



CHEBOYGAN COUNTY PLANNING COMMISSION

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CHEBOYGAN COUNTY PLANNING COMMISSION MEETING & PUBLIC HEARING WEDNESDAY, DECEMBER 6, 2017 AT 7:00 P.M. ROOM 135 – COMMISSIONER’S ROOM - CHEBOYGAN COUNTY BUILDING

PRESENT: Bartlett, Freese, Kavanaugh, Borowicz, Ostwald, Lyon, Jazdyk
ABSENT: Croft, Churchill
STAFF: Scott McNeil
GUESTS: Dave Fernelius, Carl Muscott, Bob Lyon, Eric Boyd, Cal Gouine, John Moore, John Grzelak, David McFarland, Justin Fernelius

The meeting was called to order by Vice-Chairperson Borowicz at 7:00pm.

PLEDGE OF ALLEGIANCE

Vice-Chairperson Borowicz led the Pledge of Allegiance.

APPROVAL OF AGENDA

The meeting agenda was presented. **Motion** by Mr. Kavanaugh, seconded by Mr. Freese, to approve the agenda as presented. Motion carried. 7 Ayes (Bartlett, Freese, Kavanaugh, Borowicz, Ostwald, Lyon, Jazdyk), Nays, 2 Absent (Croft, Churchill)

APPROVAL OF MINUTES

The November 15, 2017 Planning Commission minutes were presented. **Motion** by Mr. Jazdyk, seconded by Mr. Ostwald to approve the meeting minutes as presented. Motion carried. 7 Ayes (Bartlett, Freese, Kavanaugh, Borowicz, Ostwald, Lyon, Jazdyk), Nays, 2 Absent (Croft, Churchill)

PUBLIC HEARING AND ACTION ON REQUESTS

Dave Fernelius – Requests a Site Plan Review for auto sales show room, auto receiving and office addition (section 6.2.2). The property is located at 10459 N. Straits Hwy., Inverness Twp, section 7, parcel # 092-007-400-009-02 and # 092-007-400-009-03 and is zoned Commercial Development (D-CM).

Mr. McNeil stated that the parcel is located in a Commercial zoning district. Mr. McNeil stated that there is an existing auto dealership. Mr. McNeil referred to the site plan and noted the proposed location for the addition and parking lot. Mr. McNeil stated that the new addition will have a show room, offices, prep area for service, detailing and new car receiving area. Mr. McNeil stated that this is a permitted use which requires site plan review for auto sales and maintenance activity. Discussion was held regarding the new drive which will be located on the south side of the parcel.

Mr. Borowicz asked for public comments. There were no public comments. Public comment closed.

The Planning Commission reviewed and approved the General Findings and the Specific Findings of Fact Under Section 20.10. **Motion** by Mr. Kavanaugh, seconded by Mr. Freese, to approve the site plan based on the General Findings and the Specific Findings of Fact Under Section 20.10 subject to approval from the Department of Buildings Safety and MDOT. Motion carried. 7 Ayes (Bartlett, Freese, Kavanaugh, Borowicz, Ostwald, Lyon, Jazdyk), Nays, 2 Absent (Croft, Churchill)

An Ordinance to amend the Cheboygan County Zoning Ordinance #200 to rezone property located within five hundred (500) feet from an intermittent stream located in sections 17, 20 and 21, T37N,R1W, Benton Township, Cheboygan County from Lake and Stream Protection District (P-LS) to Agriculture and Forestry Management District (M-AF) and Residential Development District (D-RS).

Mr. McNeil referred to an aerial photo and noted the location proposed to be rezoned to Residential and Agriculture and Forestry Management. Mr. McNeil stated that the area to be rezoned is currently zoned Lake and Stream Protection. Mr. McNeil explained that prior to 2015 all property that was within 500ft. of a stream or body of water indicated on the USGS maps were zoned Lake and Stream Protection. Mr. McNeil stated that many of the bodies of water were intermittent streams or drains. Mr. McNeil stated that in 2015 the properties that were within 500ft. of intermittent streams and drains were rezoned to the same type of zoning as the surrounding properties. Mr. McNeil stated that the subject area remained in the

Lake and Stream Protection Zoning District but in fact has an intermittent stream next to it. Mr. McNeil stated that in order to be consistent with the 2015 zoning amendment, it is now proposed by the Planning Commission to rezone this area from Lake and Stream Protection to Agriculture and Forestry Management and Residential.

