

MARSHALL CITY PLANNING COMMISSION
Wednesday, October 14, 2020
Training Room, City Hall, 323 W. Michigan Ave., Marshall, MI
7:00 p.m.

Call to Order

Roll Call

Approval of Agenda

Regular Meeting of the Planning Commission, October 14, 2020

Approval of Minutes

Minutes from September 9, 2020

Public Comments on Agenda Items

Public Hearings

New Business

1. Discuss Attorney-Client Privileged written communication dated October 9, 2020
2. Schedule a Public Hearing for November 11, 2020 for Zoning Ordinance text amendment to define Hoop House and Commercial Greenhouse and define Use Standards for same.

Old Business

Public Comment on Non-Agenda Items

Reports

Adjournment

**MINUTES
MARSHALL CITY PLANNING COMMISSION
WEDNESDAY, September 9, 2020**

In a regular session, Wednesday, September 9, 2020 at 7:00 p.m. at City Hall, Training Room, 323 West Michigan Ave, Marshall, Michigan, the Marshall Planning Commission was called to order by Chair Davis.

ROLL CALL

Members Present: Chair Davis, Commissioners, Banfield, McNiff, Reed, Rodgers and Schwartz, and Council Liaison Metzger

Members Absent: Commissioners Burke Smith and Collins

Staff Present: Trisha Nelson, City Clerk & Planner
Eric Zuzga, Director of Special Projects

AGENDA

MOTION by Banfield, supported by Rodgers to accept the agenda for the Wednesday, September 9, 2020 as submitted. On a voice vote; **MOTION CARRIED**

MINUTES

MOTION by McNiff, supported by Reed, to accept the minutes from the July 8, 2020 regular meeting. On a voice vote; **MOTION CARRIED**

PUBLIC COMMENTS ON AGENDA ITEMS

None

PUBLIC HEARINGS

Chair Davis opened the Public Hearing on Rezoning Request #RZ20.02 for 115 N Grand from POSD Professional Office Service District to R-3 Traditional Residential. Hearing no public comment, Chair Davis closed the Public Hearing on Rezoning Request #RZ20.02 for 115 N Grand from POSD Professional Office Service District to R-3 Traditional Residential.

NEW BUSINESS

MOTION by Banfield, supported by Schwartz, to recommend to council the Rezoning Request #RZ20.02 for 115 N Grand from POSD Professional Office Service District to R-3 Traditional Residential.

Nelson stated that this property is directly south of the property that was rezoned in May from POSD to R-3. The current owner is selling the home and it needs to be rezoned to residential for the sale. She

further stated that Marshall is currently in need of housing and that rezoning this residential opens a new opportunity. Liaison Metzger questioned if the property was previously used as a residential property. Eric Young, owner of 115 S Grand, stated that he has been using it as his residence since 2015 and was surprised to learn that it was not zoned residential when it went up for sale. Davis questioned if it could be used as a residential property in its current zoning district. Nelson stated that it would be a nonconforming use.

The commissioners went over the rezoning criteria.

A. The proposed zoning district is more appropriate than any other zoning district or more appropriate than adding the desired use as a special land use in the existing zoning district. Commissioners agreed that since the building currently on the property is a house and it is surrounded by houses, it is more appropriate.

B. The property cannot be reasonably used as zoned. Commissioners agreed that it could be a commercial property.

C. The proposed zone change is supported by and consistent with the goals, policies and future land use map of the adopted City Master Plan. If conditions have changed since the plan was adopted, as determined by the Planning Commission, the consistency with recent development trends in the area shall be considered. Commissioners agreed that it meets the current trends in the City.

D. The proposed zone change is compatible with the established land use pattern, surrounding uses, and surrounding zoning in terms of land suitability, impacts on the environment. Density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values, and is consistent with the needs of the community. Commissioners agreed that it is suitable to the area.

E. All the potential uses allowed in the proposed zoning district are compatible with the site's physical, geological, hydrological, and other environmental features. Commissioners agreed that they are.

F. The change would not severely impact traffic, public facilities, utilities, and the natural characteristics of the area, or significantly change population density, and would not compromise the health, safety, and welfare of the City. Commissioners agreed that it would not have an impact.

G. The rezoning would constitute and create an isolated and unplanned district contrary to the City Master Plan which may grant a special privilege to one landowner not available to others. Commissioners agreed that it would not create an isolated or unplanned district.

H. The change of present district boundaries is consistent in relation to existing uses, and construction on the site will be able to meet the dimensional regulations for the proposed zoning district listed in the schedule of regulations. Commissioners agreed that it is.

I. There was a mistake in the original zoning classification, or a change of conditions in the area supporting the proposed rezoning. Commissioners agreed that it was not a mistake but there has been a change in conditions.

