

The regular meeting of the Clare City Planning Commission was conducted via remote attendance in compliance with Executive Order 2020-154 and called to order at 6:31 p.m. by Planning Commission Chair Jason Lowe, who led with the Pledge of Allegiance. Present were: Commissioners Darren Acton, Elaine Demasi, Jason Lowe, John Myers, Glenda Carmoney, Angie Cozat, Stacy Pechacek and Nick Wyman. Absent: Brett Moser. Also present were Jeremy Howard, City Manager; and Diane Lyon, City Clerk.

Rules for Public Comment during the conduct of a remote electronic meeting was read to the audience by Clerk Lyon.

APPROVAL OF CONSENT AGENDA:

Moved by Commissioner Carmoney, second by Commissioner Demasi to approve the Consent Agenda items listed with an asterisk (*) (Agenda, Minutes and Professional Development) that are considered to be routine by the Planning Commission. Roll call vote: Yeas: Commissioners Darren Acton, Elaine Demasi, Jason Lowe, John Myers, Glenda Carmoney, Angie Cozat, Stacy Pechacek and Nick Wyman who arrived prior to the start of new business discussion. Absent: Brett Moser. *Motion Carried.*

PUBLIC COMMENT: None.

APPROVAL OF AGENDA:

*approved by consent agenda.

APPROVAL OF MINUTES:

*approved by consent agenda.

UNFINISHED BUSINESS: None.

NEW BUSINESS:

A. ORDINANCE 2020-006 REQUEST FOR CHANGE IN ZONING AT 625 WEST 5TH STREET.

The City of Clare recently learned that the commercial property at 625 West Fifth Street (formerly a Chemical Bank Branch Building) owned by Mr. Jim Paetschow was being used for residential use. In discussion with Jim, he was informed that he either had to cease this improper use or request that the zoning of the property be changed to allow residential use. Jim has submitted a zoning change application.

The City considered the best options in respect to this improper use of property and determined there are three viable alternatives: change the zoning of the property to residential; direct that Jim apply for and receive a variance from the City's Zoning Board of Appeals (ZBA); or direct that the residential use of the property be ceased and resumed as commercial.

Requiring consideration of a use variance by the ZBA would not change the zoning of the property, thus the property would continue to be taxed as commercial and the residents living at the property would continue to be required to pay commercial utility rates – thus this option was discarded.

In evaluating the parcel's location and the fact that it is a single property parcel and is an island in and by itself surrounded by Township property parcels that are being used for residential purposes supports and validates that the current residential use of the property, albeit zoned incorrectly and not identified on the City's Future Land Use Map as residential (it likely should have been) is a clear indication that this is the best use of this property in the long term. Consequently, the City advised Jim that the City Staff would recommend approval of a change of zoning request for the property, and he submitted the request for zoning change.

The approval authority for all ordinance changes in the City is the Clare City Commission. But in matters related to Chapter 52 (Zoning), the City Planning Commission is required to provide a formal recommendation(s) to be considered by the City Commission in its discussions regarding the proposed ordinance change(s).

The Planning Commission is required to hold a public hearing regarding the proposed ordinance/zoning change. Public notice has been accomplished. Subsequent to the

public hearing, the Planning Commission is asked to consider, discuss, and render a formal recommendation(s), which will be forwarded to the City Commission for consideration in its actions related to the proposed ordinance/zoning change.

Jim Paetschow informed the Commission that he converted the former bank into a residence some time ago. His renters brought the issue to light to the city because they were paying the commercial rate for city sewer and were unable to obtain residential rates for cable service due to the property being zoned commercial. Those tenants have since left and a new tenant who is not interested in cable service presently resides in the building.

Motion by Commissioner Carmoney second by Commissioner Demasi to open the public hearing. Roll call vote: Ayes: Darren Acton, Glenda Carmoney, Angie Cozat, Elaine Demasi, Jason Lowe, John Myers, Stacy Pechacek and Nick Wyman. Absent: Brett Moser. Nays: None. *Motion Carried.*

Public Comment: None.