Mr. Borowicz asked for public comments. Mr. Berden asked if this amendment will change it so it will not have to be kept open for the water flow. Mr. McNeil stated yes and noted that the drain would still be there and the same setbacks will still be required. Public comment closed.

The Planning Commission reviewed the General Findings and Rezoning Factors:

GENERAL FINDINGS OF FACT

1. The Planning Commission proposes rezoning certain real properties currently zoned Lake and Stream Protection (P-LS) to Agriculture and Forestry Management (M-AF) and Residential Development (D-RS). See exhibit 4.
2. The Planning Commission finds that the properties to be rezoned, are represented in the attached proposed amendment document. See exhibit 5.
3. The Planning Commission finds that the Cheboygan County Master Plan Future Land Use Map designates the properties with the proposed rezoning as being offered as Forest/Agricultural, See exhibit 2 and exhibit 4 figure 2.
4. The Planning Commission finds that the properties are within five hundred (500) feet of an intermittent stream. See exhibit 4.

REZONING FACTORS

1. ***Is the proposed rezoning reasonably consistent with surrounding uses?***
 - A. The Planning Commission finds that the properties are directly contiguous to areas already located in the proposed zoning districts, such that adding the subject properties as proposed for rezoning would not result in an isolated, detached area of land rezoned. See exhibit 4.
 - B. The Planning Commission finds that the properties are within five hundred (500) feet of an intermittent stream. See exhibit 4.
 - C. The Planning Commission finds that the 5 Five-year Implementation Plan (Zoning Plan) within the Cheboygan County Master Plan provides the following recommendation regarding the current Lake and Stream Protection zoning district; Refine these zoning districts to better identify water resources in need of protection rather than everything that is on a 7.5' USGS topographical map. See exhibits 2 and 4.
 - D. The Planning Commission finds that properties which are within five hundred (500) feet of a perennial stream should be in the Lake and Stream (P-LS) zoning district and this rezoning addresses the objective within the Cheboygan County Master Plan as stated in Will Support The Factor C under Rezoning Factor 1. See exhibit 4.
This standard has been met.
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 like uses currently exist. Activities which could occur if the subject properties are rezoned would not physically disturb the properties surrounding the land proposed for rezoning.
This standard has been met.
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 rezoning is approved, there would be an adverse effect on property values in the areas proposed for rezoning.
This standard has been met.
4. ***Have there been land 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 properties which are within five hundred (500) feet of a perennial stream should be in the Lake and Stream (P- LS) zoning district and this rezoning addresses the objective within the Cheboygan County Master Plan as stated in Will Support The Factor C under Rezoning Factor 1. See exhibit 2 and 4.
 - B. The Planning Commission finds that the properties are within five hundred (500) feet of an intermittent stream. See exhibit 4.
This standard has been met.

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

A. The Planning Commission finds that there is no evidence that the rezoning would deter the improvement or development of adjacent property in accordance with existing regulations and the proposed rezoning is consistent with the future land use plans as proposed in Cheboygan County's future land use map. See exhibits 1, and 4 figure 2.
This standard has been met

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 properties are directly contiguous to areas already located in the proposed zoning district, such that adding the subject properties as proposed for rezoning would not result in an isolated, detached area of land rezoned and will not grant a special privilege to an individual property owner. See exhibit 4.
This standard has been met.

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

A. The Planning Commission finds that properties which are within five hundred (500) feet of a perennial stream should be in the Lake and Stream (P-LS) zoning district and this rezoning addresses the objective within the Cheboygan County Master Plan as stated in Will Support The Factor C under Rezoning Factor 1. See exhibit 2 and 4.
B. The Planning Commission finds that the properties are within five hundred (500) feet of an intermittent stream. See exhibit 4.

This standard has been met

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 future use of the properties proposed for rezoning as being consistent with the categories of as provided on the Future Land Use Map and the County's Master Plan. See exhibit 2 and 4 figure 2
This standard has been met.

