

CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING

DATE OF MEETING: Thursday, February 15, 2018
TIME OF MEETING: 4:00 p.m.
PLACE OF MEETING: Commission Chambers, First Floor, Muskegon City Hall

AGENDA

- I. Roll Call
- II. Approval of Minutes from the special meeting of December 14, 2017.
- III. Public Hearings
 - a. Hearing, Case 2018-01: Request for a departure from Section 2003.07 of the form based code section of the zoning ordinance to forego the rooftop mechanical equipment screening requirements at 285 W Western Ave, by Parkland Muskegon, Inc.
 - b. Hearing, Case 2018-02: Request to rezone the property at 1698 Sanford St from R-2, Medium-Density Single-Family Residential district to RM-1, Low-Density Multiple-Family Residential district, by Step Up.
 - c. Hearing, Case 2018-03: Request to allow a non-profit organization that focuses on assisting young adults that have recently aged out of the foster care system transition to independent living in an RM-1, Low Density Multiple Family Residential district at 1698 Sanford St, contingent upon the successful rezoning of the property, by Step Up.
 - d. Hearing, Case 2018-04: Staff-initiated request to vacate Market St between Western Avenue and Terrace St.
 - e. Hearing, Case 2018-05: Staff-initiated request to amend Section 2330 of the zoning ordinance to create a Medical Marijuana Facilities Overlay District.
- IV. New Business
- V. Old Business
- VI. Other
 - a. Please see the final draft of the Imagine Muskegon Lake Plan. Please provide any comments to staff by February 23.
- VII. Adjourn

AMERICAN DISABILITY ACT POLICY FOR ACCESS TO OPEN MEETING OF THE
CITY COMMISSION AND ANY OF ITS COMMITTEES OR SUBCOMMITTEES

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Ann Meisch, City Clerk
933 Terrace Street
Muskegon, MI 49440
(231) 724-6705

TTY/TDD: Dial 7-1-1 and request that a representative dial 231-724-6705

CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING
MINUTES

December 14, 2017

Vice Chairman B. Larson called the meeting to order at 4:00 p.m. and roll was taken.

MEMBERS PRESENT: T. Michalski, F. Peterson, B. Larson, B. Mazade, J. Doyle, S. Gawron, J. Montgomery-Keast

MEMBERS ABSENT: E. Hood; M. Hovey-Wright, excused

STAFF PRESENT: M. Franzak, D. Renkenberger

OTHERS PRESENT: R. Blasey, Bergmann Associates (Lansing); C. Grinwis, Hooker DeJong Engineers; R. Holmes, 297 W Clay #410; K. Kolberg, 3414 Whiskey Hollow; L. Taunt, 2561 Maplewood Dr, Grand Rapids; C. Kufita, 3445 Keaton Ct., N. Hulka, 3020 Country Club Dr.; E. Kaminski, Shoreline Towers, Empire MI; J. Vorgias, 1438 Beach St.

APPROVAL OF MINUTES

A motion to approve the Minutes of the Planning Commission meeting of November 16, 2017 was made by F. Peterson, supported by J. Montgomery-Keast and unanimously approved.

PUBLIC HEARINGS

Hearing, Case 2017-31: Request to amend the final Planned Unit Development at 1740 E Sherman Blvd to allow construction of a new out-building and to increase the size of the existing pole sign, by Pacifica Companies. M. Franzak presented the staff report. The property at 1740 E Sherman Blvd is owned by Pacifica Muskegon, LLC. It measures just under seven acres and is part of a Planned Unit Development (PUD) that also includes about 10.5 acres of retail development owned by RCG-Muskegon, LLC. CRC Muskegon, LLC also owns about 0.7 acres of property, which is the Fazoli's restaurant. These three property owners are all under the same PUD. Pacifica Muskegon, LLC is proposing to construct a new out-building on its property, which would be located just east of the existing Fazoli's building. The new building will be set up for two separate tenants. The tenant closest to Sherman Blvd would have 2,595 sq ft of space and the back tenant would have 2,995 sq ft of space. The parking lot would be reconfigured for a drive thru window for the new building and four new landscaping islands would be added. Parking spaces would be restriped, with 32 spaces for the new building. A landscaping plan was recently submitted, and is acceptable.

The applicant also has two sign requests as part of this development. First, they would like to add a 10- x 10-foot monument sign in front of the new out-building, to be shared by the two new businesses. There are currently three existing out-buildings (Panera Bread, Fazoli's, and a closed Chinese buffet) and none of them have a separate monument sign; the new out-building would be the only one with a monument sign in this development. Second, they would like to increase the size of the large existing freestanding sign facing Sherman Blvd. There are currently two free-standing pole signs on site, one facing Sherman Blvd and one facing the highway. The zoning ordinance allows both signs and the addition of more, since there are several

parcels and multiple business in this development. However, both signs are larger than what is normally allowed by the ordinance, as an exception had been made as part of the original PUD process. They are now requesting to increase the size of the Sherman Blvd sign from 33 feet tall and 326 square feet total to 35.5 feet tall and 356 square feet total. The purposed of the larger signs is to accommodate the three new retail suites going in the former Target building. A site plan and sign renderings were provided. Notice was sent to all property owners/tenants within 300 feet of this property. At the time of this writing, staff had not received any comments from the public. Staff recommends approval of the PUD amendment, but would like to establish a plan for additional monument signs for out-buildings. M. Franzak stated that this request was previously scheduled for the October meeting, but agreements needed to be worked out between the parties involved in the PUD.

