

CHEBOYGAN COUNTY PLANNING COMMISSION

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CHEBOYGAN COUNTY PLANNING COMMISSION MEETING WEDNESDAY, AUGUST 5, 2009 AT 7:00 P.M. ROOM 135 – COMMISSIONER’S ROOM - CHEBOYGAN COUNTY BUILDING

PRESENT: Bartlett, Freese, Matelski, Kavanaugh, Borowicz, Croft, Moore, Behm, Ostwald
ABSENT: None
STAFF: Steve Schnell
GUESTS: Bill Morgan, John Moore, Linda Socha, Brenda Chimner, John Brown, Bill Carlson, Greg Kral, Steve Lindsay

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

APPROVAL OF AGENDA

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

APPROVAL OF MINUTES

The July 1, 2009 Planning Commission minutes were presented. **Motion** by Mr. Borowicz, seconded by Mr. Matelski, to approve the minutes as presented. Motion carried unanimously.

NEW BUSINESS

Motion by Mr. Matelski, seconded by Mr. Kavanaugh, to revise his motion to move item 1 under New Business to the 1st item on the agenda. Motion carried unanimously.

Determination of Essential Public Services

Mr. Schnell stated this is a site plan for Consumer’s Energy for a substation on South Straits Highway. Mr. Schnell presented an aerial photo, a detailed site plan and an elevation plan. Mr. Schnell stated fire hydrants, towers, traffic signals and fire alarm boxes are items that can be classified as an essential service. Mr. Schnell referred to section 3.4 and stated that anything determined to be an essential service is exempt from the Zoning Ordinance. Mr. Kavanaugh asked what is the procedure for the Planning Commission to review an essential service. Mr. Schnell stated the requirement in the Zoning Ordinance is for the Planning Commission to determine if there is a danger to the public safety and welfare. Mr. Schnell stated if the Planning Commission determines there is no danger then they are exempt from the Zoning Ordinance. Mr. Schnell stated that if the Planning Commission determines that there is a danger then it is not an essential service.

Mr. Kral stated they did a ten year planning study of the Wolverine/Indian River/Vanderbilt area and they determined that by the summer of 2013 there will be an overload at the Indian River substation. Mr. Kral stated the substations in Indian River and Vanderbilt feed into the Wolverine area. Mr. Kral stated Wolverine is at the tail end of both lines. Mr. Kral stated they looked at how they could address the projected overloads at Indian River. Mr. Kral stated they also looked at how to improve the service reliability to the area as there is a history of excessive outages in the Wolverine area. Mr. Kral stated the way to address these issues is a new substation. Mr. Kral explained that all of the facilities (high voltage transmission and low voltage distribution) are already at this site. Mr. Moore asked if there will be a fence. Mr. Kral stated that there will be an 8ft. fence (7ft. chain link fence with a 1 ft. barbed wire) that meets that National Electrical Safety Code. Mr. Moore questioned if this will be gated. Mr. Kral stated yes there will be a gate and access will be for heavy equipment and for monthly reads by operators. Mr. Moore questioned if the gate will be locked. Mr. Kral stated the gate is locked at all times.

Mr. Lindsay stated that he disagrees with Mr. Schnell’s statement that the Planning Commission is only required to determine whether or not there is a danger to the public. Mr. Lindsay read from the definition of Essential Service “...reasonably necessary to the furnishing of adequate service...” Mr. Lindsay stated that the determination of an essential service should be a two part test. Mr. Lindsay stated the Planning Commission should determine if this is reasonably necessary and if this is necessary to provide adequate service. Mr. Lindsay stated he does not see an immediate need since the overload would be in 2013. Mr. Lindsay questioned if Consumer’s Energy has records to demonstrate the number of outages in the Wolverine area compared to outages in a similar community. Mr. Kral stated he does not have

this information with him. Mr. Lindsay stated that without this information there is not an adequate basis to show reasonable necessity. Mr. Lindsay referred to the definition of Nuisance and read "An offensive, annoying, unpleasant, or obnoxious thing, act, or practice; a cause or source of annoyance, especially a continual or repeated invasion of a use or activity which invades the property line...". Mr. Lindsay stated Wolverine Camps Inc. is located to the south and is a camp for kids. Discussion was held regarding essential services not having to meet setback requirements because they are exempt from the Zoning Ordinance. Mr. Lindsay stated he believes there should be a distinction between a substation and a fire hydrant.

Mr. Lindsay asked if a National Standards permit was submitted to the Planning Commission. Mr. Kral stated no because Consumers Energy standards are designed around the National Safety Codes. Mr. Kral noted that they meet the requirements of the National Safety Code. Discussion was held.

