



CHEBOYGAN COUNTY PLANNING COMMISSION

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CHEBOYGAN COUNTY PLANNING COMMISSION MEETING WEDNESDAY, JANUARY 6, 2016 AT 7:00 P.M. ROOM 135 – COMMISSIONER’S ROOM - CHEBOYGAN COUNTY BUILDING

- PRESENT:** Bartlett, Freese, Kavanaugh, Borowicz, Croft, Ostwald, Lyon, Jazdzyk
- ABSENT:** Churchill
- STAFF:** Scott McNeil, Steve Schnell, Peter Wendling
- GUESTS:** Charlie Hague, Russell Crawford, Cheryl Crawford, Deborah Kidder, David Kidder Alice Arnett, Dave Rossman, Ruth Bennett, Martha Sheerin, Brady Hebert, Karyn Rogers, Ron Rogers, John Wallace, Charles M. Maziasz, Tony Matelski, John F. Brown, Carl Muscott, Larry Hanson, R. Lincoln, Anne P. Couture, Pat Lynch, John Moore, Cal Gouine, Eric Boyd, Chris Liegl, Betsy Hanson, Doug Kubiecek, Jim Leh, Mike Wesley, Madeleine Naylor, Tony Naylor, Dr. Dan Weaver, Linda Weaver, Earl Parsons, Lori Parsons Henry Herpel, Dave Southwell, Patti Richardson Henige, Stan Henige, Dave Lurie, Jill Lutz

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. Borowicz, seconded by Mr. Bartlett, to approve the agenda as presented. Motion carried. Motion carried. 8 Ayes (Croft, Borowicz, Freese, Kavanaugh, Bartlett, Ostwald, Jazdzyk, Lyon), 0 Nays, 1 Absent (Churchill)

APPROVAL OF MINUTES

The December 16, 2015 Planning Commission minutes were presented. **Motion** by Mr. Kavanaugh, seconded by Mr. Jazdzyk, to approve the meeting minutes as presented. Motion carried. 8 Ayes (Croft, Borowicz, Freese, Kavanaugh, Bartlett, Ostwald, Jazdzyk, Lyon), 0 Nays, 1 Absent (Churchill)

PUBLIC HEARING AND ACTION ON REQUESTS

Air North Communications and Alice Arnett - Requests a Special Use Permit for a wireless communication facility (section 17.13). The property is located at 6773 North M-33, Benton Twp., section 32, parcel #104-032-200-002-20, and is zoned Agriculture and Forestry Management (M-AF).

Mr. McNeil reviewed an aerial photo of the parcel. Mr. McNeil stated this parcel is located at the southwest corner of the intersection at Orchard Beach Road and M-33. Mr. McNeil stated this parcel is 39 acres and is zoned Agriculture and Forestry Management. Mr. McNeil stated the facility is taking the form of a 60ft. high wood pole with antennas that extend another 10ft above the pole for a total height of 70ft. Mr. McNeil referred to the detail drawing and noted the location of the driveway and existing structures. Mr. McNeil stated the proposed pole will be 300ft. from the road right-of-way and 90ft. from the driveway. Mr. McNeil stated there will be a 70ft. fall zone as noted on the detail drawing.

Mr. Freese asked if the applicant submitted any information showing that they investigated collocation on other towers in the area. Mr. Hague stated he does not have any documentation, but they have had facilities on this property for several years. Mr. Hague stated that Air North acquired MI Lakes who already had services at this location. Mr. Hague explained that there are approximately 130 customers coming off of this location. Mr. Hague stated that the property owner asked if the equipment could be removed from the home and installed on a pole on the parcel. Mr. Hague explained that by moving the equipment to another location could potentially affect access to the existing customers. Mr. Freese asked Mr. Hague if Air North could provide access to the same customers by collocating on the tower to the south of the parcel. Mr. Hague states yes, that is correct based on where the tower is located. Mr. Hague stated this is a beautiful location that sits on top of a hill that shoots across to an access point and also further to a couple of other access points. Mr. Freese asked if Air North could collocate on a

cellular tower in the area. Mr. Hague stated the location is not ideal for the current customers. Mr. Hague explained that they already have the existing location with access points that are tied into this location. Mr. Hague stated he did not know if he could lease space on that cell tower. Mr. McNeil reviewed the coverage map provided in the staff report. Mr. McNeil stated this comes from our database of cell towers. Mr. Freese stated that one was just approved on Carter Road. Mr. McNeil stated that the tower has not been constructed yet and this is a map of existing towers. Mr. Freese stated there is an existing tower and one that has been approved and they are within 4 miles of each other. Mr. Freese stated this one will be located in the middle of these two towers. Mr. Freese asked if the customers could be serviced by either of these two towers. Mr. Hague stated he can do the research if they would be able to communicate with the other access points further out in the country from either one of these locations. Mr. Freese stated the Planning Commission can't approve this unless they know that they are not able to collocate on the existing towers or that the proposed coverage can't be covered from the other two towers.

Mr. Wendling asked how the ordinance treats towers that are approved but unbuilt. Mr. Wendling asked if an unbuilt tower is considered a collocation under the ordinance. Mr. McNeil stated that the unbuilt tower is not a collocation option and we do not know at this time if it will be built as approved. Mr. Wendling stated that it would have to be based upon propagation tables as they exist. Mr. Freese stated the map still shows 5 other towers in the area. Mr. Kavanaugh stated it is reasonable to ask the applicant to verify if they are able to collocate on the proposed and existing towers. Mr. Freese stated he does not have any problem with the application other than the ordinance requiring the applicant to verify that they are not able to collocate on existing towers in the area. A discussion was held regarding tabling the request until the next Planning Commission meeting.

Motion by Mr. Freese, seconded by Mr. Kavanaugh, to table this request until the January 20, 2016 Planning Commission meeting. Motion carried. 8 Ayes (Croft, Borowicz, Freese, Kavanaugh, Bartlett, Ostwald, Jazdyk, Lyon), 0 Nays, 1 Absent (Churchill)

UNFINISHED BUSINESS

Lawrence Hanson and Heritage Cove Farm, Inc. – Request a Special Use Permit and approval of the submitted site plan. A Special Use Permit is requested under the following sections of the Cheboygan County Zoning Ordinance #200: Section 9.3.14., Nursing or convalescent homes, Section 9.3.22. (Uses which are not expressly authorized in any zoning district, either by right or by special use permit, or uses which have not been previously authorized by the Planning Commission pursuant to this subsection or corresponding subsections in other zoning districts may be allowed in this zoning district by special use permit if the Planning Commission determines that the proposed use is of the same general character as the other uses allowed in this zoning district, either by right or by special use permit, and the proposed use is in compliance with the applicable requirements of the Cheboygan County Comprehensive Plan for this zoning district.), Section 10.3.2. Club, Section 10.3.3. Cabin colonies, Section 10.3.6. County club, Section 10.3.8. Duplex or multi-family buildings, and Section 10.3.14. Restaurant/Bar. The property is located at 625 Grandview Beach Rd., Tuscarora Township, sections 5 and 6, parcel #162-005-300-002-00, #162-006-400-004-00 and #162-006-400-005-00 and are zoned Agriculture and Forestry Management District (M-AF) and Lake and Stream Protection District (P-LS).

