, Ordinance No. 1087. This Ordinance shall become effective seven (7) days after publication. A true copy of the ordinance may be inspected or obtained at the office of the City Clerk.

MARNE MCGRATH, CITY CLERK
ORDINANCE NO. _____  

CITY OF FERNDALE  
OAKLAND COUNTY, MICHIGAN  

AN ORDINANCE TO AMEND SECTION 24-458 OF THE ZONING ORDINANCE, BEING ORDINANCE NO. 1087, OF THE FERNDALE CODE OF ORDINANCES.

THE CITY OF FERNDALE ORDAINS:

Part I.

The City of Ferndale Zoning Ordinance, being Ordinance No. 1087, Section 24-458 is amended as follows:

Section 24-458. Definitions M-N

Major project. A development larger than two acres or 25,000 square feet.

Manufactured home. A detachable single-family dwelling prefabricated on its own chassis, intended for long-term occupancy and designed to be transported on its own wheels or flatbed to the site where it is to be occupied as a complete dwelling without a permanent foundation. The unit shall contain sleeping accommodations, a flush toilet, a wash basin, a tub or shower, kitchen and living quarters.

Manufactured home park. Any parcel of land intended and used to accommodate more than one manufactured home for living use, which is offered to the public for that purpose; including any structure, facility, area, or equipment used or intended for use by park management or residents.

Manufacturing. A facility whose principal use is the physical, mechanical or chemical transformation of materials or substances into new products including assembling, making, preparing, inspecting, finishing, treating, altering or repairing, or the blending of materials such as oils, plastics or resins.

Marihuana establishment. A Grower, Safety Compliance Facility, Provisioning Center, Processor, Marihuana Microbusiness, Marihuana Retailer and Secure Transporter,

Marihuana microbusiness. A person licensed to cultivate not more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a Safety Compliance Facility, but not to other marihuana establishments.

Marihuana retailer. A person licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.
**Massage establishment.** A facility that complies with the requirements of the Massage Establishment Licensing Regulations in the Ferndale Code of Ordinances, as amended.

**Master plan.** The comprehensive long-range plan, adopted by the planning commission and city council, intended to guide growth and development within the city and that includes analysis, recommendation and proposals for the community's population, economy, housing, transportation, community facilities and land use.

**Medical marihuana facility.** A facility where primary caregivers and/or qualified patients, who are legally registered by the Michigan Department of Community Health (MDCH), may lawfully assist qualified patients, also legally registered by the MDCH, concerning the evaluation, counseling and acquisition of medical marihuana in accordance with the Michigan Medical Marihuana Act, as amended. A use purporting to be engaged in the medical use of marihuana prior to enactment of the Michigan Medical Marihuana Act or prior to being legally registered by the MDCH, shall be deemed to not be a legally established use and not entitled to legal nonconforming status under the provision of this ordinance and under state law. The facility shall not include a club, café or other design that permits consumption of medical marihuana at the facility.

**Medical marihuana grow operation.** A use, in accordance with the Michigan Medical Marihuana Act, as amended, for the growing, cultivation, planting and manufacturing of medical marihuana.

**Mezzanine.** An intermediate floor between stories occupying but not exceeding one-third of the floor area of the story directly below.

**Motel.** A lodging facility containing rooms with direct access to the outside and individual bathrooms. Rooms may contain cooking facilities. A motel may also contain a common dining or restaurant facility. See also "hotel" and "lodging facility."

**Nonconforming building or structure.** A building or structure lawfully existing at the effective date of the ordinance from which this chapter derives, as amended, which does not conform to the provisions of the zoning district in which it is located.

**Nonconforming lot.** A lot of record, lawfully in existence on the effective date of the ordinance from which this chapter derives and any amendments thereto, which no longer meets the dimensional requirements of the zoning district in which it is located.

**Nonconforming use.** A use which lawfully occupied a building or structure or parcel of land at the effective date of the ordinance from which this chapter derives, as amended, which does not conform to the use regulations of the zoning district in which it is located.

**Novelty store.** A retail establishment which includes as part of its merchandise for sale to the general public: equipment, products or materials that may be used as drug paraphernalia, including pipes, bongs, clips, scales, sifter, rolling papers, spoon and other items that may be classified and defined as drug paraphernalia in the Public Health Code, being MCL 333.7451, as amended.
Nuisance. An offensive, annoying, unpleasant or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things, such as, but not limited to, noise, dust, smoke, odor, glare, fumes, flashes, vibration, shock waves, heat, electronic or atomic radiation, objectionable effluent, noise of congregation of people, particularly at night, passenger traffic, invasion of non-abutting street frontage by traffic, a burned-out structure, a condemned structure.

Part II. Savings Clause.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect are saved and may be consummated according to the law enforced when they are commenced.

Part III. Severability.

The various parts, sections and clauses of this ordinance are declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected.

Part IV. Repeal.

All regulatory provisions contained in other city ordinances which are inconsistent with the provisions of this ordinance, are repealed.

Part V. Effective Date; Publication.

This ordinance shall become effective seven (7) days after publication.


