

CHEBOYGAN COUNTY PLANNING COMMISSION

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CHEBOYGAN COUNTY PLANNING COMMISSION MEETING WEDNESDAY, NOVEMBER 18, 2015 AT 7:00 P.M. ROOM 135 – COMMISSIONER’S ROOM - CHEBOYGAN COUNTY BUILDING

PRESENT: Bartlett, Freese, Kavanaugh, Borowicz, Croft, Ostwald, Lyon, Churchill, Jazdzyk
ABSENT: None
STAFF: Scott McNeil
GUESTS: Eric Boyd, John F. Brown, Carl Muscott, Charles Maziasz, Tony Matelski, Chris Brown, John Moore, 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 MINUTES

The October 21, 2015 Planning Commission minutes were presented. **Motion** by Mr. Churchill, seconded by Mr. Kavanaugh, to approve the meeting minutes as presented. Motion carried unanimously.

APPROVAL OF AGENDA

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

PUBLIC HEARING AND ACTION ON REQUESTS

Nature View LLC - Requests a Special Use Permit for a Cabin colony for construction of six (6) new cabins (Section 10.3.3.). The property is located at 10316, Mackinaw Township, parcel #011-020-200-007-00 and parcel #011-020-200-008-00. The area of the property where the new cabins are proposed is zoned Lake and Stream Protection District (P-LS).

Mr. McNeil stated Nature View LLC has submitted a special use permit application to add 6 new cabins to an existing cabin colony. Mr. McNeil noted the location of the proposed cabins on the site plan. Mr. McNeil stated the side setback requirement and waterfront setback requirement will be met. Mr. McNeil explained that the parking requirements will be met. Mr. McNeil stated that a drainage plan has been submitted and noted that there will be swales and 15ft. spacing between each proposed cabin. Mr. McNeil stated the sizes of the proposed cabins are 20ft. x 38ft. Mr. McNeil stated this property is zoned Lake and Stream Protection and a cabin colony use requires a special use permit. Mr. McNeil stated that there has not been a previous special use permit approved for this site.

Mr. Kavanaugh stated that Mr. Rogala and the Health Department have been working together on the sewage system and water supply.

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

Motion by Mr. Freese, seconded by Mr. Borowicz, to grant the topography waiver request. Motion carried unanimously.
Motion by Mr. Freese, seconded by Mr. Churchill, to grant the scale requirement waiver request. Motion carried unanimously.

The Planning Commission reviewed and approved the General Findings. The Planning Commission reviewed and approved the Finding of Fact Under Section 18.7. The Planning Commission reviewed the Specific Findings of Fact Under Section 20.10 and revised h1 "Exterior lighting will be located under the porch and will be shielded for the adjacent property and the night sky from unnecessary light pollution." The Planning Commission approved the Specific Findings of Fact Under 20.10. **Motion** by Mr. Freese, seconded by Mr. Kavanaugh, to approve the special use permit based on the General Findings, Finding of Fact Under Section 18.7 and the Specific Findings of Fact Under Section 20.10 with the stipulation that Department of Building

Safety requirements, Health Department requirements and Soil Erosion requirements must be met. Motion carried unanimously.

Lawrence Ginop on behalf of Lawrence E. Ginop Trust and Ginop Sales Inc. - Requests a rezoning from Agriculture & Forestry Management District (M-AF) and Lake and Stream Protection District (P-LS) to Commercial Development District (D-CM) limiting the uses allowed under the Commercial Development District (D-CM) regulations to only the following uses; Equipment and farm machinery sales, repair, rental and washing under Section 6.2.2. of the Cheboygan County Zoning Ordinance #200, Indoor storage facilities under Section 6.3.16. of the Cheboygan County Zoning Ordinance #200. The properties to be rezoned are:

Part of parcel #161-007-200-007-00

THE SLY 420.0 FT. OF PARCEL DESC AS: PT OF NE1/4, SEC 7, T35N, R3W, DESC AS: COM AT E1/4 COR OF SEC 7, T35N,R3W; TH N 84D 34M 13S W ALG E & W 1/4 LI 1071.53FT TO POB; TH N 84D 34M 13S W; CONT TH 218.64FT; TH N 3D 00M 20S E 253.78FT TO CAP; TH N 82D 04M 40S W 31.74FT TO CAP ON E 1/8 LI; TH N 1D 28M 22S E ALG SD 1/8 LI 1063.37FT TO N 1/8 LI; TH S 84D 30M 21S E ALG SD 1/8 LI 328.68FT TO CAP; TH S 1D 28M 08S W 1120.55FT TO CAP; TH N 84D 15M 09S W 85.32FT TO CAP; TH S 1D 28M 08S W 198.47FT TO POB.

Parcel #161-007-200-001-10

COM AT E 1/4 COR OF SEC 7, T35N,R3W; TH N 84D 34M 13S W ALG E & W 1/4 LI; TH N 84D 34M 13S W 1290.17FT TO POB; TH N 84D 34M 13S W 169.33FT; TH N 3D 00M 20S E 261.17FT TO CAP; TH S 82D 04M 40S E 169.81FT TO CAP; TH S 3D 00M 20S W 253.78FT TO POB.

Parcel #161-200-200-001-11

PT OF NE1/4, SEC 7, T35N,R3W, DESC AS: COM AT N1/4 COR OF SEC 7, T35N,R3W; TH S 1D 29M 20S W ALG N - S 1/4 LI 1320.37FT TO N 1/8 LI; TH S 84D 30M 20S E ALG SD 1/8 LI 941.30FT TO 1/2" BAR; TH S 43D 22M 53S E 63.33FT TO 1/2" BAR; TH S 1D 34M 16S W 513.54FT TO 1/2" BAR TO POB; TH S 47D 16M 42S E 409.47FT; TH S 8D 09M 07S E 267.61FT; TH N 82D 04M 40S W 142.91FT; TH S 3D 00M 20S W 208.72FT TO NLY ROW LI OF HWY M-68; TH N 84D 37M 00S W ALG SD ROW LI 926.93FT; TH N 1D 29M 20S E 279.06FT TO 1/2" BAR; TH S 84D 34M 13S E 333.96FT TO 1/2" BAR; TH N 5D 25M 47S E 185.03FT TO A 1/2" BAR; TH S 84D 34M 13S E 271.37FT TO 1/2" BAR; TH N 5D 25M 47S E 190.29FT TO 1/2" BAR; TH N 61D 40M 20S E 103.60FT TO 1/2" BAR & POB.

Parcel #161-007-200-008-00

COM AT SW COR OF NE1/4, SEC 7, T35N,R3W; TH N 20RDS; TH E 16RDS; TH S 20RDS; TH W 16RDS TO POB.

Part of parcel #161-007-200-001-12

THE SLY 210.0 FT OF PROPERTY DESC AS: PT OF NE1/4, SEC 7, T35N,R3W, COM AT N 1/4 COR OF SEC 7, T35N,R3W; TH S 1D 29M 20S W ALG N & S 1/4 LI 1320.37FT TO N 1/8 LI & POB; TH S 84D 30M 20S E ALG SD 1/8 LI 941.30FT TO 1/2" BAR; TH S 43D 22M 53S E 63.33FT TO 1/2" BAR; TH S 1D 34M 16S W 513.54FT TO 1/2" BAR; TH S 61D 40M 20S W 103.60FT TO 1/2" BAR; TH S 5D 25M 47S W 190.29FT TO 1/2" BAR; TH N 84D 34M 13S W 271.37FT TO 1/2" BAR; TH S 5D 25M 47S W 185.03FT TO 1/2" BAR; TH N 84D 34M 13S W 333.96FT TO 1/2" BAR; TH CONT N 84D 34M 13S W 264FT TO N & S 1/4 LI; TH N 1D 29M 20S E ALG SD 1/4 LI 990.37FT TO POB