Mr. Lindsay questioned if the 35ft. setback from the house is the minimum requirement. Mr. Schnell noted that if this is determined to be an essential service, then they are exempt from the requirements of the Zoning Ordinance. Mr. Kral stated there are requirements from the equipment to the perimeter fence. Mr. Lindsay believes that there should be setback requirements for this type of use and structure.

Mr. Lindsay questioned if this is the most reasonable and necessary location. Mr. Lindsay questioned if there are any state or federal permits that must be obtained. Mr. Lindsay stated that his client has only had 3-4 outages that were probably from trees in the past 41 years. Mr. Lindsay stated they do take issue with whether it is reasonably necessary for the furnishing of adequate service. Mr. Lindsay requested that Consumers Power look at alternate locations. Mr. Lindsay stated that this property is just a small portion of larger parcel. Mr. Lindsay stated that they could buy further into the property and more land is available to the north. Mr. Lindsay stated this should be moved further away from existing structures and the youth camp. Mr. Lindsay stated that his client would be willing to buy this parcel from Consumers Energy if there is an alternate location. Discussion was held. Mr. Lindsay asked if Consumers Energy looked at this site only. Mr. Kral stated that this was an ideal site and the owner was willing to sell. Discussion was held regarding Consumers Energy buying more property and moving the substation further back. Mr. Lindsay asked if Consumers Energy would be willing for the Planning Commission to table this request and talk to his client further. Discussion was held. Mr. Kral asked that the Planning Commission table the request. Mr. Freese noted that he lives within 5 miles of this location and he had at least 4-5 outages this year already. **Motion** by Mr. Kavanaugh, seconded by Mr. Freese, to table based upon the request from Consumers Energy. Motion carried unanimously.

UNFINISHED BUSINESS

Discussion of enforcement of proposed private kennel requirements

Mr. Schnell stated that during final review with legal counsel there was concern regarding another ordinance that takes some of the enforcement power outside of the zoning office. Mr. Schnell believes this resolution is better than the original. Mr. Schnell stated there is the opportunity to handle the enforcement through the zoning office. Mr. Schnell stated a department policy statement will be used to help with enforcement. Mr. Schnell stated this allows the complainant to be more involved in the enforcement process. Mr. Schnell stated that this cannot be an anonymous complaint and that the complainant must note the date, time, duration and description of the noise they are hearing over a 14 day period. Mr. Schnell stated this is used as an affidavit and the complainant would assist in any future court cases. Mr. Schnell stated the zoning enforcement officer is not able to stay at a site for long periods to observe. Mr. Schnell stated these requirements will take what is very difficult to quantify and very subjective and make it as objective as possible. Mr. Schnell stated the previous language references the barking dog ordinance which is handled by Animal Control. Mr. Schnell stated this new language allows the Zoning Department to handle the enforcement. Mr. Schnell stated he wanted to review this language with the Planning Commission and get their feedback and then schedule a public hearing.

Mr. Freese asked if this will apply to private kennels only. Mr. Schnell stated yes but noted that this does not apply to grandfathered kennels. Mr. Freese stated that this would not apply to commercial kennels. Mr. Schnell agreed with Mr. Freese. Discussion was held. Mr. Kavanaugh questioned if the enforcement policy would be part of the Zoning Ordinance or a department policy. Mr. Schnell stated this is a policy that he sets within the department. Mr. Kavanaugh asked if there is an enforcement time period that will be established. Mr. Schnell stated at first Mr. Gierschke tries to obtain voluntary compliance. Mr. Schnell stated he works with Mr. Gierschke to make a judgement call when the property owner is working in good faith at voluntary compliance. Mr. Schnell stated it is noticed as a violation but they are not sent to court right away. Mr. Kavanaugh stated that a timeline should be established. Mr. Freese questioned if the department policy statement should be made part of the ordinance. Mr. Schnell stated he did not believe it should be part of the ordinance as there should be department policies that are a bit more flexible than Zoning Ordinance language. Mr. Freese questioned if you could take someone to court if they are in violation of a department policy. Mr. Schnell stated that they would be taken to court when they are in violation of the Zoning Ordinance. Mr. Schnell explained that the department policy helps to verify whether there is a violation or not.

Ms. Behm asked how 2 weeks was established as the timeframe for the complainant to observe the nuisance. Mr. Schnell stated that other jurisdictions have used 7 days and he believes 2 weeks will be more solid if it has to go to court. Ms. Behm stated that she is concerned that 2 weeks is a long time to observe this nuisance and she believes this is an intrusion on her rights to wait for a response. Ms. Behm believes

1 week is more appropriate. Mr. Schnell explained that the township can establish a noise ordinance which would allow for an immediate action from the police department. Mr. Schnell stated he will move forward with this and revising the language. Mr. Schnell stated he will also adopt this for the commercial kennels through the special use permit process. Mr. Schnell stated everyone will be held to the same standards.