R. Blasey stated that they planned to renovate the former Target store into 3 separate spaces. The sign requests were mainly for the new businesses, since there was no room to add them on the currents signs.

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

A motion that the request to amend the PUD at 1740 E Sherman Blvd for the addition of the out-building and the two sign requests as proposed, be recommended to the City Commission for approval was made by B. Mazade, supported by J. Montgomery-Keast and unanimously approved, with T. Michalski, F. Peterson, B. Larson, B. Mazade, J. Doyle, S. Gawron, and J. Montgomery-Keast voting aye.

Hearing, Case 2017-32: Request for a departure from Section 2009 of the Form Based Code section of the zoning ordinance to allow a larger projecting sign than permitted at 275 W Clay Ave, by Berkshire Muskegon. M. Franzak presented the staff report. This property is in the Form Based Code (FBC) zoning district and is currently under development. There will be 5,000 square feet of commercial space on the first floor and 84 apartments on the upper floors. The proposed sign is a “projecting sign” as defined by the FBC ordinance. It meets all of the requirements of the ordinance except the maximum height of four feet; they are requesting a departure from this requirement. The proposed sign is 21 feet tall, 2 feet 4 inches wide and will hang four feet off of the building wall. It will be internally illuminated. An encroachment agreement with the City will be required since the sign will project over the public sidewalk. Staff recommends approving the departure from this requirement because of the size of the development. A building this large warrants a unique large-scale sign in the proper location. First St is the best location for the sign because it is more of a commercial street than Clay Ave. This request is similar in nature to the exceptions granted to the Frauenthal and Amazon buildings. Notice was sent to all property owners/tenants within 300 feet of this property; at the time of this writing, staff had not received any comments and recommends approval of the request.

C. Grinwis worked for the architectural firm working on this building. He stated that the sign would be located on First St, closer to Webster Avenue than Clay. There would eventually be a smaller sign on the Clay Ave end for a café to be added in the future.

T. Michalski arrived at 4:10 p.m. and took over as chairperson.

R. Holmes lived in the area, and was concerned about how much light the sign would give off. T. Michalski stated that the Planning Commission was also concerned with lighting and they would have to follow the ordinance.

A motion to close the public hearing was made by B. Larson, supported by J. Doyle and unanimously approved.

A motion that the request for a departure from Section 2009.13 (a) of the zoning ordinance to allow a larger projecting sign than permitted at 275 W Clay Ave be approved as proposed, was made by J. Doyle, supported by J. Montgomery-Keast and unanimously approved, with T. Michalski, F. Peterson, B. Larson, B. Mazade, J. Doyle, S. Gawron, and J. Montgomery-Keast voting aye.

Hearing, Case 2017-33: Staff-initiated request to amend Section 2321 of the zoning ordinance to expand the overlay district and allow Wireless Communication Service Facilities at 1800 Peck St (Marsh Field) and 2375 Beach St (Water Filtration Plant). M. Franzak presented the staff report. Cell phone towers are regulated by Section 2321 (Wireless Communication Service Facilities) of the zoning ordinance. An overlay district currently allows these facilities in four different locations in the City. Staff proposes to expand the overlay district with two new locations, one at Marsh Field and the other behind the water filtration plant on Beach St, in order to increase cell phone coverage throughout the City. This request is solely to expand the overlay district and allow companies to apply for a Special Land Use Permit to construct a new facility. Staff has been working with two companies that are interested in applying to install monopoles with a maximum height of 150 feet at these locations; however, this request is to approve the new districts only. Both locations are located in city charter parks, which cannot be sold. The City would retain ownership of the land and would lease the space to a private company. Although not required for an ordinance amendment, staff sent out notice letters to everyone within 300 feet of both proposed locations. At the time of this writing, staff had not received any comments from the Marsh Field area and one comment from the Water Filtration area who was generally in favor of the request. Staff recommends approval of the ordinance amendment.

B. Mazade stated that he was concerned with the type of structures that would be allowed. M. Franzak stated that both requests were for monopoles, not towers. He provided a picture of the type of pole being considered. J. Montgomery-Keast asked if it would block the residents' view. M. Franzak stated that the pole may be visible, but it was not large enough to block a view. K. Kolberg lived in the area and was opposed to the request. He stated that the proposed location was right in his sight line from his front window. L. Taunt owned property in the area and was also opposed to the request, as the pole would be visible from where he planned to eventually build a house. He stated that placing it a few hundred feet to the south would not block anyone's view. C. Kufta lived in the area and was opposed to having a pole located there, due to the size and obstructing the view. M. Franzak explained that this request was to allow an overlay district and not for a specific pole installation. C. Kufta stated that there was a tower at Elks Park that was unsightly and she did not want a similar look to spoil the natural beauty at Pere Marquette Park. She was also concerned about electronic air pollution and the possible devaluation of nearby properties. N. Hulka was also opposed to having a cell tower/pole in that location, as it interfered with the natural environment in the area. D. Kaminsky worked for Shoreline Towers in Empire MI and was representing the entity interested in erecting a pole at the water filtration plant. He stated that the beach area was in need of additional cell coverage. B. Larson stated that he is in the area regularly and stated that the pole would interrupt the natural beauty of the area. J. Montgomery-Keast asked if they had considered a less obtrusive location in the vicinity. D. Kaminsky stated that they had considered the water filtration plant property, as there were already 2 towers there as well as access to them. He and board members discussed the pole specs and other possible locations nearby that would be less visible. M. Franzak stated that, if the pole was placed further south of the filtration plant, a new access road would have to be built in order to access it which would disturb the dune area. D. Kaminsky stated that the base of the pole would be located among a stand of pine trees, which would help camouflage the base. J. Vorgias suggested placing the pole in the state park across the channel. B. Larson stated that the city would not receive any lease revenues. D. Kaminsky stated that that location would not provide adequate coverage that they needed. N. Hulka stated that she would like more research done on other suitable locations in the area. T. Michalski stated that the city had to be cognizant of the critical dune areas. F. Peterson stated that, although the proposed location may affect some people, it would have the least amount of impact. B. Larson asked if other locations had been checked out. M. Franzak stated that he had driven around the area and there were few possibilities. B. Mazade agreed that better cell coverage was needed in that area, but he wanted to make sure they chose the least intrusive option.

