



PLANNING COMMISSION

January 21, 2021

A regular Planning Commission meeting was conducted virtually from remote locations, with staff at City Hall Council Chambers, Petoskey, Michigan, on Thursday January 21, 2021. Roll was called at 7:00 P.M. and the following were:

Present: Cynthia Linn Robson, Chairperson
Betony Braddock
Carolyn Dettmer
Rose Fitzgerald
Bob Kronberg
Richard Mooradian
Rick Neumann
Ted Pall
Kent Warner

Others: Dusty Christensen, 830 Cottageview Dr., Traverse City
Steve Ezell, 9835 King Fisher Trail, Traverse City
Susan Kahn, 700 Hillside Drive
Joe Schutte, 465 Overbay Drive
Cynthia Unger, 700 Hillside Drive
Ruth Wollin, 700 Hillside Drive

Staff: Amy Tweeten, City Planner
Rob Straebel, City Manager
Lisa Denoyer, Administrative Assistant

Upon motion and support, the minutes of the December 17, 2020 regular meeting were approved with corrections.

**Special Condition Use Request for a
Medical Marihuana Provision Center at 1111 Charlevoix Avenue**

Staff informed the Commission that the property at 1111 Charlevoix Avenue is in the B-3B Business Industrial District that allows provisioning centers subject to special condition use approval. The site meets the established distance requirements from public schools and other provisioning centers and has approximately 3,000 square feet of buildable area due to the presence of access and utility easements to the adjacent property. The lot has just under 130 feet of frontage with two curb cuts on US-31. The Planning Commission received three letters opposing the request.

Staff also informed the Commission that a revised plan and lease that included an additional area for parking to the southwest was submitted after the site plan introduction at the December meeting.

The Commission had received three letters in opposition to the request prior to the meeting. Chairperson Robson stated that she had only received one of the three letters and asked staff to give a review of the letters that had been submitted.

Staff read aloud the names of the individuals that submitted letters and gave a summary of each of their concerns and issues.

Staff stated that she had reviewed the plans dated January 7, 2021 with regard to the standards of approval in site plan review (Sections 17.16(3)), special condition uses (1717), site development standards in the B-3B Business Industrial District (2602) and standards for medical marijuana facilities (3202) as had been provided to the Planning Commission in the packet. She noted that while many of the standards are met, she believes that the easement restrictions on the property make the site unable to provide the best on-site circulation and ingress/egress for pedestrians and vehicles (Section 17.16(3)(a)(1)) for a medical marijuana provisioning center.

Staff then informed the Commission that they shall evaluate the site according to the ordinance standards of approval. Should the Commission disagree with the staff determination regarding Section 17.16(3)(a)(1)), staff believes the following conditions are necessary to meet the remaining standards:

1. Confirmation that the building materials are as stated on the elevation drawings;
2. Addition of a crosswalk from the entrance to the parking area;
3. Review and approval of any signs;
4. Submittal of necessary applications and fees for utility connections prior to construction;
5. Design of the leased parking area is compliant with Section 1704 and with a canopy tree installed in the island separating the site and lease area; and
6. Juniper sizes are increased to no less than 36" in height to meet the requirement of 2602 Parking section (f).

Dusty Christensen, Mansfield Land Use Consultants and representing the applicant, informed the Commission that the parcel is a one-quarter acre lot. The proposed parking is on the west side of the lot with an additional space behind the building. They have maintained the ordinance-required dimensions for the parking spaces and were recently able to work with the property owner to the south to secure a lease area in the southwest corner of the site that houses a small garage that would be demolished to account for additional parking for customers. The intent is to comply with all ordinance standards. There were concerns at the last meeting with pedestrian safety and crossing the driveway from the western parking spaces to the front entrance and the applicant would be happy to include a striped crosswalk to indicate pedestrian traffic to motorists. This is a small piece of property with a land division that was approved by the City at some point in time, along with the ingress and egress easements. The applicant cannot encroach on the easements with parking or a building structure. He believes the site layout complies with all of the ordinance regulations and the lease area provides enough space for at least three additional parking spaces for customers. The applicant has been in discussion with the property owner to the south and has inquired about purchasing the property to provide for a larger space for parking and a larger site development, however, it is not an option at this time.