Discussion of possible rezoning in Koehler Township – Corner of East Mullett Lake Road and Onaway Road

Mr. Schnell presented an aerial photo of the area and noted that one of the parcels is subject to an upcoming site plan review and a recent Zoning Board of Appeals decision. Mr. Schnell stated the Zoning Board of Appeals determined that the zoning district for one parcel is Commercial. Mr. Schnell stated that once the Zoning Board of Appeals determined this parcel was Commercial, a site plan review application was submitted to rebuild the Wigwam Bar. Mr. Schnell explained that when the subdivision was established, residential was allowed for all of the parcels and commercial was also allowed for two of the parcels at this corner. Mr. Schnell stated one parcel is owned by Doug and Karen Sides and at one time they were interested in storage which is not allowed in Agriculture/Forestry. Mr. Schnell explained which parcels are currently used for residential purposes and which are used for commercial purposes. Mr. Schnell explained which parcel is owned by the State of Michigan and stated that it should be included in the rezoning just to be consistent.

Mr. Schnell stated the future land use for this area is Rural Character/Country Living. Mr. Schnell stated this does not mean this area should not be rezoned to Commercial. Mr. Schnell stated there is language for Commercial and Village Center that some commercial activity is desired at rural crossroads where there is existing commercial activity. Mr. Schnell stated if this rezoning is desirable then the public hearing should be scheduled and the conversation can continue at the next meeting. Discussion was held.

Mr. Kavanaugh questioned if the parcel owned by the State of Michigan should be included in the rezoning. Mr. Schnell stated that the State of Michigan does not normally sell parcels that are this big. Mr. Kavanaugh believes the parcel owned by the State should not be included in the rezoning. Mr. Schnell stated he will move forward with scheduling the public hearing and notifying the neighbors. Mr. Schnell stated that letters were received from a concerned citizen and from Sean and Corinna Berden. Discussion was held.

NEW BUSINESS

Discussion of Economic Development Corporation (EDC) strategic plan

Mr. Schnell stated that he wanted to make sure that the Planning Commission members received a copy of the Economic Development Corporation's strategic plan. Mr. Schnell asked for the Planning Commission's to contact him with any input they have on the strategic plan. Mr. Schnell reviewed sense of place and branding with the Planning Commission members. Discussion was held.

Discussion of Commercial Zoning District Changes; a.) Bed & Breakfast use, b.) Retail use and c.) Private Storage use

Mr. Schnell stated he recently received a letter from someone interested in purchasing an existing house in a Commercial District and opening a bed and breakfast. Mr. Schnell stated that he has talked to 5-6 other people who are interested in opening a bed and breakfast/tourist lodging facility. Mr. Schnell noted that this use is allowed in Lake and Stream Protection and Agriculture/Forestry Management but it is not allowed in Commercial. Mr. Schnell stated there is a demand for this use in the Commercial District. The Planning Commission members agreed that bed and breakfast should be allowed in the Commercial District.

Mr. Schnell stated that retail use was an oversight and should have been included in the Commercial District. Mr. Schnell stated that retail use will be included as an allowed use.

Mr. Schnell stated that private storage should have been commercial storage. Mr. Schnell stated that this was discussed at a previous meeting. Mr. Freese stated that commercial storage should be allowed.

STAFF REPORT

Mr. Schnell stated there are two applications that will be submitted soon for assisted living facilities. Mr. Schnell stated that one is on the corner of Townline Road and Stempky Road. Mr. Schnell stated the other will be a site condo revision of the Pier 33 project. Discussion was held.

PLANNING COMMISSIONER'S COMMENTS

Mr. Matelski stated that the Planning Commission should move forward with the Moran rezoning. Discussion was held.

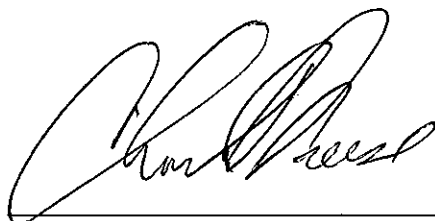
PUBLIC COMMENTS

Mr. Morgan asked why Cheboygan County does not have a blight ordinance. Mr. Schnell explained that the State of Michigan will not allow counties to have a blight ordinance. Mr. Schnell stated that only townships, cities and villages are allowed to have a blight ordinance. Mr. Morgan asked if Mr. Schnell would fax this information to him. Mr. Schnell stated yes. Mr. Schnell stated that Cheboygan County can draft a

model blight ordinance for the townships to adopt on their own. Mr. Schnell stated the township can then contract with Cheboygan County to enforce the township ordinance.

ADJOURN

Motion by Mr. Matelski to adjourn. Motion carried. Meeting was adjourned at 8:26pm.

A handwritten signature in cursive script, appearing to read "Charles Freese", written in black ink.

Charles Freese
Planning Commission Secretary