

CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING

DATE OF MEETING: Thursday, April 11, 2024 at 4 pm
PLACE OF MEETING: Commission Chambers, First Floor, Muskegon City Hall

AGENDA

- I. Roll Call
- II. Approval of minutes from the meetings of February 15, 2024.
- III. Old Business
- IV. Public Hearings
 - A. Hearing, Case 2024-05: Request to rezone the following properties from MC, Medical Care to Form Based Code, Neighborhood Edge: 1760, 1761, 1771, 1775, 1789, 1803, 1811, 1819, 1827, 1835 Wells Ave; 1762, 1770, 1776, 1784, 1790, 1803, 1812, 1820, 1828, 1836 Oak Ave; 0 Wagner Ave (property numbers 24-661-000-0032-00 and 24-661-000-0033-00).
 - B. Hearing, Case 2024-06: Request to amend Section 2331 subsection C.(1) of the zoning ordinance to allow for 24-hour operation in the Marihuana Facilities Overlay District, by The Green Abyss.
 - C. Hearing Case 2024-07: Request for a special use permit to allow a class B recreational marihuana grow and processing facility at 1700 Lakeshore Dr, by ZAA LLC.
 - D. Hearing, Case 2024-08: Staff initiated request to amend Sections 2003.04 and 2308 of the zoning ordinance to modify the regulations on outdoor seating.
- V. New Business
 - A. Approval of bylaws
 - B. 2023 Annual Report
 - C. 2024 Goals
- VI. Other
- VII. Adjourn

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OR SUBCOMMITTEES**

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The City of Muskegon will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities who want to attend the meeting with twenty-four (24) hours' notice to the City of Muskegon. Individuals with disabilities requiring auxiliary aids or services should contact the City of Muskegon by writing or by calling the following:

Ann Marie Meisch, MMC. City Clerk. 933 Terrace St. Muskegon, MI 49440. (231)724-6705. clerk@shorelinecity.com

Staff Report

April 11, 2024

Hearing, Case 2024-05: Request to rezone the following properties from MC, Medical Care to Form Based Code, Neighborhood Edge: 1760, 1761, 1771, 1775, 1789, 1803, 1811, 1819, 1827, 1835 Wells Ave; 1762, 1770, 1776, 1784, 1790, 1803, 1812, 1820, 1828, 1836 Oak Ave; 0 Wagner Ave (property numbers 24-661-000-0032-00 and 24-661-000-0033-00).