__________________________________________
DAN MARTIN, MAYOR

__________________________________________
MARNE MCGRATH, CITY CLERK

Date of Adoption: _________________

Date of Publication: _________________
CERTIFICATE OF ADOPTION

I certify that the foregoing is a true and complete copy of the Ordinance passed at a meeting of the Ferndale City Council held on the ___ day of _____________, 2019.

____________________________________
MARNE MCGRATH, CITY CLERK
CITY OF FERNDALE
NOTICE OF ADOPTION
ORDINANCE ______

The City of Ferndale has adopted Ordinance No. ____ amending Section 24-458 to the Ferndale Zoning Ordinance, Ordinance No. 1087. This Ordinance shall become effective seven (7) days after publication. A true copy of the ordinance may be inspected or obtained at the office of the City Clerk.

MARNE MCGRATH, CITY CLERK
ORDINANCE NO. _____

CITY OF FERNDALE
OAKLAND COUNTY, MICHIGAN

AN ORDINANCE TO AMEND SECTION 24-461 OF THE ZONING ORDINANCE, BEING ORDINANCE NO. 1087, OF THE FERNDALE CODE OF ORDINANCES.

THE CITY OF FERNDALE ORDAINS:

Part I.

The City of Ferndale Zoning Ordinance, being Ordinance No. 1087, Section 24-461 is amended as follows:

Sec. 24-461. - Definitions S-T.

Safety compliance facility. A safety compliance facility is a commercial entity located in this city that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility and is licensed to operate under the Medical Marihuana Facilities Licensing Act, Act 281 of 2016, as amended, and is permitted in compliance with the city’s zoning and regulatory ordinances.

Secure transporter. A secure transporter is a commercial entity located in this city that stores marihuana and transports marihuana between marihuana facilities for a fee and is licensed to operate under the Medical Marihuana Facilities Licensing Act, Act 281 of 2016, as amended, and is permitted in compliance with the city’s zoning and regulatory ordinances.

Self-storage facility. A facility consisting of a building or a group of buildings in a controlled-access compound where individual stalls or lockers are rented out to different tenants for the storage of goods and wares.

Senior housing. A building or group of buildings containing dwellings intended to be occupied by elderly persons, as defined by the Federal Fair Housing Act, as amended. Senior housing includes independent living arrangements but does not include assisted living facilities or adult foster care facilities regulated by the State of Michigan. Senior housing is designed and operated for use by elderly people who desire and are capable of maintaining an independent household. Such housing may provide services such as security, housekeeping, meals and recreational and social activities. Individual dwellings within such a facility shall contain kitchen facilities and be designed to promote independent living.

Setback. The minimum required horizontal distance between a building or structure and the front, side and rear lot lines.
Shopping center. A group of commercial establishments developed under one site plan and constructed and managed as a total entity. Shopping centers shall provide customer and employee parking on site and loading spaces separated from customer access.

Site plan. A scaled drawing, containing all required information and drawn in compliance with this ordinance, illustrating existing conditions and containing the elements required herein as applicable to the proposed development to ensure compliance with zoning provisions. Site plans must be prepared, signed and sealed by a licensed engineer or registered land surveyor registered in the State of Michigan.

Sketch plan. A drawing containing less information than a site plan, drawn in compliance with this chapter, of a development intended to ensure compliance with zoning provisions. A sketch plan need not be prepared by a licensed professional.

Solar energy system. Any solar collector, other solar energy device or any structural design feature, mounted on a building or on the ground, whose primary purpose is to provide for the collection, storage and distribution of solar energy for space heating or cooling, water heating or electricity.

Solar energy. Radiant energy (direct, diffuse and reflected) received from the sun.

Special land use. A use of land for an activity which, under usual circumstances, could be detrimental to other land uses permitted within the same district but which may be permitted because of circumstances unique to the location of the particular use and which use can be conditionally permitted without jeopardy to uses permitted within such district, subject to special approval by the city council.

Stacking spaces. The off-street parking spaces required in a drive-through facility where customers wait to be served.
State licensed care facilities. A facility for the care of children or adults, as licensed and regulated by the state under Michigan Public Act 11 of 1973 and Michigan Public Act 218 of 1979, and rules promulgated by the State Department of Human Services. State licensed care facilities include:

(1) Adult foster care facility. A facility regulated by the Adult Foster Care Facility Licensing Act, MCL 400.701, et. seq.; MSA 16.610 (61), et. seq., as amended. In accordance with the Michigan Zoning Enabling Act, PA 110 of 2006, being MCL 125.3206, an adult foster care facility providing supervision and/or care to six or less persons shall be considered a residential use of property for zoning purposes and a permitted use in all residential zones and shall not be subject to a special use or conditional use permit or procedure different from those required for other residential dwellings of similar density in the same zone. See also "Assisted living facility and senior housing."

(2) Assisted living facility. A building or group of buildings containing dwellings intended to be occupied by more than six persons needing various degrees of assistance with daily living tasks. This definition includes nursing or convalescent homes, homes for the aged, mentally ill, developmentally disabled or physically handicapped. An assisted living facility does not include alcohol or substance abuse rehabilitation centers, residential centers for persons released from or assigned to a correctional facility or any other facilities which have been exempted from the definition of "adult foster care facility" by the Adult Foster Care Facility Licensing Act, MCL 400.701, et. seq.; MSA 16.610 (61), et. seq., as amended. See also "senior housing."

