

CITY OF CHEBOYGAN PLANNING COMMISSION
Special Meeting Monday, June 29, 2020 Via Zoom Audio
Audio Record will also be available at City website

Present: Kopernik, Granger, Rogers, O'Brien, Khan-King, Horntvedt Kronberg
Absent: None
Admin: Eustice

Meeting called to order at 7:05 p.m.

Granger opened public hearing by first asking Eustice to explain purpose of meeting.

Eustice stated the purpose of the hearing was to hear comments regarding the request to change 123 E. State street from WM zoning to B3 to enable the use of a marijuana provisioning center. The property is adjacent to B3 on the East and South. Not a case of spot zoning.

Granger stated that at one time this property was zoned B3 and got changed to WM. Eustice confirmed that was true.

Comments were made by Lange, Archambo, Lahaie and Brandt. Some did not pertain to the issue at hand which is strictly rezoning 123 E. State from WM to B3.

Public hearing closed at 7:21.

Kopernik recused himself from discussion or vote on this rezoning request as he is listing agent of the property in question.

Rogers made a motion to table this issue as City Council had drafted a new ordinance that would allow marijuana provisioning facilities in Waterfront Marina districts. No support, motion failed due to lack of support.

Horntvedt commented that the property is not even on the water and used to be zoned B3 so they just want to revert back to how it was originally zoned.

Kronberg stated that Waterfront Marine was the Highest and Best use for this location as Cheboygan is recognized as Rivertown. Horntvedt stated Highest and Best was an economic term, not zoning. Kronberg stated Cheboygan is a planned community and there are zones to make the best uses of property.

O'Brien discussed legalities regarding rezoning and indicated that nearby property owners did receive proper notice and had no objections.

Granger reiterated that property was originally B3, Walstrom Marina was looking to expand and got entire adjacent properties zoned Waterfront Marina. They never went

forward with expansion. Does not see any legal challenge, call for motion. Horntvedt provided insight on Walstrom focusing in other towns, not moving forward with expansion in Cheboygan.

Kronberg questioned what would change as far as permitted uses, Granger stated he would have to check the ordinance. Eustice said Waterfront Marine could allow a residence but B3 could not. Also, Waterfront allows outside storage, B3 does not. Eustice did not receive any written comments but did hear from Walstrom who is not opposed to rezoning.

Horntvedt made a motion to recommend to council that 123 E. State Street be rezoned from Waterfront Marine to B3. Seconded by O'Brien. Role Call...

Granger Yes
Rogers No
O'Brien Yes
King No
Horntvedt Yes
Kronberg No
Kopernik Recused

No majority, motion fails.

Eustice want to add 1430 Western Avenue to agenda. This is a 44 acre parcel owned by Carol Stempky. She would like to sell the property to an investor who wants to put in a housing development. To zone residential, there needs to be a public hearing. Wants to schedule public hearing at July 20, 2020 regular Planning Commission meeting.

Rogers moved to have public hearing regarding rezoning 1430 Western Avenue on July 20, 2020 at 7:00 p.m. Seconded by Horntvedt, passed unanimously.

Kopernik motioned to approve the minutes of May 18, seconded by King, passed unanimously.

Commissioner comments.....

Rogers stated she felt like she was slapped in the face by Council by their total disregard of Planning Commission on rewriting zoning ordinance pertaining to medical marijuana.

King commented she did not think requesting a special use permit was such a big deal, several applicants have what is needed. She stated that the Planning Commission would make good recommendations that represent the citizens of Cheboygan. O'Brien agrees. Kronberg also agrees that the Planning Commission worked hard, recommended an ordinance to Council, Council adopted it. Does not understand how

Council can just change it, does not like how it's progressing. Requiring Special Use Permit lets Commission hear how citizens feel about prospective business.

Kopernik feels Special Use Permit is overkill. Questions what recourse is for property that did not get rezoned. Eustice stated they can take to circuit court. Discussion regarding the fact that Council will do what they want to do. Council has already rewritten the ordinance to include Waterfront Marine as an accepted use for medical marijuana dispensaries. Eustice stated that Council was only prepared to do that IF the rezoning was not recommended, but takes time for public hearing etc.

Granger stated that not recommending rezoning could open city up to lawsuit. Does not feel there was a valid reason for not recommending rezoning. Does not think decision would hold up in court. Further stated that decisions cannot be based on whether or not someone thinks they may be sued.

Granger stated his concern over the number of dispensaries allowed, glad Council at least kept it at 6. He also stated that his big concern was that Council chose to cut the Planning Commission completely out, if they wanted changes to the ordinance, they should have come to the Planning Commission, we could have worked it out. Granger wants to be sure Eustice tells Council that the Planning Commission is not happy. He did not check the city Bylaws but is pretty sure that they state the Planning Commission needs to be consulted.

Eustice commented that the legislative body (Council) can do what they want. After they had a good understanding of the medical marijuana ordinance, they made changes to speed up the process.

Horntvedt stated he was appointed to advise and was not angry at Council doing what they think is best for the city. Kopernik also stated that he has no animosity toward the city.

Rogers questioned the process for accepting medical marijuana applications. If an application came in for a location that was not zoned correctly, shouldn't that application be thrown out? Eustice stated a specific location is not required to accept the application. His opinion is that all applications received should have been issued permits.

King commented that it would just make good business sense to check the zoning to see if you could open your proposed business in that zone. Horntvedt said it would be savvy to check zoning, but it could be logical to obtain permit then shop for location, asked if there was expiration on permit. Eustice stated permit would expire in one year.

King suggests there should be a checklist on application or some notification of zoning rules.

Eustice commented that by not recommending rezoning for 123 E. State street that the Council will open all Waterfront Marine to allowing medical marijuana. If Planning Commission would have made that one little change, they would not do that. Rogers commented that Council already had Waterfront Marine in the rewritten ordinance.

Horntvedt stated that maybe he made his motion too soon, now that there was more discussion maybe someone would change their mind. King agrees, had this conversation taken place prior to the vote she may vote differently.

Horntvedt questioned the chair on whether he could make a motion, Granger said he could. Rogers questioned how you can make the same motion again. Granger stated it was allowed because the first motion was a tie, not a majority.

Horntvedt made a motion to recommend to Council to rezone 123 E. State Street from Waterfront Marine to B3. O'Brien seconded. Role Call...

Kopernik Recused

Granger Yes

Rogers No

O'Brien Yes

King Yes

Horntvedt Yes

Kronberg No

Motion passes.

King commented that Council taking us out is not right, we would have worked with them to represent the community. Leaving the Planning Commission out of the process is not the way to go.

Eustice stated that Rogers had a great idea in Council meeting comments, maybe just have the special use required in the B2 district.

O'Brien encouraged communication between Commissioners as well as between the Planning Commission and Council. Eustice stated there used to be joint meetings.

King motioned to adjourn the meeting, Kopernik seconded. Granger adjourned the meeting at 8:34 p.m.

Respectfully submitted,

Linda J. Rogers, Secretary
City of Cheboygan Planning Commission