

CHEBOYGAN COUNTY PLANNING COMMISSION

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CHEBOYGAN COUNTY PLANNING COMMISSION MEETING & PUBLIC HEARING WEDNESDAY, JULY 19, 2017 AT 7:00 P.M. ROOM 135 – COMMISSIONER’S ROOM - CHEBOYGAN COUNTY BUILDING

PRESENT: Bartlett, Freese, Kavanaugh, Borowicz, Croft, Ostwald, Lyon, Churchill, Jazdyk
ABSENT: None
STAFF: Scott McNeil
GUESTS: Eric Boyd, Roberta Matelski, Cal Gouine, John Moore, Carl Muscott, Bob Lyon, Charles Fahlsing, Wallace Gemingnani, Russell Crawford, Cheryl Crawford, John Scheele, Scott Hassler, Art Doty, Carol Doty, Marcia Rocheleau, Karen Johnson

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

APPROVAL OF MINUTES

The July 5, 2017 Planning Commission minutes were presented. **Motion** by Mr. Kavanaugh, seconded by Mr. Churchill, to approve the meeting minutes as presented. Motion carried unanimously.

PUBLIC HEARING AND ACTION ON REQUESTS

An Ordinance to amend Section 17.19. of the Cheboygan County Zoning Ordinance No. 200 to provide content neutral definitions, regulations and standards for Signs.

Mr. McNeil explained that this ordinance amendment is proposed as a result of a Supreme Court decision known as Reed vs. Town of Gilbert. Mr. McNeil stated that in case the Court ruled that sign regulation based on the content or the message of a sign is unconstitutional.

Mr. McNeil explained that Section 1 of the amendment document removes sign provisions from Article 11 of the zoning ordinance relative to the Natural Rivers Protection zoning district. Mr. McNeil stated that in Section 2, the definitions of Neighborhood identification sign, Noncommercial sign, Off-premise sign, Political sign and Real Estate Sign are proposed to be repealed as each are based on the content/message of a sign. Mr. McNeil stated that in Sections 3 and 4 of the amendment document propose a complete revision of section 17.19.2 regarding signs which do not require a permit and section 17.19.3 regarding prohibited signs where the current content based regulation exists. Mr. McNeil stated that Sections 5 and 6 propose revisions to Village Center Indian River and Village Center Topinabee zoning district sign requirements to remove the reference to off premise signs. Mr. McNeil stated that Section 7 of the amendment document provides clarifying language regarding billboards as regulated by the State of Michigan.

Mr. Kavanaugh asked if this amendment has been reviewed by legal counsel. Mr. McNeil stated yes.

Ms. Croft asked for public comments. Mr. Muscott noted that this amendment is a proposal until approved by the Cheboygan County Board of Commissioners. Mr. Muscott referred to section 17.19.2B.1 and to the Attorney General’s opinion from 1984 and stated that no municipality may limit how soon a campaign sign can be put out as they are a form of free speech. Mr. Muscott stated that they are protected by the US Constitution, Amendment I and Constitution 1963, Article 1, Section 5 which states, “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 the number of days was increased from 30 days to 60 days. Mr. Muscott stated that the election cycle runs for 90-105 days in Michigan. Mr. Muscott stated the length of time for a campaign sign is being limited. Mr. Muscott stated that the other issue is that the sign cannot stay more than 2 days after the subject

matter of the sign has expired. Mr. Muscott stated that you have to look at the content of the sign to see if the sign can be there legally. Mr. Muscott stated that free speech rights are being stepped on for election campaign signs as you have to look at the content of the sign to see if the event has ended. Mr. Muscott referred to section 17.19.2.D and stated that there is a house in Topinabee with a sign that exceeds 32sf. Mr. Muscott stated it is a very attractive sign, but it would be in violation of this amendment. Mr. Muscott believes that arbitrary numbers are being used. Mr. Muscott referred to section 17.19.3.B and stated that this could be a box truck or a van that sits permanently as a sign. Mr. Muscott stated that there is a similar type sign by Ginop's that is not used for anything other than advertising purposes. Mr. Muscott noted that a similar type sign popped up in Indian River at the Carquest parking lot. Mr. Muscott stated that there are expired City of Cheboygan parking permits on the windshield. Mr. Muscott stated there is prior action by the ACLU (American Civil Liberties Union) and they will be glad to take Cheboygan County to court on restricting campaign signs.