(3) Child foster care facility. An assisted living facility for children licensed by the State of Michigan pursuant to the Child Protection Law, MCL 722.111 et. seq., as amended.

(4) Day care center. A facility receiving 12 or more children for care and supervision for periods of less than 24 hours at a time where the parents or guardians are not immediately available to the child. See also family day care home and group day care home.

(5) Family day care home. A private home in which fewer than seven minor children are received for care or supervision, for more than four weeks during a calendar year, for periods less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. See also "day care center" and "group day care home."

(6) Group day care home. A private home in which more than six but no more than 12 minor children are received for care or supervision, for more than four weeks during a calendar year, for periods less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. See also "family day care home and day care center."
Story. That portion of a building included between the surface of any floor and the surface of the floor above it, or if there is no floor above it, the space between the floor and the ceiling or roof above it, but excluding mezzanines and basements.

Story, one-half. That portion of a building under a sloping roof having a finished floor area with head room over five feet that does not exceed one-half of the floor area of the floor below.

Street. A public or private thoroughfare, other than an alley, which affords the principal means of access to abutting property. Various types of streets are further defined below:

1. Collector street. A street used to carry traffic from local streets to arterials. The following streets are collector streets in Ferndale: Ten Mile Road adjacent to I-696.

2. Local streets. Local streets provide access primarily to individual properties and homes. All streets that are not classified as major streets are considered local streets.

3. Minor arterial streets. An arterial or collector street which is intended to serve large volumes of traffic for both the immediate municipal area and the region beyond. Minor arterial streets in Ferndale include Nine Mile Road, Livernois Avenue, Pinecrest Drive and Hilton Road.

4. Principal or major arterial street. A main traffic artery designed to carry long distance, through-travel movements. They also provide access to important traffic generators, such as major airports or regional shopping centers. Principal arterials in Ferndale include Interstate Highway 696, Woodward Avenue and Eight Mile Road.

Structure. A combination of materials that form a construction for use, occupancy or ornamentation, whether installed on, above or below grade. All buildings are structures, however, not all structures are buildings. Structures include such things as towers, sheds (wooden or synthetic), gazebos and decks and swimming pools that extend more than 30 inches above finished grade.

Sustainable. Practices or methods that meet the needs of the present generation without compromising the ability of future generations to meet their needs.

Temporary marihuana event. A state license held by a marihuana event organizer for an event where the onsite sale or consumption of marihuana products, or both, are authorized at the location indicated on the state license during the dates indicated on the state license.

Temporary use or building. A temporary use, structure, or building permitted to exist for a specified period of time.
Traffic impact assessment/study. The analysis of the potential traffic impacts at site access points and intersections in the vicinity of a proposed project or rezoning. The following definitions are related to traffic impact assessments and studies:

1. **Average day.** A Tuesday, Wednesday or Thursday for most uses. The average day may be a Saturday for uses that have higher peak-hour traffic volumes on a Saturday rather than mid-week.

2. **Background traffic.** Traffic anticipated to occur regardless of the decision on the subject application based on overall trends as demonstrated by annual traffic increases and associated with specific approved projects for the opening year of a project. Data such as historic counts and long-range traffic projections shall be considered as part of the background traffic calculation.

3. **Level of service.** A qualitative measure describing operational conditions within a traffic stream; generally described in terms of such factors as speed and travel time, delay, freedom to maneuver, traffic interruptions, comfort and convenience and safety.
   a. **Level of service A.** Operations with very low control delay occurring with favorable progression and/or short cycle lengths.
   b. **Level of service B.** Operations with low control delay occurring with good progression and/or short cycle lengths.
   c. **Level of service C.** Operations with average control delays resulting from fair progression and/or longer cycle lengths. Individual cycle failures begin to appear. Typically determined to be acceptable for signalized intersections.
   d. **Level of service D.** Operations with longer control delays due to a combination of unfavorable progression, long cycle lengths or high volume capacity (V/C) ratios. Many vehicles stop and individual cycle failures are noticeable. Typically determined to be acceptable for unsignalized intersections.
   e. **Level of service E.** Operations with high control delays due to a combination of poor progression, long cycle lengths and high V/C ratios. Individual cycle failures are a frequent occurrence. This is considered to be the limit of acceptable delay.
   f. **Level of service F.** Operation with control delays unacceptable to most drivers occurring due to over-saturation where arrival rates exceed the capacity of the intersection, poor progression or very long cycle lengths.

4. **Peak hour.** A one-hour period representing the highest hourly volume of traffic flow in the adjacent street system during the morning (a.m. peak hour), during the
afternoon or evening (p.m. peak hour); or representing the hour of highest volume of traffic entering or exiting a site (peak hour of generator).

(5) **Trip (directional trip).** A single or one-directional vehicle movement with either the origin of the destination (exiting or entering) inside a study site.

**Trade and vocational school.** A facility whose principal use is teaching automotive, construction (cabinet making, carpentry, electrical, HVAC, masonry, plumbing, etc.), manufacturing or welding skills, generally in a shop setting.

