

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

January 14, 2021

Vice-Chairperson B. Mazade called the meeting to order at 4:04 p.m. and roll was taken.

MEMBERS PRESENT: L. Spataro (Muskegon, MI), B. Mazade (Muskegon, MI), T. Michalski (Muskegon, MI), J. Doyle (Muskegon, MI), E. Hood (Muskegon, MI)

MEMBERS ABSENT: J. Montgomery-Keast, excused; S. Gawron, excused.

STAFF PRESENT: M. Franzak, H. Griffith

OTHERS PRESENT: Via Zoom: C. Golliver, 1373 Montague, Muskegon, MI; P. Kelderhouse, 310 Morris Ave Ste 410, Muskegon, MI; M. McGuffey, 876 Allen, Muskegon, MI; K. Guy, 2020 Jarman, Muskegon Heights, MI; K. Armour, 2020 Jarman, Muskegon Heights, MI; J. Essex, 794 Pine St. Muskegon, MI; W. VandenBosch, 2534 Black Creek, Muskegon, MI.

APPROVAL OF MINUTES

A motion to approve the Minutes of the regular Planning Commission meeting of December 10, 2020 was made by L. Spataro, supported by J. Doyle and unanimously approved.

PUBLIC HEARINGS

Hearing, Case 2021-01: Request for a departure from the form based code section of the zoning ordinance to allow a 5 foot by 17 foot ground sign at 1021 Jefferson St, by General Capital. M. Franzak provided the staff report. The building on this site is currently under construction. The applicant is requesting a departure from the signage section of the form based code. The code allows monument signs a maximum height of four feet except multi-tenant signs may increase to five feet. They can also have a maximum width of three feet except multi-tenant signs may increase to five feet. The proposed sign is five feet tall and 17 feet wide. Notice was sent to everyone within 300 feet of this property. Staff recommends approval of the request. It appears to be more of an art piece than a sign. It is not illuminated and should not cause any issues. This request was the best way to ensure that a precedent would not be set should requests for similar pieces were submitted.

J. Doyle asked if the sign would be hanging from the structure. M. Franzak stated that it would not. It would be a ground level sign. L. Spataro asked if there would be more signs than this request. P. Kelderhouse stated that there would be more signage for the commercial tenants. B. Mazade asked if the code would allow for more signage. M. Franzak stated that it would. If there were more artwork proposed like this; then there would be more changes. P. Kelderhouse stated that the tenants would have awning type signage.

Public comments were heard: C. Golliver asked what the sign would be constructed of due to concerns of children or pedestrians if it were located on the sidewalk. P. Kelderhouse stated that the sign color would be powder coat and located on their property and not on the sidewalk.

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

A motion that the request for a departure from the form based code section of the zoning ordinance to allow a 5 foot by 17 foot ground sign at 1021 Jefferson St be approved, was made by J. Doyle, supported by E. Hood and unanimously approved with L. Spataro, B. Mazade, J. Doyle, F. Peterson, and E. Hood voting Aye.

Hearing, Case 2021-02: Request to amend section 2331 of the zoning ordinance to include 885 E Apple Ave in the marihuana facilities overlay district, by Khi Guy. M. Franzak provided the staff report. The applicant is requesting to amend the Marihuana Facilities ordinance to be included into the overlay district. They are seeking approval to be allowed to have a retail license type. This property was recently denied inclusion into the overlay district as a staff requested initiative. This request is from the property owner and potential business partner. Please see the maps below depicting the current overlay districts. Notice was sent to everyone within 300 feet of this property.

K. Guy stated that this was for a retail license only. B. Mazade asked if he was the owner. K. Guy stated that he is the owner and his brother, K. Armour, is his partner.

T. Michalski arrived at 4:30 p.m.

Public comments were heard: M. McGuffey inquired about the social equity plan as approved by the City Commission regarding adult use, medical, etc. K. Guy stated that they don't have a plan yet because they are working on the entitlements, but he will be willing to share them once they have them.

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

A motion that the request to amend section 2331 of the zoning ordinance to include 885 E Apple Ave in the marihuana facilities overlay district for retail license types be recommended to the City Commission for approval was made by F. Peterson, supported by E. Hood and approved with L. Spataro, J. Doyle, F. Peterson, E. Hood and T. Michalski voting aye and B. Mazade voting nay.