A motion to close the public hearing was made by B. Larson, supported by J. Doyle and unanimously approved.

B. Larson asked if the two locations could be separated into separate motions. M. Franzak stated that they could. Board members discussed both locations.

A motion that the request to amend Section 2321 of the zoning ordinance to expand the overlay district for Wireless Communication Support Facilities be tabled until next month to give staff time to evaluate other possible locations was made by B. Larson, supported by J. Montgomery-Keast and unanimously approved, with T. Michalski, F. Peterson, B. Larson, B. Mazade, J. Doyle, S. Gawron, and J. Montgomery-Keast voting aye. M. Franzak asked what other information the board was looking for. T. Michalski stated that he would like staff to check out other locations and recommend the best one for the pole location.

NEW BUSINESS

None

OLD BUSINESS

None

OTHER

There being no further business, the meeting was adjourned at 4:45 p.m.

DR

STAFF REPORT
FEBRUARY 15, 2018

Hearing, Case 2018-01: Request for a departure from Section 2003.07 of the form based code section of the zoning ordinance to forego the rooftop mechanical equipment screening requirements at 285 W Western Ave, by Parkland Muskegon, Inc.

SUMMARY

1. The property is zoned Form Based Code, Neighborhood Context Area.
2. Section 2003.07 of the code states “All rooftop mechanical, communication and similar devices shall be screened from view of adjacent properties and streets. Screening shall be so designed as to be an integral part of the building. The screening shall match the buildings material and color or be another material or color that is compatible with the building exterior.”
3. There is mechanical equipment on the tallest roof on the building, above the 8th floor. However, this equipment is not required to be screened because it is not visible from the street. There is another roof on the building, above a portion of the 3rd floor, and this area has air conditioning units on it that are visible from Western Ave and Jefferson St. The applicant is seeking a departure to forego these screening requirements so that the tenants in the two apartments near this equipment will have a better view out of the building.
4. It is possible that the future development of the adjacent property to the east will create somewhat of a screen to this equipment from the road; however, a parking lot is planned for the southern portion of this property. Most of the equipment would still be visible from Jefferson St.
5. Notice was sent to all property owners/tenants within 300 feet of this property. At the time of this writing, staff has not received any comments from the public.

Looking west from Jefferson St.



