

CLINTON TOWNSHIP PLANNING COMMISSION

REPORT OF MEETING

FEBRUARY 22ND, 2018

PRESENT: Kirkanne Moseley, Chairperson
Denise C. Trombley, Secretary
George Brumbaugh
Lawrence Opalewski Jr.
Daniel Spatafora
Joie West

ABSENT: Ronald DiBartolomeo, Vice-Chairperson (Excused)
Stephen Charron (Excused)
Michael Deyak (Excused)

STAFF: Carlo Santia, Director
DEPARTMENT OF PLANNING AND
COMMUNITY DEVELOPMENT

Ms. Moseley called the meeting to order at 6:30 p.m.

APPROVAL OF AGENDA

Motion by Mr. Spatafora, supported by Mr. Opalewski, to approve the agenda as submitted. Motion carried.

PART OF LOT 30, SUPERVISOR'S PLAT #7 SUBDIVISION, BEING 1.31 ACRES OF VACANT LAND FRONTING THE EAST LINE OF HARPER AVENUE, SOUTH OF METRO PARKWAY – PARCELS 16-11-25-101-008 AND -009 (SECTIONS 25/26)

- SITE DEVELOPMENT PLAN: PARKSTONE VILLAGE APARTMENTS
-- REQUEST FOR RECOMMENDATION FOR APPROVAL
FILE #17-6787: PETITIONED BY MR. CHRISTOPHER LALAMA,
PARKSTONE CLINTON LLC
REPRESENTED BY MR. RONALD CHIESA, RA CHIESA ARCHITECTS

Ms. Trombley read the letter into the record dated February 16th, 2018 from the Director of the Department of Planning and Community Development. She advised that notice of this public hearing was issued by regular mail to 43 owners

and/or occupants within 300 feet of the land in question, with none of those returned as undeliverable.

Mr. Ron Chiesa, RA Chiesa Architects, 43260 Garfield Road, Suite 210, Clinton Township, Michigan 48038, stated he has colored renderings showing the proposed development on 1.3 acres of property, with 18 units proposed, all having two bedrooms. He explained the second-floor units are 935 square feet, and the lower level units are 847 square feet. He pointed out that one of the nice features of this development is that each unit will have its own separate entry. There will be nine units on the ground level, and nine units on the second floor, which are accessible through stairs. He claimed the Fire Marshal was happy to hear there is no common area, which can be problematic with regards to fire-fighting and protection, as well as the safety of residents. He stated this will be a nice development and will fit in well with the apartments to both the north and south. He added that they are not proposing carports, which he felt are not aesthetically pleasing, so all parking is open but away from the units so there are no issues with headlights shining into the units.

Ms. Moseley invited comments from the audience, but there was no one who indicated they wanted to speak on this matter.

Mr. Spatafora inquired as to whether there is any landscaping proposed around the perimeter where the open parking will be to avoid the headlights from shining onto neighboring properties.

Mr. Chiesa replied they have landscaping all the way around the site. The ordinance requires seven trees on the site, and they have twenty-two trees.

Mr. Spatafora inquired as to whether that will be sufficient to shield any headlights from going onto the neighboring properties.

Mr. Chiesa showed the plan, pointing out where the trees and landscaping are in relation to the parking.

Motion by Ms. Trombley, supported by Ms. West, with reference to File #17-6787 and application from Mr. Christopher Lalama, of Parkstone Clinton LLC, 101 S. Main Street, Suite 200, Rochester, Michigan 48307, as represented by Mr. Ronald A. Chiesa, of RA Chiesa Architects, 43260 Garfield Road, Suite 210, Clinton Township, Michigan 48038, concerning the Site Development Plan for Parkstone Village Apartments, to be located on part of Lot 30, Supervisor's Plat #7 Subdivision (Sections 25/26), being 1.31 acres of vacant land east of Harper, south of Metro Parkway, that recommendation be forwarded to the Clinton Township Board for approval of the site development plan as submitted, subject to addressing the concerns of the Departments of Assessing, Fire and Rescue and the Macomb County Department of Roads.. Roll Call Vote: Ayes –

Trombley, West, Brumbaugh, Moseley, Opalewski, Spatafora. Nays – None. Absent – DiBartolomeo, Charron, Deyak. Motion carried.

Ms. Moseley informed that the Planning Commission is a recommending body, and this will be forwarded to the Township Board for their final determination. She advised that the petitioner will need to submit 24 copies of the site plan and landscape plan to the Planning Department no later than March 6th, 2018 to be placed on the Township Board Agenda of March 19th, 2018.

