Approved: April 17, 2017

Meeting of March 20, 2017

Record of the proceedings of the Boyne City Planning Commission regular meeting held at Boyne City Hall, 364 North Lake Street, on Monday March 20, 2017 at 5:00 pm.

Call to Order

Vice Chair Frasz called the meeting to order at 5:00 p.m.

Roll Call

Present: Ken Allen, Jason Biskner, George Ellwanger, Chris Frasz, James Kozlowski, Tom Neidhamer, Aaron Place and Joe St. Dennis
Absent: None
Vacancy: One

Meeting Attendance

City Officials/Staff: Planning and Zoning Administrator Scott McPherson, City Manager Michael Cain, Executive Assistant/Harbor Master Barb Brooks and Recording Secretary Pat Haver
Public Present: 98

Consent Agenda
****Motion**

2017-03-20-03
Ellwanger moved, Neidhamer seconded, PASSED UNANIMOUSLY, a motion to approve the consent agenda; approval of the Planning Commission minutes from January 16, 2017 and February 20, 2017 as presented.

Citizen comments on Non-Agenda Items

The people in attendance felt that the use of a microphone in any large meeting was appropriate.

Reports of Officers, Boards and Standing Committees

None

Unfinished Business

600 Jefferson Rezoning Request – referral back from City Commission

Planning Director McPherson reviewed his staff report that was included in the agenda packet. Back in September of 2016, the Planning Commission held a public hearing on a rezoning application submitted by Ted Macksey to rezone parcels 15-051-026-005-00 and 15-051-026-004-15 from Rural Estate District to Multiple Family Residential District. After this public hearing the Planning Commission passed a motion to recommend to the City Commission that the requested zoning change be approved. The City Commission had a first reading in November 2016. After their review and discussion they passed a motion to schedule a second reading for the application in January 2017. At the second reading questions and concerns were raised by the public about the purpose of the proposed change and all of the possible uses permitted in the MFRD district, and that a more focused application would be a better option; the developer requested the City Commission refer this matter back to the Planning Commission for re-consideration and the City Commission concurred with those thoughts and referred the zoning change back to the Planning Commission which allowed the applicant to amend the original request to conditionally change the zoning of the property. The written conditional offer and conceptual site plan to amend the original request to conditionally change the zoning to MFRD has been submitted by the applicant for review. The conditional offer is self-imposed restrictions that were voluntarily offered by the applicant. You can either accept or reject the conditions; you cannot add/delete or modify the offer in anyway. The conditional rezoning offer and conceptual site plan was provided to the city's department heads and comments have been received from the Water/Wastewater, Streets, Ambulance and Police Departments, which were included in the agenda packet for review. A traffic analysis was also submitted as a requirement of the review. The submitted conditional

rezoning offer is an amendment to the original request and continuation of that process as the offer specifically identifies and further restricts uses that were possible when the Planning Commission previously considered and recommended approval of this application.

Aaron Place – After the presentation is this for approval or denial, or is there an opportunity for negotiations?

McPherson – It is a recommendation only, you can either recommend or not the conditional offer that was provided by the developer.

Ted Macksey – Property Developer: Gave a review of his credentials and a power point presentation for the project overview including aspects of public utilities, a traffic and soil study, proposed storm water management, housing trends and the need for housing, research and analysis for multifamily housing, existing neighborhood housing photos and conceptual housing styles. He indicated that there is a great need for affordable housing and this proposal reduces the maximum allowable houses from 300 to 212 with a reduction of 10 residences per acre down to 6.8. McPherson read the written offer to the board and audience. The developer must adhere to all of the required zoning district regulations, streets with curb and gutter along with sidewalks to be constructed to city standards, storm water retention to be contained to the site with minimal overflow going into the city's storm water system. Section A will consist of 18.09 acres with a total maximum density of 108 total dwelling units; Section B will consist of the remaining 13.03 acres with a total density of 104 total dwelling units. A 30 ft natural buffer barrier will be maintained around the perimeter of the property. His proposed timeline was reviewed and his intentions are to get it done and producing for the city, residents and community. The infrastructure would be completed; if another recession occurs within the time frame prior to completion, would like to speak to the city about extension to make sure the project was complete. Even with the time frame offered, the City Commission can establish their own time limits, can concur with his offer of time, or can set their own.