J. Adequate sites are neither properly zoned nor available elsewhere to accommodate the proposed uses permitted in the requested zoning district. Commissioners agreed there are some sites available.

On a voice vote; **MOTION CARRIED.**

OLD BUSINESS

None

PUBLIC COMMENTS NOT ON AGENDA

None

REPORTS

Nelson stated that the site plan that was planned to be discussed at this meeting should be coming soon. There were some revisions that has to be made but they should be back soon. Davis questioned when are the applications for absentee voting will be going out? Nelson stated that the state sent out postcards to everyone not currently registered to vote absentee in the upcoming election. McNiff questioned if there is a way to track your ballot. Nelson stated that there is a way to check on the secretary of state website. She further stated that the city should have the ballots by Sept 18 and they need to be mailed out by the end of the month.

Rodgers stated that it was the last night in the Franke Center's masked singer contest, which was a fundraiser.

Davis stated that the new MAEDA director, James Durian, has hit the ground running. He further stated that Durian used to work for Flint and that he has been really communicative and is working with the city on projects. Davis stated that things have started to pick back up for MAEDA, but they are facing a 40% budget shortfall.

ADJOURN

Planning Commission adjourned at 7:43 p.m.

Submitted by,

Michelle Eubank

REVORE LAW FIRM, PLC

ATTORNEYS AT LAW

121 1/2 W. MICHIGAN AVENUE, MARSHALL MICHIGAN 49068
836 CENTENNIAL WAY, SUITE 130, LANSING, MICHIGAN 48917

TELEPHONE (517) 993-6686
FAX (517) 993-5628

DAVID M. REVORE

October 9, 2020

Confidential: Attorney-Client Privileged Communication

Via Email Delivery

Matt Davis, Planning Commission Chair,
Planning Commission Members,
c/o Tom Tarkiewicz, City Manager
323 W. Michigan Ave.
Marshall, MI 49068

Re: Zoning Ordinance Amendment

Dear Members of the Planning Commission:

The purposes of this correspondence is to bring to discuss recent requests for amendments to the City's relevant ordinances to allow cultivation of marihuana in "semi-permanent structures" (a.k.a, "hoop houses" and "commercial greenhouses").

Information:

Presently, the City has three (3) marihuana ordinances relevant in this matter: 1) Ordinance No. 2017-05, passed 6-5-2017 (Ch. 119: Medical Marihuana)¹; 2) Ordinance No. 2019-06, passed September 16, 2019 (Ch. 121: Commercial Marihuana); and, 3) Ordinance No. 2019-09, passed December 3, 2019 (Zoning Ordinance Amendment)².

Discussion:

¹ The Medical Marihuana ordinance is silent as to outdoor cultivation of marihuana and need not be amended for this matter.

² The following Zoning Ordinance does not require amendment for this matter as it was amended in 2019, as follows:

Marshall City Zoning Code, section 3.1.12, I-1 Research and Technical District, subsection B – Principal Permitted Uses, is hereby amended to **Add the following uses:**

- xxiv. "Any use allowed in such district as provided in the City Commercial Marihuana Ordinance."

Marshall City Zoning Code, section 3.1.13 I-2 General Industrial District, subsection B – Principal Permitted Uses, is hereby amended to **add the following uses:**

- xxv. "Any use allowed in such district as provided in the City Commercial Marihuana Ordinance."

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The City Zoning Ordinance does not define “commercial greenhouses” or “hoop houses”. Also, Chapter 4.0 Use Standards of the Marshall City Zoning Code, Section 4.16 “Commercial Greenhouses, Nurseries and Garden Centers”, does not adequately address the use of commercial greenhouses and Chapter 4.0, Section 4.16 is silent concerning “hoop houses”. As such, the proposed use was researched that included LARA/MRA rules for cultivation of marihuana (Sec, R. 25 and R.26).

Proposed Zoning Ordinance Amendment:

Members of the City Council and LDFA Executive Committee have expressed interests to allow expansion of the industry to include cultivation of marijuana in enclosed greenhouse structures. Accordingly, with input from City administrative members, the following ordinance language has been prepared for discussion and consideration³:

Section 1. That Chapter 2.0, Definitions of the Marshall City Zoning Code, Section 2.2 “Definitions”, is hereby amended to add the following terms or words as defined as follows:

Hoop House. A temporary structure typically made of, but not limited to, piping or other material covered with translucent material for the purposes of cultivating plants, food or ornamental crops.

Commercial Greenhouse. A permanent structure that is constructed primarily of glass, glass-like or translucent material which is devoted to the protection or cultivation of plants, food or ornamental crops.

