

CITY OF MARINE CITY

PLANNING COMMISSION MEETING

AGENDA

Regular Meeting: Monday, September 14, 2015; 7:00 pm

Marine City Fire Hall: 200 South Parker Street

Marine City, Michigan

- 1. CALL TO ORDER**
- 2. MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE**
- 3. ROLL CALL:** Chairperson Rebecca Lepley; Commissioners Linda Gabler, Keith Jenken, Rudolfo Menchaca, Joseph Moran, and Thomas McKenzie; City Commissioner David Simpson; Building Official Arthur Garbarino; and, City Manager Elaine Leven
- 4. APPROVE AGENDA**
- 5. APPROVE MINUTES**
 - A. Planning Commission Minutes ~ August 10, 2015
- 6. COMMUNICATIONS**
- 7. PUBLIC COMMENT** *Residents are welcome to address the Planning Commission. Please state name and address. Limit comments to five (5) minutes.*
- 8. UNFINISHED BUSINESS**
 - A. Master Plan Update
 - B. Fence Ordinance ~ Attorney Review
 - C. Non-Motorized Transportation Plan
- 9. NEW BUSINESS**
- 10. ADJOURNMENT**

**City of Marine City
Planning Commission Meeting
August 10, 2015**

Prior to the meeting being called to order, Building Inspector, Arthur Garbarino, was sworn into office by City Clerk, Kristen Baxter

A regular meeting of the Marine City Planning Commission was held on Monday, August 10, 2015, in the Fire Hall, 200 South Parker Street, Marine City, Michigan, and was called to order by Chairperson Rebecca Lepley at 7:00pm.

After observing a moment of silence, the Pledge of Allegiance was led by Chairperson Lepley.

Present: Chairperson Lepley; Commissioners Gabler, McKenzie, Moran; Building Official Garbarino, Acting City Manager Tillery, City Clerk Baxter, and Deputy Clerk McDonald

Absent: Commissioners Menchaca and Jenken; City Commissioner Simpson

Motion by Commissioner Gabler, seconded by Commissioner McKenzie, to excuse Commissioner Menchaca, Commissioner Jenken, and City Commissioner Simpson from the meeting. All Ayes. Motion Carried.

Approve Agenda

Motion by Commissioner Moran, seconded by Commissioner Gabler, to approve the Agenda, as presented. All Ayes. Motion Carried.

Approve Minutes

Motion by Commissioner Moran, seconded by Commissioner McKenzie, to approve the July 21, 2015 Special Meeting Minutes of the Planning Commission, as presented. All Ayes. Motion Carried.

Communications

The following communication was received:

- Charter Township of East China

Motion by Commissioner Moran, seconded by Commissioner Gabler to receive and file the communication. All Ayes. Motion Carried.

Public Comment

No residents addressed the Board.

Unfinished Business

Master Plan Update

Motion by Commissioner Gabler, seconded by Commissioner Moran to table the item until the September 14, 2015 meeting. All Ayes. Motion Carried.

Fence Ordinance

A proposed updated fence ordinance was presented for review by the Board. The Board reviewed the proposed ordinance and a discussion then took place regarding changes in the ordinance language.

Motion by Commissioner Moran, seconded by Commissioner McKenzie to accept the proposed fence ordinance as amended and be forwarded to the City Attorney for review. All Ayes. Motion Carried.

Non-Motorized Transportation Plan

Motion by Commissioner Moran, seconded by Commissioner McKenzie to table the item until the September 14, 2015 meeting. All Ayes. Motion Carried.

Adjournment

Motion by Commissioner Gabler, seconded by Commissioner Moran, to adjourn at 7:52pm. All Ayes. Motion Carried.

