



# CHEBOYGAN COUNTY PLANNING COMMISSION

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## CHEBOYGAN COUNTY PLANNING COMMISSION MEETING & PUBLIC HEARING WEDNESDAY, SEPTEMBER 5, 2018 AT 7:00 PM ROOM 135 - COMMISSIONER'S ROOM - CHEBOYGAN COUNTY BUILDING

- PRESENT:** Bartlett, Freese, Kavanaugh, Ostwald, Jazdyk, Lyon, Croft  
**ABSENT:** Borowicz, Churchill  
**STAFF:** Michael Turisk  
**GUESTS:** Peter Wendling, John F. Brown, Bob Lyon, Roberta Matelski, Richard Lincoln, Larry Lutz, Karen Johnson, Carl Muscott, Eric Boyd, Russell Crawford, Cheryl Crawford, John Arnold, Judith Preston, Dave Rossman, Carol Navarre, Bill Hahn, C. Maziasz, Hob Ingleson, Jeremy Runstrom, Trudy Lofgren

The meeting was called to order by Chairperson Croft at 7:00pm.

### PLEDGE OF ALLEGIANCE

Chairperson Croft led the Pledge of Allegiance.

### APPROVAL OF AGENDA

The meeting agenda was presented. **Motion** by Mr. Kavanaugh, seconded by Mr. Bartlett, to approve the agenda as presented. Motion carried. 7 Ayes, (Bartlett, Freese, Kavanaugh, Ostwald, Jazdyk, Lyon, Croft), 0 Nays, 2 Absent (Churchill, Borowicz).

### APPROVAL OF MINUTES

The August 15, 2018 Planning Commission minutes were presented. **Motion** by Mr. Kavanaugh, seconded by Ms. Lyon, to approve the meeting minutes as presented. Motion carried. 7 Ayes, (Bartlett, Freese, Kavanaugh, Ostwald, Jazdyk, Lyon, Croft), 0 Nays, 2 Absent (Churchill, Borowicz).

### PUBLIC HEARING AND ACTION ON REQUESTS

**David Frame** - The applicant has requested site plan review approval of a proposed site condominium, pursuant to section 20.3.d. of the Zoning Ordinance for construction of Private Storage Buildings. The property is located at 1685 Orchard Beach Rd., Benton Township, section 29, parcel # 104-029-200-007-10 and is zoned Agriculture and Forestry Management (M-AF).

Mr. Turisk reviewed the background information contained in the staff report.

Mr. Freese questioned the master deed coverage of outside storage and whether it limits outside storage to certain items or whether it prohibited outside storage entirely. Mr. Frame stated outside storage of vehicles and building materials would be prohibited. Mr. Freese asked what materials would be allowed. Mr. Frame stated Boat Trailers would be allowed to be stored outside but that by-laws would prohibit items that would be junky but it would be up to the condominium owners association to determine what would be allowed to be stored outside. Mr. Kavanaugh asked whether the restriction of outside storage of boat trailers in the summer only would be acceptable. Mr. Frame indicated it would. Mr. Freese indicated that waivers had been requested on items e, j, and p in addition to item d topography, but that information had been provided on all these items except topography in his narrative and therefore no waivers would be necessary except topography. Mr. Jazdyk indicated there is a definite need for hoist storage for property owners on the lake. Mr. Freese indicated there would definitely be a problem with outside storage for units in the multi-unit storage buildings. Mr. Frame indicated the outside storage for these units would be limited to Boat Trailers bringing parked in the designated parking areas for these units. Ms. Lyon asked for clarification on whether the outside storage was limited to trailers and hoists or only trailers. Mr. Ostwald questioned the size of the building and what the rest of the property could be used for. Mr. Freese stated that there would not be any real storage areas around the multi-unit storage units, however, the size of the storage units and the lots of one acre or more are not predetermined nor are the uses in remaining available areas. Mr. Ostwald indicated that the owners of the 1 acre lots should be able to use them for a wide variety of uses.

