

PLANNING COMMISSION

January 4, 2018

The City of Portage Planning Commission meeting of January 4, 2018 was called to order by Chairman Stoffer at 7:00 p.m. in Council Chambers of Portage City Hall, 7900 South Westnedge Avenue. Approximately 20 citizens were in attendance.

PLEDGE OF ALLEGIANCE:

Chairman Stoffer led the Commission, staff and citizens in the Pledge of Allegiance.

IN ATTENDANCE:

Vicki Georgeau, Director of Community Development; Christopher Forth, Deputy Director of Planning, Development & Neighborhood Services; Michael West, Senior City Planner; Randy Brown, City Attorney; and Charlie Bear, Assistant City Attorney.

ROLL CALL:

Mr. Forth called the roll: Patterson (yes), Shoup (yes), Stoffer (yes), Schimmel (yes), Bosch (yes); Place (yes), Joshi (yes) and Corradini (yes). A motion was made by Commissioner Schimmel, seconded by Commissioner Bosch, to approve the roll excusing Commissioner Harrell-Page. The motion was unanimously approved 8-0.

APPROVAL OF MINUTES:

Chairman Stoffer referred the Commission to the December 21, 2017 regular meeting minutes contained in the agenda packet. A motion was made by Commissioner Bosch, seconded by Commissioner Patterson, to approve the minutes as submitted. The motion was unanimously approved 8-0.

SITE/FINAL PLANS:

None.

PUBLIC HEARING:

1. Ordinance Amendment #17/18-A, Medical Marihuana Facilities. Mr. Forth introduced Director of Community Development, Vicki Georgeau and Assistant City Attorney, Charlie Bear who having been working closely with City Council on development of the proposed medical marihuana ordinances. Ms. Georgeau summarized the Department of Community Development staff report dated December 29, 2017 and the proposed ordinance amendments to Chapter 42 (Zoning Code) and Chapter 14 (Businesses, Medical Marihuana Facilities). While the proposed amendment to Chapter 14 was not subject to Planning Commission review and recommendation, Ms. Georgeau indicated it was being provided for context as the Planning Commission reviews the proposed Zoning Code amendment. Ms. Georgeau provided a historical overview of medical marihuana legislation in Michigan beginning with the Michigan Medical Marihuana Act (MMMA) approved in November 2008 and subsequent legislation (three bills) approved in September 2016. Ms. Georgeau stated that PA 281 (Medical Facilities Licensing Act), PA 282 (Marihuana Tracking Act) and PA 283 (amendments to MMMA) established a "seed to sale" regulatory framework for medical marihuana in State of Michigan. Ms. Georgeau indicated that PA 281 allows for five types of medical marihuana facilities permits including: 1) Grower, 2) Processor, 3) Secure Transporter, 4) Safety Compliance Facility and 5) Provisioning Center. Ms. Georgeau stated that communities in Michigan have two options regarding medical marihuana; 1) Adopt an authorizing ordinance allowing for one or more types of facilities; or 2) Opt-Out which would not allow for medical marihuana facilities within the community. Ms. Georgeau indicated the City Administration and City Attorney have been working extensively over the past year developing options to permit medical marihuana facilities within the city, while providing adequate measures to minimize potential adverse impacts on adjacent properties and the community as a whole.

Ms. Georgeau stated the proposed zoning amendments would allow for provisioning centers as permitted uses in the B-3, general business zoning district and growers and processors as permitted uses in the I-1, light industry and I-2, heavy industry zoning districts subject to locational and operational requirements and minimum separation requirements. Ms. Georgeau indicated that secure transporters and safety compliance facilities would also be allowed as permitted uses in the I-1 and I-2 zones subject to locational and operational requirements, however, without minimum separation requirements since they are considered less intense land uses. Ms. Georgeau stated the separation requirements would not be applicable during the first year of applications, however, a maximum of 12 provisioning centers, 12 growers and 12 processors would be allowed during the first year, and no limit on the number of secure transporters and safety compliance facilities. Ms. Georgeau then presented a series of maps which identified eligible properties for provisioning centers within the B-3 district, and other permitted facilities within the I-1 and I-2 zones, and then summarized changes also proposed to the home occupation section of the Zoning Code.

Chairman Stoffer asked whether pre-qualification by the State of Michigan is currently available for everyone. Ms. Georgeau indicated the State began accepting applications for medical marijuana facilities licenses on December 15th and also stated that pre-qualification by the State was a prerequisite for applying for a provisional permit from the city. Ms. Georgeau then provided a brief overview of the provisional permit process through the city, the proposed amendment to Chapter 14 (Businesses, Medical Marijuana Facilities), and indicated the proposed city ordinance closely mirrors the State licensing requirements. Chairman Stoffer asked why the minimum separation requirement was proposed to be waived during the first year of applications. Ms. Georgeau stated the primary reason revolved around the difficulty in determining which application was submitted 1st, 2nd, etc. for purposes of establishing where the separation measurements are established. Commissioner Patterson asked for clarification on the proposed changes to the medical marijuana home occupation section of the Zoning Code and whether the amendments would allow for growing/processing within the home and the processing of infused products. Ms. Georgeau stated the proposed changes would remove the restriction that the home occupation only be conducted within the dwelling unit (modified to reference an enclosed, locked facility such as a garage) and would also allow for processing of marijuana infused products as long as it did not involve use of butane extraction. Commissioner Place asked if facilities allowed during the first year of applications would be “grandfathered” the following year for purposes of separation requirements. Ms. Georgeau stated these facilities would be ‘grandfathered’ so long as the use was not abandoned or discontinued. Commissioner Place also asked about the rationale for the 1,000 foot setback distance for various facilities from churches, schools, child care centers, etc. and the 1,000/1,500 foot separation requirement between other medical marijuana facilities. Ms. Georgeau stated the origins were based in the federal Drug Free School Zone requirements and were intended to address the intensity of the land uses and potential impacts, and to prevent the congregation or clustering of medical marijuana facilities. Ms. Georgeau also stated the Zoning Code restricts many land uses and their proximity to residential districts and there are similar setback and/or separation distance requirements for other land uses such as cell towers, gas stations, dog kennels, group child care homes and collection/donation boxes, amongst others.

