



CHEBOYGAN COUNTY PLANNING COMMISSION

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CHEBOYGAN COUNTY PLANNING COMMISSION MEETING WEDNESDAY, JUNE 1, 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: Tony Matelski, Mike Mankin III, Susan Tumidanski, Brad Forrester, Joe Chimner, Jaime Chimner, L.M. Stanley, Cindy Pollard, Albert Pollard, Bill Morgan Jr., Laurie Baker, Bud Manning

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

APPROVAL OF AGENDA

The meeting agenda was presented. **Motion** by Mr. Freese, seconded by Mr. Kavanaugh, to approve the agenda as presented. Motion carried. 8 Ayes(Bartlett, Freese, Kavanaugh, Borowicz, Croft, Ostwald, Eichhorn, Churchill), 0 Nays, 1 Absent (Lyon)

APPROVAL OF MINUTES

The May 18, 2011 Planning Commission minutes were presented. **Motion** by Mr. Borowicz, seconded by Mr. Kavanaugh, to approve the meeting minutes as presented. Motion carried. 8 Ayes(Bartlett, Freese, Kavanaugh, Borowicz, Croft, Ostwald, Eichhorn, Churchill), 0 Nays, 1 Absent (Lyon)

UNFINISHED BUSINESS

An ordinance to amend the Cheboygan County Zoning Ordinance No. 200 concerning medical marijuana. (This item was tabled at the 05/18/11 Planning Commission meeting.)

Ms. Croft noted legal counsel has reviewed all documentation and public comments that were submitted. Mr. Graham referred to his memo dated 05/19/11 and stated he provided an analysis of the information and comments that were made at the public hearing. Mr. Graham stated in the memo he suggests changes to the draft ordinance based on the public comments. Mr. Graham stated he found some of the public comments very helpful when reviewing the proposed language and was able to make improvements based on the public comments.

Mr. Graham reviewed his memo dated 05/19/11. Mr. Graham referred to item 3 on page 1 in the memo and stated he agreed with Mr. Forrester that medical marijuana should not be a home occupation but strictly a use by right as there is not a commercial component.

Mr. Graham referred to 2b on page 3 and asked the Planning Commission if they would like to include Mr. Forrester's suggestion regarding the qualifying patient not trading or exchanging medical marijuana for any service or item of value. The Planning Commission agreed Mr. Forrester's suggestion should be included in the proposed amendment. Mr. Graham referred to 2d on page 3 and noted it is a policy choice when determining the number of caregivers that can operate within a single building. Mr. Graham stated that Mr. Forrester suggested 8 caregivers and the draft ordinance called for 2 caregivers. Mr. Graham stated 2e addresses enforcement issues. Mr. Graham asked if the Planning Commission wants to include 2f. The Planning Commission agreed that this language should be included. Mr. Graham referred to 2i and stated this provision is contrary to a published decision of the Michigan Court of Appeals and there must be an enclosed, locked facility. Mr. Graham referred to 2j and stated the statute is clear that defines an enclosed, locked facility as those areas equipped with devices that permit access only by a registered caregiver or a registered qualifying patient. Mr. Graham stated the statute does not allow the Planning Commission to authorize someone else. Mr. Graham stated 2j, 2k, 2l and 2m are more restrictive than the draft language. Mr. Graham referred to 2n and stated spacing requirements are policy choices. Mr. Graham stated there is a state statute dealing with 1,000ft. from a school, library or public park. Mr. Graham asked the Planning Commission to discuss what type of spacing requirements they want in the proposed amendment. Mr. Kavanaugh stated he does not have a problem with 1,000ft. from schools but the distance between caregivers should be eliminated. Mr. Freese agreed with Mr. Kavanaugh. Mr.

Graham referred to 2o and stated this is a suggestion from Mr. Forrester that should be included. The Planning Commission agreed that Mr. Forrester's suggestion under 2o should be included. Mr. Graham referred to 2p and stated that physicians should not be regulated. The Planning Commission agreed with Mr. Graham.

Audience members expressed their concerns over not having a copy of legal counsel's memo.

Mr. Graham referred to 3a and stated this addresses the public's concerns regarding a husband and a wife not being allowed to be primary caregivers in the same dwelling. The Planning Commission agreed this language should be included. Mr. Graham referred to 3b and stated the number of qualifying patients that may be present at the same time at a dwelling is a policy choice by the Planning Commission. Mr. Graham stated under state law the primary caregiver can service 5 qualifying patients. Mr. Graham suggested "No more than 5 qualifying patients per primary caregiver". The Planning Commission agreed on 5 qualifying patients per caregiver.

