

**City of South Lyon
Planning Commission
Meeting Minutes
October 9, 2014**

The meeting was called to order by Lanam at 7:03 p.m.

PRESENT: Jerry Chaundy, Secretary
Wayne Chubb
Frank Leimbach
Maggie Kurtzweil
Scott Lanam, Chairman
Steve Mosier
Jason Rose
Carol Segal

ABSENT: Keith Bradley, Vice-Chairman (excused)

OTHERS PRESENT: Timothy Wilhelm, City Attorney
Kristen Delaney, Director of Community & Economic Development

APPROVAL OF AGENDA:

Motion by Mosier, second by Leimbach to approve the agenda for October 9, 2014 as presented.

VOTE

MOTION CARRIED UNANIMOUSLY

Kurtzweil noted that both mentions of "Flaming Maples" on page 2 of the minutes should be corrected to read "Flaming Red Maples".

APPROVAL OF MINUTES:

Motion by Chubb, second by Chaundy to approve the minutes for September 11, 2014 as amended.

VOTE

MOTION CARRIED UNANIMOUSLY

COMMENTS FROM THE PUBLIC

Bruce Pindzia
285 Burtch Road, Grass Lake

Corrected: November 18, 2014

Pindzia introduced himself to the Commission and stated that he was here to represent the building where the Witch's Hat Brewing Company will be locating. He stated that the property owner would like to make some minor changes to the approved site plan from 1992. He stated that they would like to remove, relocate or replant some trees on the site in order to make room for more parking spaces. Commissioner Chubb asked if these changes would require recalculation of the storm water calculations? Delaney stated that she would like for Planning Consultant Avantini to review the plan and help make that decision. Pindzia stated that when the plan was designed, they over engineered the site so the addition of a small amount of asphalt would not change storm water calculations.

Commissioner Kurtzweil stated that she would like to disclose that the property owner in question used to be a client of hers.

Kurtzweil asked how many trees would be removed from the site? Pindzia responded that he thought it would be 2-3. He stated that they had originally planted more than was required. Kurtzweil stated that digging the trees up and replanting them will not work. Lanam noted that per the tree ordinance, any trees removed would likely need to be replaced. Commissioner Chaundy asked about other tenants locating in the building. Pindzia stated he was not aware of any at this time. Chaundy stated that there had been a recent article in the South Lyon Herald that the Palate restaurant in Milford may want to locate next to Witch's Hat. Commissioner Rose stated that the article said the proposed restaurant would be carry out only, with no seating.

Pindzia asked some questions about the process of getting a site plan before the Planning Commission for review. Delaney stated that depending on the length of time that it takes the City's consultants and department heads to review the plan, the issue could go before the Commission in a matter of weeks.

PUBLIC HEARING

City Attorney Wilhelm gave an overview of the ordinance amendment before the Commission this evening and the purpose behind it. He stated that the intent of the proposed Medical Marihuana Activities ordinance is to restrict these activities to residential districts and keep it out of commercial districts. He cited recent case law which suggests that communities cannot ban medical marihuana activities outright, but they can regulate them in some fashion, including what zoning districts these activities take place in.

Chubb asked about any restrictions having to do with schools. Wilhelm stated that this type of activity would not be allowed on school grounds. He stated that he did not include any kind of radius restriction in relation to schools. In his opinion it would be problematic to enforce.

Commissioner Leimbach stated that he did not want to see this type of activity taking place at all in residential areas. He stated that he thinks it should be restricted to industrial areas. Wilhelm stated that some communities had taken this approach early on. Wilhelm stated that

the concern in this approach is that you will have a concentration of this type of activity, as well as patients who would most likely want to use medical marijuana in their homes. He is not sure how you regulate or enforce issues having to do with the transportation of medical marijuana, as the state law is vague.

Commissioner Segal asked about the possibility for increased calls to Child Protective Services as a result of the use of medical marijuana in homes with children present. Wilhelm responded that as it currently stands, this type of use is permitted by state law. Commissioner Rose noted that children are also being prescribed medical marijuana.

Based on the discussion at the last Planning Commission meeting, Wilhelm indicated that he had amended the draft of the ordinance to address the Commission's concerns regarding medical marijuana activities in accessory structures. As a result, he noted that he has amended the ordinance to allow for ingestion and/or smoking of medical marijuana, but banned the growth and manufacture of medical marijuana in accessory structures due to a number of security concerns.

