

**CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING
MINUTES**

April 11, 2024

Mazade called the meeting to order at 4:00 p.m. and the roll was taken.

MEMBERS PRESENT: J. Seyferth, K. Johnson, J. Montgomery-Keast, S. Gawron, L. Willett-LeRoi, B. Mazade, S. Blake, and D. Keener (arrived at 4:02 p.m.)
MEMBERS ABSENT: None
MEMBERS EXCUSED: None
STAFF PRESENT: M. Franzak, S. Romine
OTHERS PRESENT:

APPROVAL OF MINUTES

A motion to approve the Minutes of the Planning Commission meeting on February 15, 2024, was made by K. Johnson, with the corrections that K. Johnson opened the meeting and not B. Mazade, and a 'T' be added to L. Willett-LeRoi's name, supported by J. Montgomery-Keast, and unanimously approved.

OLD BUSINESS

None.

PUBLIC HEARINGS

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 hindrance 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 any comments.

PUBLIC COMMENTS

None

CLOSE PUBLIC HEARING – MOTION

A motion to close the public hearing was made by D. Keener, supported by S. Gawron, and unanimously approved.

MOTION

J. Montgomery-Keast moved, seconded by K. Johnson, 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).

ROLL CALL VOTE

K. Johnson: Yes

S. Gawron: Yes

J. Montgomery-Keast: Yes

L. Willett-LeRoi: Yes

D. Keener: Yes

J. Seyferth: Yes

B. Mazade: Yes

S. Blake: Yes

MOTION PASSES

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 the 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 micro businesses 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 of 8 am and 12 am.

PUBLIC COMMENTS

Fred Cini, spoke about wanting to extend hours at his business, The Grassy Knoll. This would allow him to provide business to those who are not able to come to the store during normal business hours and would allow staff to be on-site at all times.

Bre, the owner of another dispensary in Muskegon, spoke in favor of extending the hours.

Brandon, the owner of Misty Mountain Dispensary, supports the ordinance amendment to extend hours of operation.

CLOSE PUBLIC HEARING – MOTION

A motion to close the public hearing was made by D. Keener, supported by K. Johnson, and unanimously approved.

MOTION

J. Montgomery-Keast moved, seconded by D. Keener, 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.

ROLL CALL VOTE

K. Johnson: No	S. Gawron: No	J. Montgomery-Keast: No
L. Willett-LeRoi: No	D. Keener: No	J. Seyferth: No
B. Mazade: No	S. Blake: No	

MOTION FAILS

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

PUBLIC COMMENTS

Greg Adams, 2112 Sampson St., spoke regarding the operation they wish to start and what would be involved in the growing and processing of their product.

CLOSE PUBLIC HEARING – MOTION

A motion to close the public hearing was made by J. Montgomery-Keast, supported by S. Gawron, and unanimously approved.

MOTION

K. Johnson moved, seconded by J. Montgomery-Keast, that the request for a special use permit for a Class B recreational marihuana growing and processing facility at 1700 Lakeshore Drive be approved, with the condition that odor control is maintained.

ROLL CALL VOTE

K. Johnson: Yes

S. Gawron: Yes

J. Montgomery-Keast: No

L. Willett-LeRoi: Yes

D. Keener: Yes

J. Seyferth: Yes

B. Mazade: No

S. Blake: Yes

MOTION PASSES

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.
- 6.

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.

~~1110.~~ All outdoor furnishings shall be completely removed from sidewalk areas December 1 through March 1 of each year.

~~1211.~~ The area devoted to such outdoor dining area shall be maintained in a safe, clean, and sanitary manner.

~~1312.~~ 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).~~

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

PUBLIC COMMENTS

None.

CLOSE PUBLIC HEARING – MOTION

A motion to close the public hearing was made by S. Gawron, supported by L. Willett-Leroi, and unanimously approved.

MOTION

D. Keener moved, seconded by J. Montgomery-Keast, 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.

ROLL CALL VOTE

K. Johnson: Yes

S. Gawron: Yes

J. Montgomery-Keast: Yes

L. Willett-LeRoi: Yes

D. Keener: Yes

J. Seyferth: Yes

B. Mazade: Yes

S. Blake: Yes

MOTION PASSES

NEW BUSINESS

A. Approval of bylaws

Planning Commission members discussed updates and corrections that need to be made to the bylaws. There was a discussion about aligning meeting notices, postings, and public comments with the City Commission procedures. The 'Special Meetings' section needs updating as well. Updates to the voting procedure and attendance were also discussed.

B. 2023 Annual Report

Planning Commission members discussed how updates on projects could more easily be made available to them.

C. 2024 Goals

Planning Commission members discussed updating the Goals for 2024 to include; the preservation of natural resources, the Smith Ryerson Corridor, and greenways, and to preserve, promote, and improve access to natural resources and greenways.

OTHER

None.

ADJOURN

There being no further business, the meeting was adjourned at 5:52 pm.