Mr. Graham stated that it was not his intent to preclude the family holiday dinners. Mr. Graham read from 6b, "This subsection, however, shall not be construed to prohibit the presence of qualifying patients at a dwelling in which a primary caregiver of medical marijuana is providing primary caregiver services for purposes unrelated to primary caregiver services." Mr. Graham stated if there are 15 qualifying patients at a holiday dinner, these are purposes unrelated to the primary caregiver services so the number present is not limited. Discussion was held regarding the number of primary caregivers within a single dwelling. Public comments were made regarding there being households with multi-generations living together in a single dwelling. Mr. Churchill stated that grandparents could be living with grandchildren. Mr. Graham stated that there must be a domestic character in living together. Mr. Graham stated he will work on this language. Mr. Graham reviewed 3c, 3d and 3e.

Mr. Graham stated he appreciated the public comments and it did help him to analyze and reassess the proposed language.

Mr. Kavanaugh stated he would like to see the electrical requirement deleted. The Planning Commission members agreed with Mr. Kavanaugh.

Discussion was held. **Motion** by Mr. Kavanaugh, seconded by Mr. Borowicz, to table the medical marijuana amendment until June 15, 2011 at Tuscarora Township Hall. Motion carried. 8 Ayes(Bartlett, Freese, Kavanaugh, Borowicz, Croft, Ostwald, Eichhorn, Churchill), 0 Nays, 1 Absent (Lyon)

Review of existing uses report and rezoning recommendation regarding parcels zoned Mixed Residential.

Mr. McNeil stated three of the six areas considered for rezoning are within recorded plats. Mr. McNeil stated all recorded subdivisions are within the Residential zoning district unless otherwise mentioned in the ordinance. Mr. McNeil stated there is one that is a site condominium in the remaining three areas to be rezoned.

Mr. McNeil stated area 1 includes property located in Beaugrand Township extending along US-23 from the easterly township line to a point 275 feet westerly of Pries Road with a depth from the north right of way line of 750 feet at the east line and 450 feet at the west line. Mr. McNeil reviewed the existing conditions and land uses map for area 1. Mr. McNeil stated that most of these parcels extend beyond the area that is zoned Mixed Residential and share either Agricultural and Forestry Management zoning or Lake and Stream Protection zoning. Mr. McNeil stated he recommends area 1 to be rezoned to Agricultural and Forestry Management. Mr. Kavanaugh agreed with Mr. McNeil's recommendation to rezone to Agricultural and Forestry Management. Ms. Croft asked if Mr. McNeil talked to Marcia Rocheleau, Beaugrand Township Supervisor, regarding rezoning this area to Agricultural and Forestry Management. Mr. McNeil stated no. Mr. Freese stated the future land use study by the Northern Cheboygan County Intergovernmental Planning Commission put this into Rural Character Country Living. Mr. McNeil stated that is consistent with the master plan. Mr. Freese stated Ms. Rocheleau was in agreement to rezone to Rural Character Country Living.

Mr. McNeil stated area 2 is near the airport and is currently zoned Mixed Residential. Mr. McNeil reviewed the existing conditions and land uses map for area 2. Mr. McNeil stated 13.5% of the parcels are between 10 and 19.99 acres and 11.5% are even larger. Mr. McNeil noted that 23% of the parcels are between 5 and 9.99 acres. Mr. McNeil stated that based on the existing land uses and parcel size he recommends rezoning to Rural Character Country Living. The Planning Commission agreed with Mr. McNeil's recommendation. Mr. Freese noted that the existing junk yards would be legal non-conforming uses.

Mr. McNeil stated area 3 is by Orchard Beach Road with Carey Road located in the center of the area to be rezoned. Mr. McNeil reviewed the existing conditions and land uses map for area 3. Mr. McNeil stated he spoke with Bruce Brandt, Benton

Township Supervisor, regarding the former Black River School property. Mr. McNeil stated the township has discussed this property and they would like to see it open for any reasonable use. Mr. Freese stated Rural Character Country Living is as open as possible unless it is rezoned to Agricultural and Forestry Management. Mr. McNeil stated there many parcels that are as small as ½ acre. Mr. McNeil stated these parcels would be restricted from some of the allowed uses due to the size. Mr. McNeil recommended rezoning to Rural Character Country Living. Mr. McNeil stated this area is surrounded by property that is zoned Agricultural and Forestry Management. Mr. Borowicz suggested keeping the zoning as Agricultural and Forestry Management for the Black River School. Mr. Borowicz noted that this parcel is adjacent to property zoned Agricultural and Forestry Management. Mr. Kavanaugh agreed with Mr. Borowicz. Mr. McNeil stated this is reasonable and stated he would review this with Supervisor Brandt.