Ms. Rocheleau stated that she agrees with Mr. Muscott but she is curious regarding the total surface area of all signs to be not more than 32sf. Ms. Rocheleau asked what is this number based on. Ms. Rocheleau asked what if a property owner has an 80 acre parcel with one side of the parcel having road frontage. Ms. Rocheleau noted that a property owner with a 50ft. wide lot and a property owner with 80 acres are both allowed 32sf. Mr. McNeil stated that this amendment is proposing temporary signs. Ms. Rocheleau stated that this does not seem right. Ms. Rocheleau referred to section 17.19.3B and asked if this is governmental utility structure or governmental structure. Ms. Rocheleau asked if she could put a sign on the township hall. Discussion was held. Mr. McNeil stated that it would be a governmental utility structure, meaning governmental units that have electricity utilities or any other utility. Mr. McNeil stated this language has been in the ordinance for a long time. Mr. McNeil stated that working on signage language is always difficult. Mr. McNeil stated that trying to provide an exception for real estate signs cannot be done anymore. Mr. McNeil stated that this proposed amendment is the result of a Supreme Court case and the election law may override this amendment. Mr. McNeil stated that there is language included that other laws are applicable. Mr. McNeil stated that we have to do something as a result of the Supreme Court case. Mr. McNeil stated that this is the best option for this amendment and he believes legal counsel would agree. Mr. Borowicz stated that the Planning Commission is not saying that an election sign cannot be put up 6 months before the election as long as you take it down within 60 days of the date it was put up. Mr. Borowicz stated it is content neutral and it can be put back up. Ms. Lyon stated that you would need proof that you took it down for a day and then put it back up. Mr. Freese suggested including language that would exempt anything covered by the election statute. Mr. McNeil stated that legal counsel suggested including "unless otherwise covered by law." Mr. Freese stated that he can see Ms. Rocheleau's concerns regarding a sign on the township hall. Mr. Freese suggested including language, "unless such material is posted by the governmental unit in question." Mr. McNeil stated that it could be clarified. Mr. Freese stated that he can also see Ms. Rocheleau's concerns regarding large tracts of property being limited to 32sf. Mr. McNeil stated that this is more temporary signage than we currently allow. Discussion was held. Mr. Freese suggested allowing a specific amount of signage for a specific amount of road frontage.

Ms. Rocheleau stated that people who put their house up for sale can get an additional PRE for 3 years, but the property has to be up for sale and posted. Ms. Rocheleau stated that they have to actively try to sell their property. Ms. Rocheleau stated her concerns regarding the limit of 60 days. Mr. McNeil stated he does not know how this can be addressed in a content neutral manner. Ms. Rocheleau explained that a property owner can try to sell their property for years. Discussion was held.

Public comment closed.

Mr. Kavanaugh stated that the Planning Commission should look at time and content neutral. Mr. Kavanaugh stated that we should ask legal counsel if real estate signs are exempt.

Mr. Churchill stated that the Planning Commission should revisit the objective and look at the goals of this amendment. Mr. McNeil stated that this is a good idea. Ms. Lyon stated that she agrees with Mr. Churchill. Ms. Lyon stated that the Planning Commission should look at what is it about the signs that is objectionable and if we can't come up with good reasons we should leave the amendment alone. Mr. McNeil stated that this is a good idea and it is a big project. Mr. McNeil stated that it is worthwhile. Mr. McNeil suggested requesting a legal opinion regarding any exposure without amending the ordinance. Mr. McNeil stated that we need to address the Supreme Court's ruling. Mr. McNeil stated that an amendment could be adopted in the short term to address the Supreme Court's ruling and then look at the goals and objectives as they relate to signs. Discussion was held.

David Bona, Architect - Ann Arbor YMCA - Requests a Special Use Permit for replacement of eleven (11) sleeping cabins at an existing Camp (Sections 9.3.4. and 10.3.2.) The property is located at 9728 West M-68 Highway, Tuscarora Township, parcel #161-016-300-001-00 and is zoned Agriculture and Forestry Management (M-AF) and Lake and Stream Protection (P-LS).