Motion by Commissioner Acton second by Commissioner Wyman to close the public hearing. Roll call vote: Ayes: Darren Acton, Glenda Carmoney, Angie Cozat, Elaine Demasi, Jason Lowe, John Myers, Stacy Pechacek and Nick Wyman. Absent: Brett Moser. Nays: None. *Motion Carried.*

Motion by Commissioner Acton second by Commissioner Demasi to approve the Request for Rezoning submitted by Jim Paetschow-Red Hook by adoption of Resolution 2020-016PC. Roll Call vote: Ayes: Darren Acton, Glenda Carmoney, Angie Cozat, Elaine Demasi, Jason Lowe, John Myers, Stacy Pechacek and Nick Wyman. Absent: Brett Moser. Nays: None. *Motion Carried.*

B. PROPOSED SITE PLAN & SPECIAL USE PERMIT-210 WILCOX PARKWAY

The City has received a Special Use Permit and Site Plan Application including supporting documents from the Clare County Council on Aging to allow that organization to move their operations from the corner of West 4th Street and Beech Street to an existing vacant building at 210 Wilcox Parkway (former beauty school and funeral home) for a use as a Senior Center and Distribution Site for Meals on Wheels.

The proposed use by the Clare County Council on Aging is an allowed use by the City's current zoning codes with the issuance of a special use permit. The Clare City Planning Commission is the approval authority for the required special use permit.

Clare County Council on Aging has completed the required Special Use application form and supporting documents. The City Staff met with the applicant on September 1st and reviewed the application and site plan. The proposed site plan meets the City's minimum zoning and building code standards and requirements (Parking requirement met by use of public parking across the street if necessary). The Staff recommends approval of the issuance of the requested permit.

Prior to consideration, deliberation, and decision regarding this matter, the Planning Commission is required to hold a public hearing related to the special use permit & site plan application; Proper notice regarding the special use permit application has been made by the City. To date the City has received no stated objections to the proposed use.

Subsequent to the respective hearings, the Planning Commission is asked to formally consider the Special Use Permit Application and Site Plan and render a decision in respect to approval or disapproval.

Kari McPhillips of McPhillips Architecture presented the site plan to the Commission.

Motion by Commissioner Acton second by Commissioner Demasi to open the public hearing. Roll call vote: Ayes: Darren Acton, Glenda Carmoney, Angie Cozat, Elaine Demasi, Jason Lowe, John Myers, Stacy Pechacek and Nick Wyman. Absent: Brett Moser. Nays: None. *Motion Carried.*

Public Comment: None.

Motion by Commissioner Wyman second by Commissioner Cozat to close the public hearing. Roll call vote: Ayes: Darren Acton, Glenda Carmoney, Angie Cozat, Elaine Demasi, Jason Lowe, John Myers, Stacy Pechacek and Nick Wyman. Absent: Brett Moser. Nays: None. *Motion Carried.*

Motion by Commissioner Demasi second by Commissioner Carmoney to approve the Site Plan Application and Special Use Permit submitted by Clare County Council on Aging by adoption of Resolution 2020-017PC. Roll Call vote: Ayes: Darren Acton, Glenda Carmoney, Angie Cozat, Elaine Demasi, Jason Lowe, John Myers, Stacy Pechacek and Nick Wyman. Absent: Brett Moser. Nays: None. *Motion Carried.*

C. PROPOSED ORDINANCES 2020-004 & 2020-005-MARIHUANA ORDINANCE AMENDMENT

The City of Clare presently permits licensure of all categories of medical marihuana businesses (grow, process, transport, certification, and provisioning) allowed by the State of Michigan but concurrently prohibits any adult-use recreation marihuana businesses within its jurisdictional boundaries. Both the City Planning Commission and the City Commission have been petitioned by the attorneys, owners, and investors of the City's three established and licensed medical marihuana business establishments requesting the City amend its present ordinances to allow them to grow and process adult-use recreational marihuana in their licensed facilities in Clare for retail sales outside the City's jurisdictional boundaries – thereby allowing them to more aggressively compete in Michigan's adult-use recreation marihuana market and provide the potential for significantly increased investment and job creation within the City of Clare. In response to the most recent petition and presentation on this topic to the City Commission by the attorneys and investors of these businesses in July 2020, the City Commission directed its City Attorney to draft an amendment to the City's current ordinances to facilitate formal discussion and consideration of the requested ordinance changes. Those changes are outlined in the attached Ordinances 2020-004 and 2020-005. The first formal step in consideration of the proposed ordinance amendments is a public hearing, a formal discussion, and formulation of recommendations by the City's Planning Commission to the City Commission in respect to whether the proposed ordinance changes should be adopted.