Commissioner Pall commented that it sounds as though the applicant does not feel there is a viable option at this point to get rid of the easements in such a way that there could be parking next to the building. He also asked staff to explain the notice process for the public hearing.

Staff responded that all property owners and occupants of property within 300 feet were sent notices of the meeting and the hearing notice was published in the Petoskey News Review on January 6. None of the notices had been returned as undeliverable, however, mail delays had occurred which could be why Hillside Condominium owners are saying they did not receive the notice.

Mr. Christensen responded that they would not be able to vacate the easements, as they are needed for access to the southern parcel. He asked if a striped crosswalk would be an option and stated that while he understands the desire for the handicap parking space to be next to the building, it is spatially impossible. He then referenced Section 2602(1)(d) citing the Planning Commission's flexibility to

modify allowances for unique sites and stated that the Commission could allow the barrier free space to be moved to the front of the building. He informed the Commission that they are hoping for a conditional approval.

Commissioner Pall stated that at the last meeting the façade and look of the building presented was not what was actually planned and asked if the drawings provided in this packet were what the building would look like.

Mr. Christensen responded that they are not; however, they are working with the developer on the design.

Steve Ezell, applicant, stated that nothing had been finalized and the look he is going for is a craftsman style building that is black and white with a metal roof. The drawings provided are more for site plan purposes. The building dimensions will be similar but the building itself will look different.

Commissioner Pall responded that the proposed drawing looks nothing like what Mr. Ezell described and stated that he does not like the design at all.

Mr. Christensen commented that the conceptual elements are dimensionally accurate, it is just the materials on the building itself may be different.

Commissioner Pall referenced Section 1717(e), which states that the scale, bulk and materials shall be consistent with the character of the surrounding land uses and Section 2602 that states that a finished appearance should be suitable to the desired image for the entryway to the town. He stated that he is uncomfortable approving something that is not representing the final design and he would like to see a clearer picture of the proposed building.

Mr. Christensen responded that they would be happy to return with an updated and more finalized drawing.

Chairperson Robson asked if there were two buildings on the property to be leased and commented that they looked to be falling down and unusable.

Mr. Christensen responded that there are two buildings currently. The smaller of the two buildings would be torn down and the larger building to the south would remain.

Commissioner Neumann stated that he would like more information on the operations of the facility and asked why this facility is so much smaller than the one that the Commission recently approved.

Mr. Christensen responded that the building is limited in size due to the setbacks and easements and not every provisioning center needs the same amount of space.

Mr. Ezell commented that he owns another provisioning center and it is smaller than the proposed one.

Commissioner Braddock asked what the hours of operation would be, if the leased parking area would be lit and if so, if the lights would be turned off when closed.

Mr. Ezell responded that the hours are typically 10:00 A.M. to 8:00 P.M. and lighting has not been addressed.

Commissioner Warner asked if there would be armed security at the proposed facility.

Mr. Ezell responded that there would not be, however, there will be extensive security cameras required by the State located inside and out and will be on 24/7.

Commissioner Mooradian asked if an environmental study had been done on the property and how long the lease would be good for on the neighboring property.

Mr. Ezell responded that a Phase I Environmental Assessment had been completed, the old tanks were removed some time ago and that any soil removed from the property would have to go to a specific facility for disposal and that the initial lease would be good for two years. He also commented that he has made two attempts to purchase the property and he believes the owner is considering the option. He would like to combine the two lots back to one parcel.

At this time, the meeting was opened for public comment.

Sue Kahn, 700 Hillside Drive, voiced concerns with the parking and the two-year lease and asked what would happen if it were not renewed. She stated that she has no issues with the items they would be selling; however, she does have issues with how close it is to Hillside Condominiums, the negative affect it would have on property value and the additional traffic. She also voiced concerns with patrons missing the business driveway and trying to turn around in the narrow driveway to the condominiums.