WORK SESSION AND DISCUSSION

- **MEDICAL MARIHUANA FACILITY LICENSING ACT (MMFLA)**
 - **CONTINUED DISCUSSION ON PROPOSED AMENDMENT TO THE PLANNING & ZONING CODE TO ALLOW FACILITIES IN CLINTON TOWNSHIP**
-

Ms. Moseley explained that Mr. Santia has provided the Planning Commissioners with a draft ordinance.

Mr. Santia stated he presented the Commissioners with a draft of a Zoning Ordinance. He explained this was provided to the Commissioners at their last meeting, so he assumed everyone went through it the best they could, and his plan is to read through it this evening, section by section, and get everyone's comments and questions. He explained the first page is the explanation of adopting the ordinance to amend Chapter 1298. He explained it is standard information, and it continues with the purpose and intent, which is to allow for property to be used for Medical Marihuana Facilities under the authority of the Medical Marihuana Facilities Licensing Act (MMFLA).

Ms. Moseley explained to the audience who does not have a copy of this draft, that this ordinance will also regulate the locations where this will be permitted. She stated she recognized some people in the audience who have been to some of the previous meetings where this has been discussed. She explained this is a "work session" for the Planning Commission and is not a public hearing, but they may be able to take a few comments.

Mr. Santia clarified that they will take minimal comments. They will be going through the proposed draft section by section. He went on to the second section, explaining that these are definitions, which are standard. He did not feel anyone will have comments on the definitions. He stated this Ordinance adds a new chapter, to be known as Chapter 1291 Medical Marihuana Facilities, and he read Section 1292.01 Public Interest Purpose and Intent.

Mr. Brumbaugh questioned the title of Chapter 1291, noting it refers to "MMF Medical Marihuana Facilities", and inquired as to the purpose of including "MMF". He questioned whether this document was drafted by the Township attorneys as

well as other people from the Township who had engaged in some workshops prior to this coming to the Planning Commission.

Mr. Santia confirmed this has been reviewed by the Township attorney and approved by him as a suggested document.

Mr. Santia explained that Section 1291.02 includes a list of definitions, and he reviewed each of the definitions as spelled out in this section. He informed that anyone who would like a copy of this draft can provide him with an email, and he will forward a copy to them. He reminded that it is a draft and not approved, and he felt it will most likely go through some more changes before it is sent to the Township Board.

Ms. West questioned Section 1291.02-(i), which defines “Secure Transporter”, and noted the definition refers to a “licensee that is a commercial entity situated in this state that stores marihuana and transports marihuana between marihuana facilities for a fee as defined and authorized under the Act”. She inquired as to whether they also transport money.

Mr. Santia believed the transporters would also be transporting money, although it is not indicated in the definition. He stated this is the definition as defined under the Act.

Ms. West inquired as to whether “secure” means the transporters will have guns.

Mr. Santia replied it could be guns if they are licensed to carry them.

Ms. Moseley did not believe they can have a weapon if they are transporting drugs.

Ms. Paula Givens, cannabis attorney, stated she always advises her clients “not to have their felonies where their firearms are”. She added there is a lot of confusion and misconception about the Michigan CPL (concealed pistol license). There is a separate penalty and separate crime for felony firearm, so there would be no prohibition against a secure transporter having an armed guard in the MMFLA.

Ms. Moseley understood Ms. Givens to indicate the secure transporters can be armed and transport marihuana.

Ms. Givens replied affirmatively.

Mr. Santia reviewed Section 1291.03 Authorized Number of Permitted Types of Facilities. He explained there are five types of licenses pursuant to Section 205(1) of the Act, and they are as follows: Growers, Processors, Provisioning Centers, Secure Transporters and Safety Compliance Facilities. He indicated

that the Ordinance would permit all five types of facilities in the Township, but they will need to determine how many of each they want to allow. He indicated the Planning Commission can determine that number, or they can leave it up to the Township Board to make that determination.

Ms. Moseley inquired as to whether the Township has investigated other communities.

Mr. Santia felt it does not matter because some of the smaller communities allow more licenses than the larger communities. When the Exploratory Committee was discussing it, they decided they would like to keep it small. They were thinking possibly five grow licenses, five processing licenses, two provisioning centers, and possibly not placing a limit on secure transporters or safety compliance facilities.

Ms. Moseley stated she would not be comfortable with not having a limit on the safety compliance facilities.

Mr. Santia clarified that the safety compliance facilities are basically labs where they conduct testing. He added that they can place a limit of five on that as well if they allow five of the other facilities, other than the provisioning centers.

Ms. West noted that she had previously asked Mr. Santia whether they can specify one license for each and increase it in the future.

Mr. Santia confirmed that is correct.

