



CHEBOYGAN COUNTY PLANNING COMMISSION

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CHEBOYGAN COUNTY PLANNING COMMISSION MEETING & PUBLIC HEARING WEDNESDAY, NOVEMBER 16, 2016 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: Tony Matelski, Carl Muscott, Russell Crawford, Cheryl Crawford

The meeting was called to order by Chairperson Croft 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), 0 Nays, 2 Absent (Croft, Churchill)

PUBLIC HEARING AND ACTION ON REQUESTS

Tuscarora Township

Requests a Site Plan Review Amendment for relocation of playground equipment structure in an existing township park (Sections 6.2.1., 5.2.1. and 4.2.4.) The property is located at 3471 Club Rd., Tuscarora Township, section 24, parcel #161-I31-012-002-00, 161-I31-012-003-01 and 161-I31-012-003-02 and is zoned Commercial Development (D-CM).

Mr. McNeil stated that in June 2016 Tuscarora Township received site plan approval for the playground equipment. Mr. McNeil stated that Tuscarora Township is proposing a new location for the playground equipment. Mr. McNeil stated that the equipment will be moved approximately 45ft. and this will require Planning Commission approval. Mr. McNeil stated that there are no other changes.

Mr. Borowicz asked for public comments. Mr. Muscott explained that Tuscarora Township originally held a public hearing regarding the playground equipment and has not held a second public hearing for the relocation of the equipment. Mr. Muscott believes that the Planning Commission should table this request to allow Tuscarora Township to hold a second public hearing so the public will have an opportunity to voice their opinion. Mr. Freese noted that a public hearing is being held tonight. Mr. Muscott explained that this site plan review is not noticed like a Zoning Board of Appeals meeting is noticed. Mr. Muscott stated that this playground equipment will now be closer to front yards than what was approved at the original Tuscarora Township public hearing.

Ms. Lyon asked why the location for the playground equipment has been moved. Mr. Ridley explained that the original location was too close to the pavilion and the lot line. Mr. Ridley stated that this was not a good location as the playground equipment will take up a larger area because of the chips that need to be laid down. Ms. Lyon asked how far the playground equipment will be from the bathroom facility. Mr. Ridley stated that it will not be much different than the original location. Ms. Lyon asked where the parking for the playground equipment will be located. Mr. Ridley stated there is existing municipal parking to the west. Ms. Lyon asked if there are any concerns regarding traffic with River Street and the North Central State Trail. Mr. Ridley stated no. Discussion was held.

Mr. Kavanaugh asked if Tuscarora Township submitted an application or if this is the result of an enforcement action. Mr. McNeil stated that the playground equipment was noted to be in a different location than what the Planning Commission approved and that it required an amendment.

Mr. Jazdyk asked if there is typical protocol when there is a project like this that requires a public hearing. Mr. Muscott stated his concerns regarding the relocation of the playground equipment and that Tuscarora Township should hold a second public hearing.

Mr. Cherveney stated that he is on the Marina Park Commission and a public hearing was not held. Mr. Cherveney stated that they hold public meetings that are open to the public. Mr. Cherveney stated that when this playground equipment was discussed there were no issues. Mr. Cherveney stated that people donated time and money and this will be a memorial to their grandson. Mr. Cherveney stated that this was shown at the Tuscarora Township board meetings and the Marina Park Commission meetings. Mr. Cherveney stated that if there were any objections to the playground equipment they would have heard about it. Mr. Muscott stated that he talked with Courtney who stated that the people in opposition voiced their opinion after the playground equipment was built. Mr. Muscott stated that they understood that the playground equipment would be located next to the pavilion and now it is located next to their front yard. Mr. Muscott stated that they did voice their opinion and Craig Waldron, who is on the Marina Park Committee, has suggested a buffer.

Public comment closed.

Mr. Kavanaugh asked if a public hearing was held specifically for the playground equipment. Mr. Cherveney stated no, that the Marina Park Commission held an open meeting and it was also discussed at Tuscarora Township board meetings. Discussion was held.