Hearing, Case 2021-03: Request for a departure from the parking ordinance and the window transparency ordinance at 623 and 639 W Clay Ave, by 639 W Clay Ave, LLC. M. Franzak provided the staff report. This location has recently been approved for marihuana microbusiness license types, which allows for the growing, processing and sales of marihuana on site. The applicant is requesting a departure from the window transparency section of the form based code. The code requires that all windows on the first floor have at least a 70% Visual Light Transmittance. The applicant is stating that the State of Michigan is requiring that the sales space not be visible from outside, however, there are several examples here in Muskegon where transparency is used on the glass facing the street at these type of businesses. The properties are zoned Form Based Code, Neighborhood Edge. The building is located at 639 W Clay Ave and the vacant lot at 623 was recently split in half. The two properties cannot be combined because of lot size restrictions in the ordinance. Such a combination would result in the final parcel being 198'-wide at the front property line. Only a Flex Building Type can be on a lot that wide, and the Flex Building Type requires that the building width at the front street be built to a minimum of 75% of the overall width of the front street property line (min. 148.5' wide building). A portion of the lot could be combined to max out the lot width at 150' for either the Mixed Use or Retail Building Types, but those both bump that 75% minimum building width

requirement up to 90% (min. 135' wide building). The applicant is also seeking departures from the parking placement section of the ordinance. Please see the zoning ordinance excerpt on the following page. Parking lots must be accessed from the alley and must be setback at least 40 feet from the front property line. Also, parking lots may not be used as a principal use on a property. Since the properties cannot be combined, a departure on the use is also required. The applicant has stated that they need the parking spaces to allow for curbside service. There are around 232 on-street parking spaces within a 2-3 minute walk of this property that are publicly available (see map below). By removing the existing curb cuts on Clay Ave. that are tied to this property and the neighboring vacant lot, an additional 4-5 on-street parking spaces directly adjacent to the property could be restored. Please see the example below of a conforming parking lot on this site drawn by staff. The building itself, along with 5' rear and side parking setbacks, a 10' parking setback from the building, and a 40' front parking setback, limit the total parking area to about 2, 443 SF. Staff does not recommend approval of the parking departures because they do not contribute the walkable development pattern that this code was developed to achieve. There is an excessive amount of parking lots in our downtown (See the 2015 Parking Strategy on our website) and on-street parking is plentiful and free. Remaining downtown lots should focus on the development of buildings, not parking lots. The addition of more parking spaces on vacant lots does not make for a walkable downtown and is more appropriate for suburban development. Staff also does not recommend approval of the departure for the light transparency requirement. If the sales space must not be visible from the street, then accommodations inside the building can be made (i.e. walls, blinds, etc). The code was implemented to help create an attractive, welcoming downtown and blacked out windows help create the opposite effect. More effort should be made to create a space that is welcoming from the outside.

L. Spataro asked for clarification as to which windows were going to be covered (those along the alley or the 8th and Clay Avenue sides). M. Franzak stated that it would be okay for them to get rid of the windows on the alley but the request is for the windows on the 8th and Clay Avenue sides. J. Essex stated that they are trying to make sure to do what the State requires as well as what the City does. He explained that the State requires that there isn't visibility from the street. They are looking at having frosted windows. There is concern with security for customers and the amount of cash they may be carrying as well as the merchandise leaving, as well as the twenty plus employees that will be working there. Parking and safety is the biggest concern for customers and employees. L. Spataro discussed the number of parking lots that he has noticed that are not full. He is concerned with granting more parking. F. Peterson asked if the ordinance requires the water retention for the parking lot. B. Mazade stated that the parking lot should be designed for water runoff.

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

F. Peterson stated that the use cannot have curbside pickup in the public right-of-way so everything would need to be done on the site or inside the building.

A motion that the departure requests be denied for the project at 623 and 639 W Clay Ave, was made by L. Spataro, supported by J. Doyle with L. Spataro, B. Mazade, J. Doyle, and T. Michalski voting aye and F. Peterson and E. Hood voting nay,

NEW BUSINESS

None

OLD BUSINESS

None

There being no further business, the meeting was adjourned at 5:11 PM.

HM