Mr. Schnell explained that this is a complicated application and read special land use approval standard 18.7.a. "The property subject to the application is located in a zoning district in which the proposed land use is allowed." Mr. Schnell stated there was a discussion at the last meeting whether or not this is a convalescent home. Mr. Schnell stated there was a discussion whether this was a cabin colony and club in the Agriculture and Forestry Management zoning district. Mr. Schnell stated he has proposed three questions for the Planning Commission members to review. Mr. Schnell stated the first question is "In the Agriculture and Forestry Management zoning district, does the proposed use meet the definition of a convalescent home?" Mr. Schnell stated if you can get a resolution to this question you will be able to move on to address the uses in the Lake and Stream Protection zoning district. Mr. Schnell stated another memo has been provided to the Planning Commission members with a proposed General Finding to add. Mr. Schnell stated that section 9.3.14 which is the nursing or convalescent homes section of the Zoning Ordinance states that in the Agriculture and Forestry Management zoning district you can have a nursing or convalescent home. Mr. Schnell stated at the last meeting there was a discussion regarding the definition of infirm. Mr. Schnell stated there were questions regarding whether the definition included mental or just physical. Mr. Schnell stated he looked at the past history of the Planning Commission and Zoning Commission. Mr. Schnell stated in 2001 there was an approval for an adult foster care home for the developmentally disabled. Mr. Schnell stated it was approved under section 9.3.14 which is the convalescent home section. Mr. Schnell stated that this is how the Planning Commission has ruled in the past and it should be looked at similarly this time based on the previous approval and based on the way the definition is written. Mr. Schnell stated this has been reviewed by legal counsel and the precedent is strong. Mr. Wendling stated this doesn't require the Planning Commission to make an interpretation. Mr. Wendling stated the Planning Commission has already utilized the ordinance in a manner which includes, as part of the infirmity argument, approval under the convalescent use section which included a group home for people with a mental disability. Mr. Kavanaugh asked Mr. Wendling if the

Planning Commission finds that they have made an error on a past decision, will they have to continue to make the same error in the future. Mr. Wendling stated no. Mr. Wendling stated you have to look at whether the decision does or does not make sense. Mr. Wendling stated the Planning Commission has to look at past practice to see how it has been applied and consider if the past practice is contrary to logic and reason. Mr. Jazdzyk explained there are conflicting definitions and the job of the Planning Commission is to try and make sense of it. Mr. Jazdzyk stated there is room for some differences of opinion sometimes. Mr. Jazdzyk believes this application is complicated. Mr. Freese stated the Planning Commission is looking at two different levels. Mr. Freese stated the Planning Commission is looking at the regulation itself and what the term used in the regulation actually means. Mr. Freese stated this is the foundation that we have to work on. Mr. Freese stated if the Planning Commission doesn't agree on an interpretation of the terms used in the regulation then there is a real problem in applying the regulation and the definitions of terms must be agreed upon to proceed with the application of the regulation. Mr. Freese further stated that if there is a question of interpretation, then the regulation fully states the resolution of these issues should be resolved by the ZBA. Mr. Wendling stated the Planning Commission will have different views on how the regulation applies. Mr. Wendling stated a status conference with a judge in Bay City is scheduled for January 22, 2016. Mr. Wendling stated Haider Kazim is the attorney in that case. Mr. Wendling stated if Mr. Freese is suggesting sending a request for a determination to the Zoning Board of Appeals, we are out of time to be able to do that. Mr. Kavanaugh explained that if the Planning Commission members do not agree, then they have to decide with a vote. Discussion was held. Mr. Kavanaugh stated the all of the Planning Commission members do not have to agree exactly, but the majority will have to agree before continuing. Mr. Kavanaugh stated he has done research and looked at different dictionaries and he feels that the definition of infirm should include mental as well as physical. **Motion** by Mr. Freese, seconded by Mr. Kavanaugh, to include the three definitions of infirm as listed in the General Findings. Discussion was held. Mr. Jazdzyk noted that these definitions infer that mental is directly or somehow indirectly related to the element of age. Mr. Schnell stated that is already included in the proposed definition "A home, qualified for a license under applicable Michigan Law, for the care of children, aged, or infirm and providing facilities for four or more patients." Mr. Jazdzyk stated that the vast majority of definitions that he reviewed included some inference to the term infirmity as it relates to age. Mr. Jazdzyk stated it is one that you will have to sort out in your own mind and he believes it will affect the decision. Mr. Freese proposed also using the definition provided on the desk. Motion carried. 7 Ayes (Croft, Borowicz, Freese, Kavanaugh, Bartlett, Ostwald, Lyon), 1 Nay (Jazdzyk), 1 Absent (Churchill)

Ms. Croft asked does the proposed use meet the definition of convalescent home in the Agriculture and Forestry Management zoning district. Mr. Freese stated yes. Mr. Jazdzyk stated yes if infirm is as described.

Ms. Croft asked does the proposed use meet the definition of cabin colony in the Lake and Stream Protection zoning district. Mr. Freese stated yes. Mr. Jazdzyk stated this is difficult because the same use is in the two zoning districts, but it is being called two different uses. Mr. Jazdzyk stated this sets a dilemma of how the Planning Commission will proceed with zoning. Mr. Freese stated cabin colony is an allowed use in the Lake and Stream Protection zoning district. Mr. Freese asked if the housing use in the Lake and Stream Protection zoning district is the same as the housing use in the Agriculture and Forestry Management zoning district. Mr. Jazdzyk stated yes. Mr. Freese stated they can be called two different uses if they are a use that is authorized under that terminology in that district. Mr. Freese stated this can't be turned down based on the Anchor Steel case because that use (cabin colony) is an authorized use in the Lake and Stream Protection zoning district. Mr. Jazdzyk stated his concerns about the uses in on zoning district being considered analogies to other uses in another zoning district. Mr. Jazdzyk stated this creates havoc for the Planning Commission and other people will have the door wide open to do this also. Mr. Jazdzyk stated this seems to be a circumvention of a standard, straightforward way to do zoning. Mr. Freese stated it does make it very difficult, but you have to look at the actual use in the district. Mr. Freese stated it does matter what it is called. Mr. Freese stated you have to look at whether or not the use is an authorized use in the district. Discussion was held.

Ms. Croft asked does the proposed use meet the definition of a club in the Lake and Stream Protection zoning district. The Planning Commission stated no.

Ms. Croft asked does the proposed use meet the definition of a country club in the Lake and Stream Protection zoning district. The Planning Commission stated no.

Ms. Croft asked does the proposed use meet the definition of a restaurant in the Lake and Stream Protection zoning district. The Planning Commission stated no.

Ms. Croft asked does the proposed use meet the definition of a multi-family, duplex in the Lake and Stream Protection zoning district. The Planning Commission stated no. Discussion was held. Mr. Freese stated yes because there are two units under the same roof or in the same building. Mr. McNeil stated he researched the definition of duplex in other dictionaries as it is not defined in the Zoning Ordinance. Mr. McNeil stated that according to the Merriam-Webster Dictionary the definition of duplex is having two principal elements or parts. Mr. McNeil stated that according to the Oxford Advanced American Dictionary the

definition of duplex is a residential building divided into two apartments. Mr. McNeil stated that according to the Cambridge Academic Content Dictionary, the definition of duplex is a house having two separate apartments each with its own entrance. Mr. Freese stated that it would meet two of these definitions. Mr. Jazdyk asked if there are any other requirements for a duplex such as a stand-alone living environment which may include a kitchen or other items. Mr. Wendling stated it must meet the definition of a cabin or cabin colony. Ms. Croft read the definition of cabin, "Any building, tent or similar structure which is maintained, offered or used for dwelling or sleeping quarters....". Mr. McNeil stated that floor plans are available for the duplex. Mr. Borowicz stated that the floor plans do not show a duplex floor plan. Mr. Borowicz stated these floor plans show two bedrooms suitable for a residence for two individuals, but they are not separate living quarters so, therefore the multi-family duplex does not apply. The Planning Commission members agreed that the proposed use does not meet the definition of a multi-family, duplex in the Lake and Stream Protection zoning district.

Ms. Croft asked does the therapy accessory use, as described, meet the definition of accessory use to cabin colony and dining/restaurant in the Lake and Stream Protection zoning district. Mr. Freese and Mr. Kavanaugh stated no.

Ms. Croft asked if there are any changes to the General Findings with the exception of the one change that was presented tonight.