Kurtzweil stated that she had spoken to her neighbors about this issue and she has a problem allowing drugs in a residential neighborhood. She stated that the federal government still considers this activity illegal. She agrees with Leimbach, it should be allowed only in commercial areas because children don't have access to commercial districts the way they do to residential districts. Kurtzweil stated that she worried that medical marijuana would be everywhere if the Commission recommended approval of this ordinance. Wilhelm stated that he understood her concerns, but that the activity was already everywhere, because the state had made it legal. From his perspective, the Commission isn't encouraging the use of medical marijuana in residential districts, but rather putting some controls on this type of activity. Wilhelm stated that it would be difficult for the City to legally defend an ordinance banning the use of medical marijuana, in compliance with state law, in a residential district.

Rose stated that the law allowing medical marijuana has been in place for over five years. He does not believe that it has become the problem that either Kurtzweil or Leimbach is describing. He stated that this activity is already in the community right now, with both caregivers and patients in operation. Rose stated that he was in favor of the ordinance as presented tonight. He is not in favor of restricting use of medical marijuana in residential areas.

Lanam stated that concentrating these types of activities in an industrial district could open the door to some very large grow operations that would bring other problems and issues to the City. Wilhelm concurred with Lanam's opinion and stated that pushing all use to commercial districts again brings up the issue of transporting medical marijuana.

Chubb asked, if the City allows medical marijuana activities, in particular caregivers in residential areas would the City then need to revise its ordinance on home occupations? Wilhelm stated that he would want Avantini to weigh in on that issue. He noted that other communities have had problems requiring either patients or caregivers to register with a

municipality. There are privacy issues at play in that scenario since this information maybe be subject to FOIA. Lanam stated that HIPAA concerns would also be an issue, if patients and/or caregivers were required to register with the City as a home occupation. He stated that as he understood the law, caregivers do not have disclose who their patients are.

Chubb asked about ways to monitor caregivers. Wilhelm stated that this was a good question and he was wondering if the ordinance could be revised to divorce ingestion/consumption of medical marihuana from the more commercial nature of being a caregiver. He noted that the Commission was still proposing to restrict a legal activity within a zoning district and would need a rationale for doing so.

Chubb stated that he would like to see the ordinance address a patient's medical marihuana activities from the caregiver's.

Lanam opened the public hearing at 7:50 p.m.

Roland Gibson
954 Squire Lane, Milford

Gibson stated that he is a student at Milford High School. He said that 1/3 of students at his school smoke marihuana, primarily in private homes and at parties. Kurtzweil asked if they smoked for medical purposes. Gibson responded that they did not. Kurtzweil stated that that was a sad commentary on this generation of young people.

Lanam closed the public hearing at 8:04 p.m.

Leimbach asked what the next step would be. Wilhelm stated that he would revise the ordinance based on feedback that he had received tonight. He will bring it back to the Commission and they can set another public hearing. Leimbach asked about extending the City's moratorium on medical marihuana, as it was set to expire in November. Wilhelm stated that, as he understood it, the Council may be in favor of extending the moratorium if they knew that the Planning Commission was working on something more specific to address the issue.

Mosier stated that he'd like to see what other nearby communities are doing to address this issue. Wilhelm stated that he would provide that information. Wilhelm stated that Green Oak and Wixom had passed ordinances similar to what was presented to the Commission this evening.

MOTION TO RECOMMEND TO CITY COUNCIL THE EXTENSION OF THE MORATORIUM ON MEDICAL MARIHUANA:

Motion by Leimbach, second by Kurtzweil to recommend to City Council the extension of the moratorium on medical marihuana for six more months.

VOTE

MOTION CARRIED UNANIMOUSLY

Corrected: November 18, 2014

OLD BUSINESS

None.

NEW BUSINESS

None.

PLANNING CONSULTANT REPORT

None.

STAFF REPORT

Delaney stated that Immanuel Lutheran Church is still trying to finalize their required easement. As a result, they have not begun construction on their new parking lot. She noted that she has heard from an engineering firm who is working with Sun Steel about a possible addition. Leimbach asked about construction signs left in the parking lot of Alexander Center. Delaney stated that she would follow up with the Code Enforcement Officer.

Leimbach asked about the status of the Knolls of South Lyon. Wilhelm stated that he is working with opposing council to finalize details.

ADJOURNMENT

Motion by Mosier, second by Leimbach
To adjourn the meeting at 8:45 p.m.

Scott Lanam, Chairman

Kristen Delaney, Recording Secretary

Jerry Chaundy, Secretary