**Part II. Savings Clause.**

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect are saved and may be consummated according to the law enforced when they are commenced.

**Part III. Severability.**

The various parts, sections and clauses of this ordinance are declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected.

**Part IV. Repeal.**

All regulatory provisions contained in other city ordinances which are inconsistent with the provisions of this ordinance, are repealed.

**Part V. Effective Date; Publication.**

This ordinance shall become effective seven (7) days after publication.


__________________________
DAN MARTIN, MAYOR

__________________________
MARNE MCGRATH, CITY CLERK

Date of Adoption: _________________

Date of Publication: _______________
CERTIFICATE OF ADOPTION

I certify that the foregoing is a true and complete copy of the Ordinance passed at a meeting of the Ferndale City Council held on the ___ day of _____________, 2019.

____________________
MARNE MCGRATH, CITY CLERK
CITY OF FERNDALE  
NOTICE OF ADOPTION  
ORDINANCE ______

The City of Ferndale has adopted Ordinance No. _____ amending Section 24-461 to the Ferndale Zoning Ordinance, Ordinance No. 1087. This Ordinance shall become effective seven (7) days after publication. A true copy of the ordinance may be inspected or obtained at the office of the City Clerk.

MARNE MCGRATH, CITY CLERK
ORDINANCE NO. _____

CITY OF FERNDALE
OAKLAND COUNTY, MICHIGAN

AN ORDINANCE TO AMEND CHAPTER 7, BUSINESS REGULATION
AND LICENSES GENERALLY, ARTICLE XX, OF THE FERNDALE
CODE OF ORDINANCES.

THE CITY OF FERNDALE ORDAINS:

Part I.

The City of Ferndale Code of Ordinances, Chapter 7, Business Regulation and Licenses
Generally, Article XX, is amended as follows:

Sec. 7-410. - Purpose.

The purposes of this article are to:

(1) Serve and protect the health, safety and welfare of the general public;

(2) Establish a set of rules and regulations which are fair and equitable for those
interested in establishing a medical marihuana facility or a marihuana facility
licensed to operate under the Medical Marihuana Facilities Licensing Act, Act 281 of
2016, as amended (“MMFLA”).

(3) Provide a means to regulate and control the commercial distribution of
marihuana and implement the Michigan Regulation and Taxation of Marihuana Act,
Initiated Law 1 of 2018, MCL 333.27951 et. seq. (“MRTMA”)

(4) To provide reasonable regulations pursuant to the City’s general police power
granted to cities by the Michigan Constitution of 1963 and the Home Rule City Act,
MCL §117.1 et. seq., as amended.

(5) Nothing in this ordinance is intended to promote or condone the production,
distribution, sale, or possession of marihuana in violation of any applicable law.

(6) As of the effective date of this ordinance, marihuana is classified as a Schedule 1
controlled substance under Federal Law. Nothing in this ordinance is intended to grant
immunity from any criminal prosecution under Federal Law.

Sec. 7-411. - Definitions.

For the purpose of the provisions of this article, the following words and phrases shall be
construed to have the meanings herein set forth, unless it is apparent from the context that a different meaning is intended.

*Department* means the department of licensing and regulatory affairs.

*Director* means the director of community and economic development and director's authorized representative.

*Grower* means a person licensed to cultivate marihuana and sell or otherwise transfer marihuana to marihuana establishments.

*Industrial hemp* means a plant of genus cannabis and any part of that plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration that does not exceed 0.3% on a dry-weight basis, or per volume or weight of marihuana-infused product, or the combined percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus cannabis regardless of moisture content.

*Marihuana* means all parts of the plant of the genus cannabis, growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including marihuana concentrate and marihuana-infused products. For purposes of this ordinance, marihuana does not include:

1. the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is incapable of germination;

2. industrial hemp; or

3. any other ingredient combined with marihuana to prepare topical or oral administrations, food, drink, or other products.

*Marihuana accessories* means any equipment, product, material, or combination of equipment, products, or materials, which is specifically designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling, or otherwise introducing marihuana into the human body.

*Marihuana establishment* means a grower, safety compliance facility, processor, marihuana microbusiness, provisioning center, marihuana retailer, secure transporter, or any other type of marihuana-related business licensed by the department.

*Marihuana microbusiness* means a person licensed to cultivate nor more than 150 marihuana plants; process and package marihuana; and sell or otherwise transfer marihuana to individuals who are 21 years of age or older or to a marihuana safety compliance facility, but not to other marihuana establishments.
Marihuana retailer means a person licensed to obtain marihuana from marihuana establishments and to sell or otherwise transfer marihuana to marihuana establishments and to individuals who are 21 years of age or older.

Medical marihuana facility means a facility where primary caregivers and/or qualified patients, who are legally registered by the Michigan Department of Community Health (MDCH), may lawfully assist qualified patients, also legally registered by the MDCH, concerning the evaluation, counseling and acquisition of medical marihuana in accordance with the Michigan Medical Marihuana Act, as amended. A use purporting to be engaged in the medical use of marihuana prior to enactment of the Michigan Medical Marihuana Act or prior to being legally registered by the MDCH, shall be deemed to not be a legally established use and not entitled to legal nonconforming status under the provision of this article and under state law. The facility shall not include a club, café or other design that permits consumption of medical marihuana at the facility.

