

**CHARTER TOWNSHIP OF MERIDIAN
PLANNING COMMISSION
REGULAR MEETING MINUTES
August 8, 2011**

APPROVED

**5151 Marsh Road, Okemos, MI 48864-1198
853-4000, Town Hall Room, 7:00 P.M.**

PRESENT: Commissioners Beyea, Cordill, Deits, Jackson, Scales, Scott-Craig
ABSENT: Commissioners Goodale, Honicky, Norkin
STAFF: Director of Community Planning and Development Mark Kieselbach, Principal Planner Oranchak

1. Call meeting to order

Chair Deits called the regular meeting to order at 7:04 P.M.

2. Approval of agenda

Commissioner Cordill moved to approve the agenda. Seconded by Commissioner Scales.

VOICE VOTE: Motion carried 6-0.

3. Approval of Minutes

Commissioner Jackson moved to approve the Regular Meeting Minutes of July 25, 2011. Seconded by Commissioner Scales.

VOICE VOTE: Motion carried 6-0.

4. Public Remarks

Chair Deits opened the floor for public remarks.

Joseph Grochowalski, Architect, 4301 Canal Avenue SW, Grandville, handed out a different rendering of the site plan for Special Use Permit #11031, showing windows are proposed for the congregating area in Tim Horton's. He added this plan included only four (4) seats at the counter. Mr. Grochowalski stated the door will likely be on the 45 degree angled wall which will allow for more sidewalks in the area and transition the grade. Mr. Grochowalski pointed to the redesign of the building perimeter landscaping along the rear of the building as well as the loss of one parking space to accommodate the requested by-pass lane next to the drive-through lane. He added his intent to comply with the suggestions of the Ingham County Road Commission (ICRC) to make the driveway on E. Lake Lansing Road a Michigan Department of Transportation "Type M" drive. Mr. Grochowalski stated the owner is adamant about retaining the canopy and pump island on the east side of the site as it is the only diesel fueling station and keeping both drives on Hagadorn Road. He added he is in discussion with the property owner to the west in an attempt to obtain an agreement for a driveway connection between the two (2) parcels. Mr. Grochowalski indicated he is working with the owners of the drop box to have it removed.

Vance Kincaid, 4530 Nakoma Drive, Okemos, expressed concern with the "retroactive" approach to dispensing and growing of medical marihuana with Zoning Amendment #11060. He believed the proposed amendment is making a special exception for what is deemed as a medically necessary procedure instead of having the zoning ordinance comply with other licensed professional businesses such as medical offices, pharmacies, law offices, etc. Mr. Kincaid believed it an "unwise" process for the Township to use local zoning to outlaw the Michigan Medical Marihuana Act (MMMA) or force businesses out of existence. He believed a broader perspective, acquired through experience, would

reveal the issues which need to be changed. Mr. Kincaid stated a recent report from the Food and Drug Administration (FDA) clearly showed that prescription drugs are more abused than all of the illegal drugs “on the street.”

Chair Deits closed public remarks.

5. Communications

- William Fahey, Fahey Schultz Burzych Rhodes PLC, 4151 Okemos Road, Okemos; RE: Concern with the proliferation of medical marihuana in Meridian Township
- Allen Russell, DTN Management Company, 2502 Lake Lansing Road, Suite C, Lansing; RE: Support for Special Use Permit #11031 (Omega Architects) without the connection between the proposed gas station and Carriage Hills Annex
- Kim Burzych, 4396 Alderwood Drive, Okemos; RE: Concern with Zoning Amendment #11060 as proposed

6. Public hearings

- A. Zoning Amendment #11060 (Planning Commission), request to amend Section 86-2, Section 86-368(b), Section 86-403(d), Section 86-404(d), Section 86-405(d) and Section 86-435(b) of the Code of Ordinances to permit using, dispensing and growing medical marihuana in specified zoning districts.

Chair Deits opened the public hearing at 7:17 P.M.