Board Discussion

Concerns that sidewalks have not been included in Section A of the conceptual plan provided for tonight's meeting. Macksey indicated the final site plan will have sidewalks for pedestrian foot travel and biking. Due to the amount of discussion for ground water, the board was concerned about retention ponds. McPherson advised that at the time of the site plan review is when DPW Superintendent Kovolski's concerns and suggestions for on-site overflow storm water system retention be looked at. The developers' goal for rental units will ultimately be based on final construction costs, however is looking at rental prices in the range of $800 to $850 for 1 bedroom units and upwards to $1,200 for 3 bedroom units. The projected market value of $150,000 is for a house that is for sale. Part of this development will be condominiumized with a separate management company handling the apartments. There will be a homeowners association and board. The site plan review is also when the remaining issues and concerns are addressed with ordinance standards to be reviewed along with a detailed proposed development layout complete with infrastructure, storm water retention, landscaping, lighting, street ingress and egress and sidewalks.

Public Comments opened at 6:04 pm

Don Lockman: 226 North St. - Storm water runoff should be a part of the preliminary engineering plan. The proposed price range, can our service employees afford this?

Rod Cortright: property owner - I commend the board and developer for going the conditional rezoning route. Concerns for seasonal high water which can be low at

times, today is above the water table with 100% runoff in some areas, plans are pretty sparse in regards to water retention and even communal open space.

Marilyn Wakefield: 436 North St.- Water is my big issue, every spring I have water that comes into my basement, and I have gone through 15 sump pumps. The proposed rental costs of $800.00 is more than most mortgage payments, is this affordable, no it is more than most employees make.

Charlie Johnson: 410 Jefferson – You bought the property as is, you could put 120 homes at $150,000 each is over 18 million dollars, what do you expect to get from us, this is your problem not ours.

Jim Leismer: 406 Vogel St. – There is this type of development just outside of Petoskey, most communities are building outside city limits, not inside the city.

Chris Leismer: 406 Vogel St. – We just bought our place, there is standing water all the time, this is wet lands. We bought because we felt like we were in the country and still in a small town. Traffic study has been done, and it shows that a lot more cars will be going by. Is this the right thing to do here, the market is starting to peak?

Penny Hardy: 437 North St. – We have lived here and paid taxes for 40 years; my concerns are for the roads, Collings is half paved without sidewalks ditches or culverts, Jefferson Street is crumbling and without sidewalks, there is going to be more traffic, concerns for the kids and elderly. The retention pond for Rotary Park is wet until July, we need better control for water runoff. How much green space will be provided for kids to play in? I feel that he should have to pay for a storm system to get rid of all of the water up in the area.

Phil Kessler: 938 Jefferson St. – I attended the recent housing development workshop, the engineering study is just an opinion that was submitted; not a study. Plans should be very specific, if he submits them can he change them? **McPherson** – Absolutely not from the conditional rezoning offer, on the site plan he must indicate type and style of units, if he submits something radically different from his written offer that would not be consistent with what was originally offered.

Mark Fruge': Maddy Lane builder - There are 3 houses on Maddy Lane that are dry due to planning and diversion of water, it needs to be controlled. The city needs to also be responsible, not just the developer to control the water to decide where all of the water will go.

Kyle Marshall: 1214 Nordic Dr. – I am a resident and also representing Magnum Hospitality; Boyne City has a severe lack of affordable homes, the town has grown. Several of my key employees who have very good wages have left because of the lack of housing. We employee upwards to 200 employees with not a lot of places for them to rent, so they are either not applying or leaving, we need this opportunity to grow.

Jay Higgins: 600 East St. – There is a lack of starter homes, maybe people will purchase in this development to open up some of the starter homes.

April Colston: 1123 Jefferson St. – I agree that we need some type of housing, there is nothing in the "middle range". On Jefferson Street there is no regular police patrol and because of this the teens use this as a short cut to Wildwood Harbor Road, they go really fast and slam on their brakes, there are no curbs or sidewalks in my area, and I am the one that cleans out the storm drains every spring.

Greta Zumbaugh: 526 N. Lake St. – I know how difficult it is to find housing, there is nothing available in the middle price range. There is a need for housing for everyone.

Bonnie Kuhn: Jersey St. – Our area is flooded already 3 times; we need a place for more homes, but not in this place due to all the water problems.

Gail Stanley: Hannah St. – Concerned also about ground water, has the problems been looked into that would occur to the current water and wastewater infrastructure system and can it handle this development's increase?

Ashley Cousens: Boyne Area Chamber Director – Chamber members are telling me that they have available jobs with good wages, however there is no affordable housing, so they are losing employees. There are available jobs in Boyne City in the health care,

manufacturing, service, and professional fields. We need options and we all need to be heard.

