



**CITY OF WALLED LAKE
PLANNING COMMISSION
TUESDAY, OCTOBER 10, 2017**

The Meeting was called to order at 7:30 p.m.

ROLL CALL: Hecht, Maurer, Novak, Palmer, Robertson, Whitt

ABSENT: Wolfson

OTHERS PRESENT: Consultant Planner Deem, City Attorney Vanerian, Recording Secretary Rodgers

PC 10-01-17 MOTION TO EXCUSE COMMISSIONER WOLFSON FROM TONIGHT'S MEETING

Motion by Novak, seconded by Robertson, CARRIED UNANIMOUSLY: To excuse Commissioner Wolfson from tonight's meeting.

REQUESTS FOR AGENDA CHANGES: None

APPROVAL OF MINUTES:

PC 10-02-17 APPROVAL OF THE SEPTEMBER 12, 2017 PLANNING COMMISSION MEETING MINUTES

Motion by Robertson, seconded by Novak, CARRIED UNANIMOUSLY: To approve the September 12, 2017 Planning Commission minutes.

COMMUNICATION: None

AUDIENCE PARTICIPATION:

Kenneth Kolke said he would like to see the planning commission call for a Master Plan meeting to get all the zoning and ordinance up to date to help this administration and future administration. Mr. Kolke said to check with the DNR that oversee the trail and what their regulations and setbacks are for the trail.

Dwayne Diacono - property owner 1020 Decker said his property is on the border, the front part of his building border of that 1,000-foot property and he is here to see if there is going to be any leeway on a 1,000-foot. Mr. Diacono said it is probably about foot and half two feet in that

radius. Mr. Diacono said he has a proposal he would like to bring before the commission, he said besides having the clinic there would be manufacturing, transport and a laboratory.

ATTORNEY'S REPORT: None

Commissioner Whitt said at the last meeting the commission voted Mr. Maurer as the chairman but they did not pick a second in command. Mr. Whitt said Mr. Hecht being the new blood on the commission to step him up to be second in line to chair. Mr. Whitt said Mr. Hecht is involved with the community and has a strong academic background.

**PC 10-03-17 MOTION TO APPROVE COMMISSIONER KYLE HECHT AS
THE VICE CHAIR OF THE PLANNING COMMISSION**

Motion by Whitt, seconded by Robertson, CARRIED UNANIMOUSLY: To approve Commissioner Kyle Hecht as the Vice Chair of the planning commission.

UNFINISHED BUSINESS:

1. Discussion: Public Act 281 Medical Marijuana Facilities Licensing Act

Planning Consultant Deem gave an update on what is occurring at the State level. Mr. Deem said Senate Bill 463 regulates advertising on billboards and would prohibit billboards advertising the purchasing of marijuana products. Mr. Deem discussed Senate Bill 0599, House Bill 4837 and House Bill 4965.

Mr. Deem said the department of licensing affairs and regulatory has provided to additional advisory bulletins and the first is the intent of the bureau to allow potential licenses to apply for multiple stack Class C grow licenses in a building. Mr. Deem said the class C grow licenses allow them to grow 1,500 plants and if one building has multiple Class C licenses would increase the amount of plants allowed in a single building.

Mr. Deem discussed the proposed city ordinance. Mr. Deem said the first decision needs to be whether it is handled through a Special Land Use or a permitted use. Mr. Deem discussed the buffer requirements of a 1,000, 1,500, or a 500-foot buffer. Mr. Deem said 1,500 was thrown out so a decision needs to be made about 1,000 or a 500-foot buffer and what it is buffered from: churches, schools, daycares, city property and parks. Mr. Deem said discussion needs to be had about the MI Airline trailway, will the trail be considered a linear park or not. Mr. Deem said the last topic is about the cap on the number of five (5) approved facilities. Mr. Deem recommended for provisionary centers in the C-2 and C-3 with a cap of three (3) because that is what the City has already approved. Mr. Deem discussed for the total number of facilities in the industrial zoning and he recommended two (2) based on the amount of properties that would eligible with a 1,000-foot buffer.