Section 2. That Chapter 4.0 Use Standards of the Marshall City Zoning Code, Section 4.16 “Commercial Greenhouses, Nurseries and Garden Centers”, is hereby amended to add requirements for Hoop Houses and Commercial Greenhouses for marihuana cultivation as follows:

Hoop Houses and Commercial Greenhouses for marihuana cultivation are permitted as special land uses in the I-1 district with no limits on square footage.

1. Hoop House. The following shall apply:
 - A. Setbacks shall be 1500 feet from any residential structure, 250 feet from the road right-of-way centerline, and 50 feet from any rear or side property line.
 - B. Screening shall comply with Section 5.15.8, and also include complete greenbelt screening from the road right-of-way and adjacent property.

³ See Attachment A – DRAFT ZO Amendment.

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- C. Limited duration not to exceed three (3) continuous years.
2. Commercial Greenhouse. The following shall apply:
- A. Setbacks shall be required under Section 3.1.12(D).
 - B. Screening shall comply with Section 5.15.8, and also include complete greenbelt screening from the road right-of-way and adjacent property.
3. Hoop House and Commercial Greenhouse cultivation of marihuana. The following shall apply:
- A. Comply with applicable LARA/MRA rules and regulations.
 - B. Subject to a Special Land Use permit under Section 6.2, permit and for special conditions as may be necessary based upon the uniqueness of the property, subject to a public hearing, review and recommendation by the Planning Commission, and approval by the City Council in accordance with the procedures and conditions specified in Section 6.2. of the Zoning Ordinance. A Special land Use permit may be revoked or rescinded by the City Council for violation of the SUP, City ordinance, Zoning Ordinance, or state law and regulations, after notice to the SUP holder and hearing.
 - C. As permitted in this section, the area containing the cultivation of marihuana plants must be completely confined and enclosed in a Hoop House or Commercial Greenhouse made of durable construction to include metal framing materials and durable translucent material on all sides and top of a Hoop House, or glass, glass-like or translucent material on all sides and top of a Commercial Greenhouse.
 - D. Hoop Houses and Commercial Greenhouses must be located on the parcel of the grower establishment or facility, fully enclosed by property line fencing and by internal secondary security fencing.
 - E. Hoop Houses and Commercial Greenhouses must have greenbelt barriers that block outside visibility of the marihuana plants from the public view, with no marihuana plants growing outside the top of the Hoop House or Commercial Greenhouse nor above the fence and barrier that is visible to the public eye and the fences must be secured and comply with the applicable security measures in City

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ordinances and LARA/MRA rules and regulations, including but not limited to, locked entries only accessible to authorized persons or emergency personnel.

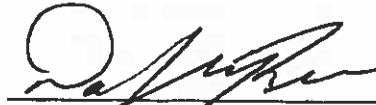
- F. After the marihuana is harvested, all drying, trimming, curing, or packaging of marihuana must occur inside a permanent building meeting all the requirements of City ordinance, state statute, codes and LARA/MRA rules and regulations.
- G. Hoop Houses and Commercial Greenhouses must meet the security requirements and pass inspections required under City ordinance and LARA/MRA rules and regulations and any necessary building permit pursuant to City ordinance, state statute, code and LARA/MRA rules and regulations.

Recommendation:

If Members of the Planning Commission and City Council desire to permit commercial greenhouses and hoop house for marihuana cultivation under the City Zoning Ordinance, certain sections must be amended.

Thank you for considering this matter.

Very truly yours,



David M. Revore
Marshall City Attorney

C: Mayor Joe Caron and City Council Members
LDFA Executive Committee
Trisha Nelson, Clerk

This document constitutes privileged attorney-client communication to remain confidential among the members of the City Council, its Administrative staff and the members of the Planning Commission and LDFA. As such, this document is exempt from disclosure under the Michigan Freedom of Information Act, MCL 15.243(1)(g), and the public body may meet in a closed session to consider its contents pursuant to the Michigan Open Meetings Act, MCL 15.268(h).

Attachment A

CITY OF MARSHALL, MICHIGAN

ORDINANCE #2020-___

AN ORDINANCE TO AMEND CITY OF MARSHALL ZONING CODE, CHAPTER 2.0, DEFINITIONS, SECTION 2.2, AND CHAPTER 4.0 USE STANDARDS, SECTION 4.16, COMMERCIAL GREENHOUSES, NURSERIES AND GARDEN CENTERS.

THE CITY OF MARSHALL HEREBY ORDAINS:

Section 1. That **Chapter 2.0, Definitions** of the Marshall City Zoning Code, Section 2.2 "Definitions", is hereby amended to add the following terms or words as defined as follows:

Hoop House. A temporary structure typically made of, but not limited to, piping or other material covered with translucent material for the purposes of cultivating plants, food or ornamental crops.

