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Home > Amid Scrum, Three East Lansing Marijuana Retail Plans Recommended

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## Amid Scrum, Three East Lansing Marijuana Retail Plans Recommended <sup>[1]</sup>

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**By:**

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*Above: One of the applicants speaks to Planning Commission last night.*

East Lansing's Planning Commission has unanimously recommended to City Council three applications for medical marijuana "provisioning centers," the legal name for retail shops that dispense medical marijuana. Those applications go next to City Council for a possible decision.

The attempts to secure the lucrative right to sell medical marijuana in East Lansing has resulted in a scrum that one citizen at last night's Planning Commission meeting described as akin to "hyenas at a carcass." Another described it as like Star Trek's three-dimensional chess game.

That's partly because East Lansing's law currently says that properties with provisioning centers on them must be at least one thousand feet apart. So, who gets to a spot *first* matters to who gets a spot.

Some would-be sellers donated to the "Yes" pro-income-tax campaign [2], a campaign supported by all five members of City Council. Some have boasted about being supportive of the arts in East Lansing.

Council will have to decide what matters when it takes up the applications. Of the three unanimously recommended to Council by Planning Commission last night:

- one is for the location of the old Sawyers Pontiac site on Michigan Avenue, on East Lansing's western border;
- one is for what is now a dentist's office on Merritt Road, not far from Red Cedar Spirits and Costco;
- and the third is for the location of the Subway shop on Grand River Avenue near where The Hub is being built. East Lansing's Downtown Development Authority (DDA) will also weigh in on this one, because it's in the DDA's district [3].

There were originally seven applications before Planning Commission, but one, for 1054 East Grand River Avenue, the site of Valvoline Instant Oil Change, was withdrawn [4] on January 19. That's because the Valvoline's lawyer pointed out his client had an active lease on the property.

### **An emerging, often confusing regulatory framework:**

Michigan law says that medical marijuana businesses must have approval from both the state and the local municipality before opening a provisioning center. East Lansing's Ordinance 1416a [5] says that companies can't apply to open provisioning centers in East Lansing without showing that they have completed the pre-qualification application required by the State.

Once a prospective provisioning center receives state pre-qualification and applies for special use permit (SUP) from East Lansing, the City's Planning Commission holds public hearings and makes recommendations to Council. (That means that all the applicants that have come before Planning Commission have been pre-qualified by the State.)

Ordinance 1416a sets certain "overlay" districts where provisioning centers can be set up. (More on that below.) That law does not allow for any provisioning centers in what most would consider "downtown" East Lansing, but it does permit them in the East Village (area shown below), which is part of the DDA district. The DDA is scheduled to discuss several applications at today's midday meeting [6], and may vote on recommendations to Council.



The ultimate decision on whether the businesses can operate within the City is made by City Council, which will vote on whether to grant SUPs. Council approval is not really the final hurdle, however, since each center must still complete the process of getting final approval from the State of Michigan.

It's important to note that the order in which the applications have been considered by Planning Commission has no formal legal significance in terms of the likelihood of approval. East Lansing's City Council did not establish a system for how to decide who gets priority. Council could, in theory, wait until Planning Commission makes recommendations on all active applications before deciding which to approve.

### **Where provisioning can set up shop:**

East Lansing City Council has approved [7] four overlay districts as the only places where a medical marijuana provisioning center may currently be located:

- Properties north of Abbey Road ?as extended to U.S. 127,? west of Coolidge Road, east of U.S. 127, and south of the northern boundary line of the existing OIP (Office Industrial Park) District extended to 127.
- Properties bounded by the existing B2 (?Retail Sales Business?) district within the City limits that are south of Michigan Avenue and west of Brody Road.
- Properties bounded by Park Lake Road, Haslett Road, and Merritt Road, near the new Costco.
- Properties south of Grand River Avenue between Cedar Street and Hagadorn Road ? the area known as the East Village and containing The Hub project, now under construction [8].

Ordinance 1416a also prohibits locating a provisioning center within 1,000 feet of the lot lines of another provisioning center, or of a retail establishment whose exclusive or primary business is the sale of alcoholic liquor for off premises consumption.

The centers are also prohibited within 1000 feet of from the lot lines of any school, including any licensed facility with after school programs, child care centers, or daycare centers.

### **The applications considered so far:**

These are the six live applications in East Lansing so far:

#### *The northwest side of town (no action taken yet):*

The first application considered by Planning was made by Joe Neller, Executive Vice President of Green Peak Innovations, for property in the City's northwest corner, at 3318-3332 West Road. Most of that property would be left as wetlands, and Neller suggested the possibility of separating the provisioning center parcel from the rest of the property in the future.

For that location, Green Peak Innovations has a purchase agreement [9] with the current property owner, Alimac, LLC, that is filed with the City. Green Peak Innovations operates medical marijuana processing and cultivation centers in Dimondale, MI, according to Neller, and is in the process of opening eighteen other provision centers across Michigan.

As of the January 23 Planning Commission meeting, no action was taken on this application, as the East Lansing Transportation Commission had not yet reviewed it.

#### *The old Sawyer Pontiac site (recommended for approval):*

Another application concerned the property housing the former Sawyer Pontiac dealership at 1415 Michigan Avenue. Located near the Lansing-East Lansing border on the south side of Michigan Avenue, the provisioning center proposed [10] by JBC, LLC would be housed in the smaller structure on the property, formerly a retail space for used cars, while the larger showroom would be torn down.

