

BOYNE CITY  
ZONING BOARD OF APPEALS MEETING  
Tuesday, November 5, 2019  
5:00 P.M.  
Boyne City Commission Chambers, City Hall

1. CALL TO ORDER AND ROLL CALL
2. APPROVAL OF MINUTES – October 1, 2019
3. HEARING CITIZENS PRESENT (on non-agenda items)
4. CORRESPONDENCE
5. NEW BUSINESS
  - A. Zoning Map Correction
6. OLD BUSINESS
  - A. None
7. REPORTS OF OFFICERS, BOARDS, AND STANDING COMMITTEES
8. GOOD OF THE ORDER
9. ANNOUNCEMENTS
  - A. Next regularly scheduled meeting: December 3, 2019
10. ADJOURNMENT



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*click on Boards & Commissions for complete  
agenda packets & minutes for each board*

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may contact Boyne City Hall for assistance: Cindy Grice, City Clerk/Treasurer,  
319 North Lake Street, Boyne City, MI 49712; phone (231) 582-0334*

Approved: \_\_\_\_\_

Meeting Of  
October 1, 2019

Record of the proceedings of the Boyne City Zoning Board of Appeals meeting held at Boyne City Hall, 319 N. Lake Street, on Tuesday, October 1, 2019 at 5:00 p.m.

Call To Order

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

Roll Call

Present: Bob Carlile, Pat Kubesh and Roger Reynolds  
Absent: John McClorey and Monica Ross

Excused Absences

**ZBA 2019-10-1-1**  
Kubesh moved, Carlile seconded, **PASSED UNANIMOUSLY**, a motion to approve the absences of McClorey and Ross

Meeting Attendance

City Officials/Staff: Assistant Planning and Zoning Administrator Patrick Kilkenny and Recording Secretary Pat Haver  
Public Present: One

Approval of the Minutes  
MOTION

**ZBA 2019-10-1-2**  
Carlile moved, Reynolds seconded, **PASSED UNANIMOUSLY**, a motion to approve the September 3, 2019 meeting minutes as presented.

Hearing Citizens Present  
Correspondence(s)

None

New Business

None

Old Business

Assist Zoning Administrator Patrick Kilkenny reviewed his staff report that was included in the agenda packet. The matter before you tonight is a continuation of the variance request by applicant Marcella Hill from 419 E. Lincoln Street.

Variance Request  
419 E. Lincoln St.  
David & Marcella Hill

Public Hearing opened at 5:02 pm

Marci Hill – I made attempts to have the property surveyed per your request, and the company is approximately 5 weeks out. When they began the preliminary review with the Register of Deeds, it was discovered that the alley that was previously vacated a couple of years ago was not included in the legal descriptions of either property. The Equalization department also checked into the matter, and found that the recording process was not completed, and therefore the survey company could not go any further. The county is moving forward with making sure the process is completed and recorded properly.

Carlile – With the request for a continuation until November, will that give the survey company ample time to get it completed?

Hill – That is going to be tight

Carlile – Would a postponement further into the year give you time to complete the work that you need to have done?

Hill – They could be digging holes in the snow, but it should be completed this year.

**MOTION**

With no further board discussion, **motion by Carlile, seconded by Kubesh** to table the variance application to no later than the December 2019 meeting in order for the applicant to provide the requested information

**2019-10-1-6A**

Roll Call

Aye: Carlile, Kubesh and Reynolds

Nay: None

Absent: McClorey and Ross

*Motion Carries*

**Reports of Officers,  
Boards and Standing  
Committees**

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Assist Zoning Administrator Patrick Kilkenny was reviewing property in the Crozier Crest area, and discovered a possible mapping error. On the Zoning Map from 1998 that area which has a "jog" in it was in the R1 zoning district. When the Zoning Map was adopted in 2001; that "jog" area was placed into the RC/ID district. He was wondering if any member on the board may have any recollection as to why the zoning district was changed, or perhaps if it was just an error when the district map was updated in 2001. Those members that have been on the board for a long time, do not remember any instances why the zoning district would have been changed in that area; and all felt that it was an error when the map was updated, and it does belong in the RED district

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**Good of the Order**

John McClorey will be unavailable for the November meeting

**Announcements**

The next meeting of the Boyne City Zoning Board of Appeals is scheduled for November 3, 2019 at 5:00 p.m.