Ms. Croft asked for public comments. Mr. Fane stated he would like to own one of these pole barns for storage of his equipment and hopes to have as much outside storage flexibility as possible with possible time limitations for different types of equipment. Ms. Preston stated her concerns with drainage from the site on to her property. She was also concerned with other outside activities such as partying on the large lots. Ms. Preston also wanted a buffer between her property in the storage units. Mr. Preston was also concerned with drainage and possible partying on the sights and possible light pollution at night and adverse effects on property values. Mr. Preston also expressed his concerns on drainage and possible erosion. He also indicates a sign should be located on M-33 and not in front of the site. Mr. Muscott stated the creation of so much hard stand area could definitely create runoff and erosion problems at a site of this size and should therefore have retention ponds and swales established to control the problem. Mr. Muscott stated that in his experience many units in a multi-unit storage buildings frequently remain unsold and turn into rental units. Mr. Muscott also feels a locked access with keys furnished to the Alverno Fire Department should be required. He also recommends a fire alarm system for the multi-storage unit buildings. Mr. Collins questioned whether a property owner could cut down the tree buffer. Public comment closed.

Mr. Kavanaugh questioned Mr. Frame whether the tree buffers would be required to be maintained under the master deed. Mr. Frame stated it wasn't presently in the master deed, but it could be put in. Mr. Freese stated that rental of the storage units in the multi-unit buildings would be in violation of the zoning regulation as it would be a commercial use. Mr. Frame agrees and that it is in the master deed. Mr. Freese also stated that the screening buffer should be composed of evergreen rather than deciduous trees. Mr. Freese also indicated that a topographic survey is necessary in order to determine the actual site drainage pattern. Discussion was how. Mr. Kavanaugh indicated each future property owner could determine the location of his pole barn and potentially change the topography. He stated that he feels topography is necessary for a project of this size. Discussion was held. Mr. Wendling stated the additional requirement could be required under the master deed which he would be happy to review it. **Motion** by Mr. Kavanaugh, seconded by Mr. Freese, to table the request until adequate topographic information is provided by a registered engineer to establish proper site drainage and prevention of soil erosion. Motion carried. 7 Ayes, (Bartlett, Freese, Kavanaugh, Ostwald, Jazdyk, Lyon, Croft), 0 Nays, 2 Absent (Churchill, Borowicz).

**Lawrence Hanson and Heritage Cove Farm, Inc.** – The applicants have requested and received a Special Use Permit and approval based upon a submitted site plan and other evidence as part of the record, with such approval being appealed by Plaintiff/Appellant Grandview Beach Association. Remaining matters pursuant to the Michigan Court of Appeals is a determination under Cheboygan County Zoning Ordinance Section 18.7.e. that reads as follows: “The proposed special land use will not place demands on fire, police, or other public resources in excess of current capacity nor increase hazards from fire or other dangers to the subject property or adjacent properties.” 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. Wendling reviewed the court of appeals opinion and requirements of section 18.7. Mr. Wendling stated that the information missing in 2016 regarding the impact of the establishment of Heritage Cove Farm on fire, police, ambulance and other public resources of the county and a study thereon have now been provided. This information allows the Planning Commission to make a decision regarding whether the establishment of Heritage Cove Farm would place demands on the county in excess of their current capacity and, if any such increase is established, whether such increase should be allowed as a reasonable accommodation under the ADA and FFHA in addition to the standards contained in section 18.7. Mr. Wendling noted that the study by the certified planner was provided in mid-July. Mr. Wendling also noted that although Cheboygan County has experienced a significant decrease in population in the recent past, there has been no decrease in law enforcement personnel and fire department personnel, including emergency services within the county. Mr. Wendling stated that he recently found information on a case similar to Heritage Cove Farm, which occurred in the seventh Circuit Court of Appeals and although not precedent setting in this Circuit, the information could prove useful in analyzing the case. The case Valencia v. City of Springfield allowed a group home for disabled individuals to remain despite local zoning which precluded group homes from being established within 600 feet of another group home. Arguments were made that the group home would create safety hazards to neighbors due to the possible violent behavior of the residents of the home and that the home created additional traffic and that parking restrictions could constitute a hazard for the residents of the area. The court found that these arguments did not override the rights of those in the group home to remain under the provisions of the ADA and FFHA.

