



CHEBOYGAN COUNTY PLANNING COMMISSION

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CHEBOYGAN COUNTY PLANNING COMMISSION MEETING WEDNESDAY, MAY 18, 2011 AT 7:00 P.M. ROOM 135 – COMMISSIONER’S ROOM - CHEBOYGAN COUNTY BUILDING

PRESENT: Bartlett, Freese, Kavanaugh, Borowicz, Croft, Ostwald, Eichhorn, Churchill
ABSENT: Lyon
STAFF: Scott McNeil
GUESTS: Michael J. Mankin III, Judy Ostwald, Patricia A. Brown, Jaime Chimner, Joseph Chimner, Ed Hunt, Bill Morgan Jr., Jeff Chadwell, Bev Chadwell, Jan Berden, Emmett, Jeter, Albert Pollard, Cindy Pollard, John F. Brown, Russell Crawford, Cheryl Crawford, Cal Gouine, Jesse Moulder, Laurie Baker, Duane Walker, Susan Tumidanski, Bob Lashuay, Ty Herr, Denny Harley, Dan McMullen, Ron Ippolito, Robert H. Smith, Brad Forrester, Brenda Nowak, John Moore, Mark Brody, Ruth Brody, Becky Smith, Tony Matelski, Mark Shall, Jack Morrison, Bud Manning, Larry Stanley, William Barnich, Diane Senter, Rich Ayotte, Donald Willis, Jack Darga, Cheryl Butler, Terry Jozwiak, Tom Barber, Dana Spencley, Carl Oxley III, Jeff Konczak

The meeting was called to order by Chairperson Croft at 7:00pm.

APPROVAL OF AGENDA

The meeting agenda was presented. Ms. Croft stated the public hearing for medical marijuana will be moved under approval of minutes. **Motion** by Mr. Freese, seconded by Mr. Kavanaugh, to approve the agenda as amended. Motion carried. 8 Ayes (Bartlett, Freese, Kavanaugh, Borowicz, Croft, Ostwald, Eichhorn, Churchill), 0 Nays, 1 Absent (Lyon)

APPROVAL OF MINUTES

The May 4, 2011 Planning Commission minutes were presented. **Motion** by Mr. Kavanaugh, seconded by Mr. Borowicz, to approve the meeting minutes as presented. Motion carried. 8 Ayes (Bartlett, Freese, Kavanaugh, Borowicz, Croft, Ostwald, Eichhorn, Churchill), 0 Nays, 1 Absent (Lyon)

PUBLIC HEARING AND ACTION ON REQUESTS

An ordinance to amend the Cheboygan County Zoning Ordinance No. 200 concerning medical marijuana

Ms. Croft stated the Planning Commission will listen to public comments regarding medical marijuana and noted there will be a time limit of 3 minutes.

Mr. Graham explained that medical marijuana is a new use that was approved by the voters. Mr. Graham stated medical marijuana is a legitimate land use that must be addressed in the Zoning Ordinance. Mr. Graham explained a public hearing is part of the process that is required to amend the Zoning Ordinance.

Mr. Graham stated that the medical marijuana program has been transferred from the Department of Community Health to the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs. Mr. Graham stated this will be a change in the draft amendment. Mr. Graham stated "or any successor agency" will be used in case of any future changes in the organizational structure through Lansing.

Mr. Graham stated that the Planning Commission did not want to allow dispensing or consumption at the primary caregiver facility but there should be exceptions if the qualifying patient is residing with the caregiver. Mr. Graham explained that this will be changed in the draft amendment also.

Ms. Croft asked for public comments and noted that there will be a 3 minute time limit.