Looking southwest from Western Ave



View from Western Ave sidewalk



Screened equipment across the street at the Farmers Market



Views from apartments



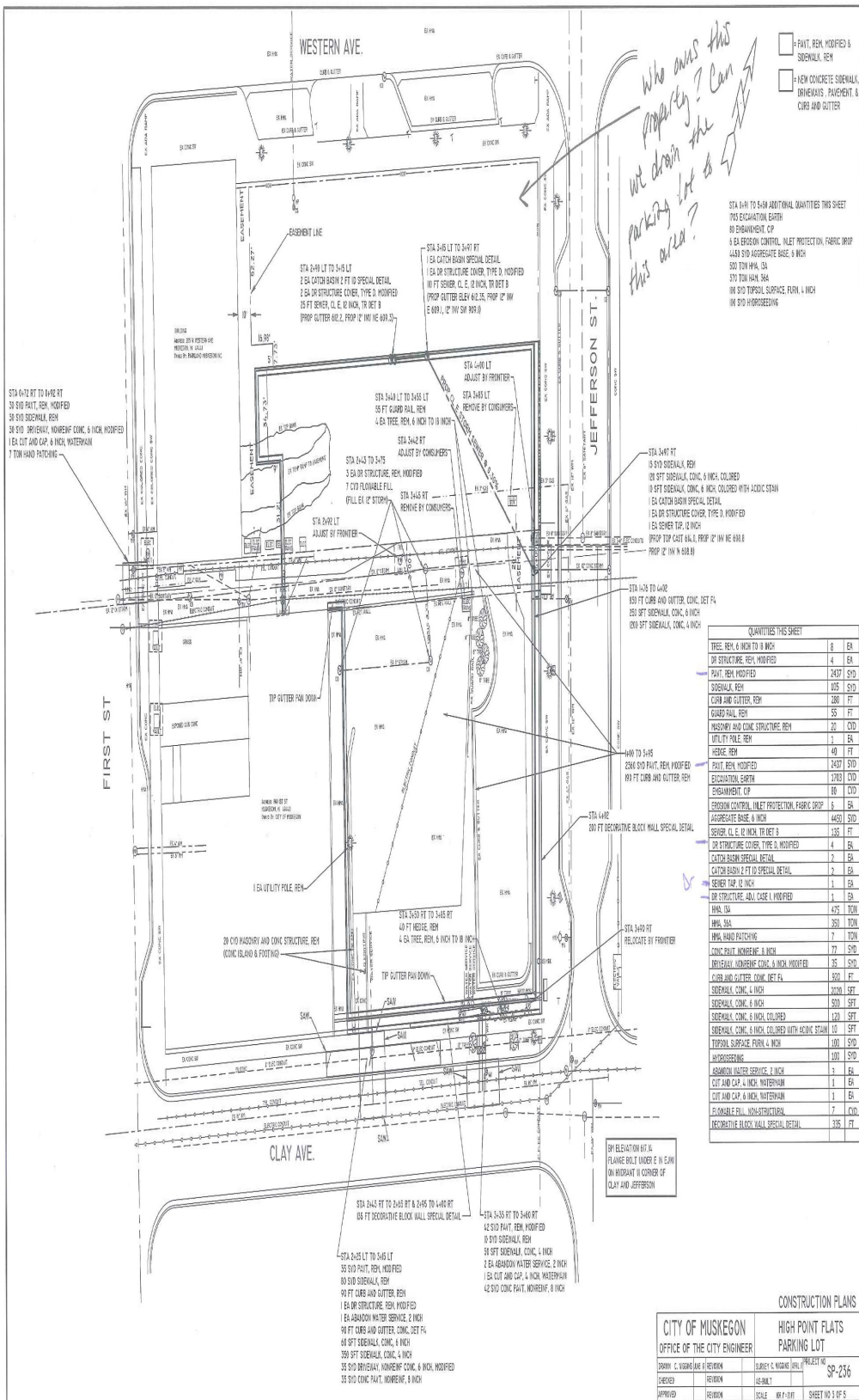
Zoning Map



Aerial Map



Proposed Parking Lot



STAFF RECOMMENDATION

Staff recommends small individual white screens in front of each unit, or some type of painting or white casing over each unit that will blend them in with the building. Something that would still allow views from the apartments, but also provide a partial screening of the equipment.

MOTION FOR CONSIDERATION

I move that the request for a departure from Section 2003.07 of the form based code section of the zoning ordinance to forego the rooftop mechanical equipment screening requirements at 285 W Western Ave be (approved/denied).

Hearing, Case 2018-02: Request to rezone the property at 1698 Sanford St from R-2, Medium-Density Single-Family Residential district to RM-1, Low-Density Multiple-Family Residential district, by Step Up.

Hearing, Case 2018-03: Request to allow a non-profit organization that focuses on assisting young adults that have recently aged out of the foster care system transition to independent living in an RM-1, Low Density Multiple Family Residential district at 1698 Sanford St, contingent upon the successful rezoning of the property, by Step Up.

