



CHEBOYGAN COUNTY PLANNING COMMISSION

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CHEBOYGAN COUNTY PLANNING COMMISSION MEETING WEDNESDAY, JUNE 15, 2011 AT 7:00 P.M.

TUSCARORA TOWNSHIP HALL, 3546 S. STRAITS HWY., INDIAN RIVER, MI 49749

PRESENT: Bartlett, Freese, Kavanaugh, Borowicz, Croft, Ostwald, Lyon, Eichhorn, Churchill
ABSENT: None
STAFF: Scott McNeil, Steve Schnell
GUESTS: Bob Lyon, Cass Cassuci, Nanci Wright, Brian Fullford, Bobbi Balazovic, John Moore, Tony Matelski, Sue Fisher, Gina Burke, Jim MacLaren, Shawna Jankoviak, Brad Forrester, Larry Stanley, Vickie Moore, Cheryl Crawford, Russell Crawford, Roger Jacobs, Brenda Nowak, Rob Willnow, Charles Smith, Kelly Ashford, Jane McGinnis, Scott Matthew, Gary Lang, Al Pollard

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

APPROVAL OF AGENDA

The meeting agenda was presented. **Motion** by Mr. Borowicz, seconded by Mr. Kavanaugh, to approve the agenda as presented. Motion carried unanimously.

APPROVAL OF MINUTES

The June 1, 2011 Planning Commission minutes were presented. **Motion** by Mr. Kavanaugh, seconded by Mr. Eichhorn, to approve the meeting minutes as presented. Motion carried unanimously.

UNFINISHED BUSINESS

An ordinance to amend the Cheboygan County Zoning Ordinance No. 200 concerning medical marijuana. (This item was tabled at the 06/01/11 Planning Commission meeting.)

Mr. Graham referred to the June 10, 2011 draft of the proposed medical marijuana amendment and stated this draft reflects the changes that the Planning Commission desired at the last meeting. Mr. Graham referred to section 17.25.3e and noted the Planning Commission requested broader language dealing with the primary caregivers that could operate in a dwelling. Mr. Graham reviewed two options that the Planning Commission may want to consider for section 17.25.3e.

Mr. Freese referred to line 8 of section 17.25.3f and requested that the second "primary caregiver" be deleted.

Mr. Graham referred to 17.25.3l and stated that this should be changed to "A dwelling in which a primary caregiver of medical marijuana is providing primary caregiver services to qualifying patients shall not have any signage visible from the outdoors that would indicate the nature of the primary caregiver services being conducted in the dwelling." Mr. Graham explained that this section will allow for a home occupation to have a sign pursuant to the regulations in the Zoning Ordinance.

Mr. Graham referred to section 17.25.3e and stated there are two options for the Planning Commission to consider. The Planning Commission members agreed to keep the second option.

Mr. Graham stated he will make the minor changes. Mr. Graham stated the Planning Commission could recommend this amendment with the minor changes to the Board of Commissioners. **Motion** by Mr. Freese, seconded by Mr. Borowicz, to forward the amendment with the minor changes to the Board of Commissioners recommending their approval. Motion carried unanimously.

Ms. Croft noted that the Board of Commissioners at their meeting on June 14, 2011 extended the medical marijuana moratorium for 90 days.

PUBLIC HEARING AND ACTION ON REQUESTS

An ordinance to amend Cheboygan County Zoning Ordinance No. 200 to add a new zoning district, Village Center Indian

River (VC-IR), which encompasses generally property abutting S. Straits Highway south of the Indian River to Cressy L. St.

Indian River Overlay (VC-IR-O), which encompasses generally property abutting S. Straits Highway south of the Indian River to a point half way between Lake St. and Floyd E. St.

An ordinance to amend Cheboygan County Zoning Ordinance No. 200 to amend regulations for signs in the new VC-IR and VC-IR-O zoning districts.

Mr. Schnell explained that the Village Center rezoning is broken down into three ordinance amendments. Mr. Schnell stated the first amendment will add a new Village Center zoning district for the downtown area. Mr. Schnell stated the goal of this zoning district is to allow for a denser development in the downtown and to make it oriented for pedestrian shopping. Mr. Schnell stated retail will be the primary use but there are other uses that are allowed in the proposed district.

