

MARSHALL CITY PLANNING COMMISSION
Wednesday, October 13, 2021 at 7:00 p.m.
City Hall, Council Chambers, 323 W. Michigan Ave., Marshall, MI

Call to Order

Roll Call

Approval of Agenda

Regular Meeting of the Planning Commission, October 13, 2021

Approval of Minutes

Minutes from September 8, 2021

Public Comments on Agenda Items

Public Hearings

New Business

1. Schedule a Public Hearing for November 10, 2021 for a Zoning Ordinance Amendment to repeal "Hoop Houses" and to prohibit such use

Old Business

Public Comment on Non-Agenda Items

Reports

Adjournment

**MINUTES
MARSHALL CITY PLANNING COMMISSION
WEDNESDAY, SEPTEMBER 18, 2021**

In a regular session, Wednesday, September 18, 2021 at 7:00 p.m. at City Hall, Council Chambers, 323 West Michigan Avenue, Marshall, Michigan, the Marshall Planning Commission was called to order by Chair Banfield.

ROLL CALL

Members Present: Chair Banfield, Commissioners Burke Smith, Davis, Hall, Reed, and C. Zuzga and Council Liaison Wolfersberger

Members Absent: Commissioners McNiff and Zuck

Staff Present: Trisha Nelson, City Clerk & Planner
Eric Zuzga, Director of Community Services
Scott McDonald, Director of Public Safety

AGENDA

MOTION by Davis, supported by Burke Smith, to accept the agenda for the Wednesday, September 8, 2021 as submitted. On voice vote; **MOTION CARRIED.**

MINUTES

MOTION by C Zuzga, supported by Reed, to accept the minutes from the August 2, 2021 special meeting. On voice vote; **MOTION CARRIED.**

MOTION by Burke Smith, supported by C Zuzga, to accept the minutes from the August 11, 2021 regular meeting. Banfield noted that under reports it should say landscape consultation in the second paragraph. On voice vote; **MOTION CARRIED.**

PUBLIC COMMENTS ON AGENDA ITEMS

None

PUBLIC HEARINGS

Chair Banfield opened the Public Hearing for Special Land Use Request #SLU21.02 for 205 W Oliver Dr from Gen Two Solutions, LLC.

Evan Pilot of Gen Two Solutions, stated that he was on site questions. He further stated that their main concern for the building was the odor control and they believe they have put together a comprehensive plan for review.

Chair Banfield closed the Public Hearing for Special Land Use Request #SLU21.02 for 205 W Oliver Dr from Gen Two Solutions, LLC.

NEW BUSINESS

MOTION by Burke Smith, supported by Davis, to recommend Special Land Use request #SLU21.01 for 205 W Oliver Dr from Gen Two Solutions, LLC to City Council.

Davis questioned what the odor mitigation plan was. Pilot stated that as part of the business plan they will have a 2-stage filtration system, where there will be carbon filtration within the rooms, another filtration system in the hallway, and a final phase before it leaves the building. Davis questioned if they were prepared to change things if there are complaints, similar to the way there have been for Common Citizen. Pilot questioned if Common Citizen was a greenhouse or an interior grow. E Zuzga stated that they are a greenhouse. Pilot stated that with their room within a building method it gives additional barriers that don't exist in a traditional greenhouse. He further stated that additional mitigation measures could be put in place, if need be, such as in another facility they have grown plants with a complimentary scent to offset the smell.

Banfield questioned what their experience was within the cannabis industry. Pilot stated that they have done consulting in numerous places and have found that with the right carbon filtration in the right locations, there should be no odor. He further stated that if you seal the rooms the way you should, there should not be any air or odor leaving the rooms. Banfield stated that there was a complaint form that the petitioner had submitted with their application if there are any issues. Pilot stated that they want to know if there are any issues so that they can be addressed.

Banfield questioned if there were any changes to site plan besides cleaning it up. Pilot stated that there will be no additional structures, just the addition of a fence.