Ruth Wollin, 700 Hillside Drive, stated that parking is a concern, as is the additional parking on land that is not owned by the owner of the facility. Anything could happen to the lease and if lost could cause a major issue with the loss of parking. She believes the facility owner should own the parking area. She asked the Commission not to make a decision tonight, as there are a number of people who state they did not receive notice of this public hearing.

Cynthia Unger, 700 Hillside Drive, was unable to connect to audio. Several attempts were made to connect and it was suggested that she try sending a message through "chat" since her audio was not working.

Joe Schutte, 465 Overbay Drive, asked what the day-to-day operations looked like, if they had any projections on the number of vehicles entering and exiting the property and what activities would be occurring in the back area of the property near Hillside Condominiums. He stated that he is not opposed to the business; however, not knowing the traffic impact is a big unknown with it being a small area and families living nearby.

There being no more public comment, the public hearing was closed.

Commissioner Dettmer stated that she believes this is a huge improvement and that the security cameras and cleaned up site would make it more secure. She agreed with Commissioner Pall and would like to see exterior renderings of the proposed building. She asked if a drive-thru was an option.

Mr. Christensen responded that the State would not allow a drive-thru.

Commissioner Warner stated that he agreed with Commission Dettmer that this is a vast improvement to the current site and he believes the security cameras would help make it feel more secure. He stated that he too would like to see final renderings of the proposed building and he believes the standards have been met in the areas that he had concerns.

Chairperson Robson stated that the safety standard had not been met because of the barrier free parking space being located where vehicles turn in and customers having to cross near the drive entrance. Cars would be entering quickly and would not have time to stop for pedestrians.

Commissioner Braddock asked staff if the Commission had the leeway to allow the barrier free parking space to be in front of the building.

Staff read aloud Section 2602 (1)(d) and stated that the districts intent is to have the buildings to the front of the property rather than parking. She believes the Commission could modify the requirements if the applicant moved the sidewalk connector farther to the east. She believes this section speaks to the fact that the site has many restrictions for a medical retail establishment and the easements are unique to the site.

Commissioner Neumann stated that he does not believe there is enough space in front of the building to allow for a barrier free parking space.

Chairperson Robson agreed with Commissioner Neumann and stated that she believes there would be a conflict as the parked vehicle would have to back out into the driveway to leave.

Commissioner Dettmer asked if there was a way that the building could be reshaped or the square footage reduced.

Chairperson Robson responded that a barrier free parking space in front of the building would not work and it is not what the ordinance allows.

Commissioner Braddock stated that she was torn and agreed with Commissioner Dettmer that the proposed project is a huge improvement. She is not opposed to the use; however, she would like more information on the exterior building design and more time for the public to review the proposal.

Chairperson Robson suggested postponing action until the next meeting in order to receive more information.

Commissioner Braddock asked if anyone had spoken to the neighboring landowner to find out why it is necessary to have two easements and if they were willing to vacate one.

Mr. Ezell stated that he could not answer that question. There are two easements because at one time tanker trucks pulled in and turned out and they allowed for enough room for that to happen.

Mr. Christensen responded that the property to the south would need to maintain access to Charlevoix Avenue. He stated that they can explore the options but cannot vacate the easement without the property owners consent.

Commissioner Pall stated that he too shares concern with parking in the front of the building and would like to see floor plan drawings for the building as well. He believes the easement discussion is a good one and it may be the best solution. He agreed with Chairperson Robson on postponing action until the February meeting.

Commissioner Kronberg asked if the public hearing could be postponed until the next regular meeting. He commented that the two-year lease was worrisome and believes it needs to be planned for an extended period of time. He is not comfortable with the barrier free parking as presented as there is a short quick turn into the drive and separating the customers from the building is a big concern. If the back property were obtained many concerns would be resolved. He does not have a problem with the use; however, he does have a problem with the lot not being made for his type of activity.

Staff responded that the Commission could postpone action, not the public hearing, and still take public comment at the next meeting.

Chairperson Robson reminded the Commission that only three parking spaces are required and their recent experience with medical marijuana facilities showed that not as much parking is needed. She asked staff to provide the research done for the provisioning center on West Mitchell Street.

Commissioner Kronberg responded that it does not address the concern with parking being separated from the building. He also commented that snow would cover any hash marks that indicate a crosswalk.