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**Adjournment  
MOTION**

**ZBA 2019-10-1-10**

**Carlile moved, Ross seconded, PASSED UNANIMOUSLY** a motion to adjourn the Tuesday, October 1, 2019 Boyne City Zoning Board of Appeals meeting at 5:21 p.m.

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Pat Kubesh, Chair

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Pat Haver, Recording Secretary

## CITY OF BOYNE CITY

**To:** Chair Pat Kubesh and fellow ZBA members  
**From:** Patrick Kilkenny, Assistant Planning Director  
**Date:** November 5, 2019  
**Subject:** Zoning Map Correction



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### Background

At the October 1, 2019 Zoning Board of Appeals meeting the new city-wide zoning ordinance and map adopted in May 2001 was discussed. It appeared that zoning map boundary lines were drawn on the map incorrectly in the southeast of the city, specifically two parcels 15-051-302-001-60 and 15-051-302-001-65. Historically the two subject parcels had been zoned residentially until the 2001 zoning map was created. Following additional Staff review of past and present zoning maps, the boundary lines are believed to have been incorrectly drawn and the parcels in question are currently included in the RC/IND zoning district.

### Discussion

The Boyne City Zoning Ordinance provides a process for corrections to mapping errors in Section 27.40: "In the case of any question as to the location of any boundary line between zoning districts, the Board shall interpret the Zoning Map after received a recommendation from the Planning Commission."

At their October 21, 2019 meeting, the Planning Commission reviewed the aforementioned mapping error and moved to recommend the matter to the Zoning Board of Appeals as to the correctness of the zoning district map adopted in 2001.

Attached is the staff memo and associated minutes from the October 21, 2019 Planning Commission meeting. The memo details the historical aspects of the apparent mapping error and provides context in the form of past and present zoning maps.

### Please find enclosed in this packet the following exhibits:

- A. October 21, 2019 Boyne City Planning Commission agenda item "Zoning Map Correction Recommendation"
- B. October 21, 2019 Boyne City Planning Commission draft meeting minutes

### Recommendation

Given the facts that the boundary lines drawn in 2001 for the zoning districts in the area of the subject parcels were not consistent with existing land use and previous zoning designations; the parcels were created and used for residential purposes prior to the adoption of the 2001 map; the parcels have been classified and taxed as residential

parcels since created; the topography and access to the parcels make any commercial development economically and physically impractical; it is clearly evident that the map erroneously included parcels 15-051-302-001-60 and 15-051-302-001-65 with commercial/industrial whereas the parcels should be designated low density residential; recommend to correct the erroneously mapped parcels 15-051-302-001-60 and 15-051-302-001-65 from RC/IND to Rural Estate District.

