



CHEBOYGAN COUNTY PLANNING COMMISSION

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CHEBOYGAN COUNTY PLANNING COMMISSION MEETING & PUBLIC HEARING WEDNESDAY, DECEMBER 7, 2016 AT 7:00 P.M. ROOM 135 – COMMISSIONER'S ROOM - CHEBOYGAN COUNTY BUILDING

PRESENT: Bartlett, Freese, Kavanaugh, Borowicz, Croft, Ostwald, Lyon, Jazdyk
ABSENT: Churchill
STAFF: Scott McNeil, Steve Schnell
GUESTS: Eric Boyd, Bob Lyon, John Moore, Tony Matelski, C. Maziasz, John F. Brown, Carl Muscott, Russell Crawford, Cheryl Crawford

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

PLEDGE OF ALLEGIANCE

Chairperson Croft led the Pledge of Allegiance.

APPROVAL OF AGENDA

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

APPROVAL OF MINUTES

The November 2, 2016 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, Lyon, Jazdyk), 0 Nays, 1 Absent (Churchill)

The November 16, 2016 Planning Commission minutes were presented. **Motion** by Ms. Lyon, seconded by Mr. Kavanaugh, to approve the meeting minutes as presented. Motion carried. 8 Ayes (Bartlett, Freese, Kavanaugh, Borowicz, Croft, Ostwald, Lyon, Jazdyk), 0 Nays, 1 Absent (Churchill)

PUBLIC HEARING AND ACTION ON REQUESTS

An Ordinance to add a new Section 17.29. to the Cheboygan County Zoning Ordinance No. 200 to provide definitions, regulations and standards for Mobile Food Units.

Mr. McNeil stated that currently mobile food units fall under a restaurant use, which would require a site plan review or special use permit approval for each location where a mobile food unit would like to operate. Mr. McNeil explained that the proposed amendment will provide a procedure for review and approval for a site where a mobile food unit would like to operate and would be subject to a \$30.00 zoning permit.

Mr. McNeil stated that the proposed amendment provides definitions for Mobile Food Unit and Vehicle. Mr. McNeil stated the proposed amendment document allows Mobile Food Units to be approved with a zoning permit within in the Commercial Development zoning district. Mr. McNeil reviewed the regulations and standards under Section 3 in the proposed amendment. Mr. McNeil stated that these requirements must be demonstrated on the zoning permit. Mr. McNeil explained that 17.29a states that a mobile food unit shall not be placed within a right-of-way of any public road unless the governmental unit with jurisdiction over that public road right of way consents. Mr. McNeil stated that 17.29b establishes that a zoning permit is required. Mr. McNeil explained that the permit will state the days and hours of operation. Mr. McNeil stated that 17.29c limits the use of a mobile food unit to food sales. Mr. McNeil stated that 17.29d requires that the mobile food unit meet applicable requirements of the Health Department. Mr. McNeil stated that 17.29e allows for extra signage for a mobile food unit and for signage on the unit as well as one accessory sign limited to 8sf. Mr. McNeil explained that 17.29f allows for 3 accessory tables and 12 accessory chairs. Mr. McNeil stated that 17.29g establishes a minimum requirement of 2 off street parking spaces if there is no accessory seating. Mr. McNeil stated if there is accessory seating then a minimum of 3 off street parking spaces are required. Mr. McNeil explained that 17.29h requires a trash receptacle of at least 30 gallons. Mr. McNeil explained that 17.29i requires that a mobile food unit shall meet all setback requirements.

Ms. Croft asked for public comments. Mr. Maziasz asked how will it be known that a mobile food unit has a zoning permit. Mr. McNeil stated that the Zoning Department does not notify anyone of the zoning permit but you can ask the operator or you can call the Zoning Department. Discussion was held.

Mr. Muscott asked if mobile food units will only be allowed in the Commercial Development Zoning District. Mr. McNeil explained that the mobile food unit use is added to the Commercial Development Zoning District under section 2 of the proposed amendment. Mr. Muscott referred to the definition of vehicle and stated that he does not believe that a vehicle is something that is "used exclusively upon stationary rails or tracks." Mr. McNeil stated that this wording comes from the vehicle code that was provided by legal counsel. Discussion was held.