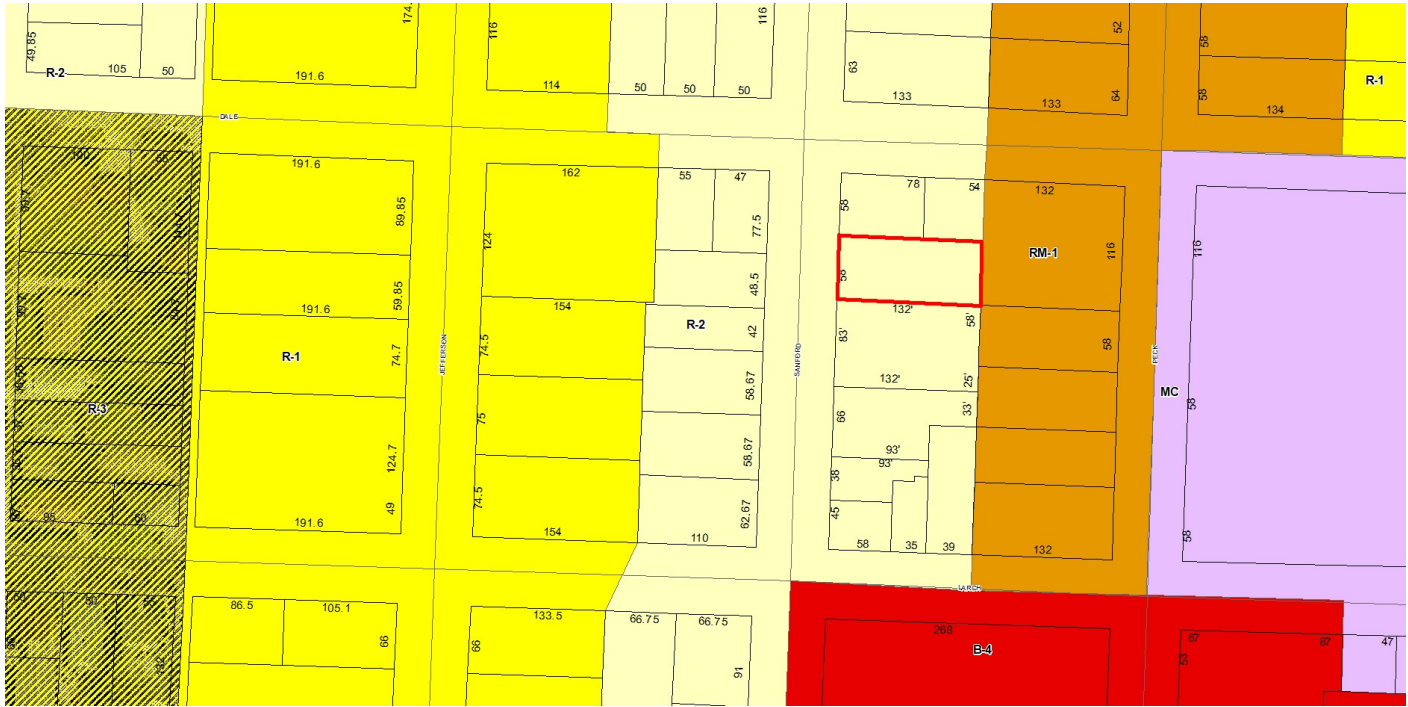
SUMMARY

1. The applicant is requesting to utilize the home as a non-profit agency that provides housing and mentoring to young adults that have aged out of foster care. It would house up to six male participants along with a live-in mentor. Please see the enclosed letter provided by Step Up. Last year this organization was approved for the woman's version of this program at 1319 Peck St, in an RM-1, Low Density Multiple Family district.
2. This request requires a rezoning to multi-family and a special use permit.
3. The property is zoned R-2, Medium Density Single Family Residential. The properties to the east, along Peck St, are zoned RM-1, Low Density Multiple Family.
4. The house measure 3,146 sf and has seven bedrooms and three bathrooms. It was formerly used as a state-licensed adult foster care home. The adjacent property to the north at 1690 Sanford was previously as well.
5. The Rescue Mission's Woman's Shelter is located behind this property to the east.
6. All twelve properties on this block are conforming as single-family homes. Eleven of the twelve homes on this block are single-family owner-occupied, which depicts strong neighborhood characteristics, investment and involvement among the community.
7. Notice was sent to all property owners/tenants within 300 feet of this property. At the time of this writing, staff received two calls that were against the request. Lawrence and Robyn Doctor, the next door neighbors, at 1706 Sanford St and Ray and Jackie Hilt at 1627 Jefferson St are all opposed to the specific use and the intrusion of multi-family to the neighborhood.

1698 Sanford St



Zoning Map



Aerial Map



Red = Single-Family Owner-Occupied
Blue = Single-Family Rental



STAFF RECOMMENDATION

The Master Plan calls for action to keep single-family owner-occupied neighborhoods intact. While the property is adjacent to a multi-family district, which is often used as support of a rezoning, it is clear that this area has been kept intact over the years as a singly family neighborhood and was able to avoid the conversion to multi-family that was prevalent in many areas downtown in previous generations. While Step Up provides great services and has shown to be an asset to the area at their Peck St location (no police reports since opening), the rezoning to multi-family would permanently designate this home for multi-family use, regardless of the owner. Staff recommends denial of the rezoning.

MOTION FOR CONSIDERATION

I move that the request to rezone the property at 1698 Sanford St from R-2, Medium-Density Single-Family Residential district to RM-1, Low-Density Multiple-Family Residential district, be recommended to the City Commission for (approval/denial).

I move that the request to allow a non-profit organization that focuses on assisting young adults that have recently aged out of the foster care system transition to independent living in an RM-1, Low Density Multiple Family Residential district at 1698 Sanford St, be (approved/denied) contingent upon the successful rezoning of the property.

Hearing, Case 2018-04: Staff-initiated request to vacate Market St between Western Avenue and Terrace St.

SUMMARY

1. The Farmers Market currently hosts many events that utilize a temporary liquor license. The City has to apply for a temporary liquor license with the State of Michigan every time an event is held.
2. A permanent license is available, but it cannot be utilized across a public street. Vacating the street would solve the problem and the liquor license could be used in the designated area, which would include the building and the street and a small area across of the street near the stage. Please see the map below that depicts the approximate area that the liquor license could be used.
3. The City would still maintain the street as a public street, but vacating it would allow for more flexibility for closure during special events. There are no plans to close the street other than temporarily for events, as it currently happens.
4. Staff sent notices to all property owners adjacent to Market St and had not received any comments at the time of this writing.

Approximate Area Where Liquor License Would Be Granted After Street Vacation



STAFF RECOMMENDATION

Staff recommends approval of the street vacation.

MOTION FOR CONSIDERATION

I move that the request to vacate Market St, between Western Avenue and Terrace St, be recommended to the City Commission for (approval/denial).

Hearing, Case 2018-05: Staff-initiated request to amend Section 2330 of the zoning ordinance to create a Medical Marijuana Facilities Overlay District.

SUMMARY

1. Staff has prepared the proposed amendments to the zoning ordinance for the Medical Marijuana Facilities Licensing Act (proposed as Section 2330 of the zoning ordinance). The proposed amendments only relate to the zoning designations related to the Medical Marijuana Facilities Licensing Act (MMFLA) Ordinance that will eventually be proposed to the City Commission for approval into the City Code of Ordinances at a later date. Please note that the MMFLA Ordinance will have to be approved before the zoning designations are approved.
2. This review by the Planning Commission is intended to provide the City Commission with a recommendation as to where these facilities should be allowed, should the new MMFLA Ordinance be adopted by the City Commission as part of the City Code of Ordinances.
3. Please see the enclosed proposed MMFLA Ordinance that references amending Chapter 34, Article IV of the Code of Ordinances of the City of Muskegon.
4. Please also see enclosed the proposed amendment to the zoning ordinance: Section 2330 – Medical Marijuana Facilities Overlay District.
5. Definitions for the types of MMFLA facilities are as follows:

Grower means an MMFLA licensee that is a commercial entity located in this state that cultivates, dries, trims, cures or packages marihuana for sale to a Processor or Provisioning Center.