Andy Smith: 6 W. Main – I felt like I hit the lottery when my offer was accepted, I tried for 3 years to find affordable rental units and houses to buy, and there is a need for places to live. I understand the water concerns, it can be figured out, and we need to be open to the solutions to solve this problem.

Mike Weeks: lives at the north end of Jefferson Street – Are we small town USA or Chicago or Flint were the studies done for us? In his proposal he indicated "about" 212, I'm uncomfortable with that. **Frasz** – In his proposal he indicated 212 units and he would not be able to go above that.

Frank Minier: 514 W. Michigan St. – The newly created bike path causes more water to flow into my yard, and I pump it into the neighbor's field. Where does all of the water go once it sits alongside the road in the ditches, we do need housing; maybe not this large. Need to look into the possibility of this development being wetlands.

Kevin Cooper: 336 Vogel St – Concern about the project not being completed due to failure, as he admitted he bailed on other developments.

Dennis Erfourth: 201 Vogel St. – 212 units proposed, why not just build 120 units?

Vi Riley: 625 Jefferson – There is a large ditch across from this development that the ducks like to live in. I also use a sump pump, and the water is why Jefferson is falling apart. Cars are speeding up and down, and there is and will be increased traffic, I agree that we need affordable homes, but this is too many houses, I was prepared for nice 1 family houses, not this.

Bev Stanley: 520 Jefferson – What is affordable for this community?

Bill Sommerfelt: 1145 Jefferson – We do need housing, is this price going to work for our area? A few words make me nervous like density, traffic and speed on Jefferson. What is the current sewer size and can it handle the increase? Rural Estate and 120 units seem like enough; Jefferson street does need to be redone.

Tammy Siwarga: 351 Collings – I have an engineered septic/sewer system in my backyard because sewer was not available at that time, traffic on Collings is dusty now and there will be a lot more traffic making it worse.

Jerry Douglas: 130 Cherry St. – These obstacles can become opportunities. Existing problems may be an opportunity for the city to do something about the water concerns and address housing needs.

Don Lockman: North St. – The County wide storm water ordinance, did the city opt out of it? Do we have protection? **McPherson** – The Charlevoix County Storm Water Ordinance was repealed as the county couldn't adopt the county wide ordinance. Each municipality had to adopt their own; the city did not adopt their own. Ted Macksey offered to abide by the Charlevoix County Storm Water Ordinance.

Chris Colston: 1123 Jefferson St. – If this moves forward what happens if the units don't sell, what is the plan do they change or just stop?

Charles Nemec: 538 Jersey St. – Consider how Jefferson and Vogel streets will be torn up further with additional traffic and the heavy haulers. Who will pay to fix the roads? They just are not good enough to handle the extra weight.

Kelly Kruxmeyer: 609 Jefferson St. – Logging trucks are tearing up my driveway and yard. I have concerns for the safety of kids with all of the construction traffic.

Charlie Johnson – Is this a conflict of interest? The city owns land that can have affordable housing on it, spend time and money there and not here.

Marilyn Wakefield – The peewee ball fields are just below my house, who is going to watch out for the children? On the 4th of July the back streets and side streets are so congested, how are the builders going to get around?

Woody Hardy: 437 North St. – Are there any single level dwellings planned? I don't see them in the drawings.

Andrea Turkovics Jersey St. – Has a wetland study been done and what about preservation if this is a wetland?

McPherson – As part of the site plan review wetland delineation is a requirement and whatever the results are will impact the extent of the development.
Turkovics – Why are the trees coming down now? **McPherson** – It is private property that he owns.
Chris McKay: 404 Vogel St. – Concerned about the amount of traffic, is there anyway that a 4 way stop sign be placed at Jefferson and Vogel Streets? People speed up and down Vogel Street and the police are not doing anything about it. I feel that it is not safe for my new daughter to play in our front yard.
Aleta Runey: 314 N. East St. - I am a renter because I couldn't find housing deemed acceptable to build that didn't need a lot of money to rehab. Everyone knows that we need affordable housing, but do not "want it in my backyard". This proposal will be for the young professionals.
Mike Weeks – Who will be doing the wetland study, will it be an engineering firm outside the city?
John Stevens: Vogel St. - What happened to the Maddy Lane storm drain? Will this remain an easement or road? **Mackey** – Off of Vogel Street, that will be a private road for ingress and egress to the development. Where will the snow go that is plowed? A long time ago, the easement was supposed to be rerouted to the drive when the Brook went in, what happened to that?