Mr. Forrester stated he was recently referred to as a state activist in the Cheboygan Tribune. Mr. Forrester stated he is a resident of Cheboygan County. Mr. Forrester expressed his concern that provisions in this ordinance violate the Michigan Medical Marijuana Act as they directly conflict with certain provisions in the act. Mr. Forrester stated that Mr. Graham draws on the authority to make these changes under the Zoning Enabling Act. Mr. Forrester referred to section 8 of the Medical

Marijuana Act and stated that this act invalidates acts or parts of other acts that interfere with medical use. Mr. Forrester believes this proposed amendment is an attempt to redefine medical use that has already been defined by the State of Michigan. Mr. Forrester stated the provisions of the proposed amendment do not seem unreasonable unless you are a patient or a caregiver. Mr. Forrester stated that Mr. Graham drew a lot of his information from the White Paper that was drafted for the Michigan Municipal League and Michigan Township Association. Mr. Forrester stated the Planning Commission should pass an ordinance that works and protects for the community. Mr. Forrester stated that any ordinance that is passed that attempts to redefine the slim definition of medical use in the Medical Marijuana Act will be met with a legal challenge. Mr. Forrester objected to the three minute limit placed on the public comments.

Mr. Smith stated the voters overwhelmingly passed the Medical Marijuana Act. Mr. Smith stated that most governmental agencies have tried to thwart the intent of the voters. Mr. Smith stated nearly 2/3 of the people who voted in Cheboygan County voted in favor of the Medical Marijuana Act. Mr. Smith stated the proposed regulations will make it difficult for the desire of the public to be met. Mr. Smith asked the Planning Commission to reconsider approving this amendment. Mr. Smith asked the Planning Commission to meet again and discuss how this can work for the people who need medical marijuana. Mr. Smith asked the Planning Commission to think about what they can do, as people that serve the public, to make it work for the people who are involved.

Mr. Mankin stated he agrees with Mr. Forrester and Mr. Smith. Mr. Mankin referred to Section 17.25.3f and stated he did not realize this would be a home occupation. Mr. Mankin stated he could not have dinner with his grandmother, grandfather and mother if he is a caregiver and they are patients. Mr. Mankin stated this is against his right to peacefully assemble. Mr. Mankin stated many communities have thrived that support medical marijuana.

Mr. Shall stated he lived in Cheboygan and he agrees with the previous comments. Mr. Shall stated he is concerned that this will be a home occupation. Mr. Shall read a definition for home occupation and noted that medical marijuana is not done for a financial gain.

Ms. Chimner stated that she agrees with the previous comments. Ms. Chimner stated she is a 53 year old woman who has raised two children. Ms. Chimner stated she hopes that no one here has to experience severe chronic pain on a daily basis. Ms. Chimner stated that unless you have pain all the time you do not understand. Ms. Chimner stated she was not able to get out of bed yesterday but she was able to get out of bed today and this is due to medical marijuana. Ms. Chimner stated medical marijuana has given her some quality of life. Ms. Chimner stated she is not a stoner or a drug addict and she resents being put in this category. Ms. Chimner explained that in 2003 three of her doctors wrote letters to the state that she needed medical marijuana as there is no other medicine that will help.

Ms. Spencley stated she lives in Cheboygan and suffers from fibromyalgia, severe chronic pain and chronic fatigue. Ms. Spencley stated she has been on a lot of pain killers and they do not work. Ms. Spencley stated medical marijuana has helped her a lot with her pain issues. Ms. Spencley stated she is not able to do simple housework because she is in pain. Ms. Spencley thanked everyone for coming and asked the Planning Commission to reconsider and listen to the public comments.

Ms. Baker stated the people attending the meeting would like to work with the Planning Commission to draft an ordinance that works for everyone. Ms. Baker questioned if other home occupations or businesses are required to obtain an electrical permit also. Ms. Baker stated she does not understand the requirements regarding the delivery of the product. Ms. Baker questioned why there could only be one caregiver per household. Ms. Baker stated this should change since there are plenty of couples who are both caregivers. Ms. Baker questioned the regulation regarding one caregiver not being located within 1,000 feet of another caregiver. Ms. Baker asked the Planning Commission to postpone their decision. Ms. Baker stated there are members of the public that could put a committee together and work on the regulation with the Planning Commission.

Mr. Morrison stated he moved to Cheboygan about three years ago and he was in a motorcycle accident in 1978. Mr. Morrison stated there are many pain medicines that upset his stomach and his liver. Mr. Morrison stated medical marijuana relieves his pain and he hopes the Planning Commission reconsiders their opinions.

Mr. Manning stated he was born and raised in Cheboygan. Mr. Manning stated the Planning Commission does not regulate how many people are in a local pharmacy to get medicine. Mr. Manning questioned why the Planning Commission should regulate how many patients are in a caregiver's house. Mr. Manning believes this should not be regulated by the Planning Commission.