Mr. Kavanaugh asked why conditional rezoning is not stated in the agenda. Mr. McNeil and Mr. Schnell explained that the public notice did include the conditions. Mr. Kavanaugh stated that it should be noted on the agenda that it is a conditional rezoning as it may make a difference to people looking at this project. Mr. Schnell stated that it is not distinguished in the ordinance in any different way than a rezoning. Mr. Kavanaugh stated the Planning Commission will look at conditional rezoning completely different than a normal rezoning and it should be spelled out so Tuscarora Township and everyone else will know that it is a conditional rezoning and not a normal rezoning. Mr. McNeil stated that it is noted in the staff report that it is a conditional rezoning. Mr. McNeil stated that the public hearing has to be held.

Mr. McNeil reviewed a map of the area. Mr. McNeil stated that the applicant is requesting a conditional rezoning to Commercial with two requested uses; Equipment and farm machinery sales, repair, rental and washing under Section 6.2.2 and Indoor storage facilities under Section 6.3.16. Mr. McNeil stated if this request is approved, Mr. Ginop will have to submit a site plan review application for the Planning Commission to review if there is to be any expansion of the farm machinery sales and a special use permit application if there will be any indoor storage improvements.

Mr. Kavanaugh asked if the Planning Commission will review a site plan review or special use permit application for anything else other than an addition which can be approved administratively. Mr. McNeil stated this is a non-conforming use now. Mr. McNeil stated there is now an approved site plan review application on file and any expansion would require a site plan

review. Mr. Freese stated at this point the applicant is only requesting what he has been doing at this site for many years. Mr. McNeil stated that is correct for most of the parcel.

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

Mr. Kavanaugh stated that conditional rezoning is reasonable for this site. Mr. Borowicz stated conditional rezoning will allow for the possibility of expansion. Mr. Freese stated conditional rezoning legitimizes what is already being done and will allow the applicant to expand.

The Planning Commission revised the General Findings of Fact:

1. The Planning Commission finds that the applicant proposes conditional rezoning of certain real property in the application from Agricultural and Forest Management District (M-AF) and Lake and Stream Protection District (P-LS) to Commercial Development District (D-CM) for the following uses:
 - a. Equipment and farm machinery sales, repair, rental and washing per section 6.2.2.
 - b. Indoor Storage Facilities per section 6.3.16.See exhibit 3.
2. The Planning Commission finds that the application is made by Lawrence Ginop. See exhibit 3.
3. The Planning Commission finds that the legal description of the property at issue, including the proposed property to be rezoned, is attached to the application. See exhibit 3.
4. The Planning Commission finds that the Cheboygan County Master Plan Future Land Use Map designates the area with the proposed rezoning as being offered as Rural Commercial Node. See exhibit 7
5. The Planning Commission finds that the Cheboygan Tuscarora Township Master Plan Future Land Use Map designates the area with the proposed rezoning as being offered as Agricultural Forestry. See exhibit 7
6. The Planning Commission finds that the uses proposed are those uses which have been used on this parcel in the past, prior to zoning, and have continued since then. .

The Planning Commission reviewed the Rezoning Factors:

1. Is the proposed rezoning reasonably consistent with surrounding uses?
 - A. The Planning Commission finds that based upon the information provided in the staff report which includes the Cheboygan County Master Plan Future Land Use Map which indicates that the property is in the Rural Commercial Node land use category. See exhibit 7 figure 2.
 - B. The Planning Commission finds that upon review of the specific nature of the property, which includes an existing equipment and farm machinery sales and repair business, that the conditional rezoning would not create a negative impact on surrounding property.

Motion by Mr. Borowicz, seconded by Mr. Freese, that the factors will support the conditional rezoning. Motion carried unanimously.