Closed public comment at 7:14 pm and the board took a short recess
Board reconvened at 7:20 pm with Board discussion and deliberation

Penny Hardy asked the board to consider the public comments that have been raised in various meetings and give answers to those questions before the decision is made.

Chris Frasz – Asked if additional environmental/soil studies relating to water were going to be done?
McPherson – At the site plan review all of the issues raised including infrastructure and water will be addressed. Water is a concern to me and this commission. The applicant must get a determination if this is a wetland, get documentation and act accordingly. The Tip of the Mitt Watershed Council indicated they don't believe that there are any regulated wetlands on this property. There are hydric soils and issues that need to be addressed. Mark Fowler, the Superintendent of the Water/Wastewater department has reviewed the plans and indicated that there is sufficient capacity in the existing system for water and wastewater disposal. The Police, EMS and DPW department heads have looked at the plans and have given their reviews and opinions. Mr. Macksey indicated that all of the roads would be private, but will meet all of the municipal standards. The excess water overflow can go into the system; however recommended retention must be on site, exact design to be engineered and shown to the city. The traffic analysis that has been done does indicate traffic would increase with the existing zoning; the police would handle any issues that may arise.
Neidhamer – The new road construction in the development will have curb and gutters, sidewalk, treescapes and infrastructure that goes under the roads (water and sewer) the developer will have to pay for and not the city. We have approximately 23 blocks of unpaved streets in town that would cost us in the area of 3 million dollars to bring up to standards that the city just can't afford.
Macksey – This will be a private development and everything will be maintained by the developer and not the city, however, the roads will be open to the public.
The board had questions about the request for a 4 way stop at Vogel and Jefferson Streets how does that occur, what about the capacity and excess water going into the storm water system and those issues and open space?
McPherson – All of the specific standards of the ordinance criteria must be met. 40% of the net site is to be open space with active recreational areas for multifamily

developments, which will not include off street parking. A 25 ft setback is required along with the 66 ft wide municipal standards for the interior streets. The conditional rezoning is attached to the land, so if this development is sold, that approval holds true, no one can come in and do something different. The timeline the City Commission can set the limits, can put in benchmarks to be met. In the building process, there is an opportunity for the developer to request an amendment; but it must come back before the Planning Commission and a public hearing, there is no obligation to change. Is the entire infrastructure going to be built all at once? Not sure what the developers' plans are, but that is something that the City Commission can stipulate. Under the current RED zoning, there is not an opportunity for multifamily housing. In the current district there is a minimum dwelling size, with multifamily residential district, the minimum size can be reduced.

At this point in the meeting, Vice Chair Frasz read through the requirements of **Section** 2.50 Amendment Criteria.

C. For amendment requests to change, create, extend or reduce a mapped zoning district, the Planning Commission and City Commission shall use the following as a guide:

1. The proposed zoning district is more appropriate than any other zoning district, or more appropriate than adding the desired use as a conditional land use in the existing zoning district. ***Yes, to the West is TRD (Traditional Residential District), to the South is RED (Rural Estate District and Conditional Rezoning to multifamily for the Brook), to the East it is RED and to the North it is Rural Residential in Evangeline Township.***
2. The property cannot be reasonably used as zoned, and the applicant cannot receive a reasonable return on investment through developing the property with one (1) of the uses permitted under current zoning at the time of purchase or at the time of securing legal control of the property. ***Yes it can be; however the market has changed for rural estate lot sizes, there is a larger market for affordable working housing; larger lots are just not moving.***
3. The proposed zone change is supported by and consistent with the goals, policies and future land use map of the adopted City Comprehensive Plan, including any sub-area or corridor studies. If conditions have changed since the Comprehensive Plan was adopted, as determined by the Planning Commission, the consistency with recent development trends in the area shall be considered. ***Yes, goals of additional housing needs are noted in the Master Plan.***
4. The proposed zone change is compatible with the established land use pattern, surrounding uses, and surrounding zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values, and is consistent with the needs of the community. ***The site plan is mandated by the zoning district standards which will handle all management/water/infrastructure issues. The traffic study that was done and provided is well below the industry standards. Environmental and water issues have been expressed, should have our own engineering consultant look at the plans. If a developer wants to put water into the storm system, they should pay an impact fee. Soil erosion will be maintained so that the adjacent property owners will not be negatively impacted.***
5. All the potential uses allowed in the proposed zoning district are compatible with the site's physical, geological, hydrological and other

environmental features. ***The water concerns will be taken care of at the cost of the development, and again will be addressed at the site plan review. Suggested that our own independent review be done.***