Mr. Freese referred to General Finding 7 and proposed adding, "There has been no information furnished which indicated the necessity of hundreds of acres to accomplish the stated purposes of therapeutic farms of this type." Mr. Kavanaugh stated the only reason to include General Finding 7 is to show that other therapeutic farms are larger. Mr. Kavanaugh stated there is no reason to include it or not include it. Mr. Freese stated this finding tries to lead you in one direction which is not a valid way to go. Mr. Jazdyk stated the size was included to compare a small facility to a large facility. Mr. Freese stated that this has nothing to do with the size as there is no requirement that the facility must be 500ft. or 1000ft. away from other parcels. Mr. Jazdyk stated that there was information regarding the large buffer zones that Gould's had between their farm and the population around them. Mr. Jazdyk stated there is a much smaller footprint and the community seems to be at odds at supporting this request because of the nearness of this community as different from these bigger communities. Mr. Freese stated that no information has been furnished to show that the extra hundreds of acres are necessary. Discussion was held. Mr. Jazdyk stated he does not have a problem with what Mr. Freese said. Mr. Kavanaugh stated he does not have a problem including it as we do not know whether 300 acres or 450 acres are better. Mr. Kavanaugh stated that Mr. Freese is saying that there is no evidence that the 300 acres is any better and it is presumed by the people who testified that larger parcels provide better isolation and protection. Mr. Kavanaugh stated that he is not certain that what Mr. Freese wants to insert would be a problem because we could have the testimony of the public included. Mr. Kavanaugh stated the impact is negative either way. Mr. Borowicz stated these are General Findings and it is a fact that people are concerned about the possibilities that could arise from this and it is a fact that nobody has proven that the size makes any difference. Mr. Kavanaugh supports Mr. Freese in including the statement. Mr. Jazdyk stated he does not have a problem with it either.

Mr. Freese referred to General Finding 9 and General Finding 10 and stated that there are generally the same until the last yellow sentence. Mr. Freese stated General Finding 9 should be kept and General Finding 10 should be deleted.

Mr. Freese referred to General Finding 11 and proposed adding, "The Planning Commission finds that cabins proposed in the Agriculture and Forestry Management zoning district are in fact the residential component (accessory use) of the convalescent home as authorized by the special use permit in this district." Mr. Freese stated this addresses Mr. Jazdyk's concerns regarding cabins versus cabin colonies being the same use. Mr. Freese stated he is saying that the use in the Agriculture and Forestry Management zoning district for these cabins is the residential component of the convalescent home. Mr. Schnell stated this is an accessory use to the convalescent home.

Mr. Freese proposed replacing General Finding 14 with General Finding 16 and add the following, "The Planning Commission further finds that a convalescent or nursing home under this definition does not require it to be contained in a single structure." Mr. Kavanaugh asked Mr. Freese what is his intent by including this statement. Mr. Freese stated this will establish the fact that the housing units don't have to be contained in a single structure. Mr. Schnell suggested using language from 18.7.a.4, "The Planning Commission finds that the CCZO does not restrict the number of structures which are part of a convalescent home, a use allowed by special use in the M-AF District. (See exhibit 154)". Mr. Freese agreed that this will be acceptable.

Mr. Freese proposed deleting General Finding 17. Mr. Borowicz stated that General Finding 17 is covered in General Finding 18.

Mr. Borowicz referred to General Finding 18 and stated that 9.3.4 should be changed to 9.3.14.

Mr. Freese proposed keeping General Finding 19 and adding the following, "A. The Planning Commission finds that Tuscarora Township has developed its own Master Plan and that this plan has been recommended to be utilized as a guide for rezoning amendments pertaining to Tuscarora Township under the Cheboygan County Master Plan. (See exhibit 155, page 20 – 21). The Planning Commission further finds that the application under consideration proposed no rezoning but rather questions of appropriate land use under the current regulation as written." Mr. Jazdyk stated that part of this may come up during the reasonable accommodation discussion as the Planning Commission will make a lot of reasonable accommodations as they go through the findings and make decisions about the expansions of some of the definitions to allow the applicant to use these similar to what was talked about across the two zoning districts. Mr. Freese stated the contention is that we should be following the Tuscarora Township Master Plan and their Planning Commission's recommendation that this be turned down but the Master Plan refers to rezoning matters. Mr. Freese stated if we are going to rezone something then he agrees that we should be following the Master Plan but we are not rezoning anything. Mr. Freese stated we are trying to apply the regulation as it is currently written to the situation we have at hand. Mr. Freese stated if you don't agree with the regulation, then we will have to change the regulation at some point (in the future). Mr. Freese stated the Master Plan has nothing to do with the decisions that are being made here. Mr. Jazdyk stated he does have a little bit of difference with Mr. Freese. Mr. Jazdyk stated that during the Master Plan process, there were meetings all over the community, there was community involvement, groups of citizens and all of their input. Mr. Jazdyk stated that the people in Tuscarora Township are the closest people to this problem. Mr. Jazdyk stated he is once removed, he is not an elected official and he does not have a horse in this race. Mr. Jazdyk stated there are approximately 150 people in this community that are opposed to this request. Mr. Jazdyk stated this is part of the Master Plan that they talked about at the meetings and decisions were made around that and now the Planning Commission tosses that out. Mr. Jazdyk stated that it was not too long ago that the Planning Commission tossed one of these out. Mr. Jazdyk stated that he believes that the Master Plan has some credence and he doesn't think that is the only thing that should be used. Mr. Jazdyk stated he doesn't believe that we should take the input of a community and then say forget you people. Mr. Jazdyk stated we should get rid of the Master Plan. Mr. Jazdyk stated he doesn't care how it is done, but we wasted money on the Master Plan. Mr. Kavanaugh stated he felt the same way when Mr. Schnell read from the Master Plan. Mr. Kavanaugh stated that he believes Tuscarora Township's Master Plan should carry some weight. Mr. Wendling stated the language is clear and the way that Mr. Freese presented it, is the way it is written. Mr. Wendling stated that is why it was very important with the Griswold Mountain issue because it was a request for a conditional rezoning. Mr. Wendling stated this is an administrative process so you are administering your ordinance as written and you have to follow the rules and regulations contained in the ordinance. Mr. Schnell stated at this stage when we get feedback it is very important and is weighed very heavily as it says in the Master Plan. Mr. Schnell stated that typically what we do in a situation like this is we would receive the comment and it would not necessarily change the plan but it is a good indication to follow up with them. Mr. Schnell stated that we do not have a lot of details as to why they do not feel that it doesn't meet their future land use goals. Mr. Schnell stated that maybe the goals are not appropriate for that area or maybe the goals are appropriate but the ordinance isn't appropriate. Mr. Schnell stated so this is a matter to go back and look at this as a zoning amendment. Mr. Kavanaugh stated that is not to be used in administrative decisions. Mr. Kavanaugh asked where this wording can be found. Mr. Schnell read from the Township Level Land Use Planning section of the Master Plan, "While Tuscarora Township has formed a Township Planning Commission and adopted a township-level master plan, Tuscarora has not adopted its own zoning ordinance. County zoning is, therefore, still in effect for Tuscarora Township. According to Michigan statute, zoning must be based on a plan in order to be legally valid. Because Tuscarora Township has undertaken its own master plan, it is recommended that the Tuscarora Township master plan be utilized by Cheboygan County for developing land use and zoning recommendations for that community. The most recently adopted Township future land use map should take the place of more general recommendations developed for the County as a whole...." Mr. Kavanaugh asked who went to them with a request to review that plan. Mr. McNeil stated the township is notified of the request. Mr. Jazdyk stated this is confusing. Mr. Jazdyk stated that the Master Plan does really have to do with the way we administer planning and so we should not reference the Master Plan in the Findings of Fact that give people the illusion that their input will be used in this process because it doesn't sound like it is used. Mr. Freese stated the Master Plan guides any rezoning that is done and if the people are not happy with the zoning the way it is then they can propose a rezoning or that the ordinance be changed. Mr. Schnell stated the Master Plan is the policy document that you look at when you set the law which is the Zoning Ordinance. Mr. Schnell stated the ordinance doesn't change without it being supported by the Master Plan. Mr. Freese stated the key to this is that you have to go by the way the regulation is written at that point and time. Mr. Schnell stated the future land use map and plan are set for 20 years in the future. Mr. Schnell explained that the Master Plan is not a regulatory document as it is actually a 20-year policy document.