The operations manager for McElroy Metal stated that at times the smell coming in from Cresco can be pretty bad and he questioned if the new filter system will help with the odors. Pilot stated that the filtration system keeps the air in the room as much as possible, as that is what is best for the plants. He further stated that if any air leaves the room, it will be filtered several times before leaving the building. He stated that they are constantly changing their systems and he firmly believes they will have far less odor than other buildings.

Banfield questioned if the filtration system was something they invented. Pilot stated that it wasn't really an invention, more of a technique in how already existing products are implemented. He further stated that a number of facilities that have switched to this method are keeping costs down when the rooms are sealed properly and it creates the best possible product. He stated that some may see the process as overboard as it's not required at the state to a certain level, but after implementing it in other municipalities it has become a tried-and-true method.

Burke Smith questioned if the odor plan at Cresco was known. Director McDonald stated that there is a sophisticated carbon system in place. Reed questioned if they were using the double room method. McDonald stated that the methods used are proprietary. Nelson stated that the city encourages everyone to make a complaint and that it will be investigated to see what the potential problem is and work with the companies on solutions. Pilot stated that they hope to be in the community for a long time and want to have a good relationship with neighbors by addressing any issues.

MOTION by Burke Smith, supported by Davis, to recommend Special Land Use request #SLU21.01 for 205 W Oliver Dr from Gen Two Solutions, LLC to City Council. On voice vote;
MOTION CARRIED.

OLD BUSINESS

None

PUBLIC COMMENTS NOT ON AGENDA

None

REPORTS

None

ADJOURN

Planning Commission adjourned at 7:25 p.m.

Submitted by,

Michelle Eubank

MARSHALL PLANNING COMMISSION

Staff report for October 13, 2021

To: Planning Commissioners
From: Trisha Nelson, Planning and Zoning Administrator
Subject: Zoning Ordinance Text Amendment to repeal Hoop Houses

Planning Commission is being presented with the attached ordinance from Attorney Revore to repeal “Hoop Houses” and to prohibit such use.

The ordinance introducing the use of hoop houses in the city was brought to Planning Commission on October 14, 2020 and a public hearing was held on November 11, 2020.

After receiving further complaints regarding marihuana odors and review of the Hoop House building and structural materials being temporary, thinly constructed, and translucent, such may likely exacerbate an unreasonable marihuana odor situation. Also, given the fact that Hoop Houses may occupy significant land acreage that will result in reduced land use development and reduced taxable values. City Staff recommend the amendment to the Zoning Ordinance to repeal of “Hoop Houses” and such uses.”

Planning Commission is being asked to schedule a public hearing for November 10, 2021 to hear public comment regarding the proposed ordinance to repeal “Hoop Houses” in the City of Marshall.

CITY OF MARSHALL, MICHIGAN

ORDINANCE #2021-___

AN ORDINANCE TO AMEND THE CITY OF MARSHALL ZONING CODE, TO REPEAL CERTAIN SECTIONS OF ORDINANCE NO. 2020-14; TO AMEND CHAPTER 2.0, DEFINITIONS, SECTION 2.2, AND CHAPTER 4.0 USE STANDARDS, SECTION 4.16, COMMERCIAL GREENHOUSES, NURSERIES AND GARDEN CENTERS. REPEAL ANY ORDINANCES IN CONFLICT THEREOF; AND TO PROVIDE AN EFFECTIVE DATE HEREOF.

THE CITY OF MARSHALL, CALHOUN COUNTY, HEREBY ORDAINS:

Section 1. Purpose. The purpose of this Ordinance is to amend the City Zoning Ordinance and Ordinance No. 2020-14 to repeal “Hoop Houses” and delete all such use reference thereto, and to prohibit such “Hoop House” use within the City limits of the City of Marshall and on property that the City controls under an interlocal governmental agreement.

It is the intent of this Ordinance to provide for the health, safety and welfare of the citizens of Marshall so that quality of life is not impaired, neighborhood character is preserved, and positive planned land use developed.