Mr. Stanley stated many people have problems with the proposed amendment. Mr. Stanley stated Cheboygan County does not have the money to spend on legal fees to fight this when it is challenged. Mr. Stanley does not believe the proposed

amendment is enforceable. Mr. Stanley questioned how the number of patients in a caregiver's dwelling will be enforced. Mr. Stanley stated the Planning Commission is trying to trample his rights as an American. Mr. Stanley does not believe this is a land use issue. Mr. Stanley stated it would be a land use issue if someone wanted to have 1,000 plants to make money. Mr. Stanley stated that being a caregiver for patients is none of the Planning Commission's business or the Zoning Department's business. Mr. Stanley stated that some people believe that medical marijuana will create crime. Mr. Stanley stated that it has not created crime. Mr. Stanley stated that the Planning Commission is trying to push medical marijuana underground and make it illegal which will increase crime.

Mr. Barnich stated he lives in Cheboygan County and in 2002 he was diagnosed with esophageal cancer. Mr. Barnich stated medical marijuana does help. Mr. Barnich stated some of the rules are good but it is infringing on his inalienable rights. Mr. Barnich stated his concerns that confidentiality would not be possible if you have to apply for a zoning permit. Mr. Barnich would like everyone to work together to come up with a better regulation. Mr. Barnich stated the proposed regulation is not very compassionate to the patient. Mr. Barnich stated this should be opened up for more public opinion.

Mr. Moulder stated he is concerned that he would not be able to have dinner with Mr. Mankin as there would be too many card holders. Mr. Moulder stated his concerns regarding the proposed amendment.

Mr. Pollard stated he is from Cheboygan County and he does not agree with the proposed amendment. Mr. Pollard questioned how the Planning Commission can tell someone who is allowed in their house, when they are allowed in the house and what they can do when they are there. Mr. Pollard questioned how this will be enforced. Mr. Pollard stated he will be holding a wedding reception at his house and he is concerned that he will have to ask everyone at the door if they have a medical marijuana card. Mr. Pollard stated these people have a right to their privacy.

Ms. Senter stated she is a massage therapist in Indian River. Ms. Senter stated marijuana is not a drug and it has been used for centuries as a medicine. Ms. Senter stated there have been studies conducted by the government regarding marijuana being used as a medicine. Ms. Senter suggested that everyone read about this subject.

Mr. Ippolito stated he is from Cheboygan County and he is retired from the Navy. Mr. Ippolito questioned if other businesses are limited to a specific number of customers at one time. Mr. Ippolito stated according to the state taxing agency this use is not considered a business.

Mr. Ayotte stated he has had a series of back surgeries and was previously using many prescription medicines that left him like a walking zombie. Mr. Ayotte stated medical marijuana gave him quality of life. Mr. Ayotte is concerned that his caregiver may not be able to continue as he may be within 1,000ft. of another caregiver. Mr. Ayotte stated he is on a fixed income and his caregiver has acknowledged it and has given him a price that he can afford. Mr. Ayotte stated all existing caregivers should be grandfathered as they have already invested their time and money into being a caregiver. Mr. Ayotte stated medical marijuana has been a miracle for him.

Mr. Willis stated he has been a resident of Cheboygan County for 35 years. Mr. Willis stated he has 3 ruptured discs, 30 nuts and bolts in his face, 15 nuts and pins in his wrists and 4 bad knee caps. Mr. Willis stated medical marijuana eases his pain.

An audience member asked the Planning Commission to table this proposed amendment and do more research. The audience member asked the Planning Commission to not be pressured into making a decision. She stated a booklet was presented that is very comprehensive and includes different zoning laws across the country and the Michigan Medical Marijuana Act. She stated a film called "What if cannabis cures cancer?" is also included in the package. The audience member believes the 1,000ft. requirement is not reasonable as these are people's homes and they are not able to just sell their home as they want to take care of their parents or grandparents. The audience member stated privacy is important as homes can be threatened and people can be harmed. The audience member stated the county does not have the resources to keep this information confidential.