Mr. Freese referred to General Finding 22 and stated that "these uses are permitted in the ordinance under section 10.2.2 and supported by the Right to Farm Act and" (text in black) should be included. Mr. Freese suggested including, "On December 16, 2015 the Planning Commission recognized the applicability of the Right To Farm Act in this case also." Ms. Lyon asked if the statement "The Planning Commission further finds that neither "cabins" nor "cabin colonies" are permitted by right or by special land-use permit within the M-AF District." is true. Mr. Freese stated that technically it is not true as cabins are authorized if they are a hunting or fishing cabin. Mr. Freese stated we should change the cabins to hunting and fishing cabins.

Mr. Freese stated hunting and fishing cabins are authorized but cabin colonies are not authorized in the Agriculture and Forestry Management zoning district. Mr. Kavanaugh noted that no one is looking at hunting and fishing cabins for this request. Mr. Freese referred to the definition of cabin and stated that hunting and fishing cabins do qualify as cabins so if you are saying that cabins aren't authorized then hunting and fishing is not authorized either. Mr. Freese suggested including "The Planning Commission further finds that hunting and fishing cabins are allowed within the M-AF District but cabin colonies are not." Mr. Jazdyk stated his concerns that this is very confusing and he does not think this is a good way to go as it creates a substantial problem in people understanding the zoning. Mr. Freese stated there are major problems in the way the regulation is written and hopefully someday it will be straightened out.

Mr. Freese proposed deleting General Finding 23 and using General Finding 24.

Mr. Freese referred to General Finding 25 and stated that "5.3.8" should be deleted as this section was deleted from the regulation. Mr. Freese noted that exhibit 154 (Zoning Ordinance) is not an updated copy. Mr. Freese noted that the amendments that are not included in the exhibit 154 copy of the Zoning Ordinance do not pertain to the subject at hand. Mr. Freese stated this (General Finding 25) is where the terms "restaurant/bar" and "restaurant" come in. Mr. Freese stated that "entertainment and eating establishments" is the use in Agriculture and Forestry Management zoning district under Section 9.3.5 that is synonymous. Mr. Freese stated there are three different terms to consider. Mr. Borowicz stated that there are language problems in the Zoning Ordinance. Discussion was held.

Mr. Freese referred to General Finding 33 and stated that "condition" should be changed to "location".

Motion by Mr. Kavanaugh, seconded by Mr. Borowicz, to approve the General Findings as amended. Motion carried. 8 Ayes (Croft, Borowicz, Freese, Kavanaugh, Bartlett, Ostwald, Jazdyk, Lyon), 0 Nays, 1 Absent (Churchill)

The Planning Commission reviewed the Specific Findings of Fact Under Section 18.7 of the Cheboygan County Zoning Ordinance. Discussion was held regarding the Planning Commission reviewing some of the Findings of Fact to make sure they were factual. Mr. Schnell stated that the Planning Commission has approved some of the Findings of Fact with their answers to some of the initial questions.

The Planning Commission reviewed standard 18.7.a. **Motion** by Mr. Kavanaugh that this standard has not been met based on findings 1, 3, 4 and 5. Mr. Freese stated that the General Findings do not support finding 1. Mr. Freese stated he would agree on finding 3. Mr. Freese stated he would not agree on finding 4. Mr. Freese stated that finding 5 is thrown out by the Anchor Steel case. Mr. Jazdyk seconded Mr. Kavanaugh's motion. Mr. Freese stated that only finding 3 doesn't support the standard. Mr. Freese asked Mr. Wendling if the Planning Commission can be looking at any particular uses that we don't feel are supported and treat them separately. Mr. Wendling stated the Planning Commission has already made a decision that this is a convalescent home and also on the accessory uses that go along with the housing. Mr. Wendling stated this decision has already been made as far as the General Findings. Mr. Wendling stated the point is now to keep it consistent all the way through with what has already been done in the General Findings. Mr. Freese stated he doesn't agree with Mr. Kavanaugh's motion. Mr. Freese stated the findings 1-8 support the standard. Mr. Wendling stated that he doesn't see it as being consistent with what was done on the General Findings. Mr. Wendling stated that having a negative finding, other than the therapy issue, would be a problem given the General Findings. Mr. Schnell stated that a motion not in support of 18.7a isn't supported by the General Findings and the discussion that was held. Mr. Freese stated he has a problem with finding 3 which is the therapeutic use in the Lake and Stream Protection zoning district. Mr. Kavanaugh revised his motion to only include finding 3. Mr. Schnell stated that a lot of the General Findings that were adopted do not agree with a negative finding on 18.7.a. The motion failed for lack of support. **Motion** by Mr. Freese, seconded by Ms. Lyon, that findings 1-8 will support standard 18.7.a. Discussion was held. Mr. Jazdyk stated that we are not providing credence to the people who presented the findings that will not support the standard. Mr. Jazdyk stated that there is enough information here to make a legitimate case for several findings that will not support the standard. Mr. Borowicz suggested not including finding 7 as it states that the applicant makes the analogy part of the argument. Mr. Freese stated he agrees with deleting finding 7. Mr. Freese revised his motion to only include findings 1-6 and 8. Ms. Lyon supported the amended motion. Motion carried. 6 Ayes (Croft, Borowicz, Freese, Ostwald, Bartlett, Lyon), 2 Nays (Kavanaugh, Jazdyk), 1 Absent (Churchill)

The Planning Commission reviewed standard 18.7.b. **Motion** by Mr. Kavanaugh, seconded by Ms. Freese, that findings 1-2 will support standard 18.7.b. Discussion was held. Mr. Jazdyk stated he agrees with the motion but noted he did not understand the comments regarding the Bald Eagle in 1c as he does not have a lot of information on this issue. Mr. Freese stated that if the Bald Eagles are going to be bothered, it will be by boat traffic going up and down the river (which borders the property to the east) all summer long. Mr. Freese stated the boat traffic will bother the Bald Eagles more than this facility will ever bother them. Mr. Freese stated that no information has been presented to the Planning Commission on any nesting sites on this

parcel. Discussion was held. Motion carried. 8 Ayes (Croft, Borowicz, Freese, Kavanaugh, Bartlett, Ostwald, Jazdyk, Lyon), 0 Nays, 1 Absent (Churchill)

The Planning Commission reviewed standard 18.7.c. Mr. Freese stated that the increased traffic in the area would be due to the 13 employees and 3 staff members and there will be a couple of small delivery trucks a week. Mr. Freese stated this information was provided during the testimony of the applicant and this will not constitute much of an increase in traffic. Mr. Freese stated the Planning Commission has approved other facilities with ten times the amount of traffic and ten times the number of employees without any consideration for traffic congestion problems or a traffic study. **Motion** by Mr. Freese, seconded by Mr. Kavanaugh, that findings 1-4 will support standard 18.7.c. Discussion was held. Mr. Jazdyk asked if a traffic study will be discussed later. Mr. Freese stated that traffic problems are part of this standard. Ms. Croft asked if there are any traffic problems. Mr. Jazdyk stated he is not concerned about this standard, but he will address his concern when reviewing standard 18.7.f. Motion carried. 8 Ayes (Croft, Borowicz, Freese, Kavanaugh, Bartlett, Ostwald, Jazdyk, Lyon), 0 Nays, 1 Absent (Churchill)