Mr. Schnell stated one of the major changes is an option to waive all or a portion of off street parking requirements which has been a hindrance for development in the past. Mr. Schnell stated another change is that there is a limitation to the maximum footprint of a building of 20,000 square feet. Mr. Schnell stated the goal of this requirement is to create a smaller downtown with smaller stores. Mr. Schnell stated outdoor seating is allowed even in the right-of-way if the government entity controlling the right-of-way gives permission. Mr. Schnell stated this amendment allows for outdoor display of merchandise as approved by the Planning Commission through site plan review. Mr. Schnell stated that this amendment allows for zero setbacks in the Village Center and Village Center Overlay districts. Mr. Schnell stated there is a maximum lot coverage of 80% for the Village Center and Village Center Overlay districts. Mr. Schnell stated loading and unloading facilities are not required in this district.

Mr. Schnell stated there have been previous discussions at the Tuscarora Township Hall regarding this proposed amendment. Mr. Schnell explained this proposed amendment reflects the comments that were heard both from the Tuscarora Township Planning Commission and other interested citizens. Mr. Schnell stated this amendment has been reviewed by legal counsel.

Ms. Croft asked for public comments.

Mr. Cassuci stated he has a financial interest in three of the business properties. Mr. Cassuci stated it appears that his rights for usage will be limited. Mr. Cassuci stated he has a lot of money invested in these properties and does not want to see his investments decrease because he does not believe this will help development. Mr. Schnell stated that he has seen people wanting to build in downtown Indian River and they were not able to do so because they were not able to meet setback requirements and on-site parking requirements. Mr. Schnell stated the intent is to loosen up the regulations by allowing zero setbacks and allow for parking on the street. Mr. Cassuci asked what will happen to the existing uses that do not fit into the proposed zoning district. Ms. Croft stated they will be grandfathered in. Mr. Schnell stated he is not running into any legal non-conforming situations as he did a study of the downtown area to make sure that the new requirements are not as restrictive as the existing requirements. Mr. Cassuci asked what would happen to his used car lot if he wants to move it to a new location. Mr. Schnell explained that the ownership can change for legal non-conforming businesses which would be grandfathered in. Mr. Schnell stated the business can continue if the business was legally in existence at the time the Zoning Ordinance went into effect. Mr. Schnell stated if it is changed from a car lot to retail you would not be able to change it back to a car lot later. Mr. Cassuci stated that when he sells the property the future property owners will not be allowed to do as much as was allowed previously.

Mr. Fullford stated he is a business owner south of town. Mr. Fullford asked if the rezoning is a petition of the property owners. Mr. Schnell stated this rezoning was part of the County Master Plan and Tuscarora Township Master Plan. Mr. Fullford asked to what extent were the property owners involved. Mr. Schnell stated public meetings were held at the Tuscarora Township Hall. Mr. Fullford asked if the property owners were contacted or was it just published in the paper. Mr. Schnell stated yes it was published in the paper. Mr. Fullford asked how many property owners actually participated in the previous discussions. Mr. Schnell stated he does not believe that the property owners participated. Mr. Fullford stated many of the existing structures have a zero setback. Mr. Fullford stated he is speaking on behalf of Mr. Cassuci and other friends who own property in this area. Mr. Fullford questioned if the retail stores have been surveyed regarding their economic conditions. Mr. Schnell stated they have not been surveyed for this purpose.

Mr. Fullford stated that Mr. Cassuci owns property in the overlay district. Mr. Fullford stated that a carwash or a gas station is not allowed in the overlay district unless it is a grandfathered use. Mr. Fullford stated that he believes that this rezoning to Village Center will be more restrictive than Commercial. Mr. Fullford asked how many site plans were not able to be reviewed because they were not able to meet the parking requirements. Mr. Schnell stated he does not have a count because the

applications were not submitted. Mr. Schnell explained that he has had conversations with individuals regarding not being able to meet parking requirements. Mr. Fullford believes this information is important and should be available if there are plans to move forward and make these changes. Mr. Fullford stated a lot of these situations are existing conditions and variances can be granted.