- Introduction by the Chair (announcement of procedures, time limits and protocols for public participation and applicants)
- Summary of subject matter
Principal Planner Oranchak summarized the proposed zoning amendment as outlined in staff memorandum dated August 4, 2011.
- Public
Leonard Provencher, 5824 Buena Parkway, Haslett, spoke in opposition to the proposed zoning amendment, citing the stigmatization in the distance requirement and believed marihuana dispensaries should be treated the same as pharmacies.

Elizabeth LeGoff, 5189 E. Brookfield Drive, East Lansing, noted medical marihuana is under the domain of the Department of Community Health where patients are certified. She noted the distance restrictions do not exist for other health clinics in the Township. Ms. LeGoff stated medical marihuana clinics are on the spectrum of pain control, and hospice services do not have restrictions for the morphine drips they administer. She inquired if the intent was to grandfather in existing clinics, all of which are close to residential districts.

Bill Fahey, 6149 Cottage Drive, Haslett, opposed the zoning amendment as it effectively legalizes medical marihuana and goes far beyond the Michigan Medical Marihuana Act. He noted medical marihuana is all about the money. Mr. Fahey indicated a dispensary is not defined in the MMMA and the proposed language permits an unlimited number of medical caregivers to operate out of one dispensary. He added the zoning amendment allows patients to sell medical marihuana to other patients and to locate 500 feet from a school building. Mr. Fahey stated medical marihuana is illegal, just that the state allows residents not to be prosecuted. He indicated the zoning amendment is illegal under both state and federal law and encouraging that use is and of itself aiding and abetting.

Robin Schneider, 5767 Green Road, Haslett, spoke in support of the proposed zoning amendment. She believed the most dangerous drugs are in a pharmacy, but that medical marihuana should be made safely available to patients. Ms. Schneider inquired if there were places within the Township which are more than 500 foot from a residential zone.

Rex Harrington, 820 Piper Road, Haslett, believes illicit drugs should be decriminalized and treated as a public health issue. He indicated the MMMA was a good first step to bring this issue to the forefront. Mr. Harrington suggested the amount of dispensaries should be equal to the number of liquor licenses issued to Meridian Township.

Barbara Curtis, 5248 Park Lake Road, East Lansing, has witnessed first hand the abuses of medical marihuana use. She stated she is seeing a proliferation of medical marihuana cardholders among high school students and there must be a balance.

Lynne Page, 3912 Raleigh Drive Okemos, believed it appropriate for the Township to put limitations on the sale, use and dispensing of medical marihuana. She noted zoning in all single family residential neighborhoods have to preserve the character and value of those neighborhoods. Ms. Page expressed concern that a medical marihuana caregiver could be considered a home occupation. She added the 1,000 foot setback from schools and learning facilities is the appropriate distance for both dispensaries and cultivation facilities. Ms. Page questioned allowing cultivating and dispensing facilities which are not specifically defined and permitted in the MMMA law.

Richard Carl, 2660 E. Grand River, #4, East Lansing, operates a business helping qualified patients register with the State of Michigan as a medical marihuana user. He spoke in support of a patient who follows the law and receives a prescription for medical marihuana from a medical doctor to have access to prescribed medicine. Mr. Carl addressed the issue of those individuals who abuse the system, the same as those who have abused the alcohol law and the pharmaceutical medicine law, stating that the response is not to shut down all bars and all pharmacies. He indicated the Planning Commission's task is to find common ground which is fair to those people who have followed the rules and acquired a state issued card.

- Planning Commission discussion:
Commissioner Jackson asked staff to explain how it arrived at the maximum number of plants at 72.

Principal Planner Oranchak responded the act stipulates that a caregiver can grow 12 plants for five (5) qualifying patients. She added if the caregiver is also a qualifying patient, that would increase the number from a maximum of 60 to 72. Oranchak noted a qualifying patient may also be a primary caregiver and grow up to a maximum of 72 plants for themselves and five (5) patients.

Commissioner Jackson noted the proposed language in the ordinance indicates up to a maximum of 72 plants.

Chair Deits inquired if there could be a scenario with a primary caregiver with five (5) clients and a patient with five (5) clients in the same home each allowed to grow up to a maximum of 72 plants for a total of 144 plants.

Principal Planner Oranchak responded staff will look into it, but