Mr. Kavanaugh stated that the impact statement was a compilation of information previously furnished. He also noted that the safety portion provided for 18.7e was insufficient. Mr. Kavanaugh referred to the study which gave statistics on likely increase in violent crime for individuals with schizophrenia of 13.8 times that of an average citizen was significant. Mr. Kavanaugh asked whether questions regarding the safety of the residents of the houses surrounding Heritage Cove Farm should be considered in view of a large number of exhibits concerning the violent behavior of individuals with schizophrenia or bipolar disorders. Mr. Wendling stated that it could be considered, but that it is not the most over-reaching zoning considerations in that a possible increase in crime are only one component of the impact on law enforcement and emergency services. Mr.

Wendling is not sure if there is any direct evidence that criminal behavior would increase once Heritage Cove Farm was operational, but that such questions should be addressed to the applicants who are present tonight. Mr. Kavanaugh stated that he feels this is the issue that is most important to the appellants and also to several members of the Planning Commission. Mr. Wendling reiterated the fact that the possible violent behavior of a resident should only be one possible factor in the overall factors to be considered and that criminal, violent acts could be perpetrated by the residents or occupants of any private dwelling, boarding house or living facility already existing in the zoning district or in the county.

Mr. Freese stated that the major issue expressed by both public comments and exhibits presented throughout discussions on Heritage Cove Farm relate to the threats posed by the residents of Heritage Cove Farm to the physical safety of the general public. Mr. Freese stated that several exhibits refer to his statements made at the June 26, 2018 meeting regarding the increased risk of violent behavior posed by individuals with schizophrenia or bipolar disorder. Mr. Freese stated that virtually all the exhibits provided are anecdotal in nature and the violent acts may or may not actually have been committed by individuals with these disorders. Mr. Freese stated that he had found only a few exhibits offering factual information by qualified experts on the elevated risk of individuals with schizophrenia or bipolar disorder to commit violent crimes. Of these few experts, all agreed that individuals with these disorders, pose a higher risk or were "several times more likely" to commit violent acts than would the general public. One study, however, entitled: "Philosophical Transactions B Violent Behavior Among People With Schizophrenia: A Framework For Investigating Causes An Effective Treatment And Prevention" (Dated August 12<sup>th</sup>, 2008) stated that for individuals with schizophrenia the elevated risk for men is 4.6 and for women is 23.2. Mr. Freese stated that for purposes of evaluation he used the average of 4.6 and 23.2 or 13.8 as a multiplier in trying to determine in his own mind the potential impact of the residents of Heritage Cove Farm might have on the physical safety of the rest of the local populace. Mr. Freese utilized this factor and applied it against the proportion of the population the residents of Heritage Cove Farm are to the total Cheboygan County population, i.e. 24 divided by 27,000 x 13.8 results in a potential increase in violent crimes of 1.3%. Mr. Freese indicated at the time of the June 6<sup>th</sup>, 2018 meeting, he stated he did not have available the figures for violent crimes against persons for the county. The figures were subsequently provided by the Cheboygan County Sheriff's Department and indicated that 77 violent crimes against persons were committed in 1977 (exhibit 34), or a potential of .9 potential crimes per year, i.e.,  $77 \times 1.3\% = .9$ . Mr. Freese stated that 13.8 factor for multiplying the risk of any one individual committing a violent crime is a worst case scenario since if applied to all 23 residents of Heritage Cove Farm you would have to assume all residents to be disabled with schizophrenia and that they were randomly selected from a general population composed only of individuals afflicted with this disability. Mr. Freese stated this is not, in fact, the case since the applicants for residence at Heritage Cove Farm may have a range of other disabilities not associated with violence and in fact the admission process as stated in a letter from Heritage Cove Farm dated June 10<sup>th</sup>, 2018 requires written admission materials including recommendations from referring licensed medical professionals, a family history, an application and authorization for release of information from past treatment hospitals and prior residential programs. The screening is designed to exclude from acceptance into the program anyone not medication compliant, and in remission, if suffering from substance abuse. Applicants with a history of violence, sexual offense, dangerous felonies or other violent personality disorders are not to be admitted. The admissions team consisting of admission director, clinical director, and program director are to be responsible for ensuring the admissions criteria are met. Clinical staffing will include individuals with the following professional qualifications: psychiatrist, psychologist, licensed master social worker, license bachelor's social workers, licensed counselor, and nurses (RN, CMA). Mr. Freese stated that the screening procedure would reduce the risk of violent crime attributable to residents of Heritage Cove Farm to a fraction of that which might otherwise be expected in an unscreened group. Mr. Freese stated that the application for admittance to this facility is voluntary. The applicants are under no court order to attend. Individuals could just as easily purchase a home next to anyone in the Grandview Beach area without any problem or restriction. Mr. Freese discussed the issue of road safety on Grandview Beach Road which one of the exhibits described as a windy road in poorly maintained condition which might cause ambulance service difficulty and danger to program residents. Mr. Freese stated that Grandview Beach Road is, in fact, a straight road from its beginning at M-27 all the way to the entrance to the proposed Heritage Cove Farm except for a small S curve at its beginning where it must curve around the exit ramp from I-75 to M-27 and where it curves to cross the old railroad grade at the entrance to Heritage Cove Farm site. Grandview Beach Road is designated as a county local road and has places where patching is necessary, however, it is in no worse condition than is M-27 which is designated as a state trunkline which also requires patching for over a mile running north of its intersection with Grandview Beach Road. Any ambulance run on this route would be one of the shortest in the county since it is only 3.3 miles from the nearest ambulance garage and all on hard surface roads which would pose no danger to residents of Heritage Cove Farm. Mr. Freese stated that one retired police officer from the Detroit area that spoke in meetings in both 2016 in 2018 stated that he had firsthand experience of violent individuals which he assumed had mental disorders and indicated would likely generate a considerable burden on police and ambulance services. He stated, however, that he didn't believe that the individuals were at the time either under treatment or properly taking their medication. Mr. Freese stated that of the exhibits presented, almost all were anecdotal, and the rest provided by the police, fire and ambulance services, the impact study prepared by PLB Planning Group and information provided directly by the Hansons established that