Mr. McNeil stated area 4 includes property located in Tuscarora Township. Mr. McNeil stated this is a site condominium and is zoned Mixed Residential. Mr. McNeil stated there is one property on the east side that is not part of the site condominium and is also zoned Mixed Residential. Ms. Croft noted that this is owned by Mr. Suzore. Mr. McNeil stated there is one parcel that is improved with a single family residence and the remaining sites are vacant. Mr. McNeil stated 65% of the parcels in the site condominium are between ½ acre and 1 acre. Mr. McNeil stated the largest site is 1.6 acre and the smallest is .35 acre. Mr. McNeil stated this site condominium is ready for development. Mr. Freese stated all utilities are in place. Mr. Freese stated the separate parcel will most likely be used for residential. Ms. Croft stated the property owner has commented that the front of the property along Straits Highway will be used for commercial and the rest of the property will be residential. Mr. Freese stated the parcel being considered is not the commercial portion. Mr. Freese stated the portion that has the roads in should be Residential. Mr. McNeil agreed that this should be Residential. Mr. Freese suggested Rural Character/Country Living for the parcel not in the site condominium. Mr. McNeil stated this could be either Rural Character/Country Living or Agriculture and Forestry Management. Mr. Freese and Mr. Kavanaugh stated this parcel should be Rural Character/Country Living.

Mr. McNeil stated area 5 includes property located on Restawhile Drive in Benton Township. Mr. McNeil stated parcels to the south are owned by the State of Michigan and are currently zoned Mixed Residential. Mr. McNeil suggested rezoning to Agriculture and Forestry Management. The Planning Commission members agreed with the suggestion to rezone to Agriculture and Forestry Management.

Mr. McNeil stated area 6 includes property located in Timberline Estates in Nunda Township. Mr. McNeil stated this is a platted subdivision. Mr. McNeil noted there is a pie shaped piece to the west that is zoned Mixed Residential that should be reviewed. Mr. Freese stated it should be changed to whatever the zoning is to the west. Mr. McNeil stated that there is a portion to the south that does not fall in the Mixed Residential or Lake and Stream Protection. Mr. Freese stated that John Moore, Nunda Township Supervisor, suggested Rural Character/Country Living for this area. Mr. Borowicz stated this would allow compatible uses for this area. Mr. McNeil stated he will review this further with Mr. Moore.

Mr. McNeil reviewed the proposed language changes to Rural Character/Country Living. Mr. McNeil stated there was a discussion regarding keeping or stabling of animals in Rural Character/Country Living. Mr. McNeil stated he has provided language to clarify and include fencing within the land area standards. Mr. McNeil stated he has also provided language for poultry, rabbits and other small domesticated animals. Mr. McNeil noted that dogs would not be considered a small domesticated animal. Discussion was held regarding fencing animals.

NEW BUSINESS

No comments.

STAFF REPORT

Mr. McNeil stated Matt Cronk has been hired as the new Code Enforcement Officer.

PLANNING COMMISSION COMMENTS

No comments.

PUBLIC COMMENTS

Mr. Forrester thanked the Planning Commission and stated he has saw movement with the medical marijuana amendment but he is not overly encouraged with some of the provisions. Mr. Forrester asked what will the cost be for a zoning permit, how does code enforcement work and what are the penalty fees. Mr. McNeil stated the permit fees are established by the legislative body and he expects the permit fee to be \$30. Mr. McNeil stated he will have to check into penalty fees.

An audience member asked who will have access to the list of medical marijuana facilities and questioned how will this be kept confidential. Mr. Forrester asked how the Planning Commission will handle the applications. Mr. Borowicz stated the

Planning Commission will not know about any of the applications. Mr. McNeil stated staff will maintain the applications and there will be a policy that deals with this process properly.

Ms. Croft stated that according to state law a zoning violation is a \$500 fine and each day the violation continues shall constitute a separate and distinct offense.

Mr. Manning stated he represents a group of investors who would like to construct a greenhouse with a fence and cameras. Mr. Manning stated there would be a security guard at all times and caregivers would rent space in the greenhouse. Mr. Manning stated these types of greenhouses work in California and Colorado. Mr. Manning explained that this would create jobs such as building the greenhouse. Ms. Croft explained that state law requires that it must be in a secured area in the dwelling. Mr. Kavanaugh and Ms. Croft suggested reviewing this with legal counsel. Mr. McNeil noted this is stepping away from the decentralized approach that the Planning Commission is taking with the proposed amendment. Mr. McNeil stated this is a centralized approach. Mr. Forrester stated he does not support larger community grows as it may bring undue federal scrutiny.

Mr. Mankin asked what reasons there would be to deny a medical marijuana zoning permit. Mr. Mankin asked who would review the application for a medical marijuana zoning permit. Mr. Kavanaugh explained that the standards of the ordinance must be met. Mr. Forrester asked who will verify that the standards are met. Mr. Kavanaugh stated the Zoning Department will verify as they do will all other permits. Mr. McNeil stated if the application meets the standards of the ordinance it has to be approved. Mr. Forrester asked if copies of the state's approval letter will be adequate to obtain the zoning permit. Mr. Forrester noted that it takes six months to actually receive the card. Mr. McNeil stated he will have to check into this but it may work. Discussion was held.

Mr. Mankin thanked the Planning Commission for considering public comments. Mr. Mankin noted these changes are a good step.

ADJOURN

Motion by Mr. Kavanaugh to adjourn. Motion carried. Meeting was adjourned at 8:10pm.



Charles Freese
Planning Commission Secretary