Respectfully submitted,

Elizabeth McDonald
Deputy Clerk

Kristen Baxter
City Clerk

B-A

Kristen Baxter

From: Struck, David <dstruck@stclaircounty.org>
Sent: Wednesday, August 05, 2015 4:13 PM
To: Kristen Baxter
Subject: RE: Marine City Master Plan Update
Attachments: Marine City Master Plan Update - Project Timeline.pdf; Marine City Master Plan Update - Project Draft Budget.pdf

Kristen,

Attached is the draft scope of work/timeline and cost estimate. This is based on updating the existing document, particularly the data/tables/maps, goals and objectives, and associated text changes. We would use as much of the existing document as possible. Keep in mind that a lot of the data will probably be quite different as the economy was quite different 5-6 years ago and we will have to modify the plan text that goes along with the tables/charts. We have it estimated at not-to-exceed \$12,000. It is possible that we could come in under that (especially since we did the previous plan). You will also notice that the project timeline runs to next August. As noted, the draft plan would be completed by April/May. However, the city is then required by statute to put the draft plan out for a 63-day review and comment period which will take up the chunk of time indicated in red.

Let me know if you or the commission has any questions. If they decide to move forward with this, we have a basic professional services agreement that we can send over that would be executed by both the city and Metro Planning.

Dave

From: Kristen Baxter [mailto:KBaxter@marinecity-mi.org]
Sent: Wednesday, August 05, 2015 12:39 PM
To: Struck, David
Subject: RE: Marine City Master Plan Update

Good Afternoon Dave:

We have our Planning Commission meeting next Monday, August 10th. Will you have a proposal to me by that date?

Thanks so much,

*Kristen Baxter,
City Clerk*



(810) 765-8830

From: Struck, David [<mailto:dstruck@stclaircounty.org>]
Sent: Thursday, July 09, 2015 2:16 PM
To: Kristen Baxter <KBaxter@marinecity-mi.org>
Subject: Marine City Master Plan Update

Hi Kris,

Just following up on our phone discussion from last week. I wanted to let you know that the Metropolitan Planning Commission would be able to work with the city on the master plan update beginning this summer after all. Originally, we would not have been able to take on the project until January; however, as I mentioned to you last week, the timing of another project has been pushed back, so we would be able to start on the city's plan in August/September.

You mentioned that the planning commission is interested in doing a "light" update of the plan. Based on that, I will develop a proposed scope of work and a cost estimate and get that to you prior to your August planning commission meeting. Let me know if that works for you. I know that you wanted to at least have an idea of when we could start so that you could update the planning commission at its July meeting. I'll get you the proposal by the end of this month so you can take it to the PC in August.

Dave Struck, AICP | Executive Director
St. Clair County Metropolitan Planning Commission
200 Grand River Avenue, Suite 202
Port Huron, MI 48060
phone: 810.989.6950
dstruck@stclaircounty.org

8-B

KANE, CLEMONS, JOACHIM AND DOWNEY

PROFESSIONAL CORPORATION
ATTORNEYS AND COUNSELORS AT LAW
721 ST. CLAIR RIVER DRIVE P.O. Box 333
ALGONAC, MICHIGAN 48001

TELEPHONE
AREA CODE 810
794-4961
FAX (810) 794-3641

JOHN C. KANE (1920-1998)
THOMAS M. CLEMONS, JR.
GEORGE J. JOACHIM
JAMES T. DOWNEY, JR.

September 2, 2015

Kristin Baxter
City Clerk
City of Marine City
303 S. Water Street
Marine City, MI 48039

RE: Proposed Fence Ordinance Amendment

Dear Ms. Baxter:

Please be advised I have had the opportunity to review the draft of proposed changes to Chapter 156 of the City Code ("the amendment"), and I offer the following comments.

The amendment strikes the current Section 156.02, which states as follows:

§ 156.02 UNLAWFUL CONSTRUCTION.

It shall be unlawful for any person to construct or cause to have constructed any fence upon any property within the city, except in accordance with the requirements and restrictions provided in this chapter.
(Prior Code, § 10-2) (Ord. passed 1-5-1967) Penalty, see Section 10.99.

This provision must remain in the Chapter in order to criminalize violations of the ordinance. I would re-insert it as Section 156.02.

The amendment combines elements of the current Sections 156.03-156.06 into three (3) new sections entitled Residential Fences, Nonresidential Fences, and Corner Clearance and Visibility. In keeping with my earlier observation, I would re-label them as Sections 156.03, 156.04, and 156.05.

