

The regular meeting of the Clare City Planning Commission was called to order in the city commission chamber of Clare City Hall, 202 W. Fifth St., Clare, MI, at 6:30 p.m. by Commission Chair Josh Clark, who led the Pledge of Allegiance. Present were: Commissioners Darren Acton, Josh Clark, Angie Cozat, Glenda Carmoney, Elaine Demasi, Jason Lowe, Brett Moser and Nick Wyman. Absent: Kristin Heintz. Also present were Ken Hibl, City Manager; and Diane Lyon, City Clerk.

**APPROVAL OF AGENDA:**

Moved by Commissioner Acton second by Commissioner Lowe to approve the agenda. Ayes: All. Nays: None. Absent: Kristin Heintz. *Motion approved.*

**APPROVAL OF AMENDED MINUTES:**

Moved by Commissioner Lowe second by Commissioner Moser to approve the Minutes as amended. Ayes: All. Nays: None. Absent: Kristin Heintz. *Motion approved.*

**UNFINISHED BUSINESS:** None.

**NEW BUSINESS:**

**A/B. SITE PLAN APPLICATION AND SPECIAL USE PERMIT-MERCANTILE BANK**

The City of Clare has received a site plan application to construct a new 3,050sf Mercantile Bank branch building and special use permit application to allow a drive-thru window in conjunction with the proposed construction from Fishbeck, Thompson, Carr, & Huber (FTC&H), an engineering firm based in Grand Rapids - on behalf of Mercantile Bank at their existing bank location at 806 N. McEwan Street in Clare.

The City Staff conducted two staff reviews (a preliminary staff review on October 18, 2018 - and a final review of all the aforementioned plans on December 12th). The City Staff offers its full endorsement of the project and unanimously recommends the Planning Commission approve the site plan and special use permit as proposed. However, it should be noted that during the staff site plan review process, we discovered that we have an inconsistency within our zoning codes in respect to the canopy of the drive-thru window of the new bank building. The criteria for drive-thru windows are outlined in Section 52-348 (d) 7 of the City's zoning codes. As reflected in the referenced section of the City's codes, a 20-foot setback from road right-of-way is required to allow the issuance of a special use permit for a drive-thru window. However, this section of the zoning codes is inconsistent/is in conflict with other provisions of the City's zoning codes. This zoning code issue requires consideration and action by the City's Zoning Board of Appeals, which is scheduled to convene the evening of December 6th. If the ZBA grants the variance that is needed due to the zoning code inconsistency, we will be able to proceed with the proposed site plan and special use permit applications.

The City Planning Commission is the City's approval authority of the proposed project. To facilitate consideration of the site plan and special use permit by the Planning Commission, public notice of the proposal has been published and notice to all residents and businesses within a 300' radius has been mailed.

Heather Bowers and Tony Barendsen presented the project on behalf of Mercantile bank. The new site layout will improve circulation. There will be an entrance and exit off State Street. Presently there is only an exit to McEwan Street; the new plan includes an entrance for north-bound traffic only of McEwan. They have been working with the City's Department of Public Works on storm water management.

The Planning Commission is required to hold a public hearing related to the proposed site plan and special use permit. As reflected above, proper notice has been made by the City.

Subsequent to the hearing, the Planning Commission will be asked to formally consider the site plan and special use permit and render a decision in respect to approval or disapproval.

Motion by Commissioner Demasi second by Commissioner Wyman to open the public hearing. Ayes: All. Nays: None. Absent: Kristin Heintz. *Motion approved.*

Public Comment: None.