Mr. Spatafora questioned how they arrived at the number “five” for licenses for growers and processors, as opposed to three or seven.

Mr. Santia replied the Exploratory Committee did not come up with specific numbers other than for provisioning centers because those have the most exposure and they want to limit that in the Township. The other facilities are innocuous and not as visible.

Ms. Meltzer inquired as to whether they had discussed the size of the provisioning centers.

Mr. Santia replied they did not specifically discuss size, although they discussed architectural design and signage. They do not want to allow leaves, anything that says “cannabis” or “marihuana” on a sign. He believed they will establish a committee that will screen the applications and interview the applicants. They will come up with some criteria to gauge that information.

Ms. Trombley inquired as to whether it is possible for one applicant to get three of the licenses.

Mr. Santia replied they could give one applicant three licenses, but he does not know that they would do that. He confirmed they will go through an interview process. He continued to review Section 1291.03.

Mr. Brumbaugh questioned the definitions under Section 1291.02, noting that these definitions do not mirror those in the State Act. He felt it would be easier to take the definitions from the statute, noting it may be easier if the State amends the definition in the future. He cited the example of 1291.02-(c) Grower, where the State has the identical definition except it states "...for sale to a processor or a provisioning center or another grower...". He questioned why the proposed Ordinance does not include the words "or another grower" and whether it was intentionally omitted.

Mr. Santia questioned why they would be transferring the product to another grower. He explained the wording included in the proposed Ordinance came from another community's ordinance. He felt it was most likely left out intentionally.

Mr. Brumbaugh suggested that, where they can, they should match it up to the State's definition, and if there is a reason to leave something out, that is acceptable. He felt they are better off if the State has already defined it and they use the same definition.

Mr. Santia noted they can recite the state law, and they can change the definitions to match those of the State. He replied to inquiry that "Act" is the State law. He questioned whether the Planning Commission wants to use the numbers he mentioned regarding the number of each type of license.

Mr. Opalewski stated he is comfortable with those numbers as long as they can talk about it later if they need to do so.

Mr. Santia replied this is not "set in stone" and it can be amended. They can increase the numbers in the future, but it would be difficult to decrease the numbers once the Ordinance is adopted and the licenses are issued, because all the issued licenses would then be grandfathered in.

Ms. West inquired as to whether there are three grower classifications, being "A", "B" and "C", which regulates the number of plants they can grow, and she asked whether they are broken down in the ordinance regarding the number of each allowed.

Mr. Santia replied they can break it up. The intent was to allow only a small number of growers.

Mr. Opalewski pointed out that even if a certain number of licenses are available, it does not mean they have to approve that many.

Mr. Santia confirmed that is correct.

Ms. West felt they should be defined in the Ordinance.

Mr. Santia replied to inquiry that “A” is for the fewest number of plants, and “C” is for the largest number. He added they can specify only five licenses for growers, but they can be either “A”, “B” or “C”.

Mr. Brumbaugh questioned whether that will be regulated under the Regulatory Ordinance.

Mr. Santia felt it should be spelled out in the Zoning Ordinance.

Mr. Santia explained Section 1291.04 Conditional Permit Required for Rezoning Application and Rezoning Approval. He stated they are not sure they want to go in this direction, but it was recommended by the Township attorney.

Mr. Opalewski inquired as to Mr. Santia’s misgivings about including this section.

Mr. Santia replied the intent is to allow it only in industrial zones, so he does not know that they would need to go through a Conditional Rezoning permit process. He felt they can define the industrial zones as where they would be allowed, so a Conditional Rezoning may not be necessary. He stated they will change that section.

Mr. Brumbaugh questioned what Mr. Dolan’s reason was for including this section.

Mr. Santia replied it gives the Township better control of the location, as opposed to coming up with a map that outlines specific locations. They can look at all the criteria together, such as distances from schools, homes, churches, etc.

Mr. Santia reviewed Section 1291.05, noting that the first sentence in that section will need to be changed, referring to “conditional permit”. He explained each of the licensing types are proposed to be permitted in the I-1 Light Industrial and I-2 Heavy Industrial districts.

Ms. Moseley suggested that for Item 1291.05-(f), the part that the Township “may revise this limit from time to time” be changed to “has the right to revise this limit from time to time”.

Mr. Spatafora questioned whether they should consider putting in additional language in Section 1291.05 that would prohibit any chance for an applicant to

come before the Board for a Conditional Rezoning. He stated he wants to see something “airtight” where it is only allowed for this area, and was concerned that in the future, an applicant or his attorney looking for a Conditional Rezoning could come up with a legal argument where they could contract Conditional Rezoning elsewhere, looking for some type of legal loophole.