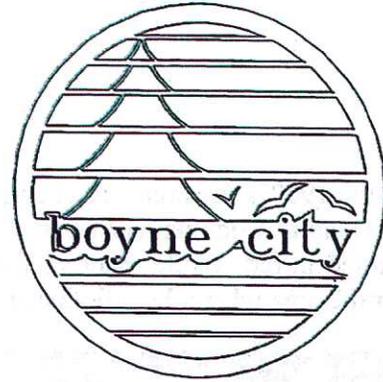
# CITY OF BOYNE CITY

To: Chair Aaron Place, and fellow Planning Commissioners

From: Scott McPherson Planning Director

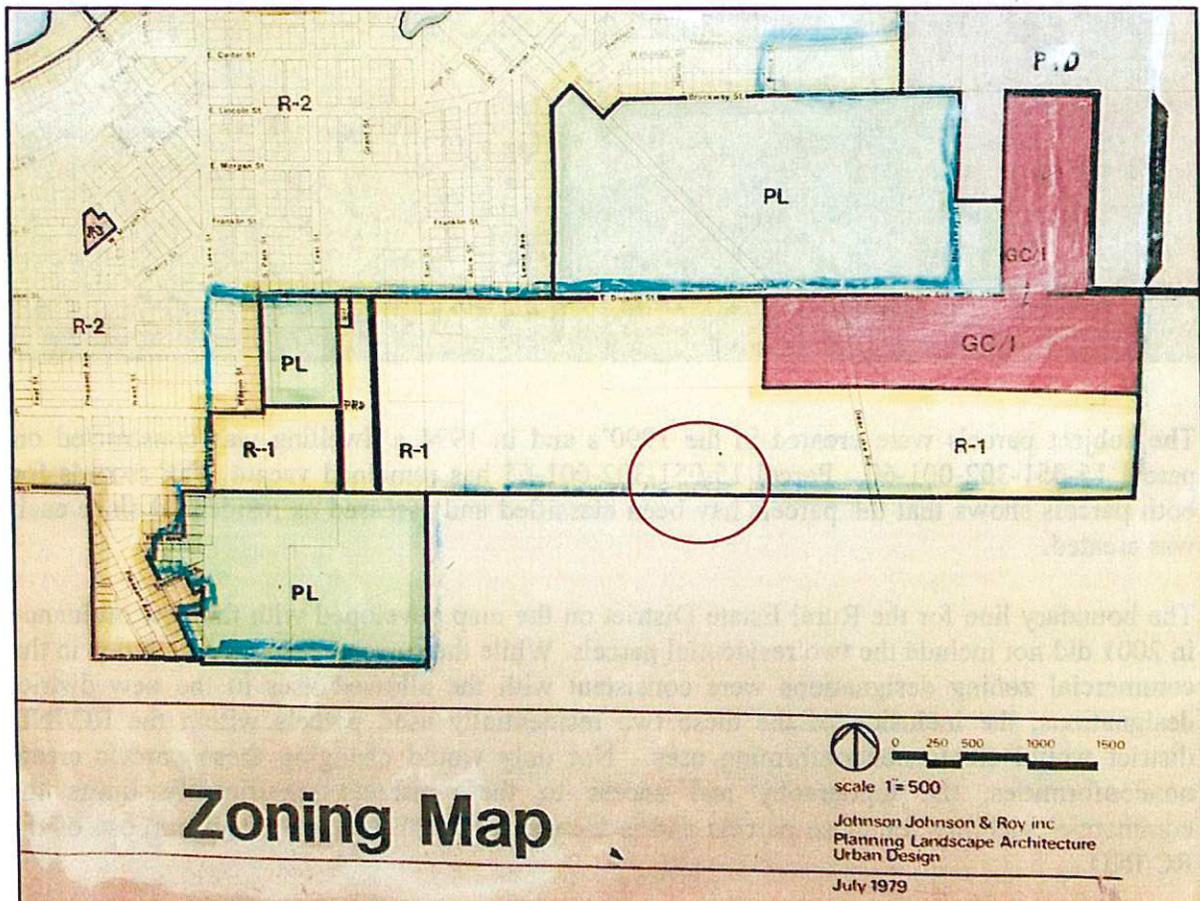
Date: October 21, 2019

Subject: Zoning Map Correction Recommendation

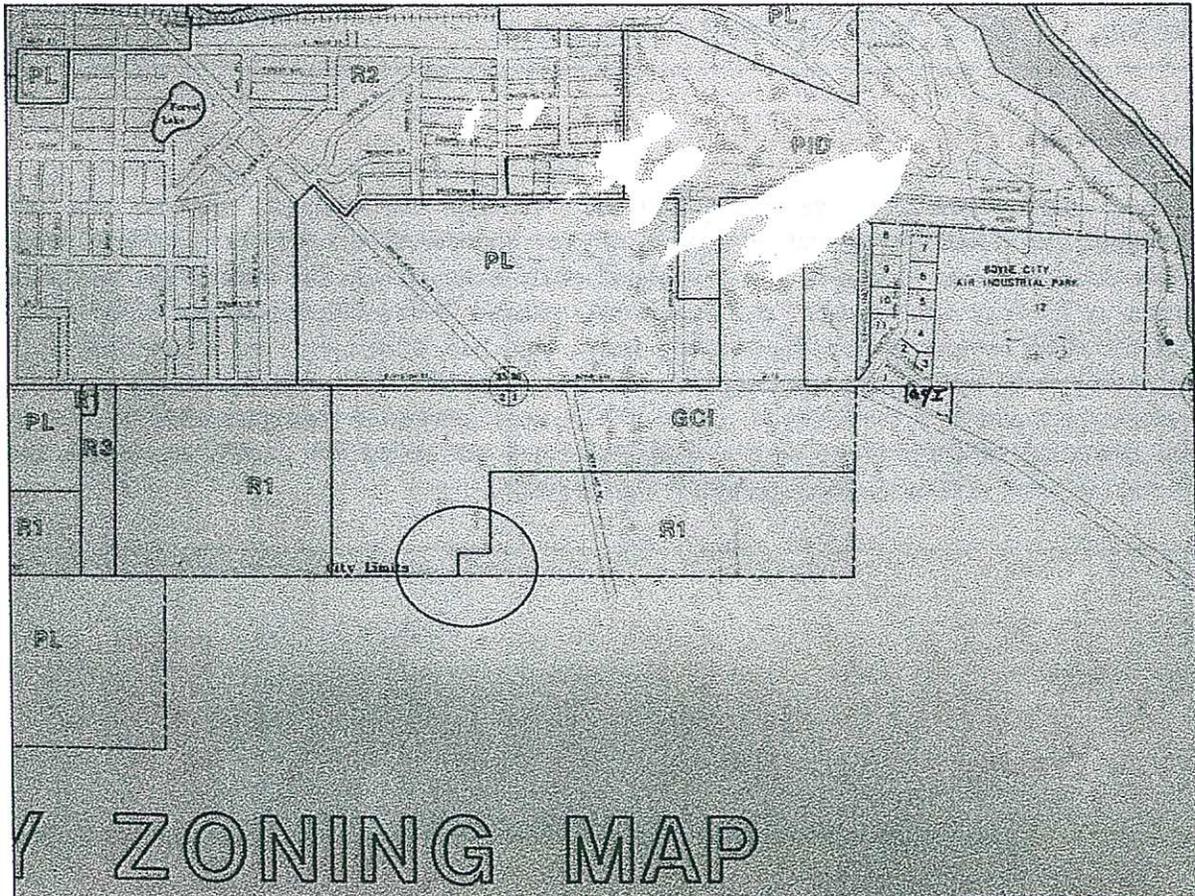


## Background

In May 2001 a new city-wide zoning ordinance and map was adopted. The new map and ordinance introduced new district designation and new boundaries for some of the residential and commercial districts. One area that was significantly changed was the area in the southeast corner of the City near Crozier Crest, specifically parcels 15-051-302-001-60 and 15-051-302-001-65. After review of historical zoning maps, land use, geography, and topography it is believed that the zoning map boundary lines that were updated in 2001 were incorrectly drawn to include these parcels in the RC/IND. In the 1970's, as shown on the zoning map below, most of the area south of division and west of Fall Park Road was zoned low density residential, the general location of the referenced parcels is shown circled in red.