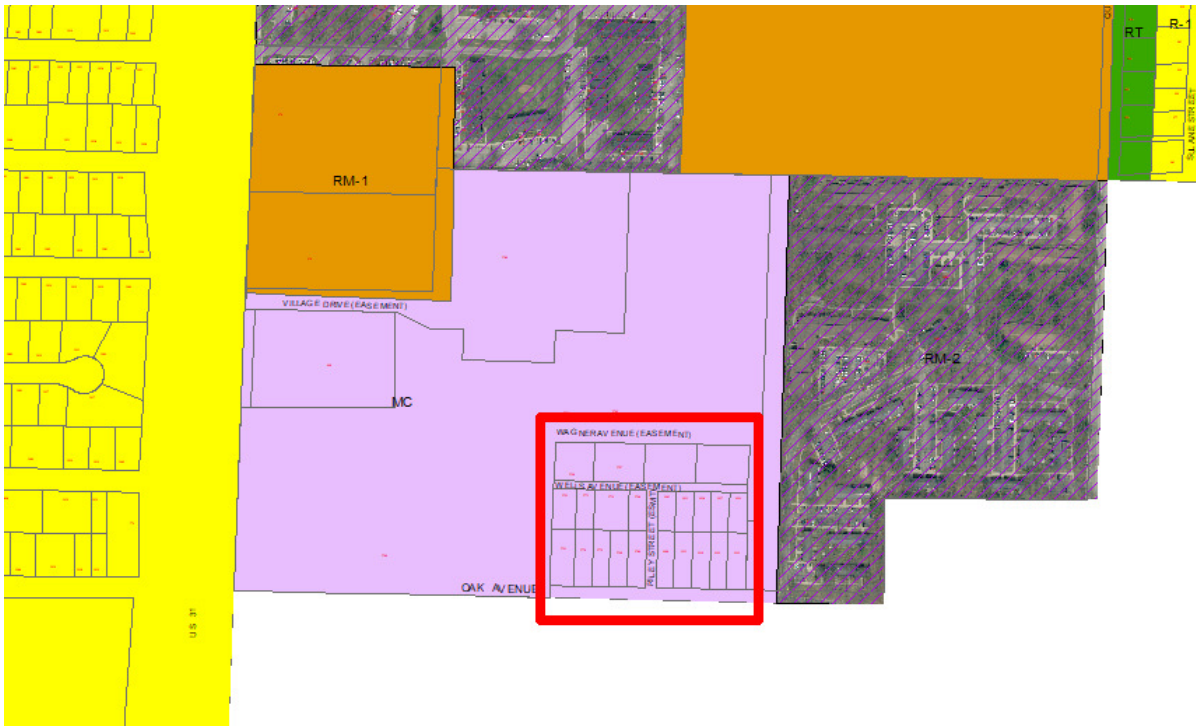
SUMMARY

1. This cluster of buildings is located to the east of the former Muskegon General Hospital Campus. The buildings are zoned MC, Medical Care Designation – which is the same designation as the former hospital parcel.
2. Since the hospitals full closing in 2019, these buildings have had a hard time attracting new medical related tenants. Staff has received several requests from potential businesses to allow different types of uses such as retail, daycare and residential units. Without the hospital, the Medical Care zoning designation is becoming a hinderance to the success of these properties. There are only four active businesses remaining in the development.
3. Staff held a focus group meeting and invited all property owners within the development. There were over 12 people in attendance and all of them agreed on staff's recommendation to rezone the properties to Form Based Code, Neighborhood Edge.
4. Form Based Code, Neighborhood Edge (see enclosed ordinance excerpt) allows for a variety of retail, office and residential uses. In fact, it would even allow for all of the current medical related business currently located within the development. FBC, NE allows for all FBC building types except Large Multiplex. The maximum height of a building can be up to three stories.
5. This rezoning request was recommended in the new Master Plan (see Master Plan excerpt enclosure).
6. Notice was sent to everyone within 300 feet of the property. At the time of this writing, staff did not receive and comments.

Buildings within the Development



Zoning Map



Aerial Map



DELIBERATION

The following proposed motion is offered for consideration:

I move that the request to rezone the following properties from MC, Medical Care to Form Based Code, Neighborhood Edge be recommended to the City Commission for approval:

1760, 1761, 1771, 1775, 1789, 1803, 1811, 1819, 1827, 1835 Wells Ave;

1762, 1770, 1776, 1784, 1790, 1803, 1812, 1820, 1828, 1836 Oak Ave;

0 Wagner Ave (property numbers 24-661-000-0032-00 and 24-661-000-0033-00).

Hearing, Case 2024-06: Request to amend Section 2331 subsection C.(1) of the zoning ordinance to allow for 24-hour operation in the Marihuana Facilities Overlay District, by The Green Abyss.

SUMMARY

1. The Marihuana Facilities Overlay District allows marihuana retailers to be open from 8 am to 12 am.
2. The Green Abyss, which controls The Grassy Knoll at 2125 Lemuel St, has applied to amend the ordinance to allow Retailers/Provisioning Centers/Microbusinesses to be open 24 hours a day. This amendment would apply to any Retailer/Provisioning Center/Microbusiness located in the Marihuana Facilities Overlay District. This amendment would not include changing the hours of operation for Designated Consumption Establishments.
3. The explanation of request on the application states “This would allow us to service the essential medicine to our community for people working afternoon and midnight shifts. Also, it will contribute to the safety and security of the community by ensuring the business is occupied at all times.”
4. Please see the attached Marihuana Facilities Overlay District map. Please note that not all locations on the map allow for retail stores. Please also note that microbusinesses may also be located in most commercial/industrial districts with the issuance of a special use permit.

Proposed Amendment (redline version)

Provisioning Center, Retailer, Microbusiness and Designated Consumption Establishment Requirements:

1. Hours. Provisioning Centers, Retailers and Microbusinesses may be open 24 hours per day. ~~and~~ Designated Consumption Establishments may operate between the hours 8 am and 12 am.

STAFF RECOMMENDATION

Staff does not see an issue to allowing 24-hour retail options. The cities of Kalamazoo and Portage began allowing 24-hour retail services in 2023 and have mentioned that they have not seen any issues. The City of Muskegon has had several break ins at retailer locations during closed hours.

DELIBERATION

The following proposed motion is offered for consideration:

I move that the request to amend Section 2331 subsection C.(1) of the zoning ordinance to allow Retailers, Provisioning Centers, and Microbusiness to operate 24 hours per day be recommended to the City Commission for approval/denial.