Mr. McNeil referred to the site plan and noted that the parcel is a 100 acre site with approximately 1,000ft. of lake frontage. Mr. McNeil noted the location of the girls cabins that are proposed to be replaced. Mr. McNeil stated that this parcel is located in a Lake

and Stream Protection Zoning District and camps require special use permit. Mr. McNeil stated that this request is an amendment to the existing special use permit.

Mr. Kavanaugh stated that the on site sewage system, water systems and bath houses have been upgraded. Mr. Kavanaugh stated that they have done a great job on these upgrades.

Ms. Croft asked for public comments. Mr. Muscott questioned why replacing cabins within the same footprint would require an amendment to the site plan. Mr. Muscott commended Camp Algonquin on a providing a very professional application.

Mr. Fahlsing stated he is the Camp Director stated that he would like to show his gratitude and appreciation for the support over the years.

Public comment closed.

The Planning Commission reviewed and approved the General Findings, Finding of Fact Under Section 18.7 and the Specific Findings of Fact Under Section 20.10. **Motion** by Mr. Freese, 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 Department of Building Safety approval and Health Department approval. Motion carried unanimously.

Scott Hassler - Chuck Robiadek (Robiadek & Sons Excavating) - Requests a Special Use Permit for Indoor storage facilities (Sections 6.3.16. and 9.3.24.) The property is located at 750 Indian Trail Road, Inverness Township, parcel #091-024-100-012-00 and is zoned Agriculture and Forestry Management (M-AF) and Commercial Development (D-CM).

Mr. Kavanaugh stated that he has a conflict of interest because he owns property within 300ft. of this parcel and stated that he was therefore recusing himself from this matter.

Mr. McNeil stated that this parcel contains approximately 27 acres and is located on North Straits Highway. Mr. McNeil stated that this parcel is zoned Agriculture and Forestry Management and Commercial Development. Mr. McNeil stated that the application is for the construction of buildings with a private storage use and indoor storage facility use. Mr. McNeil stated that both of these uses are allowed in each of the zoning districts. Mr. McNeil stated that in the Agriculture and Forestry Management zoning district there are additional requirements for review under section 17.27. Mr. McNeil stated that a solid evergreen hedge, wall or fence a minimum of 6 feet in height shall be placed a minimum of 3 feet from a rear or side lot line which screens all Indoor Storage Facilities from adjoining lots which are under different ownership. Mr. McNeil stated that there must be a minimum of 30 feet between the structures and the facility must be located on a county primary road. Mr. McNeil stated that the last two requirements are satisfied. Mr. McNeil stated that the site plan is not clear with regards to the screening along the rear of the area that is within the Agriculture and Forestry Management zoning district. Mr. McNeil stated that if this request is approved, he recommends the applicant meet the requirements of section 17.27.1. Mr. McNeil suggested that the condominium documents be reviewed by legal counsel.

Mr. Hassler stated that they have a purchase offer on this property with a contingency that they can get approval for the site condominium. Mr. Hassler stated that the units would be built in phases. Mr. Hassler stated that they have built a couple of these developments. Mr. Hassler stated that this type of development is helpful to the community.

Mr. Freese asked if Mr. Hassler is aware of the screening requirement for the northwest portion of the property that is zoned Agriculture and Forestry Management. Mr. Hassler stated that there is a natural tree line around the majority of the property. Mr. Freese asked if Mr. Hassler is willing to meet the screening requirement in the Zoning Ordinance. Mr. Hassler stated yes. Ms. Lyon stated that this is one of the most important requirements. Ms. Lyon stated that it should fit the environment and look appropriate. Ms. Lyon stated it should screen well enough that neighbors feel comfortable.

Ms. Croft asked for public comments. Mr. Muscott stated that he is an advocate for any kind of growth in Cheboygan County. Mr. Muscott stated that this introduces the issue of having two zoning districts on one parcel. Mr. Muscott stated this would be an ideal planned unit development with stages. Mr. Muscott questioned if there is sufficient drainage for the amount of hard surface that is being introduced to the 27 acres.