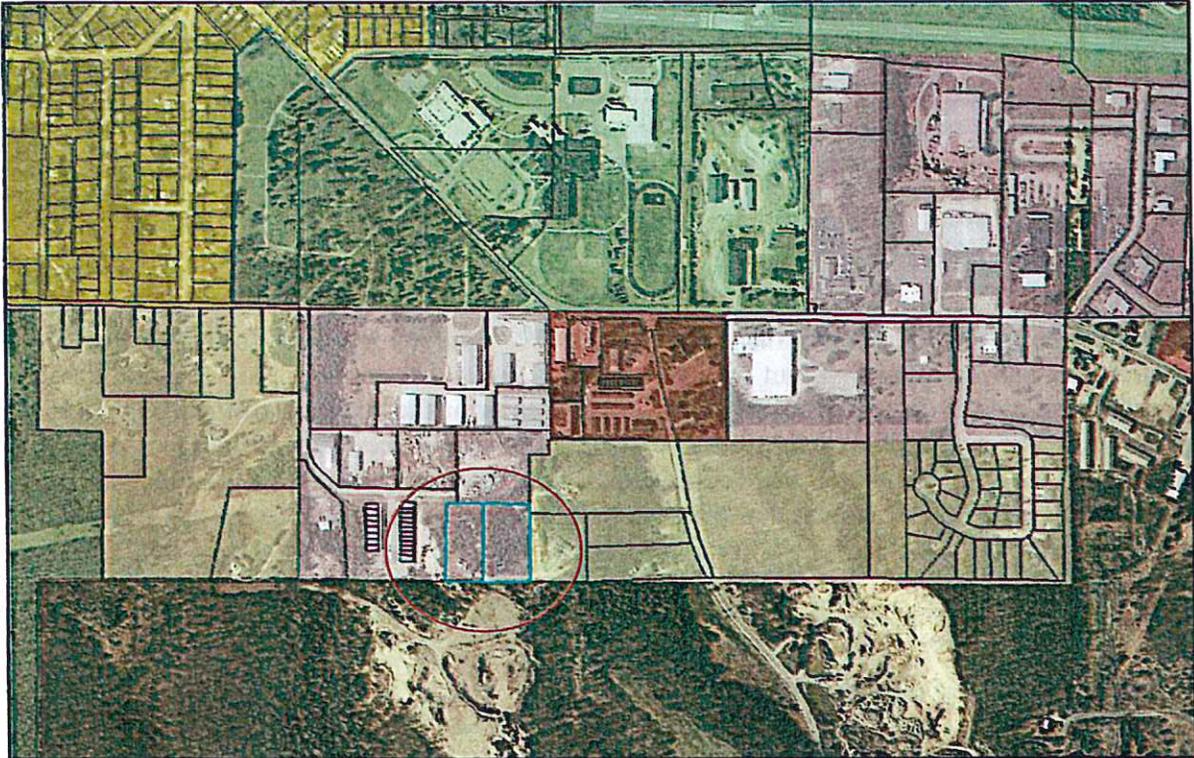


In the 1980's this area was changed with areas to the north and west of the parcels being changed to General Commercial/Industrial District (GCI). Please note the south west corner of the R-1 circled in red. While much of the vicinity changed this map retained the residential designation for the area where the referenced parcels area located.