Mr. Darga stated there are a lot of veterans attending this meeting. Mr. Darga stated he is concerned that people's rights are being taken away that were fought for by the veterans.

Mr. Spencley stated that caregivers should keep logbooks like all pharmacies. Mr. Spencley stated all products should be monitored and spot checks of stock should be done at random.

Ms. Butler stated she is from Indian River and she is not a caregiver or a card holder. Ms. Butler stated that if anyone knew that she was a card holder she would lose her job and many parts of her life would be in jeopardy. Ms. Butler noted that if this

is a medical substance the HIPA regulations should protect these patients. Ms. Butler believes this is profiling by singling out a population with a home industry. Ms. Butler stated many people have invested thousands of dollars and questioned if they would be grandfathered. Ms. Butler stated medical marijuana is being treated like an illegal drug again by keeping it away from schools and churches.

Carl Oxley II stated he will not claim to be a caregiver or that he has a card. Mr. Oxley stated the people attending this meeting do not like what is going on and it is infringing on their rights. Mr. Oxley stated this is the safest drug on the market and no one has overdosed from marijuana. Mr. Oxley reviewed the medicines he is taking and noted that his doctor recommended medical marijuana. Mr. Oxley stated his doctor told him that 19 patients tried medical marijuana and 17 did better and dropped a lot of their prescriptions.

An audience member stated she is a patient and a caregiver. She stated she is not only a caregiver but she also provides a shoulder for the patient to cry on and she provides them with alternate ways of consuming their medication. She stated she is more than just a caregiver.

Mr. Lashuay stated he believes this proposed amendment was intended to prohibit groups of people from partying. Mr. Lashuay stated most of these people are not the partying kind other than at a wedding reception. Mr. Lashuay stated he is concerned about this amendment regulating the number of people that can be at his house. Mr. Lashuay asked that the Planning Commission try to come to a more realistic regulation. Mr. Lashuay stated the Planning Commission should seek advice from caregivers and patients that will be affected by the regulation. Mr. Lashuay stated the Planning Commission should table this amendment to allow time to seek input from others. Ms. Croft closed public comment.

Motion by Mr. Freese, seconded by Mr. Churchill, to table the medical marijuana amendment until the June 1, 2011 meeting. Motion carried. 8 Ayes (Bartlett, Freese, Kavanaugh, Borowicz, Croft, Ostwald, Eichhorn, Churchill), 0 Nays, 1 Absent (Lyon)

Ms. Croft noted that public comment has been closed in regards to the medical marijuana amendment. Ms. Croft stated at the June 1, 2011 meeting the Planning Commission will discuss the proposed amendment but there will be no additional public comment.

UNFINISHED BUSINESS

Discussion of new Village Center zoning for downtown Indian River

Mr. McNeil stated the proposed amendments for Village Center for Indian River has been reviewed by Tuscarora Township Planning Commission. Mr. McNeil noted that he and Mr. Schnell are recommending changing the 15ft. setback requirement for freestanding signs to a zero setback. Mr. McNeil stated this would be for the Village Center and the Village Center Overlay. Mr. McNeil stated a public hearing could be scheduled at the Tuscarora Township Hall. Discussion was held. **Motion** by Mr. Borowicz, seconded by Churchill, to schedule a public hearing for June 15, 2011 at the Tuscarora Township Hall. Motion carried. 8 Ayes (Bartlett, Freese, Kavanaugh, Borowicz, Croft, Ostwald, Eichhorn, Churchill), 0 Nays, 1 Absent (Lyon)

PUBLIC HEARING AND ACTION ON REQUESTS

Ruth Cruse-Brody – Requests a Special Use Permit for a Commercial Kennel (Section 9.3.17 & Section 17.16). The property is located at 12792 Mystic Lane, Beaugrand Twp., section 31, parcel #041-031-200-003-12 and is zoned Agriculture and Forestry Management (M-AF).

Mr. McNeil reviewed the site plan and noted the trees on the south side of the property serve as screening. Mr. McNeil stated three parking spaces are indicated on the site plan and will meet the requirements. Mr. McNeil stated this use requires a special use permit approval along with additional requirements under Section 17.16. Mr. McNeil reviewed the requirements of Section 17.16. Mr. McNeil stated the dogs will be kept within the mobile home and screening will be 3ft. in height and will be located along the fence with the exception of where the trees are proposed.

