

**CHARTER TOWNSHIP OF VAN BUREN
PLANNING COMMISSION MINUTES
DECEMBER 16, 2010**

Chairperson Thompson called the meeting to order at 7:30 p.m. Present: McKenna, Koscielny, Johnson, Boynton, Budd and Thompson. Absent excused: Kelley. Staff present: Director Swallow and Secretary Queener. McKenna Associates present: Sally Hodges. There were 17 people in the audience.

APPROVAL OF AGENDA:

Motion Budd, Boynton second to approve the agenda as amended by moving Public Hearing Item #1 to Item # 2 and Item # 2 to Item # 1 to allow additional time for the applicant, Little Caesar's, to be present for the public hearing.

Motion carried.

MINUTES:

Motion McKenna, Boynton second to approve the minutes of November 10, 2010 as presented.

Motion carried.

The Commission thanked Dan Swallow for his excellent service to the Township, and wished him the best with his new adventures. The Commission also noted this was Commissioner Koscielny's last meeting and thanked him for his years of service.

PUBLIC HEARINGS:

ITEM # 1 AMENDMENT TO THE ZONING ORDINANCE 6-2-92, AS AMENDED, OF THE CHARTER TOWNSHIP OF VAN BUREN.

TO REVISE REGULATIONS PERTAINING TO PROHIBITION OF USES OR ENTERPRISES CONTRARY TO FEDERAL STATE OR LOCAL LAW.

Motion Boynton, McKenna second to open the public hearing.

Motion carried.

Director Swallow stated the Commission has reviewed the various zoning ordinance options at previous meetings including approaches used in other communities. The Commission concluded the state law is not clear on what land uses are permitted other than possession and growing of marihuana by qualifying patients and primary caregivers. The law does not address the establishment of businesses such as dispensaries or other land uses that are commonly regulated under local zoning ordinances. The hope was that the state legislature would amend the state law, or the state attorney general, the federal department of justice, or the courts would clarify how the law applies to local land uses. However, this has not occurred to date and it is important for the Township to establish some local regulations before our moratorium expires and there are requests to establish medical marihuana related land uses. The general

consensus from the Planning Commission at previous meetings was that staff should proceed as conservatively as possible and that the prohibition of land uses contrary to state and federal law, similar to what the City of Livonia and several other communities had adopted, was the preferred approach. The ordinance language presented this evening closely follows the Livonia model, with added recommendation that similar language also be added to the Township's general ordinance to avoid an exclusionary zoning challenge. It is important to note that a law suit was recently filed against the City of Livonia challenging their ordinance language as an outright ban on medical marihuana. Therefore, the Township may want to take a closer look at the proposed ordinance language to help avoid a legal challenge.

Sally Hodges with McKenna Associates noted that they could assist staff in developing alternate language that would limit the medical marihuana uses to specific zoning districts and establish special land use criteria. However, there are still a number of questions regarding what is allowed under the state law and the answers to those questions through the courts or other regulatory bodies will likely not be forthcoming in the near term. Hodges noted the Township could always extend the moratorium to allow more time for discussion, but this is still only a temporary measure.

The Commissioners had a discussion regarding allowing the growth and selling of marihuana for qualified patients and caregivers. They reviewed the ordinance options that could limit the use to specific zoning locations and limit the size of building and or space they can use. There was also discussion regarding the proposed ordinance language and if the Township should attempt to prohibit these land uses since the state law is vague, and there is no clear way to identify a person that is licensed by the state. Some of the Commissioners where totally against the use or selling of marihuana, stating that the experience in other states shows that crime increases where this is allowed. The Commission also felt there are serious concerns regarding the question of federal law pre-empting state law and if these types of land uses can be legally permitted.

Director Swallow stated he felt it was important for the Township legal counsel and Township Board of Trustees to evaluate the risk of a lawsuit related to the proposed ordinance language and provide the Planning Commission with some more guidance on how to proceed.

Motion McKenna, Koscielny, second to close the public hearing.

Motion Carried.

ITEM # 2

CASE #

10-019 SUP

TITLE:

THE APPLICANT, LITTLE CAESAR ENTERPRISES, IS REQUESTING SPECIAL USE APPROVAL TO CONSTRUCT A DRIVE THRU RESTAURANT IN AN EXISTING COMMERCIAL SHOPPING CENTER.

LOCATION:

PARCEL NUMBER V125-83-118-99-0021-705 ALSO KNOWN AS 6055 RAWSONVILLE ROAD, THIS PROPERTY IS LOCATED ON THE EAST SIDE OF RAWSONVILLE ROAD, SOUTH OF W. HURON RIVER DRIVE.

Director Swallow explained the applicant is not present and he would review the proposed request for Little Caesar's drive thru. Swallow continued the proposed site is located in the Rite Aid strip Center on Rawsonville Road, It is proposed in the end unit in the building running North and South and it would be used for pickup of their \$5.00 dollar pizza special. There are some concerns with the traffic flow around the building and stacked parking for the drive-thru and the applicant would be required to submit additional information to move forward with this project.

The Commissioners had a discussion regarding the safety of having this drive thru between Rite Aid and the end building, whether there will be adequate space and concerns regarding pedestrians walking to their cars. The Commissioners suggested installing some type of safety device to separate the traffic around the building from the cars in the drive-thru.

John Delaney resides on Mida Drive, had a concern whether this could be turned into a full service drive thru with a speaker and taking orders at any point.

Director Swallow stated this is a special land use approval that would be accompanied by a specific site plan and that they would be required to get additional approvals to expand the use.

Motion Boynton, Johnson second to close the public hearing.

Motion carried.

GENERAL DISCUSSION:

Commissioner Johnson inquired about the abandoned basements in the Cobblestone Ridge Subdivision.

Director Swallow stated the property has a new owner and they have done some clean up and the Department is waiting for additional information from the new owner before proceeding.

ADJOURN TO WORK STUDY:

Motion to adjourn Koscielny, Boynton second to adjourn to work study at 8:15 p.m.

Motion carried.

Respectfully submitted,

Patricia Queener,
Recording Secretary