Processor means an MMFLA licensee that is a commercial entity located in this state that purchases marihuana from a Grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in package form to a Provisioning Center.

Provisioning Center means an MMFLA licensee that is a commercial entity located in this state that purchases marihuana from a Grower or Processor and sells, supplies, or provides marihuana to registered qualify patients, directly or through the patients' registered primary caregivers. Provisioning Center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the department's marihuana registration process in accordance with the MMMA is not a Provisioning Center for purposes of the MMFLA or this section.

Secure Transporter means an MMFLA licensee that is a commercial entity located in this state that transports marihuana, with or without storage, between Marihuana Facilities for a fee.

Safety Compliance Facility means an MMFLA licensee that is a commercial entity that receives marihuana from a Marihuana Facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the Marihuana Facility.

STAFF RECOMMENDATION

Staff recommends approval of the ordinance amendment.

MOTION FOR CONSIDERATION

I move that the request to amend Section 2330 of the zoning ordinance, to allow for a Medical Marihuana Facilities Overlay District, be recommended to the City Commission for (approval/denial).



Step Up is an organization that provides safe housing and adult mentoring to young adults aged 18-24 who have neither of these things. Primarily for youth who have aged out of foster care, the vision of Step Up is to equip and empower young adults in Muskegon County to be financially independent, to aspire to further their education and to find fulfillment in their work as they develop healthy relationships with others and pursue a relationship with God. Success will be measured by advancement in these areas.

Significant numbers of Muskegon County foster youth annually age out of the foster care system. While some of these teenagers maintain strong, supportive relationships with their foster families, more than 50% do not. These latter youth are released from their foster care homes and are expected to live on their own. In some cases, state financial and food assistance is available for a limited time. Personal guidance and mentoring cannot be adequately provided despite the state's best efforts through the Department of Health and Human Services. The future is bleak for these youth. Many have no driver's license, no high school diploma, and no job. Recent statistics show that 89% of youth who age out of foster care become homeless, incarcerated, pregnant and/or addicted within two years.

In September 2016, Step Up opened a home for young women at 1319 Peck St. As many as four young women share a common kitchen, dining and living area while maintaining the privacy of their own bedroom. A resident house manager oversees the daily life and responsibilities of the residents and maintains the smooth operation of the facility. The board of directors meets monthly and talks weekly (often daily) with the house manager to guide and support her. Adult volunteers fulfill the very important job of mentoring the residents. While addressing the advancement of life skills that include obtaining a driver's license, education, a job, social skills and spiritual fulfillment, these mentors also model life as the young adults progress toward the independence they seek.

The work of Step Up is financially dependent upon donor support. Our current facility's annual budget is approximately \$40,000. Resident program fees provide 10% of this, with donations and grants providing the remaining 90%.

Step Up is now ready to purchase a house to extend its program to young men. The house at 1698 Sanford Street is ideally suited for this purpose. The program will operate in the same manner as the women's home.

**CITY OF MUSKEGON
MUSKEGON COUNTY, MICHIGAN
ORDINANCE NO. ____**

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

1. Chapter 34, Article IV of the Code of Ordinances of the City of Muskegon, Michigan, Sections 34-201 through 34-208 are adopted as follows:

Sec. 34-201 Purpose and Intent.

It is the intent of this ordinance to give effect to the intent of the Medical Marihuana Facilities Licensing Act, PA 281 of 2016, MCL 333.27101, et seq, (the MMFLA), and not to determine and establish an altered policy with regard to medical marihuana. It is the intent of Muskegon City Code Sections 34-101 through 34- ____ to give effect to the intent of the Michigan Medical Marihuana Act, Initiated Act 1 of 2008, MCL 333.26421, et seq., (the MMMA) as approved by the electors, The purpose of this ordinance is to serve and protect the health, safety and welfare of the general public and establish a set of rules and regulations which are fair and equitable for those interested in establishing a Marihuana Facility pursuant to the MMFLA.

Section 34-202 Definitions.

Applicant means a person who applies for a license under this section. If an entity applies for a license, the term includes an officer, director, managerial employee or has a direct or indirect ownership interest in the applicant.

Grower means an MMFLA licensee that is a commercial entity located in this state that cultivates, dries, trims, cures or packages marihuana for sale to a Processor or Provisioning Center.

Marihuana Facility means a location at which a license holder is licensed to operate under the MMFLA.

Marihuana-infused product means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable marihuana that is intended for human consumption in a manner other than smoke inhalation.

MMFLA means the Medical Marihuana Facilities Licensing Act, PA 281 of 2016, MCL 333.27101, et seq.

MMMA means the Michigan Medical Marihuana Act, Initiated act 1 of 2008, MCL 333.26421, et seq.

MMMA Caregiver Facility means any building(s) or structure(s) located on non-residential property that is utilized by one or more than one primary caregiver engaged in the medical use of marihuana pursuant to the MMMA.

Permit means a permit issued by the City under this section.

Primary caregiver or caregiver means a person as defined by the MMMA.

Processor means an MMFLA licensee that is a commercial entity located in this state that purchases marihuana from a Grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in package form to a Provisioning Center.

Provisioning Center means an MMFLA licensee that is a commercial entity located in this state that purchases marihuana from a Grower or Processor and sells, supplies, or provides marihuana to registered qualify patients, directly or through the patients' registered primary caregivers. Provisioning Center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the department's marihuana registration process in accordance with the MMMA is not a Provisioning Center for purposes of the MMFLA or this section.