Mr. Brown asked how this amendment will affect the County Fair. Mr. Freese noted that this parcel is located within the city limits and will not be affected by this amendment. Discussion was held. Mr. McNeil stated that there is language in the proposed amendment that requires a zoning permit unless it is part of a special event.

Public comment closed.

Discussion was held. Mr. Kavanaugh stated that the City of Cheboygan is working on a similar ordinance and they are looking at a 250ft. setback. Mr. Kavanaugh stated that they are considering a \$600 fee for 6 months for a resident and a \$900 fee for 6 months for a non-resident. Mr. Jazdyk stated that 250ft. will eliminate almost any food truck in the city from Court Street to Main Street. Mr. Jazdyk stated his concerns regarding this use being only allowed in the Commercial Development Zoning District. Mr. Jazdyk stated that Mr. McNeil should also be able to review applications for mobile food units proposed for other zoning districts. Mr. Jazdyk stated that there have only been a few food trucks and there have not been any problems. Mr. Jazdyk stated that this is a lot of work for a non-problem. Mr. Freese stated that it can be done, but it requires further review and discussion. Discussion was held.

Ms. Croft asked if this proposed amendment has been reviewed by legal counsel. Mr. McNeil stated yes.

Motion by Mr. Feese, seconded by Mr. Kavanaugh, to forward the amendment to the Cheboygan County Board of Commissioners with a recommendation for approval. Motion carried. 8 Ayes (Bartlett, Freese, Kavanaugh, Borowicz, Croft, Ostwald, Lyon, Jazdyk), 0 Nays, 1 Absent (Churchill)

UNFINISHED BUSINESS

Review of sign ordinance relative to content based regulation

Mr. McNeil stated that the most recent changes discussed by the Planning Commission are in bold. Mr. McNeil stated that in regards to temporary signs, an additional square footage amount of signage will be allowed for 45 days before a governmental election. Mr. McNeil explained that we are allowing for political signage without stating it in the amendment.

Mr. McNeil asked if the Planning Commission wanted to keep 17.19.3 "Signs affixed to trees, rocks, shrubs, or other natural features" as prohibited signs. Mr. Freese stated that this has been discussed in the past. Mr. Freese stated that people put their house numbers or their name on a rock. Mr. Freese stated that people also hang a sign with their name on a tree. Mr. Freese stated that we do not want to prohibit this type of sign. Ms. Lyon stated that people also put "No Trespassing" signs on trees. Ms. Croft asked Mr. McNeil to remove this section and then forward to legal counsel for review.

Review of use terminology relative Assembly Halls and Clubs

Mr. McNeil provided the current definition for club and a proposed definition for assembly hall. Mr. McNeil stated that the definition of assembly hall could replace the uses that are listed such as arcades, bowling alleys, clubs, churches, schools and educational institutions. Mr. McNeil stated that these uses have the same impact on the land.

Mr. Kavanaugh stated that he does not believe that a social, religious or political club is the same as a pool hall or arcade. Mr. Kavanaugh stated that the Planning Commission can continue to review these uses. Mr. McNeil stated that the Planning Commission can continue to discuss the differences and the impacts. Discussion was held. Mr. McNeil stated that he will include this on the next agenda.

Mr. Freese explained there should be a regulation in place for clearing large sections of land for commercial purposes. Mr. Schnell asked how the clearing of the land for commercial purposes differs in its impact to the neighboring land versus someone clearing land for residential purposes. Mr. Freese stated that this could be distinguished by a specific number of square feet. Mr. Freese stated that if the land is being cleared for commercial purposes, the Planning Commission can require that the screening be put back in later. Mr. Borowicz stated his concern regarding people clearing their property before