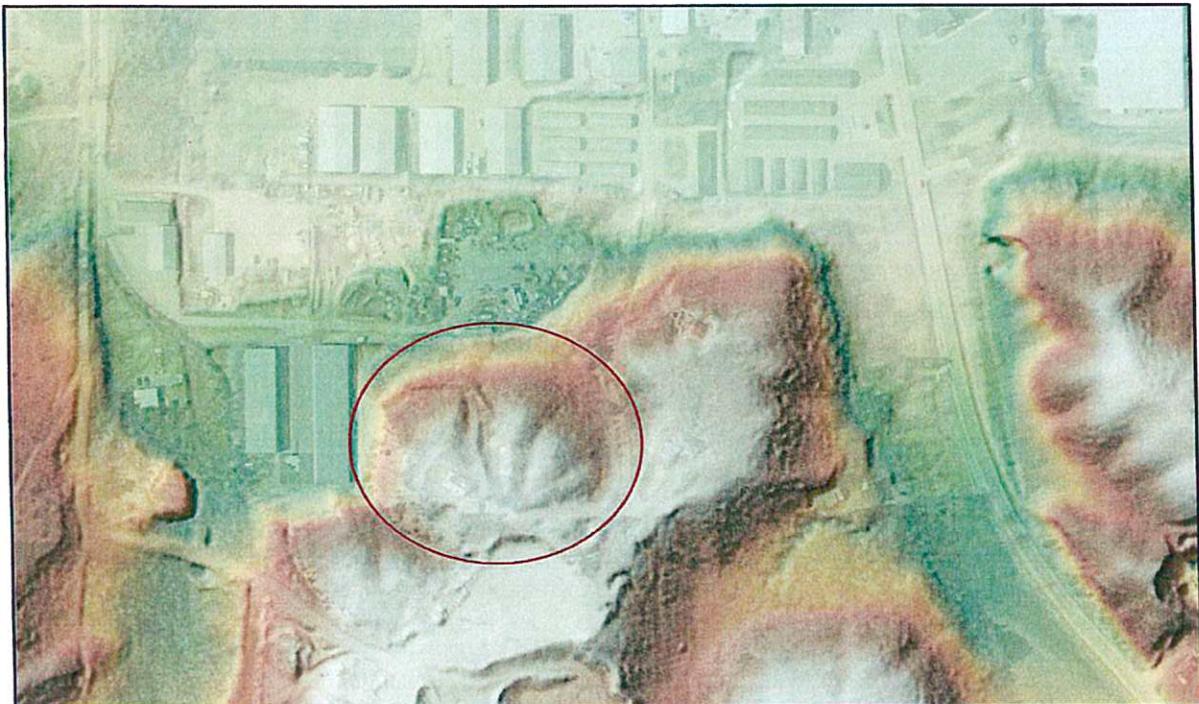


The subject parcels were created in the 1990's and in 1994 a dwelling was constructed on parcel 15-051-302-001-60. Parcel 15-051-302-001-65 has remained vacant. Tax records for both parcels shows that the parcels have been classified and assessed as residential since each was created.

The boundary line for the Rural Estate District on the map developed with the new ordinance in 2001 did not include the two residential parcels. While the surrounding areas included in the commercial zoning designations were consistent with the allowed uses in the new district designations, the inclusion of the these two residentially used parcels within the RC/IND district would create nonconforming uses. Not only would changing these parcels create nonconformities, the topography and access to these parcels significantly limits the commercial viability for these parcels and is inconsistent with the intent and purpose of the RC/IND.



The subject parcels are accessed by Crosier Crest which is a private road. There is an elevation difference of approximately 80 feet from the subject residential parcels and the adjacent commercial uses. The road could not be redeveloped as a public road without significant reconstruction and cost as several portions of the road have grades exceeding 14%. The dramatic elevation difference in the area can clearly be seen on the digital elevation model show below.



## **Process**

Section 2.30 of the Boyne City zoning ordinance includes procedures for resolving questions regarding district boundary lines. The ordinance specifies that the Zoning Board of Appeals shall determine the exact boundary lines after a recommendation from the Planning Commission.

## **Recommendation**

Given the facts that the boundy lines drawn in 2001 for the zoning districts in the area of the subject parcels were not consistent with existing land use and previous zoning designations; the parcels were created and used for residential purposes prior the adoption of the 2001 map; the parcels have been classified and taxed as residential parcels since created; the topography and access to the parcels make any commercial development economically and physically impractical, it is clearly evident that the map erroneously included parcels 15-051-302-001-60 and 15-051-302-001-65 with commercial/industrial whereas the parcels should be designated low density residential.

Meeting of  
October 21, 2019

Record of the proceedings of the Boyne City Planning Commission meeting held at Boyne City Hall, 319 North Lake Street, on Monday October 21, 2019 at 5:00 pm.

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Call to Order

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

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Roll Call

Present: Larry Chute, Monica Kroondyk, Skylar MacNaughton, Tom Neidhamer, Rose Newton, Aaron Place and Jeff Ross

Absent: None

Vacancy: Two

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Meeting Attendance

City Officials/Staff: Planning and Zoning Director Scott McPherson and Recording Secretary Pat Haver

Public Present: Six

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Consent Agenda

**\*\*Motion**

**2019-10-21-03**

**Ross moved, Chute seconded, passed with dissention from Newton,** a motion to approve the consent agenda, the Planning Commission minutes from September 16, 2019 as presented.

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Citizen comments on  
Non-Agenda Items

None

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Reports of Officers,  
Boards and Standing  
Committees

Planning Director McPherson indicated that the city would like to put together a Marijuana Work Group of volunteers from various city boards. If anyone is interested in volunteering, let us know and we will get you set up with the date and time of the first meeting. The last marijuana webinar is this week on Thursday, October 24<sup>th</sup> at 3:30 pm in the commission chambers. This webinar is supposed to be the best of the series as it will review all of the other sessions.