Subparagraph (b) of the Residential Fence section presents the only language I find potentially objectionable among all of the proposed changes. It reads "No obscuring fence or wall" shall be located in a waterfront yard. It later states that chain-link fencing is considered obscuring; and hence, impermissible under the ordinance in a waterfront yard. I foresee the

Kristin Baxter
September 2, 2015
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opportunity for waterfront property owners to litigate what constitutes an "obscuring fence or wall," or to argue that their proposed non-chain link fencing is merely "decorative," and therefore permissible, and not "obscuring." If it is possible to define affirmatively what constitutes an "obscuring fence or wall" or permissible "decorative" fencing, rather than merely indicating that a chain-link fence is impermissible, I think that would provide better guidance for the property owner and yield a better result if the City were challenged on an enforcement issue.

I think this section of the amendment should also address the issues presented by residential landscaping, screening, and greenbelts. The City's Zoning Ordinance addresses these issues at Section 160.219; however, that provision is inapplicable to residential properties. I can conceive of a situation where a waterfront yard owner might wish to install hedges or trees along his or her property line that would result in the same problems presented by non-compliant fences.

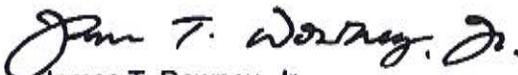
These are the only substantive changes to the amendment I recommend. If needed, I can work to provide the Planning Commission examples of language used in other communities to sharpen these definitions.

The amendment's Section 156.05 and its permit provisions are identical to the former Section 156.07 and previous permit provisions and are unobjectionable. I recommend re-labeling the amendment's Section 156.05 to Section 156.06.

If you have any questions regarding this matter, please do not hesitate to contact me.

Very truly yours,

KANE, CLEMONS, JOACHIM AND DOWNEY


James T. Downey, Jr.

JTD/ns

cc: Elaine R. Leven, City Manager

GENERAL PROVISIONS

156.01 DEFINITION

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

FENCE. Any artificial permanent fence, partition, structure or gate erected as a dividing marker, barrier or enclosure.

(Prior Code, 10-1) (Ord. passed 1-5-1967)

Proposed Replacement Ordinance for Previous Sections 156.02 – 156.06

156.02

1. Residential Fences.

Residential Fences are permitted or required, subject to the following:

- a. Fences on all lots of record in all residential districts, which enclose property and/or are within a side or rear yard that is not waterfront to either the St. Clair River or the Belle River, shall not exceed six (6) feet in height. This height shall be measured from the average established grade to the highest point of the fence. No fence, wall or hedge shall rise over four (4) feet in height in front of the house or any yard that is waterfront to the St. Clair River or Belle River, or in the minimum front yard, whichever is greater; the measuring technique employed shall be the same as stated above. In addition, no fence, wall, or hedge shall be located within a public right-of-way, occupy a clear vision zone as established by section 156.04, or interfere with visibility from a driveway. The Zoning Administrator is hereby empowered to cause obstructions to be removed in the interest of public safety.
- b. No obscuring fence or wall shall be located within the front yard or any yard that is waterfront to either the St. Clair River or the Belle River. Decorative fencing which does not materially impede vision shall be permitted in a front or waterfront to either the St. Clair River or the Belle River provided it does not exceed a height of four (4) feet. Non-obstructing decorative fencing does not include chain-link fencing.
- c. Fences shall consist of at least one side of "finished" quality. The term "finished" refers to the covering of raw material so as to protect it from the natural elements; this includes but is not limited to the painting of metal, and the painting or staining of wood. A finished side of the fence shall be exposed to all adjacent properties including the St. Clair River and the Belle River. The finished side shall generally be the side without post exposure or with the least post exposure. The Building Inspector shall determine the "finished" side.
- d. Fences shall not contain barbed wire, pointed or sharp extrusions on the top, electric current, or charge of electricity. All fences shall be constructed of treated wood, plastic, aluminum, or galvanized metal or similar materials as approved by the Building Inspector and/or Zoning Administrator. Temporary fencing such as chicken wire or plastic snow fencing, shall be prohibited as permanent fencing material.
- e. All fences shall comply with the requirements of the applicable building and zoning codes.
- f. All fences shall be maintained so as to not endanger life or property.