The public hearing was then opened by Chairman Stoffer. Six citizens spoke regarding the proposed medical marijuana ordinance amendments: 1) Ashley Bergeon (Coordinator for the Kalamazoo County Substance Abuse Task Force, 611 Whitcomb, Kalamazoo, Michigan), Bo Arbanas (6159 South 26th Street, Scotts, Michigan), Devin Loker (1595 West Centre Avenue), Ken Jonatzke (8318 Portage Road), Richard Santek (7537 Autumn Lane) and Tom Tarleton (307 Barberry Avenue). Ms. Bergeon expressed concerns about the ordinance and the 1,000 foot setback distance from schools and other similar facilities. Ms. Bergeon stated the 1,000 foot setback distance is not adequate and has not been applied uniformly in other states. Ms. Bergeon provided an article entitled “Under Siege – Marijuana and Colorado Schools” which discusses the increase in illegal student drug use when medical marijuana facilities are located near schools. Mr. Arbanas stated he was associated with a medical marijuana secure transporter and clarified that transporters were allowed a temporary hold on medical marijuana products for up to 48 hours. Mr. Arbanas stated that medical marijuana facilities are highly regulated and secure and questioned whether the 1,000 foot setback distance from schools, churches, etc. was necessary. Mr. Loker stated he was a local attorney who represented many

medical marihuana clients. Mr. Loker stated the requirement that provisioning centers not be located adjacent to residential properties should be eliminated since there are no similar requirements for pharmacies or places that sell alcohol. Mr. Loker also stated the 1,000 foot separation requirement between provisioning centers should also be eliminated citing easier monitoring and enforcement for the city if these facilities were concentrated. Mr. Jonatzke stated he was a business owner and natural medicine advocate that has represented agencies attempting to decriminalize the use of medical marihuana. Mr. Jonatske discussed the location of his property adjacent to Lake Effect provisioning center and believes the 1,000 foot separation requirement between provisioning centers should be eliminated to “level the playing field”. Mr. Santek stated he was a 50 year resident of Portage who lives nearby to a lot of vacant property that might be considered for medical marihuana facilities. Mr. Santek expressed concerns about the impact medical marihuana facilities will have on his and others property values and advised the city to be “very careful” moving forward with the ordinances. Mr. Santek stated a 1,000 foot setback from schools, churches, etc. seems like a large distance on paper, however, is “nothing” on the ground. Mr. Tarleton stated he supports the city’s efforts at developing the medical marihuana ordinances. Attorney Brown stated that potential applicants should proceed with caution in their efforts to secure property for a Medical Marihuana Facility as the ordinance and maps provided are still in draft form. No additional citizens spoke regarding the proposed ordinance amendments.

Ms. Georgeau discussed some recent comments received and changes which will likely occur to the draft ordinances and maps prior to the next Planning Commission meeting on January 18th including: 1) Inclusion of a 250 foot buffer area along jurisdictional boundaries (based on a recent meeting with adjacent community leaders); 2) Specific reference to “child care centers” in the ordinance; 3) Clarifying language that would limit the number of facilities to one per zoning lot; and 4) Clarifying language regarding the 1,000 and 1,500 foot separation requirements being from a similar medical marihuana facility. After additional conversation, a motion was made by Commissioner Bosch, seconded by Commissioner Schimmel, to adjourn the public hearing for Ordinance Amendment #17/18-A, Medical Marihuana Facilities, to the January 18, 2018 meeting. The motion was unanimously approved 8-0.

OLD BUSINESS:

None.

NEW BUSINESS:

None.

STATEMENT OF CITIZENS/COMMISSIONERS:

Mr. Forth referenced an earlier email to the Planning Commission inquiring about Commissioner availability for a special meeting on February 22, 2018 to review the 2018 Recreation and Open Space Plan Update. Commissioners Patterson and Corradini indicated that they would not be available for a special meeting on February 22, 2018. Commissioner Bosch indicated that he would not be present at the February 15, 2018 regular meeting.

ADJOURNMENT:

There being no further business to come before the Commission, the regularly scheduled meeting was adjourned at 8:10 p.m.

Respectfully submitted,

Christopher Forth, AICP
Deputy Director of Planning, Development and Neighborhood Services