

**MINUTES**  
**MARSHALL CITY PLANNING COMMISSION**  
**WEDNESDAY, April 11, 2018**

In a regular session, Wednesday, April 11, 2018 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 McNiff.

**ROLL CALL**

Members Present: Chair McNiff, Commissioners Zuck, Hubbell, Banfield, Bomia, and Rodgers and Council Liaison Metzger

Members Absent: Commissioners Burke Smith, Collins and Davis

Consultant and Staff Present: Natalie Dean, Wightman Planner and Trisha Nelson, City Clerk & Planner-in-training

**AGENDA**

**MOTION** by Banfield, supported by Zuck, to accept the agenda for the Wednesday, April 11, 2018 as submitted. On a voice vote; **MOTION CARRIED.**

**MINUTES**

**MOTION** by Hubbell, supported by Rodgers, to accept the minutes of the March 14, 2018 regular meeting. On a voice vote; **MOTION CARRIED.**

**PUBLIC COMMENTS ON AGENDA ITEMS**

None

**PUBLIC HEARINGS**

Zoning Amendment Request #RZ18.01 from Aaron Morse to rezone 510 Industrial Road from Multi-Family Residential District (MFRD) to Research and Technical District (I-1)

Public hearing open.

No public comments.

Public hearing closed.

**OLD BUSINESS**

None

## NEW BUSINESS

Recommendation to City Council for Zoning Amendment Request #RZ18.01 from Aaron Morse to rezone 510 Industrial Road from Multi-Family Residential District (MFRD) to Research and Technical District (I-1)

**MOTION** by Hubbell, supported by Banfield, to recommend to City Council Zoning Amendment Request #RZ18.01 from Aaron Morse to rezone 510 Industrial Road from Multi-Family Residential District (MFRD) to Research and Technical District (I-1).

Staff went over what Mr. Morse's plans are for the parcel and why he is requesting the rezoning. She stated that 510 Industrial Road abuts the Dark Horse, also owned by Mr. Morse, and falls within the River District Overlay. Rezoning the parcel to I-1 does fit with the surrounding businesses.

Commissioners went over the Rezoning criteria as follows:

- A. The proposed zoning district is more appropriate than any other zoning district, or more appropriate than adding the desired use as a special land use in the existing zoning district. **Commissioners agreed that the particular property is surrounded by I-1 zoning district and would be better suited to be zoned as I-1.**
- B. The property cannot be reasonably used as zoned. **Commissioners agreed that due to the size of the property it would not be reasonable to keep the zoning as MFRD.**
- C. The proposed zone change is supported by and consistent with the goals, policies and future land use map of the adopted City Master Plan. If conditions have changed since the plan was adopted, as determined by the Planning Commission, the consistency with recent development trends in the area shall be considered. **Commissioners stated that staff believes if the property is to be rezoned it would be consistent with the recent development trends in the area.**
- D. The proposed zone change is compatible with the established land use pattern, surrounding uses, and surrounding zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values, and is consistent with the needs of the community. **Rezoning the property will be compatible with the surrounding land uses and will not cause any impacts on the environment, property values, or traffic within the area.**
- E. All the potential uses allowed in the proposed zoning district are compatible with the site's physical, geological, and hydrological and other environmental features. **Commissioners agreed with this criteria.**
- F. The change would not severely impact traffic, public facilities, utilities, and the natural characteristics of the area, or significantly change population density, and would not compromise the health, safety, and welfare of the City. **Commissioners agreed there would be no severe impacts in changing the zoning.**
- G. The rezoning would constitute and create an isolated and unplanned district contrary to the City Master Plan which may grant a special privilege to one landowner not available to others. **Commissioners stated that rezoning the property to I-1 would be removing an isolated parcel and making the parcel consistent with surrounding zoning.**

H. The change of present district boundaries is consistent in relation to existing uses, and construction on the site will be able to meet the dimensional regulations for the proposed zoning district listed in the schedule of regulations. **Commissioners stated that the owner would need to provide additional buffer if the property is to be rezoned.**

I. There was a mistake in the original zoning classification, or a change of conditions in the area supporting the proposed rezoning. **Commissioners agreed there was no mistake in the original zoning classification and no change of conditions.**

J. Adequate sites are neither properly zoned nor available elsewhere to accommodate the proposed uses permitted in the requested zoning district. **Commissioners agreed this criterion does not apply.**

On a roll- call vote; ayes - Banfield, Hubbell, Rodgers, Zuck, Bomia, and McNiff; nays - none.

**MOTION CARRIED.**

Receive and consider approval of preemption letter for Site Plan #17-09 for Marshall Energy Center at 11038 and 11040 17 Mile Rd

**MOTION** by Bomia, supported by Rodgers, to allow Commissioner Banfield to be recused from participating in the approval of Site Plan #17-09, due to conflict of interest. On a voice vote, **MOTION CARRIED.**

**MOTION** by Zuck, supported by Hubbell, to receive and consider approval of preemption letter for Site Plan #17-09 for Marshall Energy Center at 11038 and 11040 17 Mile Rd. On a voice vote, **MOTION CARRIED.**

Jim Dyer, Marshall City Attorney, discussed his opinion he wrote to Commissioners regarding the dimensional restrictions set by the City's ordinance and the State and Federal guidelines Marshall Energy Center need to follow. He stated that the height of the 160 foot tall process equipment stack and the 7 foot high fence are federal regulations that preempt Marshall's Zoning Ordinance. Mr. Dyer stated that the City must apply all applicable Federal and State dimensional standards, when considering approval of the Marshall Energy Center site plan. He recommended that Commissioners "consider MEC's proposed site plan without regard to the dimensional restrictions in the zoning ordinance, and suggest an appropriate motion to permit appropriate discussion of the merits of the site plan, and the preemption issue would read: "I move approval of the MEC Site Plan as submitted, with a seven foot high perimeter fence and a 160 foot tall process equipment stack as both required by applicable federal and state regulations.""