2. Will there be an adverse physical impact on surrounding properties?
 - A. The Planning Commission finds that there is no evidence that the proposed rezoning would result in an adverse physical impact on surrounding properties as a farm machinery sales and repair use currently exists in the area. Activities which could occur if the subject property is rezoned would not physically disturb the properties surrounding the land proposed for the conditional rezoning. See exhibit 3.
 - B. The Planning Commission finds that, as per the adopted Cheboygan County Master Plan, the future land use categories for surrounding properties may very well better describe the desired Rural Commercial Node future land use on any given parcel, there is support in the Master Plan that this proposed conditional rezoning would allow land uses which would be compatible with surrounding properties and meet the County's land use goals. See exhibit 2.

Motion by Mr. Freese, seconded by Mr. Borowicz, that the factors will support the conditional rezoning. Motion carried unanimously.

3. Will there be an adverse effect on property values in the adjacent area?

- A. The Planning Commission finds that there is no evidence in the form of an appraisal or other document study which shows, that if the conditional rezoning is granted, there would be an adverse effect on property values in the area.

Motion by Mr. Freese, seconded by Mr. Kavanaugh, that the factors will support the conditional rezoning. Motion carried unanimously.

4. Have there been changes in land use or other conditions in the immediate area or in the community in general which justify rezoning?

- A. The Planning Commission finds that seasonal farm market has been established in the area. See exhibit 7
- B. The Planning Commission finds that future development along and adjacent to this area by viable business consistent with the Rural Commercial Node future land use and is a viable justification for the conditional rezoning.

Motion by Mr. Freese, seconded by Mr. Kavanaugh, that the factors will support the conditional rezoning. Motion carried unanimously.

5. Will rezoning create a deterrent to the improvement or development of adjacent property in accordance with existing regulations?

- A. The Planning Commission finds that given the size, the existing machinery sales and service use as well as surrounding properties which are not subject to the rezoning application, there is no evidence that the conditional rezoning would deter the improvement or development of adjacent property in accordance with existing regulations, much less future land use plans as proposed in Cheboygan County's future land use map. See exhibits 1, 2 and 7.

Motion by Mr. Freese, seconded by Mr. Kavanaugh, that the factors will support the conditional rezoning. Motion carried unanimously.

6. Will rezoning grant a special privilege to an individual property owner when contrasted with other property owners in the area or the general public (i.e. will rezoning result in spot zoning)?

- A. The Planning Commission finds that the property contains an existing machinery sales and service business. As such, the proposed conditional rezoning does not create a special privilege or result in spot zoning. See exhibit 7.
- B. The Planning Commission finds that Indoor storage facilities is a use which is allowed with a special use permit in the Agriculture and Forestry Management zoning district.

Motion by Mr. Kavanaugh, seconded by Mr. Churchill, that the factors will support the conditional rezoning. Motion carried unanimously.

7. Are there substantial reasons why the property cannot be used in accordance with its present zoning classifications?

- A. The Planning Commission finds a unique use of a large portion of the property as Equipment and farm machinery sales and repair use which is currently a nonconforming use.
- B. The Planning Commission finds that given the Master Plan and future land use map, the conditional rezoning would be more in line with uses allowed under the future land use designation for the area. See exhibit 2.

Motion by Mr. Freese, seconded by Mr. Borowicz, that the factors will support the conditional rezoning. Motion carried unanimously.

8. Is the rezoning in conflict with the planned use for the property as reflected in the master plan?

- A. The Planning Commission finds that the County's Master Plan depicts the future use of the property as being in the

Rural Commercial Node category. See exhibit 2 future land use map and exhibit 8 figure 2.

- B. The Planning Commission finds that, as per the adopted Cheboygan County Master Plan, and Future Land Use Map, the future land use categories for surrounding properties may very well better describe the desired future land use on any given parcel and there is support in the Master Plan that this proposed rezoning would allow land uses which would be compatible with surrounding properties and meet the County's land use goals. See exhibit 2.