Mr. McNeil stated staff has recommended that the breed of dog be restricted to small breeds which will not be capable of seeing over the 3 ft. high screening proposed by the applicant and that the applicant provide a current copy of an active license from the Cheboygan County Animal Control Officer to the Planning and Zoning Department. Mr. McNeil stated staff also recommends that screening material shall be maintained at all times to be free of openings that would allow the dogs to see outside of the fence area.

Mr. Freese asked if the dogs being breed for sale are to be pedigree animals. Ms. Brody stated the dogs are pet quality. Discussion was held on how the lineage will be determined when all the dogs are kept together.

Mr. Eichhorn asked how many dogs Ms. Brody has currently. Ms. Brody stated 14. Mr. Kavanaugh asked for the maximum number of dogs that will be kept at this kennel. Ms. Brody stated 30 at the most. Mr. Kavanaugh asked if all dogs will be housed in the mobile home. Ms. Brody stated yes.

Mr. Ostwald asked how will waste be managed. Ms. Brody stated waste will be put in a litter box which is cleaned every day. Ms. Brody stated she also has a dumpster. Ms. Brody explained a future plan to have an in-ground composter for the dog waste.

Mr. Eichhorn stated there are more mobile homes at the site than what is actually drawn on the site plan.

Mr. Ostwald asked Ms. Brody if she will be keeping 30 dogs in one pen. Ms. Brody explained that she sometimes keeps the dog for the future owner until they are one year old and trained.

Mr. Eichhorn asked what type of dogs Ms. Brody will be breeding. Ms. Brody stated Shih Tzu and Pomeranians. Discussion was held.

Ms. Croft asked for public comments. There were no public comments. Public comment closed.

Ms. Croft stated the applicant has asked for a topography waiver. **Motion** by Mr. Ostwald, seconded by Mr. Kavanaugh, to waive the topography requirement. Motion carried. 8 Ayes (Bartlett, Freese, Kavanaugh, Borowicz, Croft, Ostwald, Eichhorn, Churchill), 0 Nays, 1 Absent (Lyon)

The Planning Commission reviewed and approved the General Findings, Findings of Fact Under Section 17.16, Findings Of Fact Under Section 18.7 and the Specific Findings Of Fact Under Section 20.10. **Motion** by Mr. Freese, seconded by Mr. Churchill, to approve the special use permit based on the General Findings, Findings of Fact Under Section 17.16, Findings Of Fact Under Section 18.7 and the Specific Findings Of Fact Under Section 20.10 with the following stipulations:

1. The commercial kennel is restricted to small breeds of dogs not over 14 inches tall which will not be capable of seeing over the 3 ft. high screened fence.
2. Screening will be maintained at all times to be free of openings that would allow the dogs to see outside of the fenced area.
3. The applicant will provide a copy of an active license from the Cheboygan County Animal Control Officer to the Planning and Zoning Department during the time the Commercial Kennel is in operation.
4. All shots be current on all dogs.
5. Waste be disposed of on-site through a dumpster or in-ground disposal system.

Motion carried. 8 Ayes (Bartlett, Freese, Kavanaugh, Borowicz, Croft, Ostwald, Eichhorn, Churchill), 0 Nays, 1 Absent (Lyon)

Integrity Construction Services, LLC/KF Commercial Properties LLC - Requests a site plan review for a medical clinic (Section 6.2.1 and Section 5.2.6). The property is located at 14540 Mackinaw Hwy., Mackinaw Twp., section 19, parcel #011-019-100-005-00 and is zoned Commercial Development (D-CM).

Mr. McNeil stated the property is zoned Commercial Development and medical clinics are a permitted use. Mr. McNeil stated site plan review is required. Mr. McNeil stated 47 parking spaces are required for the 8 treatment rooms but 59 parking spaces are indicated on the site plan. Mr. McNeil stated 67 parking spaces will be available during the summer when snow will not be stored. Mr. McNeil stated lighting is proposed in the center of the parking lot and at the entrance and exit.