Person means an individual, corporation, limited liability company, partnership of any type, trust, or other legal entity.

Processor means a person licensed to obtain marihuana from marihuana establishments; process and package marihuana; and sell or otherwise transfer marihuana to marihuana establishments.

Provisioning center means a licensee that is a commercial entity located in this city that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients’ registered primary caregivers and is licensed to operate under the Medical Marihuana Facilities Licensing Act, Act 281 of 2016, as amended, the Marihuana Tracking Act, Act 282 of 2016, as amended, and is permitted in compliance with the city’s zoning and regulatory ordinances.

Public place means any area in which the public is invited or in which the public is permitted in the normal course of business or use of the premises.

Safety compliance facility means a license that is a commercial entity located in this city that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility and is licensed to operate under the Medical Marihuana Facilities Licensing Act, Act 281 of 2016, as amended, the Marihuana Tracking Act, Act 282 of 2016, as amended, and is permitted in compliance with the city’s zoning and regulatory ordinances.

Secure transporter means a person licensed to obtain marihuana from marihuana establishments in order to transport marihuana to marihuana establishments.
Sec. 7-412. Permit required.

(a) No person or entity shall operate a medical marihuana facility, marihuana establishment, marihuana retailer, provisioning center or safety compliance facility in the city without first applying for and receiving a permit from the city clerk’s office.

(1) Permits are not transferrable and shall only apply to the person or entity listed on the application. This non-transferability of the permit under the city’s regulatory ordinance shall not preclude a stockholder of a permittee that is a corporation or member of permittee that is a limited liability company, which has obtained a state issued operating license, from applying for a change including a change of owners, officers, members or managers and including the transfer, sale or conveyance of an interest in a state issued operating license with the Department, as provided under the Department’s regulations, including R 333.215, R 333.219 and R 333.221 and other applicable rules. A change, including a transfer as described above, with the approval of the Department, shall be allowed under this section.

(2) Permits shall be valid for a period of one year, from July 1st to June 30th, except as provided under subsection (3) below.

(3) A permit shall be issued or renewed upon payment of the required fee and submission of a completed application in compliance with the provisions of this article and where the number permitted for the medical marihuana facility, provisioning centers, marihuana retailers or safety compliance facilities as set forth in the zoning ordinance subsection 24-165(a)(2) has not been met. The issuance of a permit shall not be considered to create a vested right. A permit issued under this article does not create or vest any right, title or other property interest. A permit shall be conditional and allow the applicant nine months to obtain a state issued operating license, if necessary, and is counted towards the number authorized for provisioning centers, marihuana retailers or safety compliance facilities as set forth in the zoning ordinance subsection 24-165(a)(2). In the event an applicant does not obtain such state issued operating license within the period, the permit shall be voided and of no further effect, unless such failure to obtain such state issued operating license within the period is a result of the failure of the Department to consider a completed application from the applicant for issuance of the state issued operating license and the permittee has otherwise satisfied all necessary conditions to be eligible for consideration of a state issued operating license, including but not limited to requesting the city conduct a final inspection necessary to obtain a certificate of occupancy, and the applicant receives a certificate of occupancy after such inspection by city. Prior to the expiration of the nine-month conditional permit period, the applicant may request that city council extend the permit for a period of an additional three months. The city council may, in its sole discretion, deny or extend such permit on such terms as it determines appropriate. In the event a permit is voided and of no further effect, the clerk shall randomly select another applicant as provided in subsection (5) until the number of permits authorized for provisioning centers, marihuana retailers or safety compliance facilities provided in the zoning ordinance subsection 24-165(a)(2) is
(4) Upon the effective date of this article, the city clerk shall accept completed applications for a provisioning center or safety compliance facility and issue a permit as prescribed in subsection 7-412(a)(3) above until the number of permits authorized for provisioning centers or safety compliance facilities provided in the zoning ordinance subsection 24-165(a)(2) is met.

(5) If an applicant is issued a permit order pursuant to subsection 7-412(a)(3) above and is not able to obtain a required state issued operating license within the period authorized with the permit being void and of no further effect, the clerk shall select from the completed applications received for issuance of a permit under subsection 7-412(a)(3) the next completed application in the order received by the city clerk until the number of permits authorized for provisioning centers or safety compliance facilities provided in the zoning ordinance subsection 24-165(a)(2) is met. The city clerk shall maintain a list identifying the date and time of receipt of completed applications for permits under this article.

(6) Upon the effective date of the Department accepting applications for state issued licenses for marihuana retailers, and for the next twenty-four months after the Department begins to receive applications for marihuana establishments, the city clerk shall accept completed applications for marihuana retailers from persons holding a state operating license pursuant to MRTMA, section 9. Thereafter, the city clerk shall accept completed applications for marihuana retailers until the number of permits authorized for marihuana retailers provided in the zoning ordinance subsection 24-165(a)(2) is met.