Heritage Cove Farm would produce no excessive demands on the resources of the county nor that it would increase dangers to the surrounding properties or to the safety and welfare of the general public.

Mr. Kavanaugh stated that getting a handle on the safety problem is difficult, but that the information provided on how the professional staff will monitor the administration of medications and the admittance screening criteria and procedures, alleviate some concerns, however, he still has questions concerning security such as cameras and their location and coverage as a part of the whole security plan. Ms. Hanson stated that there is concern on residents leaving the building, however, the full security plan had not yet been developed. Mr. Kavanaugh asked if Ms. Hanson could give some idea of what was anticipated. Ms. Hanson stated that it was likely there would be one monitor of a central area which might be a camera or some type of computer monitoring. She also stated there would also be people living within the cabin colonies that are not disabled. She stated that there would be alarms, but whether they would be sound alarms or some other type had not been determined. Mr. Kavanaugh stated that information of this type is important in understanding and coming to a final conclusion on this matter. Ms. Hanson stated that it would be required that someone be on site and awake 24 hours per day for monitoring.

Mr. Jazdyk questioned the last part of section 18.7 regarding the interpretation of what level of increased safety hazard is to be considered and whether any increase allowable is zero or some larger amount. Mr. Wendling reviewed the original court finding concerning reasonable accommodation and undue burden and how these terms were applied in the Valencia example he had cited earlier. Mr. Jazdyk stated that he had reviewed the exhibits as had Mr. Freese and had come to the conclusion that there was some increased risk, but that the impact study was light on consideration of the risk analysis and in providing information on the security measures proposed.