Motion by Commissioner Lowe second by Commissioner Carmoney to close the public hearing. Ayes: All. Nays: None. Absent: Kristin Heintz. *Motion approved.*

Motion by Commissioner Lowe second by Commissioner Demasi to approve the Site Plan and Special Use Permit by adoption of Resolutions 2018-030PC and 2018-031PC. Roll call vote: Ayes: Darren Acton, Josh Clark, Angie Cozat, Glenda Carmoney, Elaine Demasi, Jason Lowe, Brett Moser and Nick Wyman. Nays: None. Absent: Kristin Heintz. *Motion approved.*

### **C. SPECIAL USE PERMIT-GREEN BRONCO-AMENDMENT TO CLASS B MEDICAL MARIHUANA LICENSE**

The City previously approved a Class B medical marijuana grow license for Green Bronco, LLC (previously Green Day Investments, LLC). Green Bronco has requested that the Class B license be changed to a Class C license, thereby increasing the number of plants they can grow from 1,000 to 1,500. Note: the City previously approved a Class C license for Green Bronco; this new license will give them two Class C licenses.

Green Bronco has completed the required Special Use Checklist and provided Supplemental Answers related to Compatibility, Environmental Impact, Floor Plans, a Narrative of Operations, and a Statement of Effect on Public Services/Resources. The City Staff has reviewed the Check List and the Supplemental Answers provided and found no fault or error in these documents and takes no exception to the responses offered.

Attorney Joey Kejbou, representing Green Bronco, presented a narrative of the Special Use request via audio facetime. They have passed Phase 1 of the State's vetting process. It will be 2-3 months before startup of the provisioning center can commence and the cultivation center will not be operational until May; it will then be at least 3 months before the first crop will be ready to harvest.

Prior to consideration, deliberation, and decision regarding this matter, the Commission is required to hold a public hearing related to the proposal. Proper notice regarding the special use permit application has been made by the City. The City has also mailed notice to all property owners within a 300' radius of the site of proposed Medical MJ facility. To date we've received one written objection from Mr. Tom Kunse.

Subsequent to the hearing, the Planning Commission will be asked to formally consider the Special Use Permit Application and render a decision in respect to approval or disapproval of the special use permit.

Motion by Commissioner Acton second by Commissioner Wyman to open the public hearing. Ayes: All. Nays: None. Absent: Kristin Heintz. *Motion approved.*

Public Comment: Tom Kunse's written comment was read aloud to the Planning Commission by the City clerk.

Diane,

I am unable to attend the December 12th Planning Commission meeting.

Please accept this as my written comments regarding the Green Bronco Special use permit: There is no need to rush into this. Let's stay with the Class B permit for at least a year and see how it is going. We all agree that there are many unknowns regarding Marijuana laws. It is better to walk before we run. There is no advantage to the City or the Industrial Park to go to the highest allowed cultivation facility until more is known about how this will affect our City. I have nothing but respect for Joey, but it seems like the City is being asked to agree to a situation we know very little about. The prudent decision would be to stay with the Class B permit until

we have a level of knowledge on how the cultivation, dispensary and retail sales will affect our City.

Thank you,

Tom Kunse

Motion by Commissioner Wyman second by Commissioner Carmoney to close the public hearing. Ayes: All. Nays: None. Absent: Kristin Heintz. *Motion approved.*

Motion by Commissioner Demasi second by Commissioner Wyman to approve the Special Use Permit by adoption of Resolution 2018-032PC. Roll call vote: Ayes: Darren Acton, Josh Clark, Angie Cozat, Glenda Carmoney, Elaine Demasi, Jason Lowe, Brett Moser and Nick Wyman. Nays: None. Absent: Kristin Heintz. *Motion approved.*

#### **D. ZONING CODE INCONSISTENCIES**

During the staff review process that is conducted prior to presentation of all site plan applications to the Planning Commission, the City Staff noted that we have a conflict/inconsistency in our zoning codes related to setbacks and drive-thru canopies in our C-1 districts of the City, thereby causing us pause in our ability to assure our Planning Commission that the proposed site plan does or does not meet our zoning code requirements. Specifically:

- Section 52-183 of our Zoning Codes allow for a “zero” side yard lot line for commercial buildings - means the building can be constructed up to the side yard lot line without any setback.
- The definition of a building in the definitions section of our zoning codes excludes canopies (simply stated, treat them like they are not there); however, Section 52-113 (Projections) directly contradicts that definition by stipulating any protrusion attached to the main building is considered part of the building.
- Section 52-348 (d) 7 stipulates that an overhead canopy must be at least 20' from any right-of-way, which in this case is also the side yard lot line - thus in direct contradiction with the allowance in our codes that allows a commercial building to be constructed immediately adjacent to the side lot line (no setback), regardless if the canopy is or is not considered to be part of the building. Sidebar Note: there is also a requirement in Section 52-305 of our zoning codes mandating that financial institution drive-thru windows have sufficient space to accommodate a queue/stacking area of at least three vehicles per drive-thru window - the proposed site plan for this building meets those requirements regardless if the canopy is ten feet from the side lot line or twenty feet from the lot line.