Planning Commissioner Palmer said the trail is a path not a destination. Mr. Palmer asked if the commission has to go to the State to ask if the trail is considered a park.

City Attorney Vanerian said the state law does not include parks among the places you have to be set back from. Mr. Vanerian explained regardless of how the DNR or the State defines or does not define a *park*, the city can define park in a way that they want to define it for the limited purpose of this set back requirement. Mr. Vanerian gave an example of creating a setback of 500 feet from all city parks with the exception of the Air Line railway. There is no reason why the commission could not do that. Mr. Vanerian said the commission has flexibility in that regard.

Commissioner Robertson asked if any of the five facility types can be combined?

Mr. Deem said yes. Mr. Deem said provisional, grow and processor types can be combined. Mr. Deem said the testing and transporter facilities must be separate. Mr. Deem said all five types are allowed in the I-1 district and only provisional centers are allowed in the C-2 and C-3. Mr. Deem said the commission can change that.

Commissioner Palmer asked if the applicants still have to apply in December for the license?

Mr. Deem explained if Senate Bill 0599 passes then an existing dispensary would be in their best interest to apply as soon as possible. Mr. Deem said December 15th is the date for Act 281 to take affect and the State starts accepting applications. Mr. Deem said if the commission does not have the ordinance done by December 15th the applicant cannot apply to the state.

Chairman Maurer asked if there is a risk to creating the ordinance and then the state comes out with something new that changes the City ordinance?

Mr. Deem explained if the state came out with rules that were in conflict with the city ordinance typically the stricter rule would prevail. Mr. Deem explained that it depends where the conflict is and how that would change.

Commissioner Whitt said there is no conflict, the State passed the law and the City is bound by it. Mr. Whitt explained the City may be able to restrict it more than that unless the state says we cannot restrict it more. Mr. Whitt said he is not sure that conflict is the right word. Mr. Whitt explained the state said this is the minimum requirement and the City will have to comply with state law first. Mr. Whitt said the City ordinance starts by saying an applicant can do this if they comply with State law. Mr. Whitt said 60% plus of the people voted for some version for medical marijuana. Mr. Whitt said the City can be strict but is going to have to do the minimum of what the State says.

City Attorney Vanerian said the commission can do certain things by ordinance but a lot is being taken over by the State. Mr. Vanerian said what the commission is dealing with at the local level is deciding the land use regulations, deciding does the commission want these facilities if so how many and where they are to be located.

Chairman Maurer said the first issue is how to treat the land. Mr. Maurer said to make the application a special land use. Mr. Maurer discussed the 500 and 1,000-foot buffer requirements. Mr. Maurer asked in the proposed 1,000-foot buffer requirement could the commission say if

there is a piece of the buffer area on a piece of land per the Special Land Use, can the commission determine that is ok.

City Attorney Vanerian said the City adopted an ordinance that applies to how to measure the distance from property line to property line or the shortest distance from the building.

Commissioner Hecht asked why does the commission want a 1,000-foot buffer instead of the 500-foot? Mr. Hecht said that is what the state is requiring. Mr. Deem said it easier to relax an ordinance in the future than restrict it in the future. Mr. Deem said it is wiser to be more conservative now and reduce it in the future.

Commissioner Palmer asked for the measuring distance ordinance to review.

Chairman Maurer said item 3 to discuss where the buffer is set from and the consultant planner said it is measured from churches, schools, daycare center or youth association. Mr. Deem said he is recommending city property and parks in addition to those. Mr. Maurer said item 4 concerns the MI Airline Trail.

Mr. Vanerian said the commission can choose to say it is not a park for limited purposes of this particular ordinance, it does not necessarily mean you cannot define it as a park in some other related context.

Commissioner Whitt said the depot is there. Mr. Whitt said the grant is rehabbing the trail. Mr. Whitt said this is another destination area, and someone will call it a linear park, so the commission needs to exclude the trail from the ordinance. Commissioner Palmer said he would like to include in the ordinance why the commission excluded the trail and put in the motion. City Attorney Vanerian said it can include it in the ordinance but it is in the minutes and the motion.

