



CHEBOYGAN COUNTY PLANNING COMMISSION

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CHEBOYGAN COUNTY PLANNING COMMISSION MEETING WEDNESDAY, APRIL 20, 2016 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: John Brown, Bob Lyon, Eric Boyd, Tony Matelski, John Moore, Carl Muscott, Jerry Malloy, Russell Crawford, Cheryl Crawford, Jacki Hanel, Toni Wilson

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

APPROVAL OF MINUTES

The April 6, 2015 Planning Commission minutes were presented. **Motion** by Mr. Churchill, seconded by Mr. Ostwald, to approve the meeting minutes as presented. Motion carried unanimously.

PUBLIC HEARING AND ACTION ON REQUESTS

Jerry Malloy on behalf of Cheboygan Storage LLC - Requests a conditional rezoning from Agriculture and Forestry Management District (M-AF) to Commercial Development District (D-CM) limiting the uses allowed under the Commercial Development District (D-CM) regulations to only the following use and condition;

- a. Indoor Storage Facility per section 6.3.16. No other uses are proposed for consideration of the conditional rezoning.

The applicant also proposes that the zoning would revert to the prior zoning (Agriculture and Forestry Management District) if the applicant has not received zoning compliance and has not fulfilled required conditions of approval within two (2) years of the conditional rezoning approval.

The property to be rezoned is located at 1631 Woiderski Road, Inverness Township and described as; COM NW COR SEC 2 TH S 88 DEG E 2045.06 FT; TH S 2D W 33 FT TO POB; TH S 2D W 185 FT; TH S 88D E 112 FT; TH S 2D W 50 FT; TH S 88D E 100 FT; TH N 2D E 235 FT; TH N 88D W 212.04 TO POB, PT OF E 1/2 OF NW FRL 1/4.

Mr. McNeil explained that the Planning Commission will review a conditional rezoning application which ultimately requires approval by the Cheboygan County Board Of Commissioners. Mr. McNeil stated that this conditional rezoning is based on limited uses and other conditions as offered by the applicant. Mr. McNeil stated this parcel is currently zoned Agriculture and Forestry Management and the applicant offered a condition to rezone it to Commercial and the condition is that the only use that would be proposed is an indoor storage facility (Section 6.3.1.6). Mr. McNeil stated that the applicant has offered an additional condition that states that the zoning would revert to the prior zoning (Agriculture and Forestry Management) if the applicant does not receive zoning compliance and has not fulfilled required conditions of approval within two years of the conditional rezoning approval. Mr. McNeil reviewed the survey and noted that the east lot line cuts through the building. Mr. McNeil stated that the legal description dates back to 1967 so this is a non-conforming use. Mr. McNeil stated that indoor storage facility is an allowed use with a special use permit in the Agriculture and Forestry Management Zoning District. Mr. McNeil stated that there are conditions with the allowed use and one of the conditions is that the use has to be on a major county road or on a state highway. Mr. McNeil stated this property is located on Woiderski Road which is a local county road.

Mr. McNeil stated that the Planning Commission could not approve an indoor storage facility use within the current zoning district. Mr. McNeil stated that the future land use for this parcel is Agriculture and Forestry Management.

Mr. Malloy explained that the proposed use of indoor storage facility will have less of an impact than the previous use which was a dairy. Mr. Malloy stated that campers, 4-wheelers and snowmobiles will be stored at this location. Mr. Malloy stated that the building does not allow many other uses than what is proposed. Mr. Malloy stated that he was surprised that Woiderski Road is not considered a primary road. Mr. Malloy stated that the fire department has used Woiderski Road for 60-70 years. Mr. Malloy stated that he is asking that the requirement for the fence to be waived. Mr. Kavanaugh stated this is a good use for this building. Ms. Lyons asked if this storage facility will be for large items only and not for household storage. Mr. Malloy stated that they will store campers, motor homes and snowmobiles. Mr. Malloy stated that they do not want to store smaller household items. Mr. Malloy explained that some of the other storage facilities can't handle the bigger boats and campers. Mr. Jazdyk asked if there will be a lot of traffic. Mr. Malloy stated no and that this will be seasonal. Mr. Malloy explained that snowmobiles will be stored in the spring and that campers, motor homes and boats will be stored in the fall. Mr. Malloy stated that there will be a two week period where items will be put in storage or taken out of storage. Mr. Malloy stated that insurance requires that batteries have to be removed from the vehicle and fuel tanks are to be either empty or completely full. Mr. Malloy stated he talked with the fire chief and his requirements works well with their plan. Mr. Malloy stated there will not be any electricity or lights. Mr. Malloy stated there is electricity to run the well for the farm. Mr. Kavanaugh asked if there will be one employee to help load and unload. Mr. Malloy stated that there are three owners in this project and one of the owners will meet with the renter. Mr. Ostwald asked if there is enough land to make turns with the bigger campers. Mr. Malloy stated yes and explained that there is enough room. Mr. Malloy stated that the Road Commission has determined that he does not need to put in curbing between the building and the road.