Motion by Mr. Freese, seconded by Mr. Kavanaugh, that the factors will support the conditional rezoning. Motion carried unanimously.

9. Is the site served by adequate public facilities or is the applicant able to provide them?

- A. The Planning Commission finds that the site is or will be served by adequate public and private facilities by the applicant considering the type of uses which may be permitted on the property. See exhibit 3.

Motion by Mr. Freese, seconded by Mr. Kavanaugh, that the factors will support the conditional rezoning. Motion carried unanimously.

10. Are there sites nearby already properly zoned that can be used for the intended purposes?

- A. The Planning Commission finds that the applicant has indicated a use for Equipment and farm machinery sales, repair, rental and washing and there are no sites nearby which can be used for that purpose. See exhibit 1

Motion by Mr. Freese, seconded by Mr. Borowicz, that the factors will support the conditional rezoning. Motion carried unanimously.

Motion by Mr. Freese, supported by Mr. Borowicz, that based upon the general findings of fact and the rezoning factors that the applicant's request to conditional rezone the property identified in the aforementioned property description in this document is hereby recommended to be approved. Motion carried unanimously

Cheboygan County Recreation Plan

Mr. Schnell noted that two public comments regarding recycling were received and are included in the Planning Commission's packet. Mr. Schnell stated the only changes to be made to the plan are those parts that are highlighted at the end. Mr. Schnell explained that this is where he will add in the resolution of support and the minutes of the meetings. Mr. Schnell stated that five of the six townships already have public hearings scheduled. Mr. Schnell stated that they will approve this on their own which they are required to do.

Mr. Freese stated he would not have any objections to having a paragraph included on the recycling. Mr. Kavanaugh stated he is not sure that it should be included in the Recreation Plan. Mr. Borowicz suggested including language recommending recycling opportunities be available to recreational facilities. Mr. Kavanaugh agreed with Mr. Borowicz's suggested language. Ms. Lyon suggested including language to encourage recycling as there are some townships that do not participate in recycling. Mr. Schnell asked if this means encouraging recycling bins within the parks of townships that are currently participating in the recycling program. Planning Commission members stated yes. Discussion was held.

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

Motion by Mr. Freese, seconded by Mr. Kavanaugh, to recommend to the Cheboygan County Board Of Commissioners to approve Cheboygan County's Recreation Plan and the County's Goals, Objective and Action Plan with the understanding that the township specific information is the product of those respective townships. Motion carried unanimously.

UNFINISHED BUSINESS

Discussion Regarding Residential Zoning In Section 31, Beaugrand Township

Mr. McNeil presented an aerial photo of the area that the Planning Commission discussed previously regarding four parcels in Section 31 of Beaugrand Township that are currently zoned Residential Development and that are being considered for rezoning to Agriculture and Forestry Management. Mr. McNeil stated this rezoning is being brought to the Planning Commission by staff after discussion with some of the property owners. Mr. McNeil stated Agriculture and Forestry Management is called for in the Master Plan. Mr. McNeil asked if the Planning Commission would consider undertaking this rezoning.

Mr. Freese stated there is one house in the lower right hand corner and a barn in upper right hand corner of the parcel and it is owned by the Beethem Family. Mr. Freese requested a statement from the Beethem's that they agree with the rezoning.

Mr. Schnell explained that this came to light during the Lake and Stream rezoning. Mr. Schnell stated that he received a call from Mr. Beethem who stated that his family owns this property which they only plan to farm. Mr. Schnell stated that he will send Mr. Beethem a form letter. Discussion was held.