Mr. Fullford stated that the property owners should be involved. Mr. Fullford stated the property owners may have received notices but the committees, who are requesting the Planning Commission to make this change, are not property owners and the Planning Commission should consider the impact to the property values.

Mr. Lang stated that none of the business owners have been contacted regarding these changes. Mr. Lang stated the town needs to look better but many of the businesses are hanging on by a thread and any type of delay will shut the business down. Mr. Lang stated the timing is not right for this type of change. Mr. Lang stated everyone agrees the town should look better but he questioned who will pay for it. Mr. Lang questioned how the Planning Commission can tell anyone what to do with their business. Mr. Lang stated changes are being made but there is no cooperation from the Planning Commission. Mr. Lang stated he is trying to improve his business by moving the ice machines and by raising an existing sign up 4 feet. Mr. Lang stated he received a violation notice for raising the existing sign up 4 feet. Mr. Schnell explained that the sign was changed from a wall sign to a roof sign which is not allowed in the Commercial district. Mr. Freese stated the Tuscarora Township Planning Commission was involved in all of these discussions and there were 15 or more people at the first meeting when this was discussed. Mr. Kavanaugh explained that these changes are part of the master plan and are supported by the township.

Ms. Fisher stated these changes have been reviewed by the Tuscarora Township Planning Commission and was addressed at numerous Tuscarora Township board meetings. Ms. Fisher stated this was published numerous times. Ms. Fisher stated this will be giving more options for the local business to do more with their property. Ms. Fisher stated Tuscarora Township and Tuscarora Township Planning Commission is trying to move forward for the community. Ms. Fisher stated she would review how many times this has been addressed by the township board. Ms. Fisher stated that these issues should be pointed more towards Tuscarora Township than towards Cheboygan County Planning Commission.

Mr. Cherveney stated this started three years ago and Mr. Schnell approached the township with the idea for rezoning. Mr. Cherveney stated Topinabee is going through a similar rezoning process. Mr. Cherveney stated Mullett Township had a public meeting and 90 people attended. Mr. Cherveney stated out of the 90 people that attended the meeting there were only 2 that were dissenting. Mr. Cherveney stated the master plan provides the details for this project. Mr. Cherveney stated there were 2 or 3 more public meetings to discuss Village Center and there were only a few concerned citizens who attended. Mr. Cherveney stated the Tuscarora Township Planning Commission is trying to get Indian River to get in line with the streetscape project. Mr. Cherveney stated this rezoning may enhance the businesses and bring people downtown. Discussion was held regarding a future sewer system for Indian River. Mr. Cherveney explained that these boards are not trying to stop any businesses in Indian River and the intention was to give more leeway in parking and zero setbacks. Mr. Cherveney stated that the people on these boards only want to see a better Indian River.

Mr. Fullford stated planning is supposed to be independent but there must be infrastructure that will support the future visions. Mr. Fullford stated infrastructure is not there any more. Mr. Fullford asked what will happen if there is no money for the streetscape or the sewer system. Mr. Fullford stated uses are being limited by this change. Mr. Fullford stated that the streetscape project and sewer project will attract new businesses but Indian River is not at this point yet. Mr. Fullford stated uses are being limited for empty buildings.

Mr. Cassuci stated in the first packet of information he received it looked like only 13 businesses would be included in the overlay. Mr. Cassuci stated the latest revision has a bigger overlay that extends further south. Mr. Cassuci stated letters should have been sent to the business owners explaining the changes instead of posting it in the newspaper. Mr. Cassuci stated he owns three businesses and today was the first time he heard of the proposed changes.

Public hearing closed.