Mr. Jazdyk asked for Mr. Malloy to provide more details on why he is requesting the fencing requirement be waived. Mr. Malloy explained that between this parcel and the Woiderski parcel to the west there is a driveway. Mr. Malloy stated that they have granted mutual ingress and egress to the farm. Mr. Malloy stated that he is asking that the requirement for the fence to be waived. Mr. McNeil explained that it would be a required condition if the property is zoned Agriculture and Forestry Management. Mr. McNeil stated that it is not a required condition if the property is zoned Commercial Development. Mr. Jazdyk stated that the Planning Commission does not have to worry about this condition. Mr. McNeil stated that it is a condition that the Planning Commission can add when approving the special use permit but it is not a required condition in Commercial Development.

Mr. Jazdyk asked what is the issue with the designation of the road. Mr. McNeil stated that when this was discussed by the Planning Commission, they talked about the type of activity the use would create and how it might not be harmonious with other uses. Mr. McNeil stated that this is one of the conditions that the Planning Commission decided to include. Mr. McNeil stated that this is a good condition and noted that this is an exception to what was being considered at that time.

Ms. Lyon asked if the Planning Commission has any responsibility to the adjacent property owner who owns the other portion of the building. Mr. McNeil stated that proper notice is required and has been given to the property owner. Discussion was held.

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

The Planning Commission reviewed and approved the General Findings:

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 use: a. Indoor Storage Facilities per section 6.3.16. See exhibit 3.
2. The Planning Commission finds that the applicant has offered the following condition: The condition of the zoning would provide that the zoning would revert to the prior zoning of Agriculture and Forestry Management District (M-AF) if the applicant has not received zoning compliance and has not fulfilled required conditions of approval within two (2) years of the conditional rezoning approval. See exhibit 3
3. The Planning Commission finds application is made by Jerry Malloy as applicant and Cheboygan Storage LLC as owner. See exhibit 3.
4. The Planning Commission finds that the legal description of the property at issue, including the proposed property to be rezoned, is included in the application. See exhibit 3.

5. 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 Forestry/Agriculture. See exhibit 7
6. The Planning Commission finds that the structure located on the subject property is a non-conforming structure. See exhibit 3 and 7
7. The Planning Commission finds that the structure located on the property was previously uses as retail and warehouse for a dairy. See exhibit 3 and exhibit 7

The Planning Commission reviewed and approved the Rezoning Factors:

1. Is the proposed rezoning reasonably consistent with surrounding uses?

- A. The Planning Commission finds that the applicant is requesting a conditional rezoning from Agriculture and Forestry Management District (M-AF) to Commercial Development District (D-CM) limiting the use allowed under the Commercial Development District (D-CM) regulations to Indoor Storage Facility per section 6.3.16. for an existing structure. No other uses are proposed for consideration of the conditional rezoning.
- B. The Planning Commission finds that upon review of the specific nature of the property, which includes a former use and current non-conforming use as a warehouse and retail for a dairy within the existing structure.
- C. The Planning Commission finds that the property is located next to a commercial dairy farm that the conditional rezoning would not create a negative impact on surrounding property.