Mr. Santia stated they would have to get an opinion on that, but if it is within a zone the Township has created, that is the only place where it would be permitted, and any other requests could be denied.

Mr. Spatafora emphasized he does not want to leave any chance for an applicant to come up with the argument for a Conditional Rezoning outside of the zone. He stated he does not know whether this Ordinance would prohibit it, but he wants to make sure it is written in a way that Conditional Rezoning cannot be an option. He is concerned, along the purview of “health, safety and welfare”, and does not want to leave this open.

Mr. Santia assured they can ask for an interpretation.

Mr. Brumbaugh questioned whether 1291.05-(c) Provisioning Centers regulates where a person would go to purchase his/her marihuana.

Mr. Santia replied affirmatively.

Mr. Brumbaugh questioned whether it was the consensus that commercial districts would be out.

Mr. Santia replied that they want it limited to industrial districts.

Mr. Brumbaugh stated he would like to see commercial districts included. He could not see much difference between a beer store and a medical marihuana store or a pharmacy, which provides opiates and other drugs most likely more dangerous than marihuana. He clarified that he is addressing only medical marihuana. He felt limiting it to industrial districts only may be inconvenient for the consumer, and he would like to see discussion on that item remain open.

Mr. Santia explained the idea is that there is a lot of industrial-zoned land along M-59, Groesbeck Highway and Gratiot Avenue so it would be easy to get to for the consumer. He clarified the ordinance does not indicate it has to be “tucked away” in an industrial subdivision.

Ms. Moseley referred to Section 1291.03-(a)-3, which referenced the number of provisioning centers, and inquired as to whether they had decided that number would be two.

Mr. Brumbaugh did not feel that two provisioning centers are enough.

Mr. Santia stated they can think about that and revisit it.

Ms. Moseley stated she would be in favor of a higher number of provisioning centers as well, indicating that she would be ok with up to five. She would like to see them spread out throughout the Township.

Mr. Santia cautioned they will have to be careful because some areas do not want it at all.

Ms. Trombley suggested they could set the limit for provisioning centers at three, with the idea they could increase that number in the future.

Mr. Opalewski felt it makes sense for the Township to be able to issue more provisioning center licenses if they see a good applicant. Even if they specify no more than five, they do not have to approve more than two if they do not see more than two good applicants.

Ms. Moseley wanted to make sure that the consumers who need it have the transportation to get to a provisioning center, and it will be difficult if they must get from one end of the Township to the other. She felt more provisioning centers will help.

Mr. Santia reviewed Section 12.91.06 Application Procedure, noting that it refers to an application for “rezoning” and that will have to be rewritten because it applies to a Conditional Rezoning. He felt this section does not fit in this Ordinance and should be part of the Regulatory Ordinance.

Mr. Brumbaugh indicated that section can be taken out of the Zoning Ordinance.

Mr. Santia reviewed Section 1291.07 Standards for Review. He explained some of the items may apply, but they will have to be rewritten because they refer to “rezoning”.

Ms. Moseley inquired as to whether they can replace the word “rezoning” with the word “permit”.

Mr. Santia indicated this section will have to be rewritten and should be part of the Regulatory Ordinance. He explained Section 1291.08 Location, Buffering, Dispersion, Requirements, Medical Marihuana, Provisioning Centers. He noted that part of the first sentence should be changed from “shall be approved for rezoning and located within” to “shall be located within”. He explained this establishes minimum distances for marihuana provisioning centers, noting the proposed language prohibits any medical marihuana provisioning from being within 1000 feet of any operational school, and 500 feet from a public playground, commercial child care facility, church, substance abuse prevention/

treatment/ rehab center or another provisioning center. He noted that 1291.08-(c) requires 2000 feet between medical marihuana provisioning centers, but that minimum distance is reflected as 500 feet in 1291.08-(b), so that discrepancy will have to be corrected. He questioned whether the Planning Commission would be looking for a minimum distance of 2000 foot between medical marihuana provisioning centers.

Ms. Trombley inquired as to why it is a minimum 1000-foot distance from schools, but it is only 500 feet from playgrounds and childcare facilities, where there are also children. She questioned why it is different.

Mr. Santia questioned whether they would like to see them both at 1000 feet.

Ms. Trombley could not understand why it would be different because there are children in both places.

Mr. Santia stated they can change (b) to reflect 1000 feet, or they can change (a) to reflect 500 feet.

Mr. Brumbaugh suggested making (a) and (b) a minimum of 1000 feet, and they could be combined into one subsection.

Mr. Santia stated he was going to suggest 500 feet for the school as well as the playgrounds.

Ms. Trombley stated she would rather see a minimum of 1000 feet.