Chairman Maurer discussed item 5 on the number of caps on provisioning centers. Mr. Deem recommends three (3) provisioning centers in the C-2 and C-3 because that is what was previously approved. Commissioner Hecht asked why cap it? Mr. Deem said to stay conservative to see how things go. Mr. Deem said the state law allowed to have provisioning center in commercial or industrial zoning districts. Mr. Deem explained all 5 facility types are allowed in the industrial district but growing is not allowed in commercial by state law.

Mr. Maurer said there are three potential provisionary centers in the C-2 and C-3 the only question is there a setback from location to location. Mr. Maurer said in the I-1 it is there are two possible locations.

Consultant Planner Deem said he recommended 2 facilities in I-1 because each can do multiple licenses that can be housed within the facility itself.

City Attorney Vanerian said there is a spacing requirement that applies to provisionary centers having to be certain distance from another but there were not all the other types of facilities that had to be 1,000-feet away from each other.

Chairman Maurer said if the commission leaves the 1,000-foot spacing requirement between facilities out then the commission is heading in a solid direction.

Planning Consultant Deem said there are three existing facilities and it is questionable whether those facilities can meet within the setback requirements. Mr. Deem said in which case those facilities would not be eligible to continue because they would not comply with either city or state ordinance. Mr. Deem said if the commission is okay with the three facilities now, to put the cap on that and then they could re-apply.

Commissioner Palmer asked if the commission could put a 500-foot setback for existing and a 1,000-foot for new facilities?

City Attorney Vanerian said one of the issues are these existing facilities are going to have to get a state license to continue to operate Number one, if they cannot get a state license then it is over for them and it does not matter what the ordinance says. Mr. Vanerian said however, if one of the previous facilities gets a state license but does not meet requirements of the city's current ordinance then there is a potential problem there. Mr. Vanerian said the planning commission has to move forward with preparing the ordinance and once it is actually implemented the State starts doing their process of issuing state licenses and the city will most likely have to go back and make some adjustments.

Commissioner Whitt said to clarify for the record, the dispensaries do not exist, all of them were shut down. Mr. Whitt said the dispensaries were declared non-compliant by the State. Mr. Whitt said there are facilities that are pending, hoping they can re-establish but there are no licenses that has been issued. Mr. Whitt said the advantage is regulating it ahead of time and then adjust it later. Mr. Whitt stated but what the commission is calling existing facilities, are facilities that used to exist, and they are holding onto that piece of land or property in hopes of being able to comply with what the commission passes or what the state passes. Mr. Whitt said the city attorney said if the facilities are not in compliance now and grandfathered in does not apply. Mr. Whitt said there is no growing or selling going on that the city is aware of and ought not to be. Mr. Whitt said the commission should not be writing the ordinance around that group at all. Mr. Whitt said they comply or they do not. Mr. Whitt said as long as the commission is protecting the schools and the churches then the commission has done its job in regulating.

NEW BUSINESS: None

ADMINISTRATIVE REPORT:

1. Code Enforcement Report – September

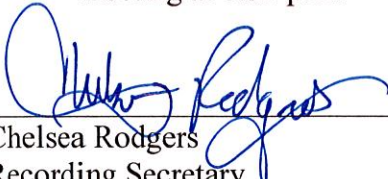
PC 10-04-17 TO RECEIVE AND FILE THE MONTHLY CODE ENFORCEMENT REPORT

Motion by Whitt, seconded by Robertson, UNANIMOUSLY CARRIED: To receive and file the monthly code enforcement report.


COMMISSIONERS COMMENTS: None

PC 10-05-17 ADJOURNMENT

- Motion by Robertson, seconded by Novak, CARRIED UNANIMOUSLY: To adjourn the meeting at 8:32 p.m.



Chelsea Rodgers
Recording Secretary



Michael Maurer
Chairperson