6. The change would not severely impact traffic, public facilities, utilities, and the natural characteristics of the area, or significantly change population density, and would not compromise the health, safety, and welfare of the City. The Planning Commission may require a general impact assessment in accordance with the requirements of this Ordinance if it determines the proposed zoning change could have a negative impact upon traffic, public facilities, utilities, natural characteristics, populations' density, or other concerns. A traffic impact study in accordance with the requirements of this Ordinance shall be required if the proposed rezoning district permits uses that could generate one hundred (100) or more directional trips during the peak hour, or at least one thousand (1,000) trips per day more than the majority of the uses that could be developed under current zoning. ***The traffic impact study has already been completed, and it shows that the increase in traffic is significantly below industry standards for the current and proposed zoning districts, it was not available at this last meeting, however, has been made available for the City Commission's review. The current water and sewer facilities have enough capacity to handle this development, the developer will be responsible solely for the utilities.***
7. The rezoning would constitute and create an isolated and unplanned spot zone granting a special privilege to one landowner not available to others. ***No***
8. The change of present district boundaries is consistent in relation to existing uses, and construction on the site will be able to meet the dimensional regulations for the proposed zoning district listed in the Schedule of Regulations. ***Yes, all standards must be met prior to plan approval.***
9. There has been a change of conditions in the area supporting the proposed rezoning. ***Yes, there is a need for additional housing.***
10. Adequate sites are neither properly zoned nor available elsewhere to accommodate the proposed uses permitted in the requested zoning district. ***There are no other undeveloped multifamily residential district sites.***
11. There was a mistake in the original zoning classification. ***N/A***
12. The request has not previously been submitted within the past one (1) year, unless conditions have changed or new information has been provided. ***N/A***

The Planning Commission does have the ability to establish a performance bond (surety) as a part of the site plan review in order to have access to funds available to complete the project if it should stall/fail or not be accomplished in the stated time frame. The board hopes the developer has been listening to all of the public and board concerns and comments, and it is this board's position to hold the developer to the strict requirements during the site plan review.

****Motion**

With no further board discussion, **motion by Ellwanger, seconded by Allen** the recommendation to the City Commission to approve the conditional rezoning request by Macksey Built Properties, Inc. within the conditional rezoning written offer.

2017-03-20-6

Roll Call:
Aye: Allen, Ellwanger, Frasz, Neidhamer and St. Dennis
Nay: Biskner, Kozlowski and Place
Absent: None
Vacancy: One
Motion Carries

New Business

Planning Commission board vacancy

There is a need to fill a vacancy when Jane MacKenzie resigned from the board in January. In the agenda packets were 3 applications from interested residents: Jerry Douglas, Michael Lemay and Lynn Murray. Vice Chair Frasz called upon the applicants to give the board a brief introduction. Jerry Douglas left earlier in the meeting due to a recent hand injury and discomfort he was experiencing, Michael Lemay was not in attendance and Lynn Murray reviewed his qualifications and stated his desire to serve has not changed from the 2015 meeting he attended.

****Motion**

Motion by Place to recommend to the City Commission the appointment of Lynn Murray to fill the vacancy on the Planning Commission. This motion failed for the lack of support.

The board would like to speak with all of the applicants prior to making a decision to fill the available position as some of the board members were familiar with Jerry and none of them knew Michael. They felt bad that this item was placed at the end of the agenda with one applicant leaving due to health reasons and one stayed the entire meeting, and have asked staff to create some type of protocol for review in the future if the need arises again to fill a vacancy. They will place this matter on unfinished business for next month and reach out to the applicants to attend if still interested.

Staff Report

There are some upcoming training opportunities:

- March 30th from 6 to 9 pm – Webinar on Medical Marijuana Law
- March 22nd Planning & Zoning Essentials in Traverse City
- April 2nd Networks Northwest Local Government Summit in Traverse City
- May and June RAC Best Practice training all day classes

Good of the Order

Ken Allen attended the Medical Marijuana work session in St. Ignace recently and indicated it was a very informative class, and was glad he went.

Adjournment

The next regular meeting of the Boyne City Planning Commission is scheduled for Monday, April 17, 2017 at 5:00 pm in the Honeywell Meeting Room.

****Motion**

2017-03-20-10
Kozlowski moved, St. Dennis seconded, PASSED UNANIMOUSLY a motion to adjourn the March 20, 2017 meeting at 8:47 p.m.

Vice Chair Chris Frasz

Pat Haver

Recording Secretary Pat Haver