Mr. Scheele stated that he submitted a letter for the Planning Commission to review. Mr. Scheele stated that he owns property to the north of the subject parcel. Mr. Scheele stated that he purchased this parcel 10 years ago and built a residence. Mr. Scheele stated that at the time he knew that one portion of the property was zoned Agriculture and Forestry Management and the other portion was zoned Commercial. Mr. Scheele stated that if this application is approved he would be looking at this facility from his back yard. Mr. Scheele stated that he is opposed to rezoning the property to Commercial. Mr. Freese

explained that the request is for an indoor storage facility which is an authorized use in the Agriculture and Forestry Management zoning district with a special use permit. Mr. Freese explained that the applicant is not requesting a rezoning to Commercial. Mr. Scheele stated that there are no existing trees on the northern portion of the parcel. Mr. Scheele stated that he expects that a high quality greenbelt would be put in place before construction begins. Mr. Scheele stated that he talked with Pat Badgely and Mr. Badgely would like to know if this property can be sold and if a factory could be put in. Ms. Croft stated that this property is not being rezoned. Mr. Scheele stated that Mr. Badgely would like to know if construction of the buildings could start along Straits Highway and then continue to be built further back. Mr. Scheele stated that Mr. Badgely would also like to know how tall the buildings will be. Mr. Hassler stated that he understands that if he builds a storage building on property that is zoned Agriculture and Forestry Management, he could not rent it out. Mr. Hassler stated that if a storage building is built in the Commercial District (600ft.) it could be rented if it does not sell. Mr. Hassler explained that he will only build a storage building at the back of the parcel when there is a commitment to purchase the building. Ms. Lyon asked Mr. Hassler if he plans to build in the Commercial area first. Mr. Hassler stated yes.

Mr. Freese stated that if the request is approved, there will be a condition that the greenbelt/screening will be required the first time Mr. Hassler builds in the portion of the parcel that is zoned Agriculture and Forestry Management. Mr. Freese stated that there is no requirement in the Zoning Ordinance for screening in the Commercial zoning district along Straits Highway. Mr. Freese explained that screening will be required on all sides in the Agriculture and Forestry Management Zoning District except the side that is adjacent to the Commercial Zoning District. Mr. Freese stated that the Zoning Ordinance requires a fence or trees for screening. Mr. Scheele stated that he would prefer trees. Discussion was held. Mr. Kavanaugh stated that he is an adjacent property owner and he would like to see the greenbelt put in first as suggested by Mr. Freese. Mr. Kavanaugh stated he would like to make sure that this is for indoor storage only and that cars and boats will not be stored outside. Mr. Kavanaugh stated that the trees should be replaced when they die. Discussion was held.

Public comment closed.

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

The Planning Commission added "The applicant agrees to screening according to section 17.27 when construction starts in the portion of the parcel zoned Agriculture and Forestry Management." to the General Findings. The Planning Commission reviewed and approved the Finding of Fact Under Section 17.27, Finding of Fact Under Section 18.7 and the Specific Findings of Fact Under Section 20.10. **Motion** by Mr. Freese, seconded by Mr. Bartlett, to approve the special use permit based on the General Findings, Finding of Fact Under Section 17.27, Finding of Fact Under Section 18.7 and the Specific Findings of Fact Under Section 20.10 subject to the following conditions:

1. Any lighting proposed on the site be added to the site plan
2. Department of Building Safety requirements be met
3. Soil and Sedimentation requirements be met
4. Driveway approval by Cheboygan County Road Commission and Michigan Department of Transportation
5. Any construction in the Agriculture and Forestry portion of the parcel must meet the screening requirements under section 17.27.1
6. Condominium documents are to be reviewed and approved by legal counsel

Motion carried unanimously.

UNFINISHED BUSINESS

Boat Shelter Discussion

Mr. McNeil stated that the results of the survey were presented at the last meeting. Mr. McNeil stated that approximately 75% of the respondents were in favor of the idea that boat shelters could be placed on a lot. Mr. McNeil asked what steps the Planning Commission wants to take next.