receiving Planning Commission approval. Mr. Borowicz stated that when this happens then there is no need for the ordinance. Mr. Freese stated that the Planning Commission is supposed to evaluate a special use permit on changes in topography and vegetation. Mr. Freese stated that either we do not need the regulation or we should prevent this from happening before it can be evaluated. Mr. Borowicz stated that screening is required if the commercial property adjoins property in a different zoning district. Mr. Schnell stated the difference between residential and commercial would be hard to regulate as people clear the land and put up residential storage buildings and change the use of the building at a later time. Mr. Freese stated he is not interested in preventing someone from clearing ½ acre for a house and a barn. Mr. Freese stated that square footage is the only way he can see to regulate this type of activity. Mr. Freese asked what is there for the Planning Commission to evaluate if the land is cleared and curbs, gutters, driveway and parking is in. Mr. Schnell stated that the Planning Commission is evaluating use change. Ms. Croft asked if the Planning Commission can make an applicant go back and meet the standards. Mr. Schnell stated yes the Planning Commission does not have to approve a use change if it does not meet the requirements. Mr. Freese asked why the Planning Commission should worry about changes in topography when the property owner has the right to make the changes as long as he does it before he applies for a special use permit. Mr. Freese stated that the property owner does not have the right to do it if he applies for a special use permit and the Planning Commission tells him not to make the topography changes. Mr. Schnell stated that there are communities that regulate how many trees you can cut down on your property. Mr. Schnell stated that it may be helpful to have more information from Hank Jankoviak regarding soil and sedimentation requirements. Discussion was held regarding removing the buffer and topography requirement. Mr. Schnell stated that it is helpful to have this requirement during the special use permit approval process. Mr. Freese stated that even though topography is required, we do not specify whether it is before, during or after. Mr. Borowicz stated that that before and after should be required. Mr. Schnell stated that the Planning Commission does not have to waive the topography requirement. Mr. Schnell read section 20.7d "Topography at maximum five foot intervals or appropriate topographic elevations to accurately represent existing and proposed grades and drainage flows." Mr. Schnell stated that this is a site plan requirement. Mr. Freese stated that this has not been required from any applicant. Mr. Freese stated that applicants will have to provide existing and proposed grades. Mr. Borowicz stated that the Planning Commission is not able to evaluate the degree of change unless both the existing topography and proposed topography are provided. Mr. Freese asked Mr. McNeil to provide his recommendation on what the Planning Commission could do to prevent this problem. Mr. McNeil stated that he will review other examples in Michigan.

NEW BUSINESS

No comments.

STAFF REPORT

Discussion regarding enforcement

Mr. Schnell stated that a memo was included in the pack that describes the enforcement process. Mr. Schnell stated that until 2004, the County had chosen to enforce zoning violations as misdemeanors, which means that violators could face jail time. Mr. Schnell stated that in 2004 the County changed this to a municipal civil infraction. Mr. Schnell explained that our approach to zoning enforcement is compliance rather than punishment unless there is no response to the situation. Mr. Schnell stated that citations are issued in situations where there is no response. Mr. Schnell stated that according to legal counsel, we are required to treat individuals the same regardless of whether they have violated an ordinance in the past. Mr. Schnell stated that we want people to feel that staff members are approachable and this has been a great success in the past when people do not like the zoning process. Mr. Schnell explained that the streamlined processes approved by the Planning Commission have helped. Mr. Schnell stated that either he or Mr. McNeil is available during office hours to review zoning applications. Mr. Schnell stated that an application is reviewed and approved very quickly if it is complete. Mr. Schnell stated the fees are reasonable, but they do not cover the full cost of processing the permit.

Mr. Kavanaugh asked what is legal counsel's suggestion for repeat offenders. Mr. Schnell stated that we can request that the citation fees be increased for repeat offenders. Mr. Schnell stated he will check into this further. Mr. Kavanaugh asked if there is any way to issue a stop work order. Mr. Schnell stated yes and it is normally when there is a safety matter involved. Mr. Schnell stated that if there is a building safety issue, he will notify the building official who can issue a stop work order. Mr. Kavanaugh asked if a stop work order will be issued if there is a flagrant violation of the Zoning Ordinance. Mr. Schnell stated he is ready to use it as a tool in situations where he believes a stop work order is necessary. Mr. Schnell stated that in situations where a stop work order was necessary, there was also an issue from a building safety standpoint. Mr. Schnell stated it is a tool available to him to use in the right situation.