(7) Upon the effective date of the Department accepting applications for state issued licenses for marihuana retailers until March 1, 2020, city clerk shall receive completed applications for marihuana retailers and on March 1, 2020, city clerk shall forward to Council all completed applications for marihuana retailers received to that date and Council shall consider and authorize a permit as prescribed in 7-142(f) until the number of permits authorized for marihuana retailers provided in the zoning ordinance, Sec. 24-165(A)(2) is met.

(b) No person shall operate a provisioning center in the city without having a valid and current state operating license under the Medical Marihuana Facilities Licensing Act, Act 281 of 2016, as amended, that allows the licensee to operate as a provisioning center.

(1) Every provisioning center seeking to be licensed under the Medical Marihuana Facilities Licensing Act shall pay a non-refundable application fee to the city in the amount of $5,000.00 which shall be an annual fee required of a provisioning center to be paid to the city upon submittal of the application for permit or renewal to help...
defray administrative and enforcement costs associated with the operation of a provisioning center within the city.

(2) Information obtained from an applicant for a provisioning center relating to licensure under the Medical Marihuana Facilities Licensing Act, Act 281 of 2016, as amended, shall be exempt from disclosure under the Freedom of Information Act, Act 442 of 1976.

(c) No person shall operate a safety compliance facility in the city without having a valid and current state operating license under the Medical Marihuana Facilities Licensing Act, Act 281 of 2016, as amended, that allows the licensee to operate as a safety compliance facility.

(1) Every safety compliance facility seeking to be licensed under the Medical Marihuana Facilities Licensing Act shall pay a non-refundable application fee to the city in the amount of $5,000.00 which shall be an annual fee required of a safety compliance facility to be paid to the city upon submittal of the application for permit or renewal to help defray administrative and enforcement costs associated with the operation of a safety compliance facility within the city.

(2) Information obtained from an applicant for a safety compliance facility relating to licensure under the Medical Marihuana Facilities Licensing Act, Act 281 of 2016, as amended, shall be exempt from disclosure under the Freedom of Information Act, Act 442 of 1976.

(d) No person shall operate a medical marihuana facility except in compliance with the Michigan Medical Marihuana Act and in compliance with its special land use approval.

(e) No person shall operate a marihuana retailer in the city without having a valid and current state operating license under the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, as amended, being MCL 333.27956, that allows the licensee to operate as a marihuana retailer.

(1) Every marihuana retailer seeking to be licensed under the Michigan Regulation and Taxation of Marihuana Act shall pay a non-refundable application fee to the city in the amount of $5,000 which shall be an annual fee required of a marihuana retailer to be paid to the city upon submittal of the application for permit or renewal to help defray administrative and enforcement costs associated with the operation of a marihuana retailer within the city.

(2) Information obtained from an applicant for a marihuana retailer to licensure under the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, as amended, being MCL 333.27956, shall be exempt from disclosure under the Freedom of Information Act, Act 442 of 1976.
Application evaluation criteria for marihuana retailers shall include:

(1) The content and sufficiency of the information contained in the application.

(2) Whether the proposed plan has received approval from the police department, Community & Economic Development, and all other appropriate departments.

(3) Whether the proposed facility will revitalize or redevelop property that has been vacant or unused for an extended period of time.

(4) Whether the proposed marihuana establishment will be consistent with land use for the surrounding neighborhood and not have a detrimental effect on traffic patterns and public safety.

(5) Whether the proposed (or existing) building and site improvements are consistent and compatible with the city’s Master Plan objectives and the design of neighboring sites and buildings.

(6) Planned outreach on behalf of the proposed business, and whether the applicant or its stakeholders have made, or plan to make, significant physical improvements to the building housing the marihuana establishment, including plans to control traffic, noise, and odor effects on the surrounding area.

(7) Whether the applicant or any of its stakeholders have a record of acts detrimental to the public health, security, safety, morals, good order, or general welfare prior to the date of the application; and whether the applicant or any of its stakeholders have previously operated an illegal business enterprise of any kind.

(8) Whether the applicant has reasonably and tangibly demonstrated it possesses adequate resources and experience to implement the submitted business plan.

(9) The proximity of the business to a school.

(10) Whether adequate off street parking is provided or available.

(11) Whether the size and nature of the use in relationship to previously approved and issued marihuana establishment licenses is reasonable.

(12) Whether the applicant has business experience previously in the city and demonstrates that the applicant has sufficient experience and requisite business experience in the operation of the proposed marihuana establishment.

(13) Whether the proposed plan incorporates sustainable infrastructure and energy efficient elements and fixtures.
(14) Whether the proposed plan incorporates odor control systems to prevent odor
dispersion to neighboring properties.

(15) Other criteria as indicated important for consideration by any appropriate
department of the city administration.

(16) Equivalent licenses, as determined by LARA, for provisioning centers and
marihuana retailers with common ownership, shall be permitted to operate at the
same location.

(g) The city may engage professional expert consultant assistance in performing any of the
duties and responsibilities under this section.

(h) The city shall issue the appropriate permit or send the applicant a notice of rejection
setting forth specific reasons why the city did not approve the permit within 60 days after
receipt from the clerk of completed applications.

Sec. 7-413. Application.