When the majority of the Michigan electorate decided to allow/legalize adult-use recreation marihuana in the state in 2018, the law stipulated that local governmental jurisdictions that allowed any category of commercial adult-use recreation marihuana business within its jurisdiction were required to "opt in" – thereby requiring the issuance of commercial recreation marihuana licenses for all five categories (grow, process, certification, transportation, and retail sales) of recreational marihuana to business entities that qualified for issuance of the respective commercial licenses. But since the law's inception, the rules have changed wherein a local governmental unit now has the prerogative to pick and choose whatever category of adult-use recreational marihuana license (if any) it determines should be allowed within its boundaries. Consequently, the City can now continue to prohibit the commercial retail sales of recreational marihuana within its jurisdiction but can concurrently allow recreational marihuana to be commercially grown, processed, certified, and transported in the City for sale to commercial recreational marihuana markets outside the City. And that is in essence what the provisions of the proposed ordinance amendments (2020-004 & 2020-005) allow, if adopted: continued prohibition of any commercial adult-use marihuana retail sales within the City while allowing commercial marihuana growers to apply for licenses to commercially grow, process, certify, and transport recreational marihuana in Clare only in the City's South Industrial Park so long as they sell their product to markets outside the jurisdictional boundaries of Clare.

The Clare Industrial Development Corporation (IDC) considered and discussed the proposed ordinances during the course of a recent meeting held on August 28th. The IDC has consistently and strongly opposed any type of recreational marihuana proposal and has adamantly opposed the retail sale of medical marihuana within the boundaries of the City's South Industrial Park. But in a vote on the two newly proposed ordinances, the IDC has, by majority vote (not unanimous), endorsed the adoption of 2020-004 and

2020-005. The IDC concurrently, by unanimous vote, proclaimed its adamant and unified opposition to the commercial retail sales of adult-use recreation marihuana within the boundaries of Clare.

The approval authority for all ordinance changes in the City is the Clare City Commission. But in matters related to Chapter 52 (Zoning), the City Planning Commission is required to provide a formal recommendation(s) to be considered by the City Commission in its discussions regarding the proposed ordinance change(s).

The Planning Commission is required to hold a public hearing regarding the two proposed ordinances. Public notice has been accomplished. Subsequent to the public hearing, the Planning Commission is asked to consider, discuss, and render a formal recommendation(s), which will be forwarded to the City Commission for consideration in its actions related to the proposed ordinances.

Commissioner Demasi posed questions regarding whether the Ordinances would open up recreational marihuana throughout the city; whether retail sales would be restricted to medical marihuana only; whether recreational signage would be allowed; and whether billboards advertising the recreational marihuana operations will be allowed. Elaine noted that when Joey Kejbou (Green Bronco, LLC) presented the idea of allowing recreational marihuana several months ago, the Planning Commission determined that they would not be in favor of allowing it in the city. Commissioner Demasi further offered that the physicians she works with advise patients against using marihuana in combination with other prescribed medications and that approval of the Ordinances would be selling out when the Planning Commission had previously decided against allowing recreational marihuana in the city.

City Attorney Hoerauf answered that the proposed Ordinance amendments will limit cultivation, processing, safety testing and transport of recreational marihuana within the approved industrial zoning district south of business 10/115. The change to signage within the Ordinance amendment remains the same except that it removes the word medical from the provisions. Allowed signage is very limited within the Ordinance. The signs cannot refer to marihuana, they cannot be deceptive or false; the only change was to remove the reference to medical. The businesses will not need billboards because they cannot sell recreational marijuana to the public.