Commissioners asked if the City can add more restrictions to the fence height and equipment stack. Dyer stated that yes, additional restrictions can be added but they can't go below the Federal regulations, the height minimums need to be set at the Federal height limits.

Discussion regarding any FAA issues and regulations took place with no issues regarding the heights of the fence and equipment stack.

**MOTION** by Bomia, supported by Zuck, to approve the MEC Site Plan as submitted, with a seven foot high perimeter fence and a 160 foot tall process equipment stack, as required by the federal and state regulations and any regulations determined by home land security. On a voice vote, **MOTION CARRIED.**

Receive Site Plan #SP18.01 for Green Eden, parcel #53-003-025-00

**MOTION** by Hubbell, supported by Rodgers, to receive Site Plan #SP18.01 for Green Eden, parcel #53-003-025-00.

Commissioners asked if an engineered site plan was received. Staff gave Commissioners a copy.

On a voice vote, **MOTION CARRIED.**

**MOTION** by Banfield, supported by Bomia, to approve Site Plan #SP18.01 for Green Eden, parcel #53-003-025-00.

Staff stated that Green Eden submitted their original site plan on February 20, 2018. After the site plan review by city staff, Green Eden designer has made changes to the original site plan. Staff stated that a variance to build within 3 feet of the rear property line was need and approved by the Zoning Board of Appeals on March 15, 2018. Staff also mentioned that because the property is zoned I-1 that sidewalks are not needed.

Commissioners asked questions regarding the runoff of storm water from the parking lot going into the marsh area and the front yard loading space. Staff stated that the site plan was approved by all city departments, including engineering. The storm water runoff from the parking lot going into the marsh area was approved by Kristin Bauer, City Engineer.

Kimm Owsiany and Jim Brayton, Green Eden, stated that they are in the process of purchasing parcel #53-003-025-00 from the LDFA for a medical marijuana plant. Owsiany told Commissioners that she is working with the County on the driveway approval and stated that the need for the front yard loading space is for security reasons. She stated that a truck, no bigger than a UPS truck, will enter through the front of the building and drive out the back, when picking up the product. There is no retail and all security requirements are being met.

Commissioners had questions regarding the landscape plan, mentioned that it is incomplete, and the parking lot water runoff into the natural area. There was no engineer from Green Eden present to answer Commissioners questions. Commissioners discussed features of the site plan stating the water main and utilities will be underground and going around the well, that several of the businesses in I-1 currently have front yard loading areas, and the storm water retention design was approved by the city engineer.

Commissioner Banfield's original motion to approve Site Plan #SP18.01 is rescinded.

**MOTION** by Hubbell, supported by Bomia, to waive ordinance requirements and allow a front yard loading space as shown for Green Eden Site Plan #SP18.01. On a voice vote, **MOTION CARRIED.**

**MOTION** by Hubbell, supported by Zuck, to waive ordinance requirements for sidewalk installation for Green Eden Site Plan #SP18.01.

Commissioners stated that because of the zoning area and that if sidewalks were to be installed, they would lead to nowhere and the sidewalk would take away part of the green space.

On a voice vote, **MOTION CARRIED.**

**MOTION** by Banfield, supported by Hubbell, to approve Site Plan #SP18.01 for Green Eden, parcel #53-003-025-00 with the following conditions:

1. City engineer must approve the retention design for the parking lot water runoff before it goes into the natural wet lands.
2. Approval from Calhoun County to have a drive way off of Division Drive.
3. Continue working with Director of Public Safety for a security plan.

On a voice vote, **MOTION CARRIED.**

## **REPORTS**

Staff discussed with Commissioners the site plan violations at Yin Hai Restaurant. Staff stated that the ordinance is clear on how to deal with the violations. A letter was hand delivered on April 10, 2018 and the owner has until April 16, 2018 to respond to staff about how he will be handling the violations. Staff also stated that due to the number of violations, she is trying not to be too restrictive, and some of the violations will not be able to be corrected because of the location of the building. Staff also stated that an amended site plan is another option the owner has.

Commissioners asked why the violations were not noticed until now. Staff stated that inspections are made during the construction process and no site plan inspections were made. Staff further stated that the building plans were probably not compared with the site plan.

Commissioners recommended that the City review their procedures so mistakes like these are not made again. They stated that the violations are going to be costly to the owner and this can possibly lead to multi-party litigation.

Commissioner Banfield commented about the decision that City Council made to charge residents \$20.00 to utilize the compost center. He mentioned that it would be a good idea to have a City Council member be appointed as a PR representative.

Commissioner Hubbell stated that it is work zone awareness week. Please be cautious while driving within work zones.

## **ADJOURN**

Planning Commission adjourned at 8:08 p.m.

Submitted by,

Colleen Webb