Every applicant for a permit to maintain, operate or conduct a medical marihuana
facility or provisioning center or marihuana retailer or safety compliance facility shall file an
application under oath with the city clerk's office upon a form provided by the city. The
application shall contain the following information:

(1) An explanation of services to be provided and a completed medical
marihuana checklist, if applicable, upon a form prepared by director.

(2) The location, mailing address and all telephone numbers where the business is
to be conducted.

(3) The name and address of applicant.

(a) If applicant is a corporation or limited liability company, the names and
residence addresses of each of the officers and directors of said corporation and
of each stockholder owning more than one percent of the stock of the corporation
or the names and addresses of each of the members of the limited liability
company, the address of the corporation or limited liability company itself, if
different from the address of the medical marihuana facility, provisioning center,
marihuana retailer or safety compliance facility, and the name and address of the
resident agent for the corporation or limited liability company.

(b) If applicant is a partnership, the names and residence addresses of each of
the partners and the partnership itself, if different from the address of the medical
marihuana facility, provisioning center, marihuana retailer or safety compliance
facility, and the name and address of a resident agent for the partnership.
(4) Proof that the applicant and/or proposed employees are at least 21 years of age.

(5) Identification of applicant and/or operator's driver's license.

(6) Business, occupation, or employment of the applicant for the three years immediately preceding the date of application.

(7) The medical marihuana facility history of the applicant, if applicable, or marihuana facility history of the applicant; whether such person has had a business license or permit revoked or suspended, the reason therefore, and the business activity or occupation subsequent to such action of suspension or revocation.

(8) Proof that the applicant and/or its employees are primary caregivers under the Michigan Medical Marihuana Act and for a provisioning center or safety compliance facility proof in the form of a letter or written acknowledgment from the Michigan Department of Licensing and Regulatory Affairs that the applicant has pre-qualification (Step 1) approval under the Medical Marihuana Facilities Licensing Act, Act 281 of 2016, as amended, and for a marihuana retailer, proof in the form of a letter or written acknowledgment from the Michigan Department of Licensing and Regulatory Affairs that the applicant has pre-qualification (Step 1) approval under the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018, as amended.

(9) An application for a new annual permit for a medical marihuana facility, provisioning center, marihuana retailer or a safety compliance 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 the requirements of this section and, including but not limited to:

(a) The name and address of all owners of the real property where the facility is located.

(b) Proof of applicant’s ownership or legal possession of the premises.

(c) A zoning compliance permit.

(10) No applicant may apply for more than one provisioning center permit in the city.

(11) No stockholder, partner or member of an applicant shall have any interest or ownership which shall mean a beneficial interest of greater than one (1%) percent of any other provisioning center or safety compliance facility in the city.

(12) No applicant may apply for more than one marihuana retailer permit in the city.
(13) No stockholder, partner or partner or member of an applicant shall have any interest or ownership which shall mean a beneficial interest of greater than one (1%) percent of any other marihuana retailer or provisioning center or safety compliance facility in the city

Sec. 7-414. - Violations and penalties.

No person shall operate a medical marihuana facility, provisioning center, marihuana retailer or safety compliance facility for which an annual permit is required under this ordinance when the permit has not been issued.

Any person who is found to be in violation of this article shall be responsible for a misdemeanor and shall be subject to a fine of up to 90 days in jail and/or not more than $500.00. Each day shall constitute a separate violation.

Sec. 7-415. - Conditions necessary.

No permit issued to conduct a medical marihuana facility or provisioning center, marihuana retailer or safety compliance facility shall allow the permitee to operate until the city, through the director, confirms the proposed medical marihuana facility or provisioning center, marihuana retailer or safety compliance facility complies with all of the following minimum requirements:

(1) All provisions of the city building, plumbing, fire, electrical and health codes have been fulfilled.

(2) There shall be no entrance or exit way which provides direct access to another type of business, residence or living quarters.

(3) A medical marihuana facility or provisioning center, marihuana retailer or safety compliance facility shall open no earlier than 9:00 a.m. and close no later than 9:00 p.m. Monday through Sunday.

(4) Except as otherwise provided by law, smoking and/or use of medical marihuana shall be prohibited in the medical marihuana facility, provisioning center, marihuana retailer and safety compliance facility, including all public places, at all times.

(5) The medical marihuana facility may provide drug paraphernalia for use, sale or lease to primary caregivers and/or qualified patients.

(6) A medical marihuana facility, provisioning center, marihuana retailer or safety compliance facility shall not have exterior signage using the word "marihuana and/or marijuana" or any other word, phrase or picture commonly understood to refer to marihuana.
(7) Any medical marihuana facility, provisioning center, marihuana retailer or safety compliance facility shall maintain a log book identifying by date the amount of medical marihuana on the premises for each qualifying patient, keeping the qualifying patient information confidential and each primary caregiver. This log shall be available to law enforcement personnel to confirm that the medical marihuana facility, provisioning center, marihuana retailer or safety compliance facility does not have more medical marihuana than authorized at the location and shall not be used to disclose more information than is reasonably necessary to verify the lawful amount of medical marihuana at the facility. The facility shall maintain the confidentiality of qualifying patients in compliance with the Michigan Medical Marihuana Act, as amended.