Commissioner Wyman offered that when recreational marihuana was first proposed to the commission, there was no pick and choose option...it was all or none (licensing), which would have allowed retail sales of recreational marihuana in the city. Had the Commission had the option at the time to only allow licensing of recreational operations to preclude retail sales, he likely would not have opposed the initial proposal.

Commissioner Pechacek remarked that she understands why they (medical marihuana businesses in Clare) want to expand to cultivation & process recreational marihuana to be more competitive but does not see the benefit to the city.

Commissioner Wyman remarked that it would increase the tax base and provide jobs. He asked City Manager Jeremy Howard to inform the Commission what prompted (in his opinion) the IDC voted in favor of the Ordinances.

Jeremy Howard confirmed that a build out of the property in the south industrial park would increase the tax base and provide jobs; this was also why (in his opinion) the majority of the Industrial Development Corporation (IDC) members were in favor of the proposed Ordinances. The IDC is still very much opposed to retail sales of marihuana in the city. If the marihuana facilities end up leaving, the buildings will look like any other industrial buildings in the industrial park and could be utilized by other businesses.

Attorney Hoerauf pointed out that the reason there is a move to recreational marihuana from medical marihuana lies in the fact that there is no reason for an individual to go through the hassle of and pay for a medical marihuana license to purchase their medicine when they can easily go to a dispensary to purchase it without paying the additional fee for a card. There would be no functional impact on the city in the cultivation, processing, secure transport or testing of recreational marihuana versus medical marihuana. Jaynie clarified that no one would be allowed to provide adult use recreational marihuana retail

sales in the city; only (two) medical marihuana retail sales are allowed in the city within the industrial zoning district. The businesses that presently have medical marihuana licenses would be allowed to apply for recreational cultivation, processing, transport or safety testing only. Medical marihuana dispensaries businesses would be supplied with product from their medical marihuana cultivation operations in the city. The area in which additional marihuana businesses could operate is limited due to the zoning limitations, distancing limitations, and availability of property in the city.

Commissioner Myers agreed that medical marihuana has essentially gone away and recreational has taken over because it is easier, less of a hassle, for people to obtain.

Commissioner Pechacek noted that a majority the city's electorate voted down legalization of adult use recreational marihuana in 2018 and they (Planning Commission) have an obligation to represent those constituents. Commissioner Pechacek further noted a moral obligation to reject adult use marihuana operations in the city. She questioned whether Clare should be known for marihuana.

Commissioner Wyman did not agree that Clare would be known for marihuana. He offered that the new medical marihuana facility being built in the industrial park is one of the nicest buildings in the park and the type of business is not obvious to the public.

Commissioner Myers agreed that public perception of Clare would not change.

Commissioner Acton made note of the beautiful landscaping that has been installed at the (THC) facility.

Commissioner Myers stated that from what he has seen in other states, the buildings (marihuana facilities) are typically very well kept, well lighted, secure and the businesses do not want the public to know what processes are taking place in the building. John further offered that he was not on the Commission when the topic of marihuana was originally discussed but it isn't clear why there is a distinction being made between medical marihuana and recreational marihuana, as far as an impact on the City.

Commissioner Demasi offered that there was an ethical concern as to what recreational marihuana would do to the community.

Commissioner Myers noted that anyone over the age of 21 in Michigan can grow up to 12 plants therefor anyone who wants access to it (recreational marihuana) are going to get access and in terms of usage within the city, he does not see the connection. Commissioner Wyman agreed with Commissioner Myers sentiments.

Motion by Commissioner Wyman second by Commissioner Acton to open the public hearing. Roll call vote: Ayes: Darren Acton, Glenda Carmoney, Angie Cozat, Elaine Demasi, Jason Lowe, John Myers, Stacy Pechacek and Nick Wyman. Absent: Brett Moser. Nays: None. *Motion Carried.*

Public Comment: Tom Kunse, who owns a business in the south industrial park and is a resident of Grant Township, provided written comment opposing the proposed Ordinance amendments encouraging the Commission to wait and see the (marihuana) facilities in operation before a decision is made to approve Ordinance amendments. Jenny Koch, a former resident of Clare and owner of an adult use marihuana retail business in Benzie County, and her father Tom Koch, a current resident of Clare, provided comment supporting the Ordinance amendments and encouraged the Commission to consider supporting retail sales of adult use marihuana which would provide an additional source of revenue for the city. Omar Fakhouri, part owner of Green Bronco, LLC., offered support for the proposed Ordinance amendments which will allow their business to be competitive in the growing and processing markets. The adult use marihuana market is expanding while the medical marihuana market declines as individuals are now able to purchase their medicinal marihuana (outside the city) without having to pay a doctor to obtain a medical card to purchase their medicine and more individuals are cultivating their own marihuana at home.