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

A. The Planning Commission finds that this factor is not applicable.

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

A. The Planning Commission finds that properties which are within five hundred (500) feet of and perennial stream should be in the Lake and Stream (P-LS) zoning district and this rezoning addresses the objective within the Cheboygan County Master Plan as stated in Will Support The Factor C under Rezoning Factor 1. See exhibit 4.
B. The Planning Commission finds that the properties are within five hundred (500) feet of an intermittent stream. See exhibit 4.

This standard has been met.

Motion by Mr. Freese, seconded by Mr. Kavanaugh, to forward the proposed rezoning to the Cheboygan County Cheboygan County Board of Commissioners with a recommendation for approval based on the General Findings and the Rezoning Factors. Motion carried. 7 Ayes (Bartlett, Freese, Kavanaugh, Borowicz, Ostwald, Lyon, Jazdyk), Nays, 2 Absent (Croft, Churchill)

An Ordinance to amend the Cheboygan County Zoning Ordinance #200 to establish and consolidate use listings related to motor vehicle maintenance and fuel sales.

Mr. McNeil stated that this amendment and the next two amendments are continuing the Planning Commission's efforts to categorize use listings and also refine them into consistent use listings. Mr. McNeil stated that this is a Master Plan goal. Mr. McNeil stated that the definition of gasoline service station is proposed to be deleted and definitions for car wash and motor vehicle service station, motor vehicle repair facility and retail sales establishment small-scale convenience will be added.

Mr. McNeil explained that in the Commercial district section 6.2.2 will be revised, "Automobile, boat, motorized and non-motorized recreational vehicles, farm machinery sales and rental establishments." Mr. McNeil stated that there are three new permitted use listings in the Commercial District for car wash, motor vehicle service station and retail sales establishment small scale convenience. Mr. McNeil stated gasoline service stations and garages will be removed and motor vehicle repair facility will be added to uses that require a special use permit.

Mr. McNeil referred to the uses that require a special use permit in the Agriculture and Forestry Management district and stated that the automobile repair and service station and gasoline station will be removed and motor vehicle repair facility will

be added. Mr. McNeil stated that grocery and party stores will be removed and retail sales establishment small scale convenience will be added

Mr. McNeil referred to the uses requiring a special use permit in Village Center and stated that the automobile repair and washing establishment will be removed and car wash, motor vehicle service station and motor vehicle repair facility will be added. Mr. McNeil stated that gasoline service stations and garages will be removed and this section will be reserved for future use.

Mr. McNeil referred to the uses which require a special use permit in Village Center Topinabee and stated that automobile repair and washing establishments will be removed and car wash and motor vehicle repair facility will be added. Mr. McNeil stated that gasoline service stations and garages will be removed and this section will be reserved for future use. Mr. Borowicz asked if a motor vehicle service station will be a permitted use. Mr. Borowicz noted that a repair facility will be a use that requires a special use permit. Mr. McNeil stated that he will check the other sections of the Zoning Ordinance with regard to Village Center. Mr. McNeil stated that this is something that the Planning Commission can review, but he does not believe the use was there previously. Mr. Freese stated that this should be reviewed further. Mr. Borowicz and Mr. Freese noted that there is an existing gas station. Mr. Muscott noted that the gas station is located in the Commercial zoning district, not Village Center Topinabee zoning district. Mr. Borowicz stated this is not a problem. Mr. Jazdyk noted that a car wash can be used for more than washing a car. Mr. Jazdyk stated that a car wash can also be used to wash a trailer, recreational vehicles, and tractors. Mr. Jazdyk stated that is a misnomer to say that it can only be a car wash. Mr. Freese stated that this would only be a problem with a trailer because the definition refers to motor vehicles. Mr. Freese stated that as long as there is a motor, it is acceptable. Discussion was held.

Mr. McNeil referred to uses which require a special use permit in Rural Character Country Living and stated that automobile repair business will be removed and motor vehicle repair facility will be added. Mr. McNeil stated that gas stations will be removed and this section will be reserved for future use. Mr. McNeil stated that grocery and party stores will be removed and retail sales establishment small scale convenience will be added. Mr. Borowicz asked if gasoline sales will be a permitted use. Mr. McNeil stated that gasoline sales generally go along with retail sales establishment small scale convenience.