Mr. Hunt stated he is with Integrity Construction Services. Mr. Hunt stated Integrity Construction Services are the construction managers for this renovation project. Mr. Hunt introduced Jeff Konczak who is representing the developer/owner. Mr. Hunt stated this is an existing building and there are no additional structures or parking proposed. Mr. Hunt stated all renovations are interior, however, there will be exterior painting and fixing up the façade. Mr. Hunt stated there is existing site drainage which was done properly. Mr. Hunt stated that a sign (5ft. x 6ft.) by the road was included on the site plan. Mr. Hunt stated the sign is ground mounted and not illuminated.

Mr. Ostwald asked how the waste lines will be installed when there is existing concrete. Mr. Hunt stated the floor will be cut and they will excavate trenches for the plumbing lines.

Ms. Croft asked for public comments. Mr. Barber asked Mr. Konczak if he has built other clinics. Mr. Konczak stated he just

completed another clinic. Mr. Konczak stated that he has owned, leased and developed other clinics for Veterans Affairs and they have significant experience in clinical facilities. Mr. Barber stated the location of the clinic is wrong for the area that it is supposed to serve. Ms. Croft noted that these individuals may not have anything to do with the location selection. Mr. Barber stated his concerns regarding the location of the clinic being inappropriate for the area that it is supposed to serve.

Mr. Jozwiak stated he is a member of the Vietnam Veteran's Chapter #274 in Cheboygan. Mr. Jozwiak stated he agrees with Mr. Barber. Mr. Jozwiak stated the clinic should be located in Cheboygan as the funds were raised in Cheboygan. Mr. Jozwiak believes that the veterans, DDA, Cheboygan County and City of Cheboygan did not do enough to make sure that the clinic was located in Cheboygan. Mr. Jozwiak stated one of the existing buildings in Cheboygan could have been renovated.

An audience member stated he was on a committee to raise money for the clinic to be located in Cheboygan. He agreed with Mr. Jozwiak that there was not enough done to make sure the clinic was located in Cheboygan. He noted that the clinic would be more centrally located if it was located in Cheboygan it may be duplicating coverage if located in Mackinaw City.

Mr. Konczak explained that this will be an extremely nice building and will be a green building. Mr. Konczak stated they were not able to find an existing building in Cheboygan that met their criteria. Mr. Konczak explained there were budgetary constraints when considering constructing a new building across from K-mart in Cheboygan. Mr. Konczak stated this will be a beautiful facility that will meet everyone's needs. Discussion was held. Public comment closed.

Ms. Croft stated the applicant has asked for a topography waiver and drainage waiver. **Motion** by Mr. Kavanaugh, seconded by Mr. Freese, to grant the topography waiver and the drainage waiver. Motion carried. 8 Ayes (Bartlett, Freese, Kavanaugh, Borowicz, Croft, Ostwald, Eichhorn, Churchill), 0 Nays, 1 Absent (Lyon)

The Planning Commission reviewed and approved the General Finding and the Specific Findings Of Fact Under Section 20.10. **Motion** by Mr. Freese, seconded by Mr. Borowicz, to approve the special use permit based on the General Finding and the Specific Findings Of Fact Under Section 20.10 with the stipulation of Health Department approval on sewer and water and sign approval from the Zoning Department. Motion carried. 8 Ayes (Bartlett, Freese, Kavanaugh, Borowicz, Croft, Ostwald, Eichhorn, Churchill), 0 Nays, 1 Absent (Lyon)

NEW BUSINESS

Mr. Freese asked for an update on Rural Character/Country Living. Mr. McNeil explained that he will present all information at one time in approximately one month. Discussion was held.

STAFF REPORT

Mr. McNeil stated a memo and proposed amendments regarding Village Center Topinabee and Village Center Topinabee Overlay was provided to Mr. Morgan tonight and copies will be mailed to township board members. Mr. McNeil stated signage issues, uses and conditions will be discussed at a future Planning Commission meeting.

PLANNING COMMISSION COMMENTS

No comments.

PUBLIC COMMENTS

No comments.

ADJOURN

Motion by Mr. Kavanaugh to adjourn. Motion carried. Meeting was adjourned at 8:53pm.



Charles Freese
Planning Commission Secretary