Qualifying patient or patient means a person defined by the MMMA.

Registry Identification Card means the document as defined by the MMMA.

Safety Compliance Facility means an MMFLA licensee that is a commercial entity that receives marihuana from a Marihuana Facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the Marihuana Facility.

Secure Transporter means an MMFLA licensee that is a commercial entity located in this state that transports marihuana, with or without storage, between Marihuana Facilities for a fee.

State operating license means a license that is issued under the MMFLA that allows the licensee to operate as a Marihuana Facility.

All other terms used in this section have the same definitions ascribed to them in the MMFLA or MMMA.

Sec. 34-203 MMFLA Opt-In Provision

Pursuant to Section 205(1) of the MMFLA, the City will authorize Permits for the following types of Marihuana Facilities: Growers (Class A only); Processors; Provisioning Centers; Safety Compliance Facilities; and Secure Transporters.

Sec. 34-204 Permit Required for MMFLA Activity.

(1) Any person or entity that wishes to operate as a Marihuana Facility in the City shall obtain a Permit and must obtain a State Operating License prior to opening or operating.

(2) The application and inspection fee for the Permit required by this section shall be as set from time to time by the City by resolution.

(3) In addition to an annual reapplication and inspection fee, the City may assess an annual fee of no more to \$5,000.00 to help defray the administrative and enforcement costs associated with the operation of the Marihuana Facilities operating in the City.

(4) No permit issued under this section shall be transferable.

(5) All Permits issued under this section shall be renewed annually and subject to annual inspection and renewal fees as set from time to time by the City by resolution.

(6) The City may limit the number of Permits issued under this section, and may revise this limit from time to time.

(7) A person or entity that receives a Permit under this section shall display its Permit and, when issued, its State Medical Marihuana Facility License in plain view clearly visible to City officials and State Medical Marihuana Licensing Board authorized agents.

(8) No person or entity that opened or operated a facility doing business or purporting to do business as a Marihuana Facility prior to the adoption of this ordinance shall be considered a lawful use.

Sec. 34-205 MMFLA Location Requirements.

(1) Growers (Class A only), Processors, Provisioning Centers, Safety Compliance Facilities, and Secure Transporters are permitted in those zones and subject to requirements provided for in the City's Zoning Ordinance.

(2) The Marihuana Facility shall meet all applicable written and duly promulgated standards of the City and, prior to opening, Applicants shall demonstrate

to the City that the location meets the rules and regulations promulgated by the State Medical Marihuana Facilities Licensing Board.

Sec. 34-206 Application Procedure.

(1) All Applicants for Permits required by this section shall file an application with the Clerk. This application shall be signed by the Applicant if an individual, or by all partners if a partnership, by a managing member if a limited liability company, or by the president of a corporation.

(2) The Applicant may be requested to provide any information required by the MMFLA and any other information deemed by the City to be required for the consideration of a Permit.

(3) The Permit shall be approved if the Applicant meets all City requirements unless a due diligence investigation discloses tangible evidence that the conduct of the Applicant's business would pose a substantial threat to the public health, safety, or general welfare.

Sec. 34-207 Permit Revocation and Review.

(1) A Permit granted under this section may be revoked or not renewed for any of the following reasons:

- (a) Any fraud or misrepresentations contained in the Permit application;
- (b) Any knowing violation of this ordinance;
- (c) Loss of the Applicant's State Medical Marihuana Facility License;
- (d) Failure of the Applicant to obtain a State Medical Marihuana Facility License within a reasonable time after obtaining a Permit under this section; or
- (e) Conducting business in an unlawful manner or in such a way as to constitute a menace to the health, safety, or general welfare of the public.
- (f) The violation of any of the conditions of issuance or continuation of a certificate of registration.
- (g) Fraud, misrepresentation or any false statement made in the operation of the business.
- (h) Failure to pay personal property taxes, or timely file documentation or returns required for such taxes.

- (i) Failure to pay city income taxes, failure to withhold city income tax from employees, failure to remit to the City withheld city income taxes, or timely file documentation or returns required for such taxes.
- (j) Failure to pay any outstanding amounts owed the city (such as fees for inspections or property services, water or sewer bills, municipal civil infraction fines applicable to the business or its premises, current special assessment, installments, etc.).
- (k) Failure to pay registration fees imposed pursuant to this chapter and resolution of the city commission.
- (l) Failure or inability of an applicant to meet and satisfy any of the requirements and provisions of this chapter.
- (m) Failure to allow inspection of the business premises or hazardous material storage records at a reasonable time..

2. This Ordinance is to become effective ten (10) days after adoption.

Ayes:

Nays:

First Reading:

Second Reading:

CERTIFICATE

The undersigned, being the duly qualified Clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the ____ day of _____, 2018, at which meeting a quorum was present and remained throughout, and that the meeting was conducted and public notice was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan of 1976, as amended, and that minutes were kept and will be or have been made available as required thereby.

Date: _____, 2018

Ann Marie Meisch, MMC

City Clerk

Publish: Notice of Adoption to be published once within ten (10) days of final adoption.

**CITY OF MUSKEGON
NOTICE OF ADOPTION**

TO: ALL PERSONS INTERESTED

Please take notice that on _____, 2018, the City Commission of the City of Muskegon amended Chapter _____, Article _____ of the Muskegon City Code, summarized as follows:

1. Section _____ is amended to provide _____.
2. Section _____ is amended to add _____.

Copies of the ordinance may be viewed and purchased at reasonable cost at the Office of the City Clerk in the City Hall, 933 Terrace Street, Muskegon, Michigan, during regular business hours.