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Unfinished Business

None

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New Business

Development Plan  
review 1254 M - 75  
Jervis B. Webb  
(Daifuku)

Planning Director Scott McPherson reviewed his staff report that was included in the agenda packet. The application that has been submitted for plan review is a 28' x 62' addition on the north side of the building for a proposed new breakroom and restrooms, and a 66' x 96' addition proposed on the south side of the building for an oven powder coating structure. The existing and the proposed uses are principal permitted uses in the RC/IND district, and the proposed site plan is in compliance with all ordinance requirements of Section 20.20 in regards to building placement, height, lot coverage and size. Under Sections 13.40 and 22.30 which establishes design standards for buildings located in the RC/IND district; the proposed additions comply with design criteria, matching the existing structure in materials, site layout, retention pond and location of the future proposed driveway. The existing parking currently exceeds ordinance standards and the proposed addition is not anticipated to add any additional demands. During their review, staff found no issues as it meets all ordinance requirements. Even though it is not in the industrial park, the EDC (Economic Development Corporation)/LDFA (Local Development Finance Authority) boards recently reviewed the plans and fully support the project.

**Jay Wangeman: Wangeman Construction** – Introduced the team and reiterated what Planning Director McPherson stated. They are looking to get the project started as soon as possible.

**Chute** – the smaller addition to front, will it be brick/block or siding?

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**Wangeman** – It will be siding to match as closely as possible to existing structure.

**Chute** – What about the retention basins?

**Wangeman** – The SW corner will be used for the basin for the additional proposed hard surface and the run off from the roof; and will be done as part of the construction.

**Place** – Will there be any additional hazardous materials that will be produced?

**Gary Jett** – No; the paint that was used previously had VOC's which we are no longer using, we are using a powder coating that is nontoxic and can be put into a bag and hauled away by Waste Management. We are inspected yearly, and have had no problems.

#### Board Discussion

At this point, Chair Place facilitated the review of Section 19.40 Development Site Plan Review Standards Findings of Fact going through each section.

#### **\*\*Motion**

After board discussion and review with a few minor corrections; **motion by Ross, seconded by Newton** based on the findings of facts under Section 19.40, to recommend approval of the Development Site Plan for 1254 M 75 as presented.

#### 2019-10-21-7A

##### Roll Call:

Ayes: Chute, Kroondyk, MacNaughton, Neidhamer, Newton, Place and Ross

Nays: None

Absent: None

Vacancy: Two

*Motion Carries*

#### **Public Hearing Proposed Ordinance Amendments to Reduce Housing Barriers.**

Planning Director McPherson reviewed his staff report included in the agenda packet. Tonight before the board are several text amendments to the Zoning Ordinance, specifically Articles II, IV, V, X, XI. A public notice was placed into the Petoskey News Review on October 4<sup>th</sup>, and Chair Place would like to make that an attachment to the minutes, will be done as Attachment 1.

Public Hearing was opened at 5:20 pm and after no discussion from audience members was closed at 5:21 pm

#### Board Discussion

The board reviewed the proposed amendments, and had a question about the RED district and the amendments the board proposed for that area. They were not on the staff report, however, were included in the public notice, so they would be included in the public hearing. McPherson had recently attended a MAP (Michigan Association of Planners) convention and one of the conference topics was "Gentle Density"; he reported that we are ahead of several communities in the state with the way that we are looking at dealing with the lack of housing. The board appreciated the hard work from staff, and after discussion, **motion by Ross, seconded by Chute** to recommend to the City Commission consideration of the proposed amendments to the Boyne City Zoning Ordinance and schedule a first reading.

#### **\*\*Motion**

#### 2019-10-21-7B

##### Roll Call:

Ayes: Chute, Kroondyk, MacNaughton, Neidhamer, Newton, Place and Ross

Nays: None

Absent: None

Vacancy: Two

*Motion Carries*

**Zoning Map Correction Recommendation**

Planning Director McPherson reviewed his report included in the agenda packet. A local appraiser brought the discrepancies in the zoning maps to staff's attention. The area in question is a section up behind Challenge Mountain. The 2001 adopted map and ordinance introduced a new district designation and new boundaries for some residential and commercial districts, two of the parcels involved are 15-051-302-01-60 and 15-051-302-01-65; on a private drive Crozier Crest. After staff review of historical zoning maps, land use, geography and topography it is believed that the zoning map boundary lines that were updated in 2001 were incorrectly drawn to include these parcels in the RC/IND district. The parcels were created in the 1990's and in 1994 a dwelling was constructed on parcel 15-051-302-001-60 and the other remained vacant. Tax records for both parcels shows they have been classified and assessed as residential since each was created. Section 2.30 of the zoning ordinance includes procedures for resolving questions regarding district boundary lines. The ordinance specifies that the Zoning Board of Appeals shall determine the exact boundary lines after a recommendation from the Planning Commission.