The Planning Commission reviewed standard 18.7.d. Discussion was held. Mr. Kavanaugh proposed adding as a finding that will not support the standard "During the public comment many people spoke that safety issues, property values, use of people's property now and after this facility is established would be diminished." Mr. Kavanaugh stated there were numerous comments on the use of the property and how children will not be able to use the trail any longer due to the facility. Mr. Kavanaugh stated that property owners were concerned about not being able to sell their property. Mr. Kavanaugh stated that there was a pending sale and if this request was approved the sale would not happen. Mr. Kavanaugh stated a person in the business indicated that this could happen. **Motion** by Mr. Freese, seconded Mr. Kavanaugh, that findings 1-4 will support standard 18.7.d. Motion carried. 8 Ayes (Croft, Borowicz, Freese, Kavanaugh, Bartlett, Ostwald, Jazdyk, Lyon), 0 Nays, 1 Absent (Churchill)

The Planning Commission reviewed standard 18.7.e. Discussion was held. Mr. Kavanaugh proposed adding finding 2 under will not support the standard "Testimony from a retired police officer indicated that there will be an increase in safety hazards and emergency room visits. Chris Blake, Clinical Psychologist, stated safety issues are a matter of concern. There was general public testimony where numerous people testified that there would be additional demands on fire, police and other resources." **Motion** by Mr. Kavanaugh, seconded by Ms. Freese, that findings 1-2 will not support standard 18.7.e. Motion carried. 7 Ayes (Croft, Freese, Kavanaugh, Bartlett, Ostwald, Jazdyk, Lyon), 1 Nay (Borowicz), 1 Absent (Churchill). Mr. Wendling stated that in this case this Planning Commission will have to look at the analysis on the accommodation issue.

The Planning Commission reviewed standard 18.7.f. Discussion was held. Mr. Freese proposed adding as finding 6 under will support the standard "6. The Planning Commission finds that testimony indicates that traffic from the facility will consist of point of beginning traffic of 13 employees, 3 permanent staff and commercial vehicle deliveries by regular delivery trucks, not semis, 2-3 times per week." Mr. Jazdyk stated he believes that there was information provided that there was a snowmobile accident there. Mr. Jazdyk explained that as you drive in it is a difficult area as you are coming straight in there is the snowmobile trail. Mr. Jazdyk noted that there should be proper traffic signage along the front. Mr. Freese noted that the trail has a stop sign. Mr. Freese stated that speaking from personal experience, four days ago, he almost hit a snowmobile and he was only traveling 20mph down the road. Mr. Freese stated there is no way to prevent this as the snowmobilers do not pay attention to stop signs. Discussion was held. **Motion** by Mr. Kavanaugh, seconded by Mr. Freese, that findings 1,2,3,4 and 6 will support standard 18.7.f. Motion carried. 8 Ayes (Croft, Borowicz, Freese, Kavanaugh, Bartlett, Ostwald, Jazdyk, Lyon), 0 Nays, 1 Absent (Churchill)

The Planning Commission reviewed standard 18.7.g. **Motion** by Mr. Freese, seconded by Mr. Borowicz, that findings 1-5 will support standard 18.7.g. Motion carried. 8 Ayes (Croft, Borowicz, Freese, Kavanaugh, Bartlett, Ostwald, Jazdyk, Lyon), 0 Nays, 1 Absent (Churchill)

The Planning Commission reviewed standard 18.7.h. Discussion was held. Mr. Wendling stated that this is more of a requirement than a standard and this has been talked about in the past. Mr. Wendling stated this is more of a statement saying that you have to comply with the laws and regulations as applicable under the ordinance and under federal and state law. Mr. Jazdyk asked what happens under the guideline if the applicant has a certain type of clientele and then they find that there is no licensing required. Mr. Wendling stated if it is allowed under the law, then they are meeting the standard. Mr. Jazdyk asked what will happen if this is approved for patients with mental issues and then it is actually a homeless shelter. Mr. Wendling stated other agencies start from the bottom and zoning approval is the bottom. Mr. Wendling explained that the State will not give a commitment on the licensing requirement until there is zoning approval. Mr. Jazdyk stated his concerns regarding the applicant not knowing the type of client that they will have. Mr. Wendling stated that the applicant did describe the type of client that they will have. Mr. Freese stated the applicant stated they will apply for any licenses that are necessary

and they will try for accreditation over and above the licensing. Discussion was held. **Motion** by Mr. Freese, seconded by Mr. Kavanaugh, that finding 1 will support standard 18.7.h. Discussion was held. Mr. Borowicz suggested including finding 2 also. Mr. Freese revised his motion to include finding 2. Mr. Kavanaugh seconded the revised motion. Motion carried. 8 Ayes (Croft, Borowicz, Freese, Kavanaugh, Bartlett, Ostwald, Jazdzzyk, Lyon), 0 Nays, 1 Absent (Churchill)

The Planning Commission reviewed the standards under the Additional Standards for Reasonable Accommodation under the Americans with Disabilities Act, The Federal Fair Housing Act and the Persons with Disabilities Civil Rights Act.

Mr. Wendling stated the Planning Commission made a finding under 18.7.e that the standard had not been met. Mr. Wendling stated the finding was based upon the testimony from a police officer, mental health expert and general public. Mr. Wendling stated the comments were directly based upon the disability of the parties which brings us into the accommodation phase. Mr. Wendling reviewed standard c under the Additional Standards for Reasonable Accommodation under the Americans with Disabilities Act as amended, The Federal Fair Housing Act, and the Persons with Disabilities Civil Rights Act. Mr. Wendling stated it is a risk if this is the reason it is turned down and it is fodder for the federal case and under the ADA as amended in 2008 as well as the Federal Fair Housing Act. Mr. Wendling stated the Planning Commission already determined that there is a disability to begin with. Mr. Wendling read standard a under the Additional Standards for Reasonable Accommodation under the Americans with Disabilities Act, The Federal Fair Housing Act, And The Persons With Disabilities Civil Rights Act. **Motion** by Mr. Freese, seconded by Mr. Kavanaugh, that finding 1 supports standard a. Motion carried. 8 Ayes (Croft, Borowicz, Freese, Kavanaugh, Bartlett, Ostwald, Jazdzzyk, Lyon), 0 Nays, 1 Absent (Churchill)

Mr. Wendling reviewed standard b and suggested that the Planning Commission finds that the applicant is making a request for reasonable accommodations and modifications of the standard under section 18.7.e and that modification results in the standard being met because of the disability of the residents. Mr. Kavanaugh asked if it will rule out the chance to put conditions on a special use permit since there are accommodations being made. Mr. Wendling stated not at all unless they are conditions that are contrary to the rules of the reasonable accommodation. Mr. Wendling explained that land based conditions are acceptable. Mr. Kavanaugh asked if it will affect licensing or screening. Mr. Wendling stated no. **Motion** by Mr. Borowicz, seconded by Mr. Ostwald, that finding 1 supports standard b. Motion carried. 8 Ayes (Croft, Borowicz, Freese, Kavanaugh, Bartlett, Ostwald, Jazdzzyk, Lyon), 0 Nays, 1 Absent (Churchill)

Mr. Wendling reviewed standard c and suggested that the Planning Commission revise finding 1, "The Planning Commission finds that the requested modification is reasonable and necessary with respect to the uses proposed in the P-LS District attributable to the proposed development as a whole. Because the sole reason for not meeting standard 18.7.e is because of the mental disability of the residents, a modification allowing this use is reasonable and necessary under the Americans with Disabilities Act as amended and the Federal Fair Housing Act." Mr. Freese stated he agrees with Mr. Wendling's suggested language for finding 1. **Motion** by Mr. Freese, seconded by Mr. Ostwald, that finding 1, as modified per civil counsel, supports standard c. Motion carried. 8 Ayes (Croft, Borowicz, Freese, Kavanaugh, Bartlett, Ostwald, Jazdzzyk, Lyon), 0 Nays, 1 Absent (Churchill)

