

# MARSHALLTOWN

I O W A

## PLAN ZONING COMMISSION

Notice of Public Meeting Agenda  
September 13, 2018 at 5:00 PM  
10 W. State Street - Council Chambers

1. Call To Order & Roll Call

Bloomquist  
Boston  
Brodin  
Deimerly-Snyder  
Lins-Eich  
Greer  
Valbracht

2. Minutes From May 31, 2018 & August 16, 2018

Documents:

[053118.PDF](#)  
[081618.PDF](#)

3. PUBLIC HEARING: Amendment To The Zoning Ordinance Chapter 37 Non-Conforming Lots, Uses And Structures

**Public Hearing:** Written or verbal comments may be presented to the Board during the public hearing. Please state your name and address for the record.

**Recommendation:** Commission may make a recommendation to the City Council.

Documents:

[PROPOSED AMENDMENT - CHAPTER 37 \(9.7.18\).PDF](#)

4. DISCUSSION: Update On Highway 14 Corridor Zoning Changes Work Session

2018 Tentative Meeting Schedule (Thursday following the 2nd Monday of the Month)

*\*Dates are tentative and may be changed or canceled in order to accommodate staff schedules or development need.*

July 12, 2018	August 16, 2018	September 13, 2018
October 11, 2018	November 15, 2018	December 13, 2018

MINUTES  
MARSHALLTOWN PLAN & ZONING COMMISSION  
MAY 31, 2018

Call to order: 5:00 PM

**Members Present:** Keith Bloomquist, Jon Boston-Chair, Aimee Deimerly-Snyder, Sharon Greer-Vice-Chair & Steve Valbracht

**Absent:** Matthew Brodin & Angela Lins-Eich

1. **Review and Recommendation to City Council on Amendment #7 to Urban Renewal Area No. 3.**

Michelle Spohnheimer presented the proposed amendment to extend the boundary of Area No. 3 to the West along Iowa Avenue. Spohnheimer discussed the Commissions role in the process is to review the proposal for conformity to the overall plan for the development of the City. Spohnheimer discussed sections of the Comprehensive Plan, which outlines goals associated with encouraging redevelopment in commercial areas including along Iowa Avenue.

Valbracht identified two parcels he felt should be removed from the expansion since they are residential lots - 1603 & 1609 Iowa Avenue West. Others agreed they should not be included.

Mark Eaton 1007 S. 10<sup>th</sup> Avenue provided public comment about TIF regarding if approved projects should be required to create jobs. Eaton indicated he had a business in the area and wondered if he may be eligible for incentives.

The Commission and staff indicated that the Council reviews the individual requests.

Motion by Valbracht to recommend approval of the amendment to the City Council with the removal of 1603 & 1609 Iowa Avenue West from the area. Second by Greer. Motion Carried 5-0

**With no further business, the Commission adjourned.**

Respectfully submitted,

Michelle Spohnheimer, Housing & Community Development Director

MINUTES  
MARSHALLTOWN PLAN & ZONING COMMISSION  
AUGUST 16, 2018

Meeting location: Marshalltown Public Library

Call to order: 5:00 PM

**Members Present:** Keith Bloomquist, Jon Boston-Chair, Matthew Brodin & Steve Valbracht

**Absent:** Aimee Deimerly-Snyder, Sharon Greer-Vice-Chair & Angela Lins-Eich

**1. Review and Recommendation to Board of Adjustment on Special Use Permit – Interstate Power and Light Company - Martin Marietta Materials, Inc.**

Neil Grant presented the request to approve a Special Use Permit for a new sand and gravel extraction site on property currently owned by Alliant Energy south east of the former power plant. This site will utilize a portable plant set up that is on site a couple of times per year. The facility will however be open year round to customers. The road will be relocated slightly to avoid the major pipeline to Alliant. Employees and customers will access through the easement off of Main Street Road.

Motion by Valbracht to recommend approval of the Special use Permit to the Board of Adjustment. Second by Boston. Motion Carried 4-0

**2. Rezoning Discussion of Highway 14 Corridor to Traditional Neighborhood District**

Spohnheimer presented information related to the Highway 14 Corridor Study recommendations accepted in June 2018 related to rezoning properties along the northern corridor. In the study the recommendation was to rezone areas to the TN, Traditional Neighborhood District which is an existing district. The study was prepared by Bolton & Menk. Rose Brown was also present from the firm to answer any questions and discuss the process the commission could use to evaluate the best approach based on the desired outcome we are trying to achieve as a community. The TN district is likely not ideal as is for the entire area and perhaps a new zone, combination of zones or overlay districts may be more appropriate. Spohnheimer discussed with the Commission that this item and the next are only an introduction and to the topic and that any approach can be taken. Commissioners decided to set a work session to dig into the area in more detail.