Motion by Mr. Kavanaugh, seconded by Mr. Freese, that the factors will support the conditional rezoning. Motion carried. 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 an indoor storage facility use only. Activities which could occur if the subject property is conditionally rezoned would not physically disturb the properties surrounding the land proposed for the conditional rezoning. See exhibit 3 and 7

Motion by Mr. Freese, seconded by Mr. Kavanaugh, that the factors will support the conditional rezoning. Motion carried. 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. Kavanaugh, seconded by Mr. Freese, that the factors will support the conditional rezoning. Motion carried. 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 an Inverness Township fire station has been established in the area. See exhibit 7 figure 2
- B. The Planning Commission finds that the conditional rezoning is proposed next to a commercial dairy farm.
- C. The Planning Commission finds that the former use of the property was retail and warehouse for a dairy.

Motion by Mr. Freese, seconded by Mr. Kavanaugh, that the factors will support the conditional rezoning. Motion carried. 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 of the existing structure, the location of an existing dairy farm 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. 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 former use of the property was retail and warehouse for a dairy farm. 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 subject to conditions of Section 17.27. See exhibits 1 and 7

Motion by Mr. Freese, seconded by Mr. Bartlett, that the factors will support the conditional rezoning. Motion carried. 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 the property is 1.14 acres in size with a unique structure which covers a large portion of the property. See exhibits 3 and 7
- B. The Planning Commission finds that a most recent use of the structure is retail and warehouse for a dairy. See exhibit 7

Motion by Mr. Kavanaugh, seconded by Mr. Borowicz, that the factors will support the conditional rezoning. Motion carried. 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, 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. Churchill, that the factors will support the conditional rezoning. Motion carried. 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 will be used for Indoor storage facility only and the applicant will provide public facilities as required. See exhibit 3.

Motion by Mr. Freese, seconded by Mr. Kavanaugh, that the factors will support the conditional rezoning. Motion carried. 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 Indoor storage facility only and there are no sites nearby which can be used for that purpose. See exhibit 1
- B. The Planning Commission finds that the site contains a unique structure which was used as a retail and warehouse for a dairy. See exhibit 7

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

Motion by Mr. Borowicz, seconded by Mr. Kavanaugh, 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.

Jerry Malloy on behalf of Cheboygan Storage LLC – Requests a Special Use Permit for an Indoor storage facility (Section 6.3.16) pending approval of a conditional rezoning. The property is located at 1631 Woiderski Road, Inverness Township, section 2, parcel #091-002-100-008-00 and is currently zoned Agriculture and Forestry Management (M-AF).

Mr. McNeil stated that an indoor storage facility requires a special use permit in the Commercial Development Zoning District. Mr. McNeil stated that approval of the conditional rezoning is required by the Cheboygan County Board Of Commissioners. Mr. McNeil stated that building code requirements will have to be met also.

Mr. Churchill asked if there will be external lighting or security lighting. Mr. Malloy stated no.

Ms. Croft asked for public comments. Mr. Muscott commended Mr. Malloy and his partners for recognizing a use for this building. Mr. Muscott noted that the parcel line goes through the building and there will be Agriculture and Forestry Management on one side and Commercial Development on the other side. Mr. Muscott stated that Agriculture and Forestry Management is protected to allow a rendering plant. Mr. Muscott questioned if there should be a buffer between the two districts or allow one zoning for the building. Mr. Malloy explained that the rest of the building has a very large lien on it. Discussion was held. Public comment closed. Mr. Freese stated that the Planning Commission has discussed this issue in the past and realizes the possible problems that there could be when a building is divided by two zoning districts.

Ms. Croft asked if there is any intention of installing a fire alarm system. Mr. Malloy stated yes and noted that he met with the fire chief who told them what is required. Mr. Malloy stated Northern Fire and Safety will be at the site next week. Mr. Malloy stated that Bob Chasse from Northern Fire and Safety has talked with the fire chief and knows what is required. Mr. McNeil noted that this will also be a building code requirement.

Motion by Mr. Borowicz, seconded by Mr. Kavanaugh, to grant the topography 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 and the Specific Findings of Fact Under Section 20.10. **Motion** by Mr. Kavanaugh, seconded by Mr. Churchill, 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 subject to meeting requirements of Department of Building Safety, Health Department and Fire Department and approval of the rezoning request by the Cheboygan County Board Of Commissioners. Motion carried unanimously.