(8) Each medical marihuana facility shall provide each qualified patient with notice that advises qualified patients of the risks associated with developing addiction, particularly those persons with a history of drug abuse. The notice shall provide contact information for the Substance Abuse Prevention and Treatment Section of the Michigan Department of Health and Human Services, the Substance Use Treatment Services provided through Oakland County’s Community Mental Health Authority or other local or statewide resources available for addiction problems and concerns. The notice may be a posted sign visible to qualified patients at the medical marihuana facility or printed materials provided to each qualified patient.

(9) A facility shall certify that its employees are in compliance with the employee background check requirements set forth in the Medical Marihuana Facilities Licensing Act, Act 281 of 2016, as amended.

(10) The issue of any permit pursuant to this ordinance 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.

(11) A permit issued under this ordinance is valid only for the location of the facility and type of facility that is listed on the permit application and is valid only for the operation of the facility at that location by the permit applicant.

(12) A permit issued under this ordinance is valid only if the permit holder also holds a valid current state operating license (or is a medical marihuana facility in compliance with its special land use approval) and a copy of the valid current license and application for license has been provided to the city clerk by the license holder and is in compliance with all other requirements in this ordinance.

(13) The revocation, suspension, and replacement of restrictions by the state on a state operating license apply equally to a permit issued by the city.
(14) The issuance of a permit under this ordinance authorizes operation of the facility only after the following additional requirements are met:

(a) The applicant has installed the following security measures on the premises:

(i) Security cameras to monitor all areas of the premises where persons may gain or attempt to gain access to marihuana. Recordings from security cameras shall be maintained for a minimum of fourteen days.

(ii) A monitored alarm system.

(15) All marihuana in any form on the premises of a medical marihuana facility shall be marihuana cultivated, manufactured, and packaged in accordance with the laws of the State of Michigan.

Sec. 7-416. Prohibited Acts.

It shall be unlawful for any person to:

(1) Violate any provision of this ordinance or any condition of any permit granted pursuant to this ordinance.

(2) Produce, distribute or possess more marihuana than allowed by any applicable state or local law.

(3) Produce, distribute or possess marihuana in violation of this ordinance or any other applicable state or local law.

(4) Make any changes or allow any changes to be made in the operation of the medical marihuana facility or provisioning center, marihuana retailer or safety compliance facility from that represented in the permit application, without first notifying the city by amending its application.

Sec. 7-417. Permit revocation.

A permit issued in this ordinance may be suspended or revoked for any of the following violations:

(1) Any person required to be named on the permit application is convicted of or found responsible for violating any provision of this ordinance.

(2) A permit application contains any misrepresentation or omission of any material fact, or false or misleading information, or the applicant has provided the city with any other false or misleading information related to the medical marihuana facility, provisioning center, marihuana retailer or safety compliance facility.
(3) Any person required to be named on the permit application is convicted of a crime which, if it had occurred prior to submittal of the application, could have been cause for denial of the permit application.

(4) Medical marihuana is dispensed on the business premises in violation of this ordinance or any other applicable state or local law, rule or regulation.

(5) The facility is operated or is operating in violation of the specifications of the permit application, any conditions of approval by the city or any other applicable state or local law, rule or regulation.

(6) The city, the county, or any other governmental entity with jurisdiction, has closed the facility temporarily or permanently or has issued any sanction for failure to comply with health and safety provisions of this ordinance or other applicable state or local laws related to public health and safety.

(7) The facility is determined by the city to have become a public nuisance.

(8) The facility’s state operating license has been suspended or revoked.

Sec. 7-418. Revocation not exclusive penalty

Nothing in this ordinance shall be deemed to prohibit the city, city manager or designee from imposing other penalties authorized by the City of Ferndale Code or other ordinance of the city, including the filing of a public nuisance action or any other legal action in a court of competent jurisdiction.

Part II. Savings Clause.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law enforced when they are commenced.

Part III. Severability.

The various parts, sections and clauses of this ordinance are declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

Part IV. Repeal.

All regulatory provisions contained in other city ordinances which are inconsistent with the provisions of this ordinance, are repealed.

Part V. Effective Date; Publication.
This ordinance shall become effective upon publication of a notice in a newspaper circulated in the City, stating the date of the enactment and the effective date of the ordinance, a brief notice as to the subject matter of this ordinance, and such other facts as the city clerk shall deem pertinent and that a copy of the ordinance is available for public use and inspection at the office of the city clerk.


DAN MARTIN, MAYOR

MARNE MCGRATH, CITY CLERK

Date of Adoption: _________________

Date of Publication: _______________

CERTIFICATE OF ADOPTION

I hereby certify that the foregoing is a true and complete copy of the Ordinance passed at a meeting of the Ferndale City Council held on the ___ day of _______________, 2019.

MARNE MCGRATH, CITY CLERK
CITY OF FERNDALE
NOTICE OF ADOPTION
ORDINANCE ______

The City of Ferndale has adopted Ordinance No. ____, amending Chapter 7, Business Regulation and Licenses Generally, Article XX of the City of Ferndale. This Ordinance shall be effective after publication. A true copy of the ordinance may be inspected or obtained at the office of the City Clerk.

MARNE MCGRATH, CITY CLERK