**3. Ordinance Revision Discussion regarding The Traditional Neighborhood District**

Discussion related to this item previously addressed in item #2 and will be discussed during the work session.

**4. Ordinance Revision Discussion regarding The Non-conforming Uses and Structures Chapter**

As a result of the tornado July 19<sup>th</sup> staff has had to really look at our non-conforming use chapter and we found that it was not adequately providing us with the direction we needed. We received legal interpretations on how to proceed post event and we requested a full review of our ordinance. Lynch Dallas is reviewing the chapter and will make recommendations back to the City. Spohnheimer indicated that our priority is to ensure that we have a legal and defensible ordinance.

**With no further business, the Commission adjourned.**

Respectfully submitted,

Michelle Spohnheimer, Housing & Community Development Director

ORDINANCE NO. \_\_\_\_\_  
AN ORDINANCE AMENDING CHAPTER 37 OF THE  
ZONING ORDINANCE OF THE CITY OF  
MARSHALLTOWN, IOWA

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARSHALLTOWN, IOWA:**

**Section 1. Amendment to Chapter 37 of the Zoning Ordinance of the City of Marshalltown, Iowa.** Chapter 37 of the Zoning Ordinance of the City of Marshalltown, Iowa, is superseded and replaced in its entirety by the following:

**CHAPTER 37**

**NONCONFORMING LOTS, USES & STRUCTURES**

**Section 1: Purpose**

1. Within the established districts set forth by this Ordinance or amendments that may be later adopted, exist lots, uses of land, uses of structures, and structures that were lawful at the time of adoption or amendment of this Ordinance, but are now prohibited, restricted, and regulated under the terms of this Ordinance and/or future amendments. It is the intent of this Chapter to allow these nonconformities to continue until they are removed or fail to maintain their nonconforming status, but not to encourage their survival.
2. The objective of this Chapter is to establish terms by which all nonconforming lots, uses, and structures will ultimately be brought into compliance with the terms of this Ordinance as it is adopted and amended. Such nonconformities have been found to be incompatible with permitted uses and structures within the zoning district in which they are found. Single-family uses shall not, generally, be treated as nonconforming uses.
3. To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in plans, construction, or use of any building in which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance. Actual construction is hereby defined as placing or fastening materials in a permanent position, or where excavation, demolition, or removal in preparation for building has occurred, provided work is carried on in a diligent manner.

**Section 2: Discontinuance**

1. Any nonconforming use of land or nonconforming use of structure that is idle, unoccupied, or vacant for one year or more is conclusively deemed discontinued, abandoned, and terminated, and shall lose its nonconforming rights. Any future uses shall comply with the use regulations of the district in which it exists.
2. Any nonconforming use or structure that is unlawfully constructed, altered, or operated at any time shall not be permitted to continue in existence or use as a nonconforming

use or structure. Any nonconforming use that comes into compliance with regulations of the zoning district in which it is located at any time shall not be constructed, altered, or operated as a nonconforming use or structure in the future.

3. Nothing in this Chapter shall be interpreted as authorizing the continuance of the use of a structure or lot established unlawfully or in violation of zoning and subdivision regulations in effect prior to the effective date hereof.
4. All variances or appeals of this Chapter shall be submitted to the Board of Adjustment.

### **Section 3: Single-family Uses**

Nonconforming single-family uses may be rebuilt or restored if destroyed or damaged to any extent. This only applies to residential structures primarily utilized for housing purposes, including any attached structures. Such repair, reconstruction, or structural alteration shall not increase or extend the degree of nonconformity. Detached structures shall not be rebuilt, except in conformance with all requirements of this Chapter. Nonconforming structures shall not be repaired, reconstructed, or structural altered except in compliance with all other provisions of this Chapter.

### **Section 4: Nonconforming Lots of Record**

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single legal lot of record at the effective date of adoption or amendment of this Ordinance notwithstanding other provisions of this Chapter. This regulation shall apply even though such lot fails to meet the requirements of area, width, or both, that are generally applicable in the district; provided front yard dimensions and requirements other than those applying to area, width, or both are satisfied.

### **Section 5: Nonconforming Uses of Land**

Where, at the time of passage or amendment of this Ordinance, a lawful use of land exists (preexisting), which would not be permitted by these regulations, the use may be continued as long as it remains lawful, provided:

1. No such nonconforming use shall be enlarged or extended to occupy a greater area of land than was occupied at the effective date of adoption of these regulations unless herein provided.
2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use on the effective date of adoption or amendment of this Ordinance.
3. No additional structures that do not conform to the requirements of this regulation shall be erected in connection with such nonconforming use of land unless herein provided.

