



MINUTES

Committee on Development and Planning

Monday, March 20, 2017 @ 4:00 p.m.

Council Conference Room, City Hall 10th Floor

CALL TO ORDER

Called to order at 4:09 p.m.

PRESENT

Council Member Brown Clarke, Chair
Council Member Yorko, Vice-Chair-excused
Council Member Houghton, Member
Council Member Hussain, Member

OTHERS PRESENT

Sherrie Boak, Council Staff
Jim Smiertka, City Attorney
Heather Sumner, Assistant City Attorney
Joan Nelson
John Krohn, Ingham County Land Bank
Julie Lehman, Greater Lansing Food Bank
Susan Stachowiak, Planning & Neighborhood Development

MINUTES

MOTION BY COUNCIL MEMBER HUSSAIN TO APPROVE THE MINUTES FROM MARCH 6, 2017 AS PRESENTED. MOTION CARRIED 3-0. .

DISCUSSION/ACTION

URBAN GARDENS

The Committee was asked not to reference the Draft that was in the packet, that it was no longer in consideration per Law. Mr. Smiertka provided a procedural back ground, beginning in the fall of 2016 when a Council Member approached law for an ordinance for urban agriculture, which included the inclusion of different terms, uses, etc. The City Attorney office created an ordinance and presented it to the full Council and at that time it was brought to everyone's attention there is a Michigan Right to Farm Act already in place. Therefore, Law now believes that the draft that was presented to Council in 2016 longer has any application.

Today the Committee received a draft copy of definitions proposed by Planning and Neighborhood Development and Law. Those included "Garden", "Garden Structure", "Gardening" and "Open Space".

Mr. Smiertka elaborated on the Right to Farm Act, which was a statute enacted in 1981 with the intent to protect farmers and those engaged in urban agriculture from the subdivision sprawl. The Right to Farm Act applies to commercial production of farm products, marketing, production, odor and any association with farming. "Farming" is defined in the Right to Farm Act, and generally accepts that they are buying and selling their produce. The Act prohibits, but not if they have not been found to be a private or public nuisance, and if the farm operation is engaged in general farming practices. The City enforces zoning through a nuisance action, and after vetting through Law, Mr. Smiertka opinion is that the Act prohibits any ordinance on commercial farming in any area or level in the City. The City can regulate noncommercial in the residential area, saying where they can be permitted and regulations. Most zoning categories address accessory uses and their restrictions, therefore to regulate them Law and PND has proposed definition changes in the residential districts. Mr. Smiertka then addressed a question stated outside of the meeting, where it was asked if these amendments would allow medical marihuana growing in residential districts. Mr. Smiertka confirmed that the Medical Marihuana Act allows 72 plants to be grown with its restrictions. Under the Medical Marihuana Facilities Act, the same thing occurs, and grow operations are limited to industrial districts. The Medical Marihuana Act preempts the Right to Farm Act.

Mr. Smiertka then moved his overview to the community garden portion, which in his opinion should not be part of the City regulations, and those types of gardens should be done by non-profits or associations. They are not subject to regulations, but Mr. Smiertka stated that Law's opinion is that the City should not be involved in.

Ms. Stachowiak noted to the Committee that there are restrictions in residential districts that the gardens cannot have stands to sell the produce. She admitted that the City has been allowing a group of selective depending on the area and circumstances, and allowing community gardens with neighborhoods to use for their own consumption, but not to sell. Mr. Smiertka pointed out that once those gardens start to sell they will need to meet requirements set by the Right to Farm Act.

Council Member Brown Clarke recapped asking Mr. Smiertka to confirm that at this point in time, per Law and PND that other than the commercial use at any level there are no barriers. Mr. Smiertka confirmed that for commercial use there are no barriers. Ms. Stachowiak stated that they will still have to comply with basic restrictions for zoning like any other use in that district. Council Member Brown Clarke then asked about the use of greenhouses and hoop house, and if those would be acceptable. Ms. Stachowiak confirmed they would be, as long as they meet the setback requirements and height restrictions. Mr. Smiertka referenced a case in the City of Troy in 2007 with the Michigan Supreme Court which allowed such items under the Right to Farm Act. Council Member Brown Clarke then asked if there was no residence if there could be just an accessory structure, green house, shed or hoop house. Ms. Stachowiak confirmed it referring to the new proposed amendments that would allow it.

Council Member Hussain asked Mr. Smiertka what the motivation was behind the proposed amendments, since his experience was that these gardens have become detriments, nuisances, and not a necessity to retain residents and businesses. Mr. Smiertka confirmed that there were other communities in Michigan where vacant lots were being turned into community gardens. Ms. Nelson added that several months ago a representatives from outside groups met to talk about the gardens in the City, some of those gardens be administered by the Garden Project. Ms. Nelson's opinion was that people grow for their own consumption, however there have also been some urban gardens, and she has noticed some areas are reinventing themselves as urban agriculture, drawing people to buy in the area then farm the area.