Section 2. “Hoop House” and Hoop House Use Repealed; Hoop Houses Prohibited. The City Zoning Ordinance and its amending ordinances are hereby and shall be amended to repeal “Hoop Houses” and to prohibit such “Hoop House” use within the City limits of the City of Marshall and on property that the City controls under an interlocal governmental agreement.

Section 3. That Chapter 2.0, Definitions of the Marshall City Zoning Code, Section 2.2 “Definitions”, is hereby and shall be amended as follows:

Hoop House. A temporary structure used exclusively for the production and storage of live plants, with no permanent anchoring system or foundation; no storage, temporary or otherwise, of solvents, fertilizers, gases or other chemicals or flammable materials; built according to manufacturer recommendations; no more than 18 feet maximum height. **Notwithstanding this definition, Hoop Houses and such use are prohibited within the City limits of the City of Marshall and prohibited on property that the City controls under an interlocal governmental agreement.**

Section 4. That Chapter 3.0, Zoning Districts of the Marshall City Zoning Code, Section 3.1.12 “I-1 Research and Technical District”, is hereby and shall be amended to delete “hoop houses” from Chapter 3.0, Zoning Districts of the Marshall City Zoning Code, Section 3.1.12 “I-1 Research and Technical District” as follows:

- v. Commercial greenhouses, ~~hoop houses~~, nurseries, and garden centers.

Section 5. That Chapter 4.0 Use Standards of the Marshall City Zoning Code, Section 4.16 “Commercial Greenhouses, Nurseries and Garden Centers”, is hereby and shall be amended to delete “Hoop Houses” and such use and reference from Chapter 4.0 Use Standards of the Marshall City Zoning Code, Section 4.16 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. Limited duration not to exceed three (3) years.~~
- ~~C. If a Hoop House contains any device subject to the electrical code or any mechanical equipment subject to the mechanical code, a permit shall be required for the device, system or fixture only. If the hoop house is connected to a potable water system, a permit shall be required for the backflow prevention devices only.~~

2. Commercial Greenhouse. The following shall apply:

- A. Setbacks shall be required under Section 3.1.12(D).

3. ~~Hoop House~~ and Commercial Greenhouse cultivation of marihuana. The following shall apply:

- A. Comply with applicable LARA/MRA rules and regulations, City ordinances and City Zoning Ordinance.
- 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,~~ **building materials that may include** glass-like or translucent material on all sides and top of a Commercial Greenhouse. ~~Hoop Houses and~~ Commercial Greenhouses may not exceed 18 feet maximum height.

- D. ~~Hoop Houses and~~ Commercial Greenhouses must be located on the parcel of the grower establishment or facility, fully enclosed by property security fencing. Security fencing must be at a minimum of eight (8) feet in height.
- E. Site Plan approval. ~~Hoop Houses and~~ Commercial Greenhouses are subject to site plan review and must receive approval.
- F. Screening shall comply with Section 5.15.8, and also include the means, including walls and plantings, to accomplish complete visual screening from the road right-of-way and adjacent property. ~~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.
- G. 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.
- H. ~~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.
- I. Odor Control. A grower or a processor shall install and maintain in operable condition a system which precludes the emission of unreasonable marihuana odor from the property.

Section 6. 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 thereof.

Section 7. Conflicting Ordinance and Code Provisions Repealed. Any City of Marshall Ordinance, parts of Ordinances, or any Marshall Code provision in conflict or inconsistent with any of the provisions of this Ordinance shall be and is hereby repealed, and all other provisions of the Marshall Zoning Ordinance shall remain in full force and effect.

Section 8. Savings. 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 in force when they were commenced.

Section 9. Publication. This Ordinance [or a summary thereof as permitted by MCL 125.3401] shall be published in the *Marshall Advisor*, 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 10. Code Edits. That the editors of the Marshall Zoning Code are hereby authorized to update and revise the Marshall Zoning Code to effectuate the provisions of this Ordinance.

Section 11. Effective Date. This Ordinance is declared to be effective seven (7) days after publication or as provided by law.

Adopted and signed this _____ day of _____, 2021.

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 _____, 2021, 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