Mr. Wendling reviewed standard d and suggested that the Planning Commission revise finding 1, "The Planning Commission finds that the mentally disabled residents of Heritage Cove Farm should have an equal opportunity to use the dwellings located in both the M-AF and P-LS zoning districts as a reasonable accommodation under the Americans With Disabilities Act as amended and the Federal Fair Housing Act." **Motion** by Mr. Borowicz, seconded by Mr. Freese, that finding 1, as modified per civil counsel, supports standard d. Motion carried. 8 Ayes (Croft, Borowicz, Freese, Kavanaugh, Bartlett, Ostwald, Jazdzzyk, Lyon), 0 Nays, 1 Absent (Churchill)

Mr. Wendling reviewed standard e. Mr. Wendling stated that the issue is that 18.7.e as determined not to meet the ordinance solely based upon concerns related to the mentally disabled occupants of the property. Mr. Wendling asked if this alone would fundamentally alter the Cheboygan County Zoning Ordinance. Mr. Wendling reminded the Planning Commission members that we are addressing land use issues. Mr. Jazdzzyk stated he is not sure that he understands this but he thought back and in terms of accommodations there have already been significant accommodations throughout the process. Mr. Jazdzzyk stated definitions have been used and expanded to accommodate the request such as nursing, convalescent home, infirmity, animal pasture, barn, workshop, and greenhouse. Mr. Jazdzzyk stated that the Planning Commission has looked at the definitions and made accommodations to allow this to happen. Mr. Jazdzzyk stated this has not been an inflexible, unaccommodating process. Mr. Jazdzzyk stated there was a discussion regarding the housing units being called one use in the Lake and Stream Protection zoning district and another use in the Agriculture and Forestry Management zoning district. Mr. Jazdzzyk stated the Planning Commission allowed this also. Mr. Jazdzzyk stated this is confusing to people. Mr. Jazdzzyk stated his concerns regarding the menu of possible uses that may fit that the applicant submitted. Mr. Jazdzzyk stated this is a significant administrative burden for the Planning Commission. Mr. Jazdzzyk stated so from that aspect some of these issues

have the potential to create significant work for the Planning Commission and there is merit in saying there will be a substantial effect on the community. Mr. Jazdyk stated he does not know whether this is a result of the disability or not but the work may be substantial to straighten this out. Mr. Jazdyk stated that other applicants may apply this approach with future requests. Mr. Borowicz stated that the only reason the applicant used the menu approach is because they were asking for a use that wasn't specifically allowed anywhere. Discussion was held. Mr. Schnell noted that the reasonable accommodation is just referring to the accommodations under the Fair Housing Act and the ADA for only 18.7.e. Mr. Schnell stated a decision has already been made on a lot of what is being discussed right now. Mr. Schnell stated 18.7.e is about fire, police and other public resources and the applicant is asking for an accommodation for that. Mr. Wendling suggested that the Planning Commission revise finding 1 "The Planning Commission finds that based upon the general findings of fact and the specific findings of fact for both the special land use, that approval of the accommodation under 18.7.e of this project even if it requires an increased burden on law enforcement does not fundamentally alter the Cheboygan County Zoning Ordinance." Mr. Kavanaugh asked Mr. Wendling if he could suggest a finding to show that there will be a significant impact on administration, police, fire, safety and the future of our planning and zoning process. Mr. Kavanaugh stated that by trying to put a round peg in a square hole in all of these situations, we have stretched everything to the max. Mr. Kavanaugh stated he thinks we will have a burden. Mr. Kavanaugh stated he doesn't believe there is a reason to make an accommodation if there are other easy solutions. Mr. Wendling asked what statistical evidence we have. Mr. Wendling explained the evidence that you have can be something more than a scintilla but less than a preponderance. Mr. Wendling stated the best description would be beyond a reasonable doubt which is used in criminal standards and is a very high level of proof. Mr. Wendling explained what is considered clear and convincing evidence and a preponderance of the evidence. Mr. Wendling stated anything less can be used but may be insufficient evidence. Mr. Wendling stated you don't have to accept insufficient evidence. Mr. Wendling stated you can look to see if there has been any evidence regarding a financial administrative burden on the County. Mr. Wendling stated you can look to see if there is a letter from the Sheriff or Prosecutor's Office advising that there will be a financial administrative burden on the County. Mr. Wendling stated he has to consider the possibility that this may end up in court. Mr. Wendling asked whether this particular section fundamentally alters the Zoning Ordinance. Mr. Wendling stated not really. Mr. Wendling stated that the undue financial administrative burden is what the Planning Commission is concentrating on. Mr. Wendling stated he does not think that there is enough evidence to not be able to use that. Mr. Wendling stated it would be difficult for him to come up with a finding. Discussion was held. Mr. Wendling stated that staff consults with other county agencies and this has not come up. Mr. Kavanaugh asked if a notice was sent to Tuscarora Township Police and if they just didn't respond. Mr. Kavanaugh stated that just because they didn't respond doesn't mean that they don't have a comment. Mr. Kavanaugh stated that a man who had been a policeman for 28 years and a well-recognized psychologist talk about these issues. Mr. Kavanaugh stated if we don't have anything else to go on and we can't use our own thoughts on this and there is a case that showed that there were additional utilization of ambulances and emergency rooms. Mr. Kavanaugh stated that because those people didn't respond and others did, we should be able to sort that out by common sense. Mr. Freese stated there was one exhibit that stated 7-10% of the emergency room visits were by people with psychiatric problems but there was testimony that provided information that 25% of the people either have had or will have psychiatric problems. Mr. Freese stated that it really isn't a problem if only 7-10% of the emergency room visits are due to psychiatric problems when 25% of the population may have psychiatric issues. Mr. Jazdyk stated when you put groups of people in urban populations in closer proximity there will be a higher crime rate. Mr. Freese stated there were a number of exhibits that spoke to these types of facilities being located in urban centers and they universally said there weren't problems. Mr. Jazdyk stated he did research on the internet and he found, at least, five facilities where the communities are in dire trouble. Mr. Jazdyk stated that there is a number where you can call the mayor and talk to him. Mr. Jazdyk stated if this turns out as it has been described by the applicants, it will be a value to our community. Mr. Jazdyk stated the facilities that were a disaster started out with the same discussion as we had and it changed because they didn't have to get licensing. Mr. Jazdyk stated the facilities turned into a homeless shelter or drug center. Mr. Freese stated that one of the conditions on the approval that he will suggest is that the licensing be reviewed and if any licenses are necessary that they are obtained. Discussion was held. **Motion** by Mr. Freese, seconded by Ms. Lyon, that finding 1, as modified per civil counsel, supports standard e. Motion carried. 6 Ayes (Croft, Borowicz, Freese, Bartlett, Ostwald, Lyon), 2 Nays (Kavanaugh, Jazdyk), 1 Absent (Churchill)

The Planning Commission reviewed the Specific Findings Of Fact Under Section 20.10 Of The Cheboygan County Zoning Ordinance.