Urbandale Farm, at the end of Hayford was given as an example, also noting that some have farm stands and also sell at the local farm markets. Ms. Stachowiak told Council Member Hussain that some of the gardens are going in on vacant lots that cannot be built on because they are in the flood plain very costly to rebuild a residence on. Ms. Nelson spoke in support of the amendments proposed.

Council Member Hussain asked for data to support the theory of Ms. Nelson and Ms. Lehman. Ms. Nelson could not provide data, but her belief was that in 2004 there were 158 people weekly at the farmer markets and it is now up to 700-1100 people weekly. At the Hunter Park Garden House they have 30-45 people attending the "Planning your Garden event.

Ms. Lehman acknowledged her organization does to a pre-post survey with the community garden, and they support 85 community gardens on 16 acres with 1,300 families, those being 85% low to low moderate income based on HUD information. She also noted that when doing their survey they did find out that 80% of the participants give away the food they grow.

Mr. Krohn informed the Committee that the Garden Program has 165 parcels in the City, but he was not able to provide the number of parcels in the flood plain. The areas he was aware of in the flood plain included Knollwood Willow and Urbandale. Mr. Krohn asked for the support of the ordinance so they could protect the activities that urban farmers and gardeners are doing, and the need for accessory structures. He also pointed out that there has been an inconsistency on the permission of hoop houses from the City. With the Land bank lots, once the homes are demolished, there are garages that could structurally stay, but since they use Federal funds they have to also demolish the garage. Mr. Krohn spoke in support of leaving the accessory structure. Council Member Brown Clarke asked if those properties can be designated to a garden before the buildings are demolished, that way to protect the garage. Ms. Stachowiak answered stating that per the requirements of the demolition permit, everything has to be removed to finalize that permit, which includes the footings, garages and driveways.

Council Member Houghton asked if the property values are being affected by the gardens. The attendees could not provide any data.

Council Member Hussain outlined his concerns with the gardens and structures creating a haven for pests, rodents and even homeless people to stay, nothing the overall prospect has the potential of being an aesthetic disaster. Council Member Hussain pointed out to Ms. Nelson, Ms. Lehman and Mr. Krohn that when the gardens are abandoned the City can't enforce, so if the Council considers these amendments they need to think about the unintended consequences.

Council Member Brown Clarke agreed with Council Member Hussain on his concerns with the need to address and mitigate the concerns, along with making sure all the grows have a person of accountability, they comply with code and code does not need to monitor. She continued by stating the point that the Land Bank lots might not be buildable now, but could be in the future, so maybe the City should consider evaluating and designating certain places for grows or community gardens. Lastly an educational piece, she stated, could be created to inform the growers of the difference between the community garden and urban gardens, what is protected under the Right to Farm Act and what is not.

Mr. Smiertka asked Ms. Stachowiak to clarify why the definition for "Garden". Ms. Stachowiak stated it outlines what is permitted in residential districts, and Mr. Roberts in the City Attorney office asked that "Gardening" be added also.

Mr. Smiertka spoke to the concern with the rodents, and noted to the Committee that under the Right to Farm Act, they can farm and buy or sell and can be done in any zoning district. Clearly he noted that this Act preempts all local ordinances, so they cannot bring a nuisance ordinance against those activities.

Ms. Nelson stated she would go back to her group and they would start talking about the Right to Farm Act and its impact on them.

Council Member Brown Clarke outlined the next steps, those being the correct format of the ordinance with the amendments will be brought back to the Committee on April 3, 2017; then if passed out of Committee will be on the Council agenda on April 10, 2017 to introduce and set a public hearing which will be held on May 8th. After the hearing, the Committee will review it again on May 15th, 2017 based on any comments at the public hearing, then if there are no concerns it will be back before Council on May 22nd for adoption.

Council Member Brown Clarke referenced a letter of support of the proposed amendments by the Planning Board. The letter is made part of the minutes.

Adjourn at 4:59 p.m.

Submitted by, Sherrie Boak, Recording Secretary,
Lansing City Council

Approved by the Committee on April 3, 2017

March 7, 2017

Dear members of the Lansing City Council Planning and Development Committee:

As a member of the Planning and Development Committee we understand you will have the Urban Ag Ordinance on the committee agenda in March.

Community gardens continue to grow in popularity across the city and are an important source of fresh food for our residents. With the spring growing season soon be upon us, it is important that Lansing residents start the year in compliance with any new policies that may be adopted by city council.

After listening to stakeholders across the city, the Lansing Planning Board approved a motion to support the proposed ordinance at its September meeting. The new ordinance will serve as an important guideline for gardeners and while ensuring the character of our neighborhoods is preserved.

We encourage the Planning and Development Committee to support this important new policy and look forward seeing the final version for adoption at city council.

Sincerely,

A handwritten signature in cursive script, appearing to read "John P. Ryce".

The Lansing Planning Board

Letter Adopted with a 6 vote.