Motion by Commissioner Pechacek second by Commissioner Carmoney to close the public hearing. Roll call vote: Ayes: Darren Acton, Glenda Carmoney, Angie Cozat, Elaine

Demasi, Jason Lowe, John Myers, Stacy Pechacek and Nick Wyman. Absent: Brett Moser. Nays: None. *Motion Carried.*

Motion by Commissioner Wyman second by Commissioner Cozat to approve the proposed Ordinance amendments by adoption of Resolution 2020-018PC. Roll Call vote: Ayes: Darren Acton, Angie Cozat, Jason Lowe, John Myers and Nick Wyman. Absent: Brett Moser. Nays: Glenda Carmoney, Elaine Demasi and Stacy Pechacek. *Motion Carried.*

D. CONSIDERATION OF ACCESSORY DWELLING UNITS (ADU) -ORDINANCE REVISIONS

The Planning Commission has had several discussions regarding Accessory Dwelling Units (ADUs) over the past year. There are still valid concerns that have been raised and discussed in respect to ownership, transition after initial ownership, the size of individual ADUs, concern that the ADUs would become multi-family units, and the controls needed to prevent those concerns.

Jill Bahm from Giffels Webster provided an outline for potential ADU options and included information previously given to the Planning Commission for further discussion. A draft ordinance for addressing ADU's in the city was provided.

The Planning Commission is asked to offer its comments for any recommended additions, deletions, or changes to the ordinance provided in order to allow the City to proceed with the approval process for the ordinance, e.g., public notice, schedule requisite public hearings, etc.

Not all Commissioners were in favor of adding more rental units in the city.

The Commission desires information from assessing on the number of lots in the city that an individual could place an ADU however that information may not be readily available.

Initially the Planning Commission discussed these homes as being mother in law homes with a maximum of 1-2 people residing in the ADU.

The ordinance could be expanded or repealed at a later date if it is not working for the benefit of the community.

The difference in allowing ADU's is that the property owner would be required to reside in one of the homes located on the lot and the property must be homesteaded (owner must qualify for a principle residence exemption).

After much discussion, the Planning Commission requested the following changes to the proposed ordinance:

Place a maximum limit of 3 new accessory dwelling units. This limit could be amended by ordinance at a later date.

The size of the ADU would be limited to 1,000 square foot of living space with a limit of 4 individuals living in the ADU.

E. CONSIDERATION OF SIGN ORDINANCE REVISIONS

Giffels Webster has outlined some potential options for revision of the city's current sign ordinance.

The Planning Commission is asked to offer its comments for any recommended additions, deletions, or changes to the ordinance provided in order to allow the City to proceed with the approval process for the ordinance, e.g., public notice, schedule requisite public hearings, etc.

The Planning Commission did not provide any recommendations for revision of the sign ordinance but were encouraged to provide input following tonight's meeting and prior to the October 14 meeting when consideration of the proposed ordinance will be brought before the Commission.

EXTENDED PUBLIC COMMENT: None.

COMMISSION DISCUSSION TOPICS: None.

APPROVAL OF PROFESSIONAL & EDUCATIONAL TRAINING OPPORTUNITIES:

*approved by consent agenda.

ADJOURNMENT

Moved by Commissioner Wyman second by Commissioner Acton to adjourn at 9:30 p.m.
Roll call vote: Yeas: Darren Acton, Glenda Carmoney, Angie Cozat, Elaine Demasi, Jason Lowe, Stacy Pechacek, John Myers, and Nick Wyman. Absent: Brett Moser. Nays: None.
Motion Carried.

Diane Lyon, City Clerk