Mr. Borowicz asked for public comments. Mr. Muscott stated that he attended the meetings in Mullett Township regarding Village Center and he believes the intent was to create a district that is pedestrian friendly and not motor vehicle orientated. Mr. Muscott asked if this amendment was sent to Tuscarora Township Planning Commission. Mr. McNeil stated yes. Mr. McNeil stated that automobile repair and washing establishments were added after the original meetings were held. Discussion was held. Mr. Jazdyk stated that there is an oil change facility in the downtown area. Mr. Muscott stated that is an existing use that is grandfathered but this is not what most people would consider being a downtown area. Mr. McNeil noted that this is not the overlay district. Mr. Muscott stated that if one district is created and then you whittle away at the basic intent you may as well call it Commercial. Mr. Muscott stated that there are a lot of people wondering why there are three zoning districts that are within a ½ mile. Mr. Kavanaugh asked if Mullett Township or Tuscarora Township submitted any comments. Mr. McNeil stated that the townships did not respond. Mr. Freese stated that this has already been presented to the townships. Mr. McNeil stated that this is in keeping with what was previously established. Mr. Borowicz stated that the Planning Commission is not changing the intent. Discussion was held. Mr. Freese stated that motor vehicle repair facility allows virtually any type of equipment to be repaired. Mr. Freese stated that the definitions could be separated into several definitions or the other solution is to preclude it entirely in the district. Mr. Kavanaugh stated that it should be precluded. Mr. Muscott stated that this would be the best fix. Discussion was held regarding sending the proposed amendment to Mullett Township and Tuscarora Township Planning Commission. Mr. McNeil stated that he will make a telephone call to each of the township supervisors. **Motion** by Mr. Kavanaugh, seconded by Mr. Bartlett, to table the proposed amendment until the January 17, 2018 Planning Commission meeting. Motion carried. 7 Ayes (Bartlett, Freese, Kavanaugh, Borowicz, Ostwald, Lyon, Jazdyk), Nays, 2 Absent (Croft, Churchill)

An Ordinance to amend the Cheboygan County Zoning Ordinance #200 to establish and consolidate use listings related to bar and restaurant uses.

Mr. McNeil explained that the proposed amendment provides new definitions for bar, drive through restaurant, restaurant carry out, restaurant drive in and restaurant fast food. Mr. McNeil stated that the less consistent use terminology for these types of uses will be replaced with the new definitions. Mr. McNeil reviewed the new definition of family, "An individual or a group of individuals, whether related or unrelated, who are occupying a dwelling." Mr. McNeil stated that the updated definition of family is to help facilitate short-term rental uses throughout the county.

Mr. McNeil stated under permitted uses in the Commercial zoning district, bars and tavern will be replaced with Bar and Restaurant, Restaurant, carry out, Restaurant, drive in and Restaurant, fast food. Mr. McNeil stated that drive in eating

establishments, fast food establishments, and restaurants will be replaced with drive through. Mr. McNeil stated that in under uses requiring a special use permits in the Agriculture and Forestry Management zoning district, entertainment and eating establishments will be replaced by bar and restaurant. Mr. McNeil stated that under uses requiring a special use permit in the Lake and Stream Protection zoning district, restaurant/bar will be replaced by bar and restaurant. Mr. McNeil stated that under permitted uses in the Village Center zoning district, bars and taverns will be replaced by bar and restaurant. Mr. McNeil noted that the restaurants use listing will be removed and reserved for future use. Mr. McNeil stated that under permitted uses in the Village Center Indian River zoning district, bars and taverns will be replaced by bar, restaurant and restaurant carryout and that the restaurants use listing will be removed and reserved for future use. Mr. McNeil stated that under the uses requiring a special use permit in the Village Center Indian River, Village Center Topinabee and Village Center Topinabee Overlay, bars and taverns will be replaced with bar, restaurant carryout. Mr. McNeil stated that the restaurants use listing will be removed and reserved for future use. Discussion was held.

Mr. Borowicz asked for public comment. There were no public comments. Public comment closed.

Motion by Mr. Freese, seconded by Mr. Kavanaugh, to forward the proposed amendment to the Cheboygan County Cheboygan County Board of Commissioners with a recommendation for approval. Motion carried. 7 Ayes (Bartlett, Freese, Kavanaugh, Borowicz, Ostwald, Lyon, Jazdyk), Nays, 2 Absent (Croft, Churchill)

An Ordinance to amend the Cheboygan County Zoning Ordinance #200 to establish and consolidate use listings related to office, health and fitness center and personal service center uses.

Mr. McNeil stated that there are new definitions proposed for health and fitness center, personal service center, office and pet grooming. Mr. McNeil stated that this amendment provides a new section for planned projects in the Residential zoning district.

Mr. McNeil stated that health and fitness center, personal service center and pet grooming will be allowed in the Commercial zoning district with site plan review. Mr. McNeil stated that in Village Center Indian River zoning district, personal service center and pet grooming will be allowed with site plan review. Mr. McNeil stated that in the Village Center Topinabee zoning district, personal service center will be allowed with site plan review.

Mr. Borowicz asked for public comment. There were no public comments. Public comment closed.

Motion by Mr. Freese, seconded by Mr. Kavanaugh, to forward the proposed amendment to the Cheboygan County Cheboygan County Board of Commissioners with a recommendation for approval. Motion carried. 7 Ayes (Bartlett, Freese, Kavanaugh, Borowicz, Ostwald, Lyon, Jazdyk), Nays, 2 Absent (Croft, Churchill)

UNFINISHED BUSINESS

No comments.

NEW BUSINESS

Mr. Freese stated that there is a variance application for a tiny home scheduled for the 12/27/17 Zoning Board of Appeals meeting. Mr. Freese stated that this is a potential change to the regulation that the Planning Commission should review. Mr. Freese stated that tiny homes are being addressed by many other jurisdictions and the applicant has cited a number of municipalities that have regulations authorizing tiny homes. Mr. Freese stated that the Planning Commission should determine if Cheboygan County needs to provide regulations for tiny homes. Mr. Freese stated that he does not believe a variance is the appropriate way for an applicant to receive an approval for a tiny home. Discussion was held regarding reviewing the tiny home use with the Cheboygan County Board of Commissioners at the 12/20/17 joint meeting.

Mr. Kavanaugh stated that Triple D Disposal is still an issue as they are starting a new building, semi-trucks are on site, garbage trucks are on site, 8-10 people are either living on site or working on site and both roads are being used. Mr. Kavanaugh stated that they have not complied with the conditions of the approval. Mr. Kavanaugh asked how the Planning Commission finds out if an injunction is possible. Mr. McNeil stated that we have filed for a hearing in District Court and the original date of the hearing was 12/15/17 but there was a conflict with the date. Mr. McNeil stated that he will let the Planning Commission know the date of the hearing. Mr. McNeil stated that we are seeking an injunction.

STAFF REPORT

Mr. McNeil stated that in regards to Heritage Cove Farms, a hearing has been set in the Court of Appeals for 01/04/18. Mr. McNeil stated that Peter Wendling will attend the hearing on behalf of Cheboygan County.

Mr. McNeil noted that a copy of the 12/20/17 agenda for the Planning Commission and Cheboygan County Board of Commissioners joint meeting was distributed. Discussion was held.

PLANNING COMMISSION COMMENTS

No comments.

PUBLIC COMMENTS

Mr. Muscott stated that he has followed the tiny home movement for a long time. Mr. Muscott stated that a single person may not need 700sf. Mr. Muscott stated that tiny homes are homes that remain on axles and are approximately 200sf. Mr. Muscott stated 250sf – 500sf is referred to as a small home. Mr. Muscott stated there is a television show on CNBC regarding a tiny home manufacturer who builds tiny homes on wheels that cost around \$80,000. Mr. Muscott stated that we have to remember that many residents in Cheboygan County can't afford to buy a new home. Mr. Muscott stated that the typical cost for a home in the United States is \$240,000. Mr. Muscott stated that Pinella County, Arizona followed a variation of the uniform building code. Mr. Muscott stated that they did not have a minimum home size. Mr. Muscott stated that they had a minimum room size.

Motion by Mr. Kavanaugh to adjourn. Motion carried. Meeting was adjourned at 8:04pm.



Charles Freese
Planning Commission Secretary