Mr. Freese stated that the residents are not inmates, but rather ordinary citizens who are paying to be admitted to the facility and for the opportunity to obtain professional help and treatment to overcome their handicaps and be more productive members of society. He also reiterated the fact that despite the overwhelming concern expressed regarding persons with schizophrenia or bipolar disease, the subject group of 24 individuals may all be afflicted with this disorder or none or a percentage between these extremes, but regardless, the screening procedures to be employed should prevent any applicant with a violent background or established violent behavior from becoming a resident of the facility.

Mr. Kavanaugh questioned whether restrictions could be placed on the applicant at this point. Mr. Wendling stated that some restrictions might be possible within the limited scope of the issues remaining open, however, they might prevent the applicant from obtaining a license from the State.

Mr. Jazdyk stated he wishes to see a more comprehensive security plan. Mr. Jazdyk questioned how the security plan will address clients walking away or emergencies/evacuations that might occur. Mr. Jazdyk stated that it is important that the Planning Commission and the residents in the area understand the security plan. Mr. Wendling stated that 24 hour monitoring is already to be provided and additional security measure may be required by state licensing regulations.

Mr. Hansen stated one of the biggest problems for public safety is alcohol use, however, zoning permits issued for bars and restaurants do not require any security measures of the type being proposed for Heritage Cove Farm nor of doctors' offices where over-prescription of opioids is creating such a problem. Ms. Hansen stated this facility is designed to provide the mentally disabled residents with an environment in which to develop the skills to live and be productive in general society rather than live alone or go into an adult foster care facility. Mr. Hansen stated that several neighbors in the vicinity rent their home without screening their renters to ensure they might not have mental disabilities which might pose a danger to others in the vicinity. Mr. Wendling stated that the 24 hour monitoring and the other security measures already agreed upon by the applicant are acceptable.

**Motion** by Mr. Freese seconded by Ms. Lyon to accept the findings of fact submitted with the following conditions

1. That there be a mandatory 24 hour/day security monitoring program with the security cameras on each cabin.
2. The final security plan, when finalized, be provided in writing to the planning director.

Motion carried. 7 Ayes, (Bartlett, Freese, Kavanaugh, Ostwald, Jazdyk, Lyon, Croft), 0 Nays, 2 Absent (Churchill, Borowicz).

#### **UNFINISHED BUSINESS**

Mr. Freese indicated that a revised copy of the solar regulation has been provided to each member of the Planning Commission along with legal counsels comments and Mr. Freese comments in response to Mr. Graham's comments.

#### **NEW BUSINESS**

No comments.

**STAFF REPORT**

Mr. Turisk indicated the planning training application time is still open. He also commented on recruitment status on open personnel vacancies.

**PLANNING COMMISSION COMMENTS**

Ms. Lyon commented on the difficulty in finding the site on Orchard Beach Road. Discussion held.

**PUBLIC COMMENTS**

Mr. Lutz stated that he and another gentleman did visit other treatment facilities and had a previous discussion with the Hansens but further discussions with them did not take place. Mr. Lutz stated he has a degree in Psychology and worked at the Pontiac state hospital after his predecessor in the position was attacked by an individual with a lead pipe.

An audience member stated the other developments of this type have been larger parcels and this is too small a scale for a facility of this type.

Mr. Lutz stated that the problem with Heritage Cove Farm is its close proximity to the trail and the fact that residents of the facility are not confined and have easy access to the trail and therefore make travel easy over long distances and therefore pose a security issue.

Mr. Muscott thanked the commission for their time and effort on this matter. He stated that the county has lost population without any reduction of police resources. He stated that the Tuscarora Township Police Department had identified the biggest risk factor as the Inland Lakes School District. Their security measures include full-time armed school resource officer and are hiring a second officer. Mr. Muscott stated that the residents of Heritage Cove farm would be screened, on medication, and monitored at all times while many people in the community are schizophrenic, bipolar and/or suffering clinical depression. He indicated there have been three suicides in the last year for Inland Lake high school graduates who possibly, because of the stigma of mental illness, were not identified and therefore did not receive the type of treatment that could be provided by a facility of this type.

**ADJOURN**

**Motion** by Mr. Kavanaugh, to adjourn. Motion carried. Meeting was adjourned at 9:21pm.



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Charles Freese  
Planning Commission Secretary