Consequently, we asked the Clare Zoning Board of Appeals to consider issuing a dimensional variance and to direct the Planning Commission to review and initiate the process to eliminate the current inconsistencies.

The Planning Commission does not have the authority to issue a variance in this matter nor does it have the authority or make a determination as to the interpretation of the ordinance codes. The ZBA is the only entity in the City with the authority to make either (or both) of these determinations. Consequently, this matter is referred to the ZBA for decision.

After consultation with our City Attorney in this matter, I recommend that the ZBA issue a variance for this site plan proposal allowing the proposed canopy to be constructed ten-feet from the side lot line of this site. I concurrently recommend that the ZBA defer this matter back to the Planning Commission to review the specific sections of the current zoning codes that caused this conflict and provide recommendations to the City Commission to amend the ordinance codes for continuity and de-confliction to preclude recurrence of this type of situation.

We ask that the Planning Commission commence a dialogue to remedy this situation.

#### **E. ANNUAL REPORT**

The By-Laws of the City of Clare Planning Commission stipulate that the Planning Commission shall annually prepare and submit to the Clare City Commission an annual report. If approved, the report will be formally submitted to the Clare City Commission

for review, consideration, and discussion at the scheduled annual combined meeting of the City Commission and Planning Commission on January 9, 2019.

Motion by Commissioner Acton second by Commissioner Wyman to approve the Annual Report by adoption of Resolution 2018-033PC. Roll call vote: Ayes: Darren Acton, Josh Clark, Angie Cozat, Glenda Carmony, Elaine Demasi, Jason Lowe, Brett Moser and Nick Wyman. Nays: None. Absent: Kristin Heintz. *Motion approved.*

#### **F. DISCUSSION TOPIC – CITY ATTORNEY MEMO (ORDINANCE 2019-01)**

We've received a memo from our City Attorney related to a proposed ethics ordinance that she is recommended be adopted, to address ethical codes and standards for the members of the City's Planning Commission, the City Commission, and the City's Staff members. We are presenting the proposed ordinance to the Planning Commission with a request to review it prior to the scheduled November 14<sup>th</sup> meeting to provide us comments/questions, suggestions, and recommendations for changes at that scheduled meeting. We will provide those comments to our City Attorney, who will address them and incorporate the comments & recommendations in the final draft version of the proposed ordinance - which will be presented to the Planning Commission for final review and recommendation of approval to allow it to be presented to the City Commission for a First Reading.

The Commissioners were provided with paper copies of the sample ordinance for review and mark-up.

Commissioners stated that the information provided was very difficult to read/too complex; they asked if it could be written in a manner that is easier to comprehend. Suggested measurements for the fill in the blank information (number of years number of stocks, etc.) should be included in the revised Ordinance. The Commission determined that they would need more time to review the Ordinance.

**PUBLIC COMMENT:** None.

#### **INTRACOMMISSION COMMUNICATIONS:**

**Joint Meeting** - The combined City Commission & Planning Commission meeting is scheduled at 6:00 pm on January 9<sup>th</sup> at the Pere Marquette District Library. The Planning Commission will call the meeting to order to consider a site plan and a zoning change; adjourn; then begin the combined meeting with the City Commission.

#### **ADJOURNMENT**

Moved by Commissioner Wyman second by Commissioner Acton to adjourn. Ayes: All. Nays: None. Absent: Kristin Heintz. *Motion approved.*

Meeting adjourned at 7:42 p.m.

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Diane Lyon, City Clerk