## **Section 6: Nonconforming Uses of Structures**

If lawful use of an individual structure exists at the effective date of adoption or amendment of this Ordinance that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this regulation in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
2. Any nonconforming use may be extended throughout any part of a building, which was designed for such use at the time of adoption or amendment of this regulation, but no such use shall be extended to occupy any land outside such building.
3. When any structure committed to a nonconforming use is superseded by a permitted use, it shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.

## **Section 7: Nonconforming Structures**

Where a lawful structure exists at the effective date of adoption or amendment of these regulations that could not be built under the terms of these regulations by reasons of restrictions on area, height, yards, location on lot, or other requirements concerning structures, such structures may be continued so long as it remains otherwise lawful, provided:

1. Where a structural projection of the principal building is located closer to the lot line than allowed by this regulation, the nonconforming side of the structure may be increased provided that the following requirements are met:
  - a) The existing structural projection that is being added onto is no less than 10 feet from the front lot line, 4 feet from the side lot line, and 25 feet from the rear lot line.
  - b) The addition shall not extend beyond the further most structural projection of the nonconforming side.
  - c) The addition shall meet all other requirements of this Ordinance.
2. A non-conforming accessory structure shall not be increased in size, except to bring the entire structure into conformance with all requirements of this Chapter.
3. Should such nonconforming structure or nonconforming portion of the structure be destroyed or deteriorated by any means to an extent of more than sixty percent (60%) of its assessed value at time of destruction, such structure shall be allowed to be restored or reconstructed to its previous size, including area, height, and lot coverage; provided all other applicable building and zoning regulations are met, including required setbacks, unless explicitly allowed elsewhere in this Chapter. For the

**Commented [s1]:** The distances included in this section are placeholders; we leave it to the City to determine the actual distances it feels are appropriate.

purpose of this regulation, the assessed value on record at the Marshall County Assessor's office shall be used as the assessed value of a structure at the time of destruction.

4. A nonconforming structure that is used as a single-family use or that is an accessory structure to a single-family use that is destroyed or deteriorated shall be allowed to be restored or reconstructed to its previous size, including area, height, lot coverage, and setback, provided all other applicable building and zoning regulations are met. Such a structure may also be repaired or structurally altered, provided such construction does not increase or extend the degree of nonconformity and does not increase or extend any other nonconforming situation on the property, subject to the following conditions as applicable.
  - a) If such nonconforming structure, either primary or accessory, is closer than three (3) feet to the property line of an adjacent property, a maintenance easement agreement must be obtained from the adjacent property owner in order for such structure to be restored, reconstructed, structurally altered, or repaired (excluding repairs that amount to less than sixty percent (60%) of the assessed value of the structure), closer than three (3) feet to the property line.
  - b) If such accessory structure is closer than three (3) feet to any property line, a conditional use permit must be obtained from the Board of Adjustment before construction may commence.
  
5. A nonconforming structure that is used as a multi-family use or that is an accessory structure to a multi-family use that is destroyed or deteriorated and is a contributing structure in a locally designated historic district shall be allowed to be restored or reconstructed to its previous size, including area, height, lot coverage, and setback, provided all other applicable building and zoning regulations are met. Such a structure may be repaired or structurally altered, provided such construction does not increase or extend the degree of nonconformity and does not increase or extend any other nonconforming situation on the property, subject to the following conditions as applicable.
  - a) If such nonconforming structure, either primary or accessory, is closer than three (3) feet to the property line of an adjacent property, a maintenance easement agreement must be obtained from the adjacent property owner in order for such structure to be restored, reconstructed, structurally altered, or repaired (excluding repairs that amount to less than sixty percent (60%) of the assessed value of the structure), closer than three (3) feet to the property line.
  - b) If such accessory structure is closer than three (3) feet to any property line, a conditional use permit must be obtained from the Board of Adjustment before construction may commence.

Such reconstruction shall be commenced within one-year of the date of the destruction. An extension up to one-year may be granted by the City's Department of Housing and Community Development upon valid request by the property owner.

**Section 8: Repealer.** All provisions of the City Code in conflict with these provisions of this Ordinance shall be repealed.

**Section 9: Severability.** If any section, provision, or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall have no effect on the validity of the Ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

**Section 10: Effective Date.** This Ordinance shall be in full force and effect from and after its adoption and publication as provided by law.

CITY OF MARSHALLTOWN, IOWA

\_\_\_\_\_  
Joel Greer, Mayor

ATTEST:

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Shari L. Coughenour, CMC, City Clerk

I, Shari L. Coughenour, CMC, City Clerk of the City of Marshalltown, Iowa, do hereby certify that the foregoing ORDINANCE was passed and approved by the City Council of the City of Marshalltown, Iowa, on the \_\_ day of \_\_\_\_\_, 2018, and was published in the Marshalltown Times-Republican, a newspaper of general circulation in the City of Marshalltown, Iowa, on the \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Shari L. Coughenour, CMC, City Clerk