156.03

2. Nonresidential Fences

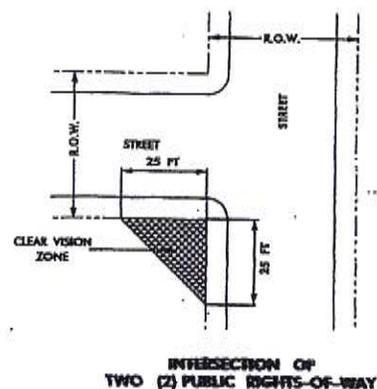
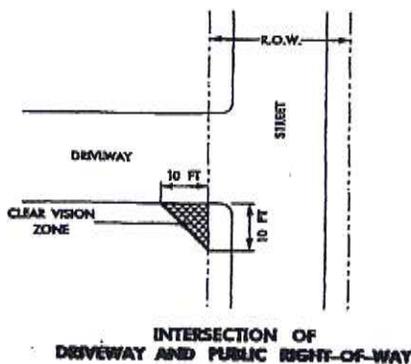
- a. Fences located in other than residential districts or on the boundary between such districts shall not exceed eight (8) feet in height, measured from the surface of the ground.
- b. Fences, which enclose public or institutional parks, playgrounds, or public landscaped areas situated within an area developed with recorded lots, shall not obstruct vision to an extent greater than twenty-five (25) percent of the fences total area. Fences bordering waterfront to the St. Clair River or the Belle River shall not be obscuring.
- c. No fence, wall, or hedge shall be located within a public right-of-way, occupy a clear vision zone established by section 156:04, or interfere with visibility from a driveway. The Zoning Administrator is hereby empowered to cause all such obstructions to be removed in the interest of public safety.
- d. Fences located within twenty-five (25) feet of an intersection shall not exceed thirty (30) inches in height.
- e. Fences shall not contain barbed wire, electric current, or charge of electricity. In the case where the security of industrial and commercial property is concerned, the Planning Commission may approve a fence eight (8) feet in height with barbed or razor wire attached to the top as a part of the site plan review.
- f. All fences shall comply with the requirements of the Building Code.

156.04

3. Corner Clearance and Visibility

- a. No Fence, wall, structure or planting shall be erected, established or maintained on any corner lot which will obstruct the view of a driver of a vehicle approaching the intersection excepting shade trees which would be permitted where all branches are not less than eight (8) feet above the road level. Such unobstructed corner shall mean a triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines or in the case of a rounded property corner from the intersection of the street property lines extended. In the case of a driveway/street intersection, the aforementioned technique shall also be used however a ten (10) foot dimension shall be utilized situated along the driveway and property line. Decorative fencing which would be approved on a corner could include open weave, split rail or similar fencing. Refer to illustration 3-1.

Illustration 3-1 Corner Clearance and Visibility



- b. For purpose of this ordinance, unobstructed view bordering the waterfront of the St. Clair River and/or the Belle River, shall include an unobstructed view ninety (90) degrees out from the corners of the main exterior wall most parallel to the water. Fences, walls or similar barriers may be permitted by the Zoning Board of Appeals.

- *ninety (90) degrees reflects a recent court ruling*

156.05 BOARD OF APPEALS

Upon appeal in writing by any person directly or indirectly affected hereby, the Zoning Board of Appeals of the city may, after a hearing in accordance with the established procedure of the Board, in its sound discretion and in the interests of the public health, safety or welfare of the inhabitants of the community, reduce or remit the requirements of this chapter in individual cases.

PERMIT PROVISIONS

156.20 REQUIRED

Any person desiring to build or cause to be built a fence upon property within the corporate limits of the city, shall first apply to the building Inspector for a permit to do so.

156.21 APPLICATION

Application for a permit under this chapter shall contain any and all information, including drawings required and necessary for the determination of whether the erection of such fence would be contrary to the provisions in this chapter or the laws of the state.

156.22 FEE

A fee in the amount established by resolution of the City commission shall be paid for each permit under this chapter.