Jacki Hanel and Toni Wilson – Request a Site Plan Review for a Restaurant use (Section 13B.2.8.) The property is located at 6060 River St., Tuscarora Township, section 24, parcel #161-I31-010-002-00 and is currently zoned Village Center Indian River Overlay District (VC-IR-O).

Mr. McNeil stated this parcel is currently zoned Village Center Indian River Overlay. Mr. McNeil stated in this zoning district there are no minimum front setback requirements or side setback requirements. Mr. McNeil stated there are no off-street parking requirements for any of the uses in this zoning district. Mr. McNeil stated the applicant is proposing a platform in the form of a pontoon boat on a trailer for the restaurant use. Mr. McNeil stated the applicants propose to serve food from the platform of the pontoon boat and it will be food to go. Mr. McNeil stated that food will not be consumed on the site and there are no provisions for it. Mr. McNeil stated the use does fall under the restaurant use, which is not defined in the ordinance. Mr. McNeil stated the common definition based on his research is "to serve food". Mr. McNeil stated that a site plan review is

required as this is a permitted use. Mr. McNeil stated that the 20ft. setback from the river is met and there are no other required setbacks. Mr. McNeil stated that no other structures are proposed.

Mr. Kavanaugh stated this is a unique operation. Mr. Kavanaugh stated that he has been working with the applicants. Mr. Kavanaugh stated that sewer hookup is available and the applicants will have a new water well. Mr. Kavanaugh stated the applicants are working with the Health Department on plan review. Mr. Kavanaugh noted that the proposed hours of operation are very limited. The applicants stated that they would like to extend the hours until 10:00pm.

Mr. Churchill asked if there will be walk-up customers or just boat customers. The applicants stated it would be all walk up customers.

Mr. Jazdyk asked if this will be similar to a food truck where people will take the food back to their vehicles or boats. The applicants agreed that the food will be taken back to the vehicles and boats. Discussion was held regarding no requirement for off-street parking.

Mr. Ostwald asked if bathrooms are required. Mr. Kavanaugh stated that the law requires a bathroom. Mr. Kavanaugh stated the applicants are considering applying for a variance to use the township facilities since there is only one employee. Discussion was held regarding building codes.

Ms. Croft asked for public comments. Mr. Muscott commended the applicants on coming up with a unique idea for a unique piece of property. Discussion was held regarding the pontoon being located down by the water but on land. Public comment closed.

Discussion was held regarding extending the hours of operation until 11:00pm. Mr. Kavanaugh stated that the hours of operation may be hindered by the hours of operation for the public facility. The applicants stated that the public facility is open all night.

Motion by Mr. Freese, seconded by Mr. Borowicz, to grant the topography waiver request. Ms. Lyon and Mr. Churchill stated their concerns regarding topography. Mr. Kavanaugh stated there is an abrupt slope and there is a lot of erosion that will have to be addressed. Mr. Kavanaugh stated that the season is close and he does not want to hold up the approval. The applicant stated that they have a soil permit at this time and they have plans to grade the site and bring in sand. The applicant stated that a copy of the soil permit was included with the site plan review application. Mr. Kavanaugh stated that this approval could be subject to soil erosion and DEQ but there is no topography on the plan that was submitted to the Planning Commission.

Motion carried unanimously.

The Planning Commission reviewed and approved the General Findings. The Planning Commission added "Hours of operation are 11:00am – 11:00pm subject to approval by Tuscarora Township." as General Finding #5. The Planning Commission reviewed the Specific Findings of Fact Under Section 20.10. The Planning Commission added "Additional review of Soil and Sedimentation Permit and applicable state regulations would be required for further soil changes. (see exhibit 5)" as 20.10.a.4, 20.10.b.3 and 20.10.c.4. **Motion** by Mr. Freese, seconded by Mr. Kavanaugh, to approve the site plan based on the General Findings and the Specific Findings of Fact Under Section 20.10 and subject to approval of from Department of Building Safety, District Health Department #4, Soil Erosion, DEQ, and Tuscarora Township for use of the restroom facilities. Motion carried unanimously.