Chris Jerome of JBC, who is the applicant and also owns the property, has two goals. He hopes to use the provisioning center to fund the redevelopment of property he feels is in desperate need of cleaning up, while providing access to what he feels is necessary medicine after his parents' terminal illnesses were managed with medical marijuana.

Jerome has also pledged \$25,000 to commission an art piece for the property to beautify the entrance to East Lansing. He is open to community input on what that might be.

At the January 23 Planning Commission meeting, this application received unanimous support for a recommendation to City Council to approve the application.

#### *Up on Merritt Road (recommended for approval):*

Another would-be provisioning center is proposed [11] by RJB Enterprises, LLC, for 1950 Merritt

Road. This is in an existing dentistry office, with the proposal renovating [12] only the interior (rendered below) to allow for a larger space for the ?bud room? and secure product storage.



According to Randall Buckman, CEO of Emerald Growth Partners (the parent company of RJB Enterprises), the property is owned by the dental office which plans to sell the property and move, contingent on City approval of the provisioning center.

Planning Commission Chair Daniel Bollman questioned how Red Cedar Spirits [13] being located on the adjacent property would affect this proposal, as no provisioning center can be within 1,000 feet of another provisioning center or liquor store. At the January 23 Planning Commission meeting, Haywood clarified that Red Cedar Spirits? primary activity is bulk distribution rather than single-bottle sales. Because of this, the 1000-foot rule does not apply.

At the same meeting, there was unanimous support for a recommendation to City Council to approve the application.

*The current Subway location at 1100 East Grand River (recommended for approval):*

The application for 1100 East Grand River Avenue is proposed by DNVK 1. The property currently houses a Subway restaurant, and is in the ?East Village? area, near where The Hub is being built. (A similar plan was submitted by DNVK 1 for 1054 East Grand River Avenue, the current location of Valvoline, but was withdrawn.)

Updating the façade of the current building at 1100 East Grand River Avenue would be required to meet the special East Village form-based code [14], while other aspects of the structure could continue to be nonconforming.

According to the East Lansing Planning & Zoning Administrator David Haywood, another

application for the Subway property had been submitted, but was too late to be included in that Planning Commission's meeting.

*1108 East Grand River and 1054 East Grand River (no action taken on either yet):*

Two additional provisioning center applications were seen by the Planning Commission on January 23, for 1108 and 1054 East Grand River Avenue. No action has been yet taken on these. Both are in the East Village, as is the one for 1100 East Grand River Avenue, which means they are all competing, because all are within 1,000 feet of each other.

At 1108 East Grand River Avenue, the location of the currently-closed Oades Big Ten liquor store, ABCD Properties is applying for a provisioning center (rendered below).



The would-be operator for the Oades site, Fresh Coast Provisioning, now owns the liquor store and plans to re-open the liquor store as soon as possible, in order to try to secure their ability to have a provisioning center.

Confused? Here's how it works:

Fresh Coast wants to open a provisioning center where Oades was. So the liquor license for Oades needs to be transferred. To transfer the license, the store had to temporarily close.

Fresh Coast knows that if it has an open liquor store at its desired location, no one else can open a *provisioning center* within 1,000 feet. So they're hastening to open back up the liquor store while they hope they get the right to open a provisioning center there. If their SUP application for selling marijuana is eventually approved, they will close the liquor store again and open the provisioning center.

Some commissioners and a competitor's attorney asserted that Fresh Coast Provisioning and ABCD Properties were using a "legal maneuver" to ensure no other provisioning centers could be opened in the area. Fresh Coast Provisioning's representative didn't dispute that.

## What's next?

Now, the applications for the three recommended-for-approval provisioning centers will continue on to City Council, with one to be reviewed first by the DDA today. The three remaining applications will come back to Planning Commission at a later date.

Again, Council could decide to wait until it has recommendations on all active applications before it makes a decision. But if a business feels it was treated unfairly, it could sue the City. And that issue will likely be weighing on at least some City leaders as they figure out what to do.

**Update:** The DDA voted 7-2 to recommend the project at 1100 East Grand River, making that the only provisioning center proposal the DDA has voted to recommend to City Council so far. The DDA voted against recommending approval of the proposals for 1054 and 1108 East Grand River.

On the vote for the project at the Oades location (1108 East Grand River), Mayor Pro Tem Erik Altmann, who was substituting for Mayor Mark Meadows, called the liquor store "ugly" and said "I want to get rid of that store." He said that he did not see the proposal for a provisioning center as an improvement of the property. But then he was one of two votes in favor. (Jeff Kusler cast the second vote in favor.)

The DDA engaged in a lively discussion of where, if anywhere, provisioning centers should be located in the downtown. DDA Chair Peter Dewan was strongly of the opinion that provisioning centers should be located elsewhere, but most DDA members felt the East Village was a reasonable location for a provisioning center. They were concerned chiefly with aesthetics.

*Alice Dreger contributed reporting.*

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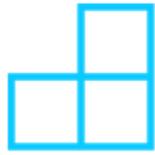
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- [15] <https://eastlansinginfo.org/citycouncil>
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