The Planning Commission reviewed standard 20.10.a. **Motion** by Mr. Freese, seconded by Mr. Bartlett, that findings 1 and 2 will support standard 20.10.a. Motion carried. 8 Ayes (Croft, Borowicz, Freese, Kavanaugh, Bartlett, Ostwald, Jazdyk, Lyon), 0 Nays, 1 Absent (Churchill)

The Planning Commission reviewed standard 20.10.b. Mr. Freese stated that the findings that will not support the standard indicates that the survey is outdated. Mr. Freese noted that the survey is dated April 14, 2015. Mr. Kavanaugh stated that

finding will not be included. **Motion** by Mr. Freese, seconded by Mr. Borowicz, that finding 1 will support standard 20.10.b. Motion carried. 8 Ayes (Croft, Borowicz, Freese, Kavanaugh, Bartlett, Ostwald, Jazdzzyk, Lyon), 0 Nays, 1 Absent (Churchill)

The Planning Commission reviewed standard 20.10.c. **Motion** by Mr. Borowicz, seconded by Mr. Kavanaugh, that finding 1 will support standard 20.10.c. Mr. Freese suggested including “2. The Planning Commission finds that review has been made by the Soil and Sedimentation Officer under the provisions of the Cheboygan County Soil Erosion Sedimentation and Stormwater Runoff Ordinance.” as finding 2. Ms. Croft asked if finding 2 should be included. The Planning Commission agreed that finding 2 should be included. Motion carried. 8 Ayes (Croft, Borowicz, Freese, Kavanaugh, Bartlett, Ostwald, Jazdzzyk, Lyon), 0 Nays, 1 Absent

The Planning Commission reviewed standard 20.10.d. Mr. Jazdzzyk stated the only area with any visibility is the northeast corner where the workhouse and greenhouse are located. Mr. Jazdzzyk stated an elderly neighbor is concerned about this particular area. Discussion was held. Mr. Jazdzzyk suggested that a hedge or buffer should be required for this area. Mr. Freese stated he would have no problem making this a condition. Discussion was regarding this being a condition of approval and not a response to this standard. **Motion** by Mr. Freese, seconded by Mr. Kavanaugh, that finding 1 will support standard 20.10.d. Motion carried. 8 Ayes (Croft, Borowicz, Freese, Kavanaugh, Bartlett, Ostwald, Jazdzzyk, Lyon), 0 Nays, 1 Absent (Churchill)

The Planning Commission reviewed standard 20.10.e. **Motion** by Mr. Borowicz, seconded by Mr. Freese, that finding 1 will support standard 20.10.e. Motion carried. 8 Ayes (Croft, Borowicz, Freese, Kavanaugh, Bartlett, Ostwald, Jazdzzyk, Lyon), 0 Nays, 1 Absent (Churchill)

The Planning Commission reviewed standard 20.10.f. **Motion** by Mr. Kavanaugh, seconded by Mr. Borowicz, that findings 1 and 2 will support standard 20.10.f. Motion carried. 8 Ayes (Croft, Borowicz, Freese, Kavanaugh, Bartlett, Ostwald, Jazdzzyk, Lyon), 0 Nays, 1 Absent (Churchill)

Ms. Croft stated that standard 20.10.g. is not applicable.

The Planning Commission reviewed standard 20.10.h.a. **Motion** by Mr. Freese, seconded by Mr. Borowicz, that finding 1 will support standard 20.10.h.a. Motion carried. 8 Ayes (Croft, Borowicz, Freese, Kavanaugh, Bartlett, Ostwald, Jazdzzyk, Lyon), 0 Nays, 1 Absent (Churchill)

The Planning Commission reviewed standard 20.10.h.b. **Motion** by Mr. Freese, seconded by Ms. Lyon, that finding 1 will support standard 20.10.h.b. Motion carried. 8 Ayes (Croft, Borowicz, Freese, Kavanaugh, Bartlett, Ostwald, Jazdzzyk, Lyon), 0 Nays, 1 Absent (Churchill)

The Planning Commission reviewed standard 20.10.h.c. **Motion** by Mr. Freese, seconded by Mr. Bartlett, that finding 1 will support standard 20.10.h.c. Motion carried. 8 Ayes (Croft, Borowicz, Freese, Kavanaugh, Bartlett, Ostwald, Jazdzzyk, Lyon), 0 Nays, 1 Absent (Churchill)

The Planning Commission reviewed standard 20.10.i. **Motion** by Mr. Freese, seconded by Mr. Borowicz, that findings 1 and 2 will support standard 20.10.i. Motion carried. 8 Ayes (Croft, Borowicz, Freese, Kavanaugh, Bartlett, Ostwald, Jazdzzyk, Lyon), 0 Nays, 1 Absent (Churchill)

The Planning Commission reviewed standard 20.10.j. **Motion** by Mr. Freese, seconded by Mr. Borowicz, that finding 1 will support standard 20.10.j. Motion carried. 6 Ayes (Croft, Borowicz, Freese, Bartlett, Ostwald, Lyon), 2 Nays (Kavanaugh, Jazdzzyk), 1 Absent (Churchill)

Mr. Borowicz recommended including proposed conditions 1-3 on pages 28-29. Mr. Kavanaugh and Mr. Freese discussed revising condition 2 “Obtain any and all licenses for the operation of Heritage Cove Farm from the State of Michigan and/or the federal government and either provide copies of the licenses to Planning and Zoning staff or provide letters or other written documentation from state and federal agencies that license facilities caring for the mentally ill or infirm that Heritage Cove Farm’s proposed use does not require a license or licenses normally issued to facilities that care for the mentally ill and/or infirm.” Discussion was held regarding staff reviewing the letters or written documentation that will be provided by Heritage Cove Farm.

Ms. Lyon asked if a buffer will be required. Mr. Freese stated that a buffer should be required along the northeast property line between the buildings on the east end of the grouping. Ms. Lyon asked if there should be a stipulation regarding the distance from the property line. Mr. Freese explained that spacing is already specified in the regulation and they will have to

meet the standard for screening. Mr. Schnell reviewed the requirements of section 17.18.4 and read “...plant material shall not be closer than 4ft. from the fence line or property line...” Mr. Freese stated that screening would be more appropriate if kept within 20ft. along the building. Mr. Freese suggested screening along the north/south line between the buildings and the next property over.

Mr. Kavanaugh suggested a review by Tuscarora Township Police to see if they have any recommendations for the roadway and trail and to see if they have any safety issues with this site. Discussion was held. Mr. Kavanaugh suggested requesting comments on the roadway, trail and safety issues from Tuscarora Township Police, Cheboygan County Sheriff, and Cheboygan County Road Commission.

Mr. Kavanaugh stated licensing will cover medical supply storage and disposal and any security that might be required. Discussion was held. Mr. Freese stated it is dependent upon what services they provide but if they are providing that type of service then the licensing will govern such activities.

Mr. Borowicz and Mr. Freese suggested shielded lighting down to the path from the top of the bluff to the dock and any interior lighting should be directed downward and shielded from any glare toward adjacent properties.

Ms. Croft asked if Soil and Sedimentation/Stormwater review has been completed. Mr. McNeil stated that it has been reviewed but a permit has not been issued yet. Mr. Freese and Ms. Croft agreed that the permit must be issued.

Mr. Kavanaugh suggested requiring that the conditions be met prior to operation.

Motion by Mr. Borowicz, seconded by Mr. Freese, to approve the special use permit based on the General Findings, Findings of Fact Under 18.7 and 20.10, and Additional Standards for Reasonable Accommodation with the following conditions:

1. Obtain all building code and health department permits for construction and file the same with Cheboygan County Planning and Zoning staff.
2. Obtain any and all licenses for the operation of Heritage Cove Farm from the State of Michigan and/or the federal government and either provide copies of the licenses to Planning and Zoning staff or provide letters or other written documentation from state and federal agencies that license facilities caring for the mentally ill or infirm that Heritage Cove Farm’s proposed use does not require a license or licenses normally issued to facilities that care for the mentally ill and/or infirm.
3. All agricultural practices will follow Generally Accepted Agricultural Management Practices (GAAMPS) with GAAMPS certification through the Michigan State University Agricultural Extension being supplied to Planning and Zoning staff for all farming activities on the property prior to the commencement of farming activities.
4. Screening within 20ft. of the buildings along the north/south line along the back of the buildings and the next property over. Screening is to meet Section 17.18 of Zoning Ordinance #200.
5. Planning and Zoning staff shall request written comments regarding roadway, trail and safety issues from Tuscarora Township Police, Cheboygan County Sheriff and Cheboygan County Road Commission.
6. Shielded lighting down to the path from the top of the bluff to the dock. Any interior lighting should be directed downward and shielded from any glare toward adjacent properties.
7. All conditions must be met prior to operation.
8. Obtain Soil and Sedimentation/Stormwater Permit.