Review Of Planned Unit Development Ordinance Amendment

Mr. McNeil stated the issue of taking a new look at the PUD ordinance was identified as a priority in the Master Plan. Mr. McNeil stated the document that the Planning Commission is reviewing tonight has a few changes since it was last discussed. Mr. McNeil stated definitions of industrial use, non-residential use and residential use have been provided. Mr. McNeil stated language has been provided relative to the provision of open space. Mr. McNeil stated he included a requirement 15% open space and he reduced the proposed minimum lot size for residential dwelling accordingly. Mr. McNeil stated language was included to state that any PUD with proposed industrial uses would have to be located in areas already zoned Industrial. Mr. McNeil explained that development phase information will be included in the preliminary plan submission. Mr. McNeil stated if this information is not provided because the plan is simple, the Planning Commission is still able to place conditions on the approval.

Mr. Freese stated this looks like everything the Planning Commission discussed previously. Mr. Freese referred to Section 19.3.c.2 and asked that the word with be changed to within.

Mr. Borowicz referred to Section 19.5.2.a.2 and asked what will happen with the amendments that are deemed major. Mr. McNeil explained that the major ones will have to go back through the original application process. Mr. McNeil stated that if it is minor it can be dealt with by staff but if it is major it must go back to the Planning Commission to consider. Mr. Borowicz suggested removing the word except from Section 19.5.2.a.2.

Mr. Jazdyk asked how long the PUD ordinance has been on the books and if the PUD ordinance has ever been used. The Planning Commission members discussed that this ordinance has existed for many years. Ms. Croft and Mr. McNeil stated yes. Mr. McNeil stated this ordinance is not very usable the way it is as it doesn't truly allow a mixture of uses. Mr. McNeil stated it only allows what is in the zoning district and does not provide a lot of flexibility. Mr. McNeil stated this was identified as an issue in the Master Plan. Discussion was held.

Mr. Freese stated he is comfortable with this amendment after these few suggested changes are made. Mr. McNeil stated he will make the changes and then bring it back for the Planning Commission to review. Mr. McNeil stated if the Planning Commission is comfortable with the amendment it can then be forwarded to legal counsel for review.

NEW BUSINESS

No comments.

STAFF REPORT

Mr. McNeil stated Heritage Cove Farm will be on the 12/02/15 Planning Commission agenda. Mr. McNeil stated that some of the topics discussed tonight will be discussed at the 12/16/15 Planning Commission meeting. Mr. McNeil stated that Bryan Graham will attend the 12/16/15 Planning Commission meeting to discuss the implications on the sign ordinance due to the recent Supreme Court decision with regards to content on signage.

PLANNING COMMISSION COMMENTS

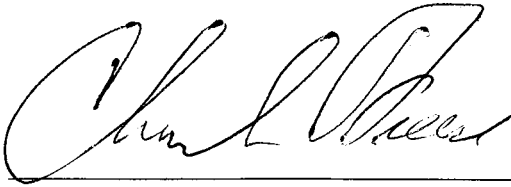
No comments.

PUBLIC COMMENTS

Mr. Muscott referred to Section 19.4.2.b.9 and Section 19.5.1.b of the proposed PUD amendment and asked if there is any way to put restrictions on it if they do complete the development. Mr. Freese stated that is why this section is in the amendment. Mr. Muscott stated he does not see any remedies as this is just asking for a schedule. Mr. Freese explained that the Planning Commission can determine which unit must be built first. Mr. Freese stated the unit that makes the money can be scheduled last. Mr. Muscott asked who will determine what unit makes the money. Mr. Freese stated the Planning Commission will have to make a reasonable assumption. Mr. Freese stated that a performance bond may be made a condition of approval of the PUD. Mr. McNeil stated that there will be a lot of dialog that will take place and ultimately the remedies will be within the provisions of enforcement in the ordinance. Discussion was held.

ADJOURN

Motion by Mr. Kavanaugh to adjourn. Motion carried. Meeting was adjourned at 7:45pm.

A handwritten signature in cursive script, appearing to read "Charles Freese", written in black ink. The signature is positioned above a horizontal line.

Charles Freese
Planning Commission Secretary