Hearing Case 2024-07: Request for a special use permit to allow a Class B recreational marihuana grow and processing facility at 1700 Lakeshore Dr, by ZAA LLC.

SUMMARY

1. The property is zoned Lakeside Form Based Code, Lakeside Commercial.
2. The zoning designation allows caregivers, microbusinesses, designated consumption establishments, class A recreational grows, class B recreational grows, class A medical grows, processing and temporary marihuana events with the issuance of a special use permit.
3. The property owner has operated a caregiver facility out of this building for several years.
4. The applicant is requesting a special use permit to operate a Class B Grow facility (up to 500 plants) and a Processing facility at this location. Approval of the special use permit would allow the applicant to apply for local growing and processing licenses.

1700 Lakeshore Dr

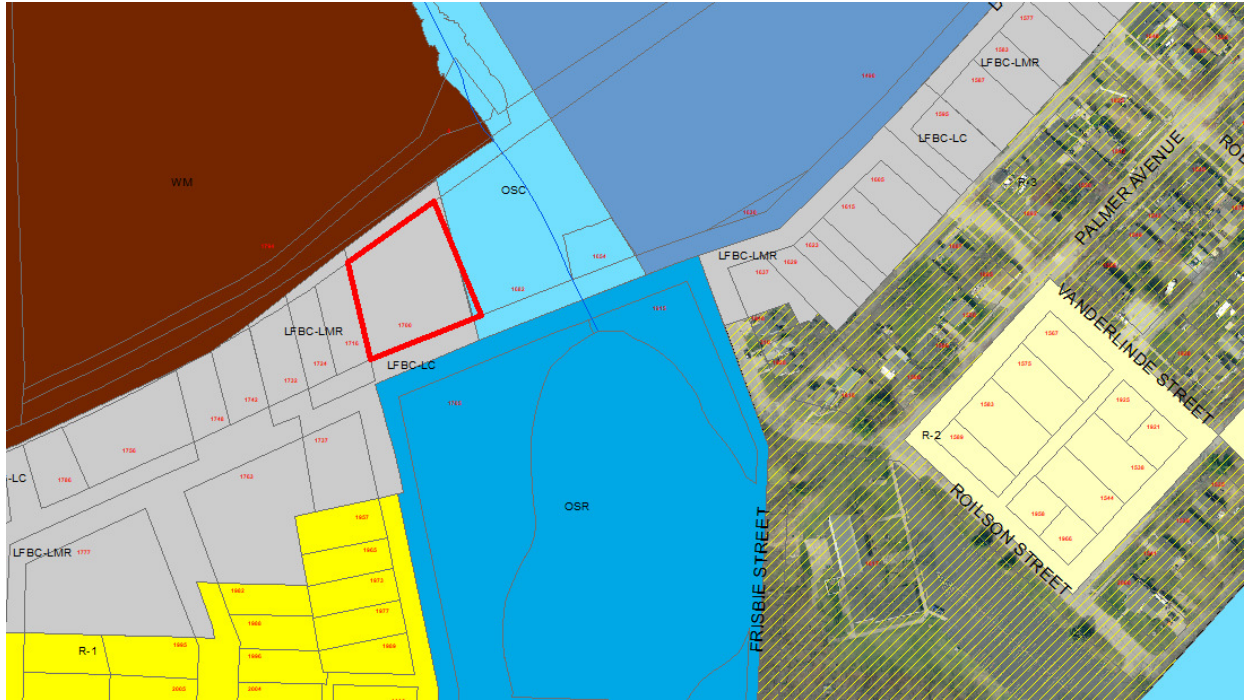


Standards for Special Use Permit Approval

Prior to authorization of any Special Land Use, the Planning Commission shall give due regard to the nature of all adjacent uses and structures. It shall determine the consistency with the adjacent use and development.

In addition, the Planning Commission shall find that the proposed use or activity would not be offensive, or a nuisance, by reason of increased traffic, noise, vibration, or light. Further, the Planning Commission shall find that adequate water and sewer infrastructure exists or will be constructed to service the Special Land Use or activity.

Zoning Map



Aerial Map



DELIBERATION

The following proposed motion is offered for consideration:

I move that the request for a special use permit for a Class B recreational marihuana grow and processing facility at 1700 Lakeshore Dr be approved.

Hearing, Case 2024-08: Staff initiated request to amend Sections 2003.04 and 2308 of the zoning ordinance to modify the regulations on outdoor seating.