Mr. Brumbaugh asked Mr. Santia for his thoughts on the minimum 500 feet.

Mr. Santia explained there are a lot of residentially-zoned property and residential homes and developments in the Township, with schools interspersed. If they make the buffer bigger and bigger, it will encroach on the industrial zones that are on the fringe of the residential areas, so it will not leave them very much land to use for these facilities. It would be too limiting.

Mr. Spatafora questioned whether they can impose more conditions if they specify 500 feet rather than 1000 feet.

Mr. Santia replied the Township could do that through site plan if it is spelled out specifically. Additional conditions can typically be imposed through Special Land Use.

Mr. Spatafora stated he would like to see the maximum amount of protection for the residents, so he would like to see something about the health, safety and welfare of the surrounding area. He added he would like to see, in the

subsections that specify minimum distances, that site plan approval will be required.

Mr. Santia stated they will look at it, and he added they will put a map together for the Planning Commission to look at.

[Please note that Mr. Spatafora was excused from the meeting at this point (7:30 p.m.) due to a previous commitment].

Mr. Santia noted there is another section that may have been accidentally omitted, requiring it to be a minimum of 300 feet from residential.

Mr. Brumbaugh suggested in 1291.08-(b), in the first line where it refers to “park, commercial childcare organization (non-home occupation), it is required to be licensed...”, the word “it” should be replaced by “that”.

Mr. Santia reviewed Section 1291.09 Penalty. He explained this section includes penalty, severability, repealer and effective date.

Ms. Moseley noted there is a Section 2, Section 3 and Section 4. She questioned if there is a Section 1.

Mr. Santia replied that the first paragraph should be titled “Section 1”.

Mr. Brumbaugh questioned the wording on the first paragraph, noting that a person who violates is “responsible for a misdemeanor”. He requested that Mr. Santia check with Mr. Dolan to see if that is consistent with language in other ordinances. He felt a person who violates a provision of this Article is “guilty of” a misdemeanor.

Mr. Santia stated he will check with Mr. Dolan.

Ms. West inquired as to when this would go to the Township Board.

Mr. Santia replied that if they make recommendation to the Township Board on March 22nd, it would possibly make the April 9th Township Board meeting. He stated at the Planning Commission meeting on March 8th, they will have the changes they talked about this evening. He suggested if there are any other suggestions, the Commissioners can contact him.

Ms. West stated she will not be at the Planning Commission meeting on March 8th, 2018.

Mr. Santia reiterated his plan to schedule a public hearing on March 22nd, assuming they can get it where they want it to be.

Ms. Sobosky, recording secretary, explained that, for a public hearing on March 22nd, notice must be published in the newspaper on March 8th, so it would have to be submitted to the Macomb Daily no later than next Friday, March 1st. She indicated it could be placed on the agenda for the first Planning Commission meeting in April, which would be April 12th, and provided that a recommendation is made that evening, it would go on the Township Board agenda for Monday, April 30th.

Mr. Santia confirmed the Public Hearing by the Planning Commission will tentatively be scheduled for April 12th, 2018.

REPORT OF MEETING

-- APPROVAL OF THE JANUARY 25TH, 2018 REPORT

Motion by Mr. Brumbaugh, supported by Ms. West, to approve the report of the January 25th, 2018 Planning Commission Meeting, as submitted. Roll Call Vote: Ayes – Brumbaugh, West, Moseley, Trombley. Nays – None. Abstain – Opalewski. Absent – DiBartolomeo, Charron, Deyak. Motion carried.

PLANNING COMMISSION SCHEDULE OF MEETINGS

-- NEXT MEETING SCHEDULED FOR THURSDAY, MARCH 8TH, 2018

Mr. Santia confirmed the meeting for Thursday, March 8th, 2018. He informed that there are three Conditional Rezoning proposals anticipated for the next meeting, in addition to another MMFLA Work Session. may have one other item on that agenda in addition to the work session:

- Property at the southwest corner of 19 Mile and Garfield, proposed to be developed with two drive-thru facilities
- Property at the northwest corner of 18 Mile and Garfield, proposed to be developed with retail and one drive-thru facility
- Property on Harper and Shook, proposed to be developed with Healing Touch Therapeutic Massage

ADJOURNMENT

Motion by Ms. West, supported by Mr. Brumbaugh, to adjourn the meeting.
Motion carried. Meeting adjourned at 7:44 p.m.

Respectfully submitted,

Denise C. Trombley

Denise C. Trombley, Secretary
CLINTON TOWNSHIP PLANNING COMMISSION

ces:03/02/18

ces:03/05/18

Approved 03/08/18