Public Hearing opened at 5:27pm, and with no comments from the audience, closed at 5:27 pm

**\*\*Motion**

After further board discussion and consideration, **motion by Ross, seconded by MacNaughton** to recommend this matter to the Zoning Board of Appeals for their interpretation as to the correctness of the zoning district map adopted in 2001.

**2019-10-21-7C**

**Roll Call:**

Ayes: Chute, Kroondyk, MacNaughton, Neidhamer, Newton, Place and Ross

Nays: None

Absent: None

Vacancy: Two

*Motion Carries*

**Staff Report**

- Planning Director McPherson shared with the board that the City Commission would like to have a joint meeting with this board and the Parks and Recreation Commission on November 19<sup>th</sup> at 7:00 pm to discuss the possible non-motorized trail route on Michigan Avenue to the west. They are looking at incorporating this leg of the trail into the upcoming N. Lake Street project that is slated to begin next spring. Larry Fox, consultant from C2ae, will be on hand to answer any questions, and facilitate the discussion.
- The Boyne Valley non-motorized trail is mostly cleared and a sidewalk has been put down in Boyne Falls. Gravel has been laid for the boardwalk sections that they hope to have installed yet this fall. The engineers were able to reduce 30 feet of board walk, which in turn has reduced the project by approximately \$30,000. Boyne Mountain will be installing signage on their property at their cost, which is another reduction of approximately \$5,000. The final projected date for completion is June 11, 2020
- MEDC has contracted with a freelance photographer who was recently in the area taking pictures, and has gotten a lot of great shots which the city will be able to use however we would like.

**Good of the Order**

- What is the status of the public hearing for parking? Staff is continuing to work on it

- On September 30<sup>th</sup> Planning Commissioner training was held in Petoskey. Commissioners Chute, Ross, Newton, MacNaughton and Place attended. They all indicated that it was very informative and have come away with quite a few ideas; one was having a dedicated email only for planning duties, pay attention to conversations that you have outside of the chambers in what you say and do; to have a smooth meeting, all comments, questions, statements should be directed through the chair, and they will in turn direct the comment, suggestion or question to the appropriate party. The board was very appreciative of the in-depth reports that are given by staff.
- With the two vacancies on the board, members have been approached by people who would consider serving on the board, however, live outside of the city limits; some are business owners in the city, and wondered why they were not able to serve as other boards and commissions in the city allow non city residents to serve.
- Thank you to George Ellwanger who has served on the Planning Commission since 2003, his insight, knowledge, dedication have been very much appreciated along with Joe St. Dennis who has served 29 years, both members will be missed.
- Scott McPherson reminded the commission of the upcoming 6<sup>th</sup> Annual Charlevoix County Planners Forum hosted by Tip of the Mitt Watershed Council scheduled for October 30<sup>th</sup> in Charlevoix. The deadline for signing up is October 25<sup>th</sup>; so you will need to register yourself. If you attend, please let us know so that we can update the training log.
- The concerns for short term rentals was brought up again, staff is continuing to compile information for the City Commission, who recognizes this issue. A matrix was handed out by Chute, received and filed, and staff will make that inventory available to the City Commissioners also. What is the percentage that the city can handle? Surrounding areas have ordinances or resolutions in place already.

**Adjournment**  
**\*\*Motion**

The next regular meeting of the Boyne City Planning Commission is scheduled for Monday, November 25, 2019 at 5:00 p.m.

**2019-10-21-10**

**Newton moved, Ross seconded, PASSED UNANIMOUSLY** a motion to adjourn the October 21, 2019 meeting at 6:04 pm

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Chair Aaron Place

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Recording Secretary Pat Haver