SUMMARY

1. Outdoor seating is regulated in Section 2308 of the zoning ordinance and Section 2003.04 of the form based code.
2. These two sections are similar, but this amendment will make the requirements the same throughout the entire city.
3. The amendments also clarify how much space must be left for pedestrian movement. The code currently addresses how much space must be left next to the curb, but does not explain how much space must be left clear when the seating is located near the curb and the pedestrian zone is near the building.
4. This amendment also regulates how outdoor seating may operate near the newly installed bollards on Western Ave.
5. Language has been added to prohibit fencing and other materials to be connected to street amenities.

Zoning Ordinance Excerpt

SECTION 2308: OUTDOOR SEATING

Outdoor seating for restaurants, cocktail lounges, and similar uses is permitted, provided:

1. The area devoted to outdoor seating must be ancillary to the main use of an indoor restaurant, cocktail lounge, bakery, coffee shop, delicatessen, specialty food store, or similar establishment.

2. Where City bollards are located, they shall be treated as the curb as it pertains to this ordinance. These bollards may be moved by the City. When the City bollards are to be moved, the outdoor seating area may be moved, and it is the responsibility of the property owner to make sure the outdoor seating area is still in compliance with this ordinance.

32. Pedestrian circulation and access to the building entrance shall not be impaired. A minimum of six (6) feet of sidewalk ~~along the curb and~~ leading to the entrance to the establishment must be maintained free of tables, chairs, and other encumbrances. Pedestrians must have at least six (6) feet of clearance between the outdoor seating area and the building or at least six (6) feet of clearance between the outdoor seating area and the curb or City bollards. Pedestrians must always have at least four (4) feet of clearance around any fixed object. This distance is increased to six (6) feet if the pedestrian is directed towards the curb/City bollard or any other with area with a drop off such as a planting bed.

43. The seating area shall be limited to the same property directly adjacent to the permitted use to which the seating area is accessory and shall not extend into adjoining sites. ~~If adjoining sites both have a seating area, there shall be a divider between them.~~

54. Tables, chairs, umbrellas, canopies, planters, waste receptacles, temporary fences and other elements of street furniture shall be compatible with the architectural character of the principal building. No permanent fences may be affixed to the pavement. Temporary fences may be used but may not be placed around any

sign or public street amenity other than trees. No street furniture or fencing may be affixed to any public street amenity.

~~56.~~ Outdoor amplification shall be prohibited except only to play music in compliance with Code of Ordinances, City of Muskegon, Part II, Chapter 26, Article II, Noise, Division I, Generally, Sec. 2634, (a & b) "Playing of radios, musical instruments, etc."

~~76.~~ The area devoted to outdoor service shall not encroach upon or extend over any public alley or right-of-way without an encroachment agreement with the City of Muskegon.

~~87.~~ A site plan shall be submitted which clearly depicts the seating area and location and style of tables and chairs, reflecting ample aisles for pedestrian traffic, and dividers, if needed.

~~89.~~ The outdoor seating area shall not obstruct visibility of on-coming pedestrians or vehicular traffic, and must adhere to clear visions standards of the Zoning Ordinance.

~~109.~~ The sale of alcoholic beverages is subject to the rules and regulations of the State of Michigan Liquor Control Commission. An outdoor service permit may be required as part of the site plan approval.

~~1140.~~ All outdoor furnishings shall be completely removed from sidewalk areas December 1 through March 1 of each year.

~~1244.~~ The area devoted to such outdoor dining area shall be maintained in a safe, clean, and sanitary manner.

~~1342.~~ Roof seating shall comply with the building code, and not contain signage.

Form Based Code Excerpt

2003.04 OUTDOOR SEATING

A. Outdoor seating shall be permitted with the following building envelope types:

1. Mixed Use Building
2. Retail Building
3. Flex Building
4. Cottage Retail Building
5. Live/Work Building
6. Civic Building

~~B. Outdoor seating shall require sketch plot review and approval by the Zoning Administrator.~~

~~C. A minimum pedestrian clear space of six (6) feet shall be provided at all times.~~

~~D. Outdoor dining areas shall be designed so as to be architecturally compatible with existing structures on the site.~~

~~E. If located on public property or within the public right of way, an encroachment permit shall be required. Such permit shall be obtained through the applicable City department(s).~~

~~FB.~~ All other standards of Section 2308, Outdoor Dining, found in City's Zoning Ordinance shall apply.

DELIBERATION

The following proposed motion is offered for consideration:

I move that the request to amend Sections 2003.04 and 2308 of the zoning ordinance to modify the regulations on outdoor seating be recommended to the City Commission for approval as proposed.