Commissioner Fitzgerald commented that she too believes it would be a vast improvement and that she is not as concerned with parking. She has concerns with two building entrances, as it does not seem practical.

Commissioner Neumann asked staff what the most intensive use allowable for this zoning would be. He suggested ways to reconfigure the site to make it more usable, stated that the proposed building design is more modern than craftsman style and suggested overhangs on the building.

Staff responded that any use allowed in the I-1 Light Industrial and the B-3 General Business district would be a permitted use. There are many commercial uses would be allowed and that the most intensive might be a gas station with a convenience store.

Mr. Christensen responded that it was his understanding that the Commission would like to postpone action to address concerns and to provide more information on the building design. He stated that they will look at ways to alleviate concerns, comply with standards, address parking, setbacks, ingress, egress, etc. and will do their best to make a site plan with recommendations of the Planning Commission and address their concerns.

Chairperson Robson and Commissioner Pall voiced concerns with pedestrian safety and the speed of traffic entering the property. Commissioners Neumann, Braddock and Fitzgerald were not as concerned.

At this time, staff read aloud Ms. Unger's chat messages.

"Mr. Ezelle mentioned he owns another dispensary although smaller. What is the name of that business and where is it located?"

"I did not receive a notice by mail and neither did at least three other homeowners in our HOA. I only called a few people. I am the president."

"And I am also concerned about the traffic due to parking issues. I have sent a letter to the city this morning but it appears very few people have had the chance to read it. I would ask for that to be made available to all those who make decisions. In addition to the fact that the meeting time tonight was published incorrectly and more than a few local homeowners have not received a letter and are thus unaware of this project, that we be given more time to review and make comments as a community that would be impacted."

"It seems that a round peg is attempting to be fit into a square hole with this parking and space issue. There are better areas for this business to be located as noted in my letter. It is too small and if Mr. Ezells plans on expanding as he alluded to then we are looking at a different animal long term and it's effects on the residential community."

Staff responded that these are things that Ms. Unger covered in her letter and she has been informed that she was sent a mailing. All Commissioners received and read her letter prior to the meeting, however, the Petoskey News Review published the meeting time incorrectly stating it was to begin at 6:00 P.M.

Ms. Wollin asked if the public would have opportunity to comment on the revised plan, to which Chairperson Robson responded that they would.

At this time, Commissioner Pall made a motion, with support from Commissioner Fitzgerald, to postpone action until the February 18, 2021 regular meeting. Motion carried 9-0.

Review of Planning Commission 2020 Annual Report

Staff gave a quick overview of the report and asked Commissioners if they had any corrections, changes or additions that they felt were necessary. Staff then asked if the Commission would recommend sending the report to City Council.

Commissioners asked staff to add the sign ordinance appeal for 807 Spring Street that was on the November agenda to the Development Review/Action list and that one Planning Commission Sign Committee meeting be added to the list for their December meeting on dynamic displays.

At this time, Commissioner Pall made a motion, seconded by Commissioner Fitzgerald, to approve the Planning Commission 2020 Annual report with changes and forward it to City Council.

Public Comment

The meeting was opened for public comment. No public comment was received.

Updates

Staff informed the Commission that City Council reviewed the first two chapters of the Draft Livable Petoskey Master Plan at their January 4, 2021 meeting and plan to review the remaining chapters at future meetings.

Commissioner Pall asked if the Planning Commission would be meeting with City Council to discuss.

Staff responded that there was no discussion by City Council to have a joint meeting. Staff recommended that both meet after the draft had been distributed for review and amendments had been made.

Staff asked Chairperson Robson and Commissioner Fitzgerald if they would like to discuss the Winter Cities workshop that they recently attended and both asked to hold that discussion at the next meeting.

Staff reminded Commissioners of the upcoming Planning and Zoning Essentials training that is coming up in March and encouraged newer members to attend.

Commissioner Mooridian attended this training this past summer and shared some of his thoughts and experiences from the training.

The meeting was then adjourned at 8:53 P.M.

Minutes reviewed by Ted Pall, Vice Chairperson/Secretary