Board held discussion. Mr. Freese suggested sending letters and a copy of the amendment to every business. Mr. Freese stated this information has to get out to the people involved. Mr. Schnell stated that publications were made and notices were sent out for the public hearing today. Mr. Freese suggested sending out the notices as soon as possible to allow the public to review the information for 30 days and to make comments. Mr. Kavanaugh and Ms. Croft agreed with Mr. Freese that the public should have this information 30 days in advance. Ms. Croft noted that this would allow the public to review the amendments and to make comments. **Motion** by Mr. Freese, seconded by Mr. Churchill, to table all three amendments until July 20, 2011 and to send information to all property owners. Motion carried unanimously. Discussion was held regarding this

July 20, 2011 Planning Commission meeting being held at the Tuscarora Township Hall.

UNFINISHED BUSINESS (Continued)

Review of Capital Improvement Plan

Mr. McNeil explained the procedure the Planning Commission has followed in creating the Capital Improvement Plan. Mr. McNeil noted that the Planning Commission members have received a copy of the Capital Improvement Program (CIP) Draft Report. Mr. McNeil recommended that the Planning Commission hold a public hearing on the Capital Improvement Plan. Mr. McNeil stated that Board of Commissioner's approval is required for the Capital Improvement Plan.

Mr. McNeil stated the Planning Commission has reviewed all of the projects that were submitted and identified which should be put into the plan. Mr. McNeil stated the Planning Commission has chosen two categories for prioritizing the projects which are needed priorities and desirable priorities. Mr. Freese stated this draft Capital Improvement Plan is what the Planning Commission agreed on at the last meeting. **Motion** by Mr. Freese, seconded by Mr. Kavanaugh, to schedule a public hearing for August 3, 2011 for the Capital Improvement Plan. Motion carried unanimously.

NEW BUSINESS

No comments.

STAFF REPORT

Mr. McNeil stated at the next Planning Commission meeting he would like to review the rezoning of Mixed Residential parcels as well as the trucking facilities in the Commercial district. Mr. McNeil stated he has been trying to identify criteria relative to parking and screening requirements and he would like to examine existing screening requirements and uses in the current ordinance.

Mr. McNeil stated at the next Planning Commission meeting there will also be a discussion regarding the draft ordinance for Topinabee Village Center. Mr. Freese suggested sending out copies of the proposed amendment to every business in Topinabee.

PLANNING COMMISSION COMMENTS

No comments.

PUBLIC COMMENTS

Ms. Ashford stated she is a member of the Tuscarora Township Planning Commission and the DDA. Ms. Ashford suggested sending out the existing requirements also. Ms. Ashford noted that some businesses may not be complying with the existing regulations. Ms. Ashford stated that there will be more allowed uses and parking on the street will be allowed.

Mr. Forrester stated that he has heard from the public tonight that the Planning Commission is not cooperating. Mr. Forrester stated he has been working with the Planning Commission since March on the medical marijuana ordinance. Mr. Forrester stated the Planning Commission has heard everything that he and the public have said. Mr. Forrester believes the Planning Commission does not want to do anything about what the public has been saying. Mr. Forrester stated he is still very troubled by the ordinance. Mr. Forrester stated he is concerned about the provision that requires a primary caregiver to obtain a zoning permit. Mr. Forrester believes this ordinance is an attempt to redefine medical marijuana which is already in the act. Mr. Forrester stated there was an appeals court that heard an argument from the ACLU attorney about the Livonia ban on medical marijuana. Mr. Forrester stated there could be guidance for the Planning Commission in this decision that will be available in less than 30 days. Mr. Forrester stated there is 14 references to primary caregiver services which is a term that is not defined. Mr. Forrester questions how he can be in violation if the primary caregiver services are not defined.

Mr. Pollard stated a disabled person is not able to be a caregiver if all medical marijuana is to be delivered by the caregiver. Mr. Pollard noted in the ordinance it states that no medical marijuana shall be used in any form at a caregiver location. Mr. Pollard stated this is against his right to privacy.

Mr. Freese asked that the minutes be forwarded to Bryan Graham to make sure all he is aware of the public comments.

ADJOURN

Motion by Mr. Kavanaugh to adjourn. Motion carried. Meeting was adjourned at 7:56pm.

A handwritten signature in black ink, appearing to read 'Charles Freese', written over a horizontal line.

Charles Freese
Planning Commission Secretary