Motion carried. 6 Ayes (Croft, Borowicz, Freese, Bartlett, Ostwald, Lyon), 2 Nays (Kavanaugh, Jazdyk), 1 Absent (Churchill)

NEW BUSINESS

No comments.

STAFF REPORT

Mr. McNeil stated there have been discussions regarding the duplicate use descriptions that are listed in the ordinance. Mr. McNeil stated the Planning Commission made it a priority to review all of the uses. Mr. McNeil stated staff has been working

on the duplicate use descriptions and identifying the ones that are the most problematic. Mr. McNeil stated he hopes to present this to the Planning Commission either the end of February or the beginning of March.

Mr. McNeil stated that Bryan Graham will be attending the next Planning Commission meeting to discuss the implications of the recent Supreme Court decision regarding signage.

PLANNING COMMISSION COMMENTS

Mr. Kavanaugh stated that during this process the Planning Commission members learned a lot. Ms. Croft thanked Mr. Wendling for his time and efforts. Mr. Jazdyk stated the Planning Commission is a great group to work with and noted that there are a lot of good spirited discussions. Mr. Freese stated he started out going one direction with the Heritage Cove Farm application and ended up doing a 180 degree turnaround on some of the major premises. Mr. Freese stated he is not exactly happy with everything but the Planning Commission has done the best job they could to make sure that the regulation is followed as it is written.

PUBLIC COMMENTS

Mr. Lurie stated that he is the Vice President of the Grandview Beach Association. Mr. Lurie stated that they strongly object to the Planning Commission's decision. Mr. Lurie stated it is unthinkable and irresponsible to put a 24/7 commercial, medical facility in a single-family residential community. Mr. Lurie stated that by approving this request the Planning Commission has opened the floodgates for any of these commercial, medical facilities in any residential beachfront community, such as Columbus Beach, Aloha Beach, Orchard Beach and Mullett Lake Village. Mr. Lurie stated that it is clear to those that live on Grandview Beach that the federal lawsuit has biased this process. Mr. Lurie stated he can't prove it, but it came up today when Mr. Wending referred to a January 22nd meeting with Mr. Kazim that can't be missed because of going to the Zoning Board of Appeals. Mr. Lurie stated that Grandview Beach has been changed for the worse and they have been violated. Mr. Lurie stated their rights as homeowners and taxpayers have been violated. Mr. Lurie stated that if you hire litigious attorneys they are likely to get their way. Mr. Lurie stated the Planning Commission did the best they could with what they had to work with but there were many arguments against approving this request. Mr. Lurie stated he didn't understand how a dwelling can be 320sf when the standard requires 720sf without a variance.

Ms. Lutz stated that she has done research and noted that psychiatric patients came under adult foster care in the 1960's when psychiatric hospitals were closed and patients were put into adult foster care homes. Ms. Lutz stated there are problems and they are increasing because mental health problems are increasing. Ms. Lutz stated when you congregate all of these people into one home you have more problems. Ms. Lutz stated that the mental health associations, assisted living associations and the nursing home associations are getting together and trying to change the laws. Ms. Lutz stated this request should have been tabled. Ms. Lutz stated the Planning Commission is important as they make the zoning laws. Ms. Lutz stated that the Planning Commission is now saying that a nursing home is not required to be one structure. Ms. Lutz stated that all nursing homes are required to be one structure. Ms. Lutz stated the beds, cafeteria, office and all of the housing are supposed to be contained in one structure. Ms. Lutz stated that the Planning Commission is saying that it can be four or five structures. Ms. Lutz stated that the Planning Commission has set a precedent.

Ms. Liegl stated it was her understanding that the Planning Commission was here to protect the people and their property values. Ms. Liegl stated this decision may have been enhanced by the threat of legal problems. Ms. Liegl stated that the Planning Commission has enhanced the value of one property at an extreme cost to the rest of the property owners. Ms. Liegl noted that there was a discussion regarding the traffic consisting of 2 trucks per week. Ms. Liegl stated that additional traffic from friends and family was not considered. Ms. Liegl asked if there is sufficient parking for friends and family that visit. Ms. Liegl stated she has worked with mentally ill people and the group dynamics are enormous. Ms. Liegl stated there is no way to predict what will happen. Ms. Liegl stated she worked with kids and there was one kid who didn't like the way another kid was eating so he stabbed him in the back 5 times. Ms. Liegl stated there were 10 staff members at this facility. Ms. Liegl stated her concerns about there not being any containment and the residents walking to the Breakers for drinks. Ms. Liegl stated her concerns that the residents will be able to bring in drugs and alcohol.

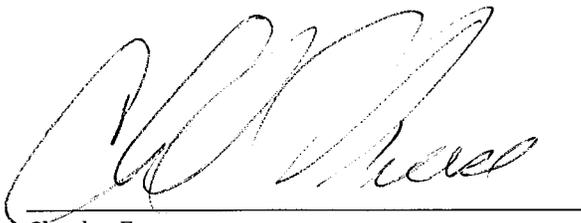
Mr. Lynch stated that he owns property on Grandview Beach. Mr. Lynch asked if there is a number of residents below which Heritage Cove Farm will not require a license. Mr. Schnell stated this will be a question for the State. Mr. Freese stated one type of license is required for below 20 and another type of license is required for above 20. An audience member stated a license is required for an adult foster care, but a license will not be required if they rent cottages. Mr. Lynch stated there that a license will not be required and all of the conditions on the approval mean nothing. Mr. Lynch stated he had lunch with the founder and chairman of Rose Hill, who was asked by the applicants to testify in their behalf. Mr. Lynch stated that the founder/chairman refused because he felt it was a bad idea from his experience. Mr. Lynch stated he shared the differences during public comment and most of the public comments have been ignored. Mr. Lynch questioned if the public comments

were part of the record. Ms. Croft states yes. Mr. Lynch stated that is absolutely governmental malfeasance based upon the fear of litigation pushed by the attorney and other board members to shoehorn an inappropriate facility in the community. Mr. Lynch stated the Planning Commission is not representing the County, Township or the people. Mr. Lynch stated that the Planning Commission should be ready to respond when something bad happens.

Ms. Couture stated she lives at 55 Grandview Beach and agrees with the previous public comments. Ms. Couture stated she has been involved in planning and zoning for a township. Ms. Couture stated she feels that what has been done tonight completely ignores the whole concept of planning and zoning and master planning. Ms. Couture stated the Planning Commission did not provide any specific information as to where the Master Plan states you can only look at the Master Plan in a zoning change. Ms. Couture stated it is for use in land use changes as well as zoning changes or any consideration of land use. Ms. Couture stated one of the first goals of the Master Plan is that the Planning Commission wants to cooperate with other local units of government. Ms. Couture stated this facility is a commercial operation in a residential community. Ms. Couture stated that the Planning Commission has made findings that are not supported by data. Ms. Couture stated the Planning Commission does not have hydrogeological information and updated wetlands information. Ms. Couture referred to Section 18.7.c and she was going to build a cottage when she retires. Ms. Couture stated she will not do that now with this commercial use. Ms. Couture referred to Section 18.7.d and stated the Planning Commission has created a situation where the standard can't be supported. Ms. Couture stated she is extremely disappointed in this process.

ADJOURN

Motion by Mr. Kavanaugh to adjourn. Motion carried. Meeting was adjourned at 10:04pm.

A handwritten signature in black ink, appearing to read 'Charles Freese', written over a horizontal line.

Charles Freese
Planning Commission Secretary