Commercial Greenhouse. A permanent structure that is constructed primarily of glass, glass-like or translucent material which is devoted to the protection or cultivation of plants, food or ornamental crops.

Section 2. That **Chapter 4.0 Use Standards** of the Marshall City Zoning Code, Section 4.16 "Commercial Greenhouses, Nurseries and Garden Centers", is hereby amended to add requirements for Hoop Houses and Commercial Greenhouses for marihuana cultivation as follows:

Hoop Houses and Commercial Greenhouses for marihuana cultivation are permitted as special land uses in the I-1 district with no limits on square footage.

1. Hoop House. The following shall apply:
 - A. Setbacks shall be 1500 feet from any residential structure, 250 feet from the road right-of-way centerline, and 50 feet from any rear or side property line.
 - B. Screening shall comply with Section 5.15.8, and also include complete greenbelt screening from the road right-of-way and adjacent property.
 - C. Limited duration not to exceed three (3) continuous years.
2. Commercial Greenhouse. The following shall apply:
 - A. Setbacks shall be required under Section 3.1.12(D).

Attachment A

- B. Screening shall comply with Section 5.15.8, and also include complete greenbelt screening from the road right-of-way and adjacent property.
3. Hoop House and Commercial Greenhouse cultivation of marihuana. The following shall apply:
- A. Comply with applicable LARA/MRA rules and regulations.
 - B. Subject to a Special Land Use permit under Section 6.2, permit and for special conditions as may be necessary based upon the uniqueness of the property, subject to a public hearing, review and recommendation by the Planning Commission, and approval by the City Council in accordance with the procedures and conditions specified in Section 6.2. of the Zoning Ordinance. A Special land Use permit may be revoked or rescinded by the City Council for violation of the SUP, City ordinance, Zoning Ordinance, or state law and regulations, after notice to the SUP holder and hearing.
 - C. As permitted in this section, the area containing the cultivation of marihuana plants must be completely confined and enclosed in a Hoop House or Commercial Greenhouse made of durable construction to include metal framing materials and durable translucent material on all sides and top of a Hoop House, or glass, glass-like or translucent material on all sides and top of a Commercial Greenhouse.
 - D. Hoop Houses and Commercial Greenhouses must be located on the parcel of the grower establishment or facility, fully enclosed by property line fencing and by internal secondary security fencing.
 - E. Hoop Houses and Commercial Greenhouses must have greenbelt barriers that block outside visibility of the marihuana plants from the public view, with no marihuana plants growing outside the top of the Hoop House or Commercial Greenhouse nor above the fence and barrier that is visible to the public eye and the fences must be secured and comply with the applicable security measures in City ordinances and LARA/MRA rules and regulations, including but not limited to, locked entries only accessible to authorized persons or emergency personnel.
 - F. After the marihuana is harvested, all drying, trimming, curing, or packaging of marihuana must occur inside a permanent building meeting all the requirements of City ordinance, state statute, codes and LARA/MRA rules and regulations.
 - G. Hoop Houses and Commercial Greenhouses must meet the security requirements and pass inspections required under City ordinance and LARA/MRA rules and regulations and any necessary building permit

Attachment A

pursuant to City ordinance, state statute, code and LARA/MRA rules and regulations.

Section 3. Severability. It is the legislative intent of the City adopting this Ordinance that all provisions hereof shall be liberally construed to protect the public health, safety and general welfare of the inhabitants of the City and all other persons affected by this Ordinance. Consequently, should any provision of this Ordinance be held to be unconstitutional, invalid or of no effect, such holding shall not be construed as affecting the validity of any of the remaining provisions of this Ordinance or Zoning Code, it being the intent of the City Council that this Ordinance shall stand and remain in effect, notwithstanding the invalidity of any provision hereof.

Section 4. This Ordinance [or a summary thereof as permitted by MCL 125.3401] shall be published in the *Marshall Chronicle*, a newspaper of general circulation in the City of Marshall qualified under state law to publish legal notices. This Ordinance shall be recorded in the Ordinance Book and such recording shall be authenticated by the signatures of the Mayor and the City Clerk.

Section 5. This Ordinance is declared to be effective seven (7) days after publication or as provided by law.

Adopted and signed this _____ day of _____, 2020.

Joe Caron, MAYOR

Trisha Nelson, CITY CLERK

I, Trisha Nelson, being duly sworn as the City Clerk for the City of Marshall, hereby certify that the foregoing is a true and complete copy of an ordinance approved by the City Council, City of Marshall, County of Calhoun, State of Michigan, at a regular meeting held on _____, 2020, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available by said Act.

Trisha Nelson, CITY CLERK