This ordinance amendment is effective ten (10) days from the date of this publication.

Published: _____, 2018

CITY OF MUSKEGON

By _____
Ann Marie Meisch, MMC
City Clerk

PUBLISH ONCE WITHIN TEN (10) DAYS OF FINAL PASSAGE

SECTION 2330: MEDICAL MARIHUANA FACILITIES OVERLAY DISTRICTS

Two Medical Marihuana Facilities Overlay Districts are hereby created as outlined in Figure 23-2. Within said overlay districts only, certain Medical Marihuana Facilities to the extent licensed pursuant to City Code Sections 34-201 through 34-208 are permitted.

A. Overlay Districts:

1. Location: There are two overlay districts where certain Medical Marihuana Facilities are permitted. These overlay districts and their permitted uses are as follows:
 - a. Overlay District 1: Permitted uses include Provisioning Centers, Secure Transporters and Safety Compliance Facilities.
 - b. Overlay District 2: Permitted uses included Provisioning Centers, Growers, Processors, Secure Transporters, and Safety Compliance Facilities.

B. Growers and Processors Requirements:

1. Signage. Signage shall be limited to one sign, no larger than 25 square feet and shall not use the word marihuana/marijuana, cannabis or any other word or phrase which would depict marihuana/marijuana; nor may pictures of a leaf or leaves, green cross or any other rendering which would depict marihuana/marijuana be displayed on a sign or any part of the building.
2. Building and Site Amenities. All Grower and Processor facilities must meet the following amenity requirements:
 - a. Bay doors. Buildings must have bay doors in which a secure transport vehicle can enter for delivery.
 - b. Canopy. Buildings must have a canopy or decorative awning over the main entrance to the building.
 - c. Lighting. There shall be ornamental lighting on the exterior of the building at all ingress and egress doors.
 - d. Landscaping plan. Decorative landscaping shall be provided with irrigation. All new construction projects shall require underground sprinkling.
 - e. Carbon filtration system. The building shall be equipped with an activated carbon filtration system for odor control and be maintained in working order.
3. Waste Disposal Plan. A plan must be approved for the disposal of waste, chemicals and unused plant material.

4. Security. There must be a security presence in place on the property at all times, either by licensed security guard(s) and/or security cameras. A floor plan with security details is required.

C. Provisioning Center Requirements:

1. Hours. Provisioning Centers may operate between the hours 8 am and 8 pm.
2. Signage. Signage shall be limited to one sign, no larger than 25 square feet and shall not use the word marihuana/marijuana, cannabis or any other word or phrase which would depict marihuana/marijuana; nor may pictures of a leaf or leaves, green cross or any other rendering which would depict marihuana/marijuana be displayed on a sign or any part of the building. Windows shall remain free and clear of all advertising.
3. Building and Site Amenities. All Provisioning Centers must meet the following amenity requirements:
 - a. Bay doors. Buildings must have bay doors in which a secure transport vehicle can enter for delivery.
 - b. Canopy. Buildings must have a canopy or decorative awning over the main entrance to the building.
 - c. Security shutters. The interior of all windows shall require security shutters that give the appearance of shutters or window shades. Metal bars and gates are prohibited.
 - d. Lighting. There shall be ornamental lighting on the exterior of the building at all ingress and egress doors.
 - e. Landscaping plan. Decorative landscaping shall be provided with irrigation. All new construction projects shall require underground sprinkling.
 - f. Carbon filtration system. The building shall be equipped with an activated carbon filtration system for odor control and be maintained in working order.
4. Indoor Activities. All activities of a provisioning center shall be conducted within the structure and out of public view. Walk-up and drive thru windows are not permitted.
5. Security. There must be a security presence in place on the property at all times, either by licensed security guard(s) and/or security cameras. A floor plan with security details is required.

D. Safety Compliance Facility Requirements:

1. Indoor Activities. All activities of a marihuana safety compliance facility shall be conducted within the structure and out of public view.
2. Building and Site Amenities. All Safety Compliance Facilities must meet the following amenity requirements:
 - a. Canopy. Buildings must have a canopy or decorative awning over the main entrance to the building.

- a. Lighting. Ornamental lighting is required on the exterior of the building at all ingress and egress doors.
 - b. Landscaping Plan. Decorative landscaping shall be provided and all landscaping shall be irrigated. All new construction projects shall require underground sprinkling.
3. Security. There must be a security presence in place on the property at all times, either by licensed security guard(s) and/or security cameras. A floor plan with security details is required.
4. Chemical waste and plant disposal plan. A list of all chemicals used in testing and how they will be disposed of must be provided. The plan must also show how marihuana plants and products will be disposed.

E. Secure Transporter Requirements:

1. Storage. Marihuana and supplies, materials or money shall not be kept in any secure transport vehicle overnight. Outdoor storage, excluding transport vehicles is prohibited.
2. Building and Site Amenities. All Secure Transporter buildings must meet the following amenity requirements:
 - a. Canopy. Buildings must have a canopy or decorative awning over the main entrance to the building.
 - b. Lighting. Ornamental lighting is required on the exterior of the building at all ingress and egress doors.
 - c. Landscaping Plan. Decorative landscaping shall be provided and all landscaping shall be irrigated. All new construction projects shall require underground sprinkling.
3. Security. There must be a security presence in place on the property at all times, either by licensed security guard(s) and/or security cameras. A floor plan with security details is required.