Mr. Freese stated that in reviewing all of the information provided to the Planning Commission, he is not sure that we are talking about the same thing as when we first started talking about this issue. Mr. Freese stated that it expanded from an open sided boat shelter over an existing boat well to possibly something bigger. Mr. Freese stated that this is not what he was originally proposing. Mr. Freese stated that he was only looking at it in the areas where there are already boat houses or boat shelters. Mr. Freese stated that the areas included in the survey are the best locations for the boat shelters. Mr. Freese stated that if they are put on the open lakes there will be ice problems. Mr. Freese stated that the open sided shelters give some protection in the area as far as view of the water. Mr. Freese stated that the DEQ letter is missing the issue. Mr. Freese stated that the DEQ believes that the Planning Commission is proposing something that is not already there. Mr. Freese stated that

the boat wells are generally covered by temporary covers such as tarps over lifts that are in the boat wells already. Mr. Freese stated that we are not proposing opening up any new boat wells by this regulation change. Mr. Freese stated that any new boat wells have to go through an approval process with the DEQ and the Army Corps of Engineers, regardless of what the Planning Commission allows with this amendment. Mr. Freese stated that these covers would not be more obtrusive than the temporary canvas covers already in use. Mr. Freese proposed that this be an overlay district on the rivers and canals that already have many of these structures. Mr. Freese stated that the survey supports this idea. Mr. Freese stated that Mr. McNeil should draft an amendment with some diagrams of what is proposed. Discussion was held. Mr. McNeil stated that he will have proposed language ready for the next meeting.

Mr. Kavanaugh asked for an update on Triple D Disposal. Mr. McNeil stated that he met with Triple D Disposal to review the conditions of the approval. Mr. McNeil stated that he submitted the estimate with regards to the bond requirements to Triple D Disposal and they have not responded. Mr. Kavanaugh stated that nothing has been done to meet the minimum standards such as water sampling, well construction, clean up of the site and Department of Building Safety. Mr. McNeil stated that Triple D Disposal has agreed to meet each week, but he has not heard from them. Discussion was held.

Mr. Kavanaugh noted that the Planning Commission should require maintenance of a greenbelt on an annual basis. Mr. Kavanaugh stated that greenbelts have gone in and within a year, 50% of it has died. Mr. Kavanaugh stated that maintaining the greenbelt could be included in the master deed. Mr. Freese stated that it is already enforceable when it is required in the conditions of the special use permit. Discussion was held.

NEW BUSINESS

No comments.

STAFF REPORT

Mr. McNeil provided an update to the Planning Commission on his plan to retire. Mr. McNeil stated that his last day will be the last day of February 2018. Discussion was held.

PLANNING COMMISSION COMMENTS

No comments.

PUBLIC COMMENTS

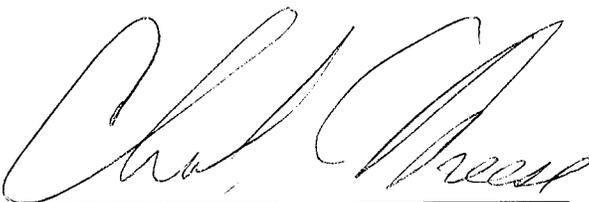
Mr. Muscott thanked the Planning Commission for moving ahead with the boat shelter issue. Mr. Muscott stated that there was a tremendous amount of support from the people that will be directly affected.

An audience member asked who received the surveys. Mr. McNeil stated that the survey was sent to property owners along the Indian River and Cheboygan River.

Mr. Gemignani stated that people should be able to do what they want with their property, but within reason of neighborly type things. Mr. Gemignani stated that you should not upset the view or the landscape of your neighbors. Mr. Gemignani stated that some of the boat houses on the Black River would not have an effect on a view due to the topography. Mr. Gemignani stated that it is flat on the Cheboygan River and boat houses will have a bigger percentage of the view of the people that are next to them. Mr. Gemignani explained that there should be a different regulation for flat areas than for hilly areas. Mr. Gemignani stated that a lift next to a dock or boat well does not require approval from the Army Corps of Engineers. Mr. Gemagnani stated his concerns regarding pylons being allowed in the water. Mr. Freese stated that the supports for the structure would not be put into the water and rather would be put into the land. Discussion was held.

ADJOURN

Motion by Mr. Kavanaugh to adjourn. Motion carried. Meeting was adjourned at 8:25pm.



Charles Freese
Planning Commission Secretary