UNFINISHED BUSINESS

Proposed Amendment Regarding Uses To Be Deleted

Mr. McNeil stated that regarding camping cabin, he added a reference to temporary being thirty days or less. Mr. McNeil referred to the definition of gardening and stated that "by owner of lot" was deleted. Mr. McNeil stated that he removed the requirement for a zoning permit relative to the mobile sawmill. Mr. McNeil stated that this amendment is ready for review by legal counsel. **Motion** by Mr. Kavanaugh, seconded by Mr. Freese, to forward the proposed amendment to legal counsel for review. Motion carried unanimously.

Discussion was held regarding a proposed amendment concerning sign regulation based on content not being included on this agenda. Ms. Croft stated that this item needs to be on the agenda for the next Planning Commission meeting.

NEW BUSINESS

Mr. Kavanaugh stated that there have been a lot of complaints regarding animals in residential zones and Mr. McNeil stated that he would look into these complaints. Mr. Kavanaugh stated that there was a complaint about a man feeding ducks by the river in the Agriculture and Forestry Management Zoning District. Mr. Kavanaugh stated that the Planning Commission may want to review this in the future.

STAFF REPORT

Mr. McNeil stated that he provided the Planning Commission a memo regarding uses in the ordinance that have several use classifications that could be referenced. Mr. McNeil stated that each of the use categories in the memo have several different references on the table. Mr. McNeil stated this will be on the next agenda. Mr. McNeil would like direction from the Planning Commission at which uses they would like to address first. Discussion was held.

Mr. McNeil stated that Ms. Lyon has submitted information on small houses for the Planning Commission members to review.

PLANNING COMMISSION COMMENTS

Ms. Lyon asked Mr. Freese if there are any use classifications that the Zoning Board of Appeals would like to see addressed first. Mr. Freese stated he would like to see restaurant/bars and farm markets. Ms. Lyon suggested reviewing convalescent homes. Mr. Borowicz suggested reviewing party stores/gas stations.

PUBLIC COMMENTS

Mr. Crawford referred to Section 14.4.2.b of the proposed amendment to delete uses and noted that the operation of a portable sawmill does not take place within an enclosed structure. Mr. McNeil explained that the operation is to take place in an enclosed structure or there is an extra setback.

Mr. Brown stated that a sawmill should never be in an enclosed building as the dust will create problems. Mr. McNeil read from section 14.4.2.b "The location and operation of a portable sawmill shall take place within an enclosed structure which is in compliance with all applicable provisions of the zoning ordinance or shall be located and operated at least one hundred (100) feet from any lot line." Mr. Brown stated he understands that there are two options but he does not believe that there should be the option of having the portable sawmill, with a gasoline engine and sawdust, in an enclosed structure. Mr. Borowicz noted that there are bigger sawmills by Mio that operate inside of a building. Discussion was held. Mr. McNeil stated he will research this issue.

Mr. Muscott stated his concerns regarding not being able to have a portable sawmill on lots under 100ft in width in Topinabee. Mr. Muscott stated a WoodMizer sawmill is as loud as a tractor running. Mr. Muscott suggested not having a setback requirement but having a restriction on the noise level. Ms. Lyon stated that the concern was regarding portable sawmills that become permanent. Mr. Kavanaugh stated it could be addressed with a 30 day maximum and if it is longer they must meet the 100ft. setback requirement. Mr. McNeil stated that he could research the portable sawmill use. Mr. McNeil noted that this is only for the Rural Character Country Living Zoning District. Mr. Borowicz stated that if the enclosed building requirement is deleted this would fit Rural Character Country Living. Mr. Kavanaugh stated that there are larger parcels in this zoning district. Mr. McNeil stated that this use is only contemplated in Rural Character Country Living and Agriculture and Forestry Management Zoning District.

ADJOURN

Motion by Mr. Kavanaugh to adjourn. Motion carried. Meeting was adjourned at 8:13pm.



Charles Freese
Planning Commission Secretary