Mr. Jazdyk suggested telling people at the onset how enforcement matters are handled. Mr. Jazdyk stated that if you are in violation there will be verbal notification of the violation and what is required to correct the violation. Mr. Jazdyk stated that the second step would be a written notification that if there is no compliance within a specific time period that a stop work order will be issued. Mr. Schnell stated that this is being done already. Mr. Schnell stated that the first letter gives 30 days for

compliance and the second letter gives 14 days for compliance or a citation will be issued. Mr. Schnell stated that normally he receives a phone call after the first letter from the property owner stating that they are working on complying. Mr. Schnell explained that recently a business opened without zoning approval. Mr. Schnell stated that Department of Building Safety was called in right away to make sure that the customers are safe and then the owner began working with Mr. McNeil on a plan. Mr. Borowicz stated there is a difference between a startup business that is not aware of the process and an ongoing business that is aware of the process. Mr. Kavanaugh stated that a stop work order is easy to handle and it is reasonable. Mr. Schnell stated that a recent stop work order was issued by the building official because he was able to reference a safety concern and the two departments were able to work together. Mr. Schnell stated the building official has a more immediate and effective method of handling the matter. Mr. Kavanaugh stated that if there isn't a safety issue, zoning can issue a stop work order. Mr. Kavanaugh and Mr. Freese stated their concerns regarding the willingness to issue a stop work order. Mr. Schnell stated that there is a huge willingness in our department as we have the same frustrations as the Planning Commission. Mr. Schnell stated he wants to consider safety if it is an issue and there are a lot of tools available to handle these enforcement matters.

Mr. Schnell stated that there has been an increase in complaints over the last couple years regarding vacation rentals. Mr. Schnell stated that we have dealt with them in the past and some have been grandfathered and some have not been and they stopped renting. Mr. Schnell stated that with the Vacation Rental By Owner website (vrbo.com) it is becoming extremely profitable. Mr. Schnell stated that "resorts, resort hotels, recreation farms, vacation lodges, motor inns, motels and other tourist lodging facilities" are allowed in the Agriculture and Forestry Management Zoning District. Mr. Schnell stated that vacation rentals could possibly be reviewed under this section. Mr. Schnell stated that in the Lake and Stream Protection Zoning District there is nothing that allows vacation rentals. Mr. Schnell stated that according to legal counsel, monthly rentals can be considered a domicile based on case law. Mr. Freese asked how bed and breakfasts are being handled. Mr. Freese noted that a controversial bed and breakfast was approved in Indian River. Mr. Schnell stated that bed and breakfasts are different as they are owner occupied. Mr. Schnell stated that there isn't anything permitting by the night rental use and by the week rental use. Mr. Schnell noted that a gentleman made a substantial investment in a home for an early retirement and would like to see if this use could be allowed. Mr. Schnell stated that there was a suggestion in Mark Wykoff's review of Cheboygan County Planning & Zoning to separate commercial lake and stream from residential lake and stream. Mr. Schnell stated that the Planning Commission may want to consider an overlay. Mr. Kavanaugh stated that there wasn't a problem with camping for 180 days next to a house. Mr. Kavanaugh asked why this is a problem. Mr. Kavanaugh stated that these are normally nice homes with enough parking. Mr. Kavanaugh stated that he has not heard of this being a problem and he receives complaints on many different issues at the Health Department. Discussion was held.

PLANNING COMMISSION COMMENTS

No comments.

PUBLIC COMMENTS

Mr. Muscott stated that Cheboygan County enforces Act 91 (Soil and Sedimentation) and that clearing of more than 1 acre needs to be reviewed by the Soil Erosion Officer. Mr. Muscott stated that property was cleared last summer and no one from the Planning & Zoning Department looked into it. Mr. Muscott stated that this was within the resolution that the county has to enforce.

Mr. Muscott stated that he has built a lot of places and most know that a permit is required to build a house. Mr. Muscott stated that when he has applied for a permit, it was clear that the fee is doubled for any work done prior to the permit being issued. Mr. Muscott explained that he wants to see as little as possible of the law but equally applied. Mr. Schnell stated that doubling a fee is a way of issuing a punishment through a permit fee and we are not allowed to do that. Mr. Kavanaugh asked if a stop work order could be issued. Mr. Schnell stated yes. Mr. Kavanaugh stated that this is an important tool and needs to be used.

ADJOURN

Motion by Mr. Kavanaugh to adjourn. Motion carried. Meeting was adjourned at 8:35pm.



Charles Freese
Planning Commission Secretary