Mr. Freese stated that Cheboygan County's notification procedures have been followed. Mr. Freese stated that the procedures at the township level are not our concern. Mr. Freese noted that Tuscarora Township should have come back for Planning Commission review prior to installing the playground equipment at a new location and then this could have been addressed. Mr. Freese stated that he does not see any problem with the new location. Discussion was held. Mr. McNeil stated that notifications are not mailed to the property owners with a site plan review. Mr. McNeil stated that the township has applied what they do at their level which is different than the Planning Commission's scope of review. Mr. McNeil stated that he believes that the Planning Commission should review the application.

Motion by Mr. Freese, seconded by Mr. Kavanaugh, to grant the topography waiver request. Motion carried. 7 Ayes (Bartlett, Freese, Kavanaugh, Borowicz, Ostwald, Lyon, Jazdyk), 0 Nays, 2 Absent (Croft, Churchill)

The Planning Commission reviewed the General Findings. The Planning Commission reviewed and approved the Specific Findings of Fact Under Section 20.10. **Motion** by Mr. Kavanaugh, seconded by Mr. Bartlett, to approve the site plan review amendment based on the General Findings and the Specific Findings of Fact Under Section 20.10. Motion carried. 7 Ayes (Bartlett, Freese, Kavanaugh, Borowicz, Ostwald, Lyon, Jazdyk), 0 Nays, 2 Absent (Croft, Churchill)

UNFINISHED BUSINESS

Recommendations relating to restaurant, auto repair, gas stations and party stores in the Village Center Indian River (VC-IR) and Village Center Indian River Overlay (VC-IR-O) zoning districts.

Mr. McNeil presented a draft letter that would be a follow-up letter to the meeting that was held in Tuscarora Township. Mr. McNeil stated that this letter relates to some work that the Planning Commission has been doing with regards to auto repair uses and restaurant use review and recommendations to Tuscarora Township as they might relate to those uses. Mr. McNeil reviewed the letter with the Planning Commission and stated that the current restaurant use listing is in both the Village Center Indian River and the Village Center Indian River Overlay zoning districts. Mr. McNeil stated that he recommends that the restaurant use remain and subject to the new definition. Mr. McNeil stated that there is a use listing for bars and taverns in both the Village Center Indian River and the Village Center Indian River Overlay zoning districts. Mr. McNeil recommends that this use be changed to bar with the proposed definition. Mr. McNeil stated that he had advised Supervisor Ridley that he would attend a future Tuscarora Township meeting if the township would like to discuss the recommendations.

Mr. Kavanaugh stated that bars with entertainment should be treated differently due to the impact on the adjacent property owners. Discussion was held. Mr. Freese stated that just because the state approves a bar license with entertainment does not mean that the Planning Commission must go along with it. Mr. Borowicz stated that he believes that this is where we should ask the township. Mr. Bartlett stated he is not in favor of telling someone what they can or can not do. Mr. Bartlett asked what is considered entertainment. Mr. Bartlett asked if karaoke is considered entertainment or is a band considered entertainment. Mr. Bartlett asked if the band will have to quit at 11:00pm. Mr. Bartlett stated that this is not the Planning Commission's job. Mr. Bartlett stated that the Planning Commission should then define entertainment. Ms. Lyon stated that maybe the issue is where the bars with entertainment are allowed. Ms. Lyon stated that a bar with entertainment should not be allowed in the middle of a residential area. Discussion was held.

Discussion was held regarding whether or not to keep the definition of a drive-through restaurant. Mr. McNeil explained that the definition of drive-through is there in case a restaurant or a bank wants a drive through component.

Mr. Jazdyk noted that the definitions of carry out restaurant and drive-in restaurant are almost identical. Mr. Jazdyk questioned if there is a need to have two similar definitions. Mr. McNeil stated that the two definitions were combined at one time and the Planning Commission discussed wanting them as separate definitions. Mr. McNeil stated that he can combine the two definitions. Mr. Freese stated if these two definitions are combined all will be forced to deal with the more restricted parking requirements.

Mr. McNeil stated that he recommended that the current use listing in the Village Center Indian River zoning district of Gasoline Service Station and Garages be replaced with Motor Vehicle Service Station. Mr. McNeil stated that he also recommended replacing the current use listing in the Village Center Indian River zoning district of Auto Repair and Washing Establishment with Motor Vehicle Repair and Car Wash. Mr. Freese stated that he has no objections to this and that Tuscarora Township will review the proposed recommendations.

Review of office use subject to discussion relative to Village Center Indian River (VC-IR0 and Village Center Indian River Overlay (VC-IR-O) zoning districts.

Mr. McNeil stated that he is proposing uses that are associated with the Office definition be separated into office, barber shop, beauty shop, and exercise studio.

Mr. Jazdyk stated some beauty shops take on a spa component where you can have a massage or suntan. Mr. Jazdyk questioned where spa services fall into these definitions. Mr. Jazdyk suggested changing the Beauty Shop definition to Spa/Beauty Shop. Mr. McNeil stated he will look into this use. Mr. Freese explained that he believes Beauty Shop and Barber Shop can be combined. Discussion was held.

NEW BUSINESS

Temporary Signs

Mr. McNeil stated that during the public hearing there was more discussion about political signs and how they may be accommodated under our temporary sign provisions. Mr. McNeil stated that as a result a survey was conducted just before the most recent election. Mr. McNeil stated that he recommends changing temporary signage so that it allows more signage during a period of time before a governmental election. Mr. McNeil stated that he inserted 30 days into the proposed amendment. Mr. McNeil stated that he is recommending a maximum of 6 signs and no more than 32sf.

Mr. Freese stated he does not know whether the 30 days is realistic. Mr. Freese suggested changing the 30 days to 45 days. Mr. Borowicz noted that some political signs are up before the primary and stay until the election is done. Mr. Jazdyk questioned who will police these signs. Mr. McNeil stated that it would be the Planning and Zoning Office and the Road Commission as 90% of the signs are in the right of way. Ms. Lyon asked if political signs should be exempt. Mr. McNeil stated that we can not judge a sign based on content. Discussion was held.

STAFF REPORT

No comments.

PLANNING COMMISSION COMMENTS

No comments.

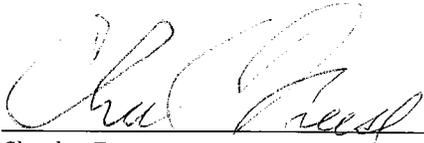
PUBLIC COMMENTS

Mr. Muscott stated there is an Attorney General's opinion that he forwarded to Mr. McNeil. Mr. Muscott stated that Attorney General Frank Kelly gave an opinion in 1984. Mr. Muscott stated "Political campaign signs are a form of speech protected by US Constitutional Amendment I and Constitution 1963, Article 1, Section 5. The posting of political campaign signs on private property may not be limited by a municipality to a specified number of days preceding an election." Mr. Muscott stated that Attorney General Kelly meant that nothing within our state constitution gives the Planning Commission the power to limit how many days prior to an election that a sign can be put up. Mr. Muscott stated that if someone wanted to put up an election sign for 2020 that should be their right. Mr. Muscott stated that it does say that a municipality may require that political campaign signs be removed in not less than 10 days after a general or special election. Mr. Muscott read from the Attorney General Kelley's opinion, "A municipality may reasonably regulate the size of political campaign signs on private property, provided that it does so in a manner that preserves the efficacy of the medium, and also provided that the sign is of sufficient dimension to enable a person travelling by vehicle or on foot to readily perceive the message." Mr. Muscott stated that with the limitation of 32sf per parcel in the proposed amendment, you would only be able to put up one banner but it could not be taller than 4ft. in height. Mr. Muscott stated there have been court of appeals actions in other states that have determined that this Supreme Court decision does not preclude the Planning Commission from

regulating commercial signs. Mr. Muscott stated that in an opinion regarding Good News Presbyterian Church vs. Town of Gilbert, dated December 2, 2015, the Office of Attorney General in Arizona stated that their state laws stands because it was not based on content and that it was based on location. Mr. Muscott stated that Arizona has tourism zones where signs are not regulated. Mr. McNeil stated that there is conflict as a result of the most recent Supreme Court decision and this amendment is to be reviewed by legal counsel. Mr. Freese stated the proposed amendment is content neutral and if a court determines that political signs can not be regulated we still have the right language in the ordinance.

ADJOURN

Motion by Mr. Freese to adjourn. Motion carried. Meeting was adjourned at 7:52pm.

A handwritten signature in cursive script, appearing to read "Charles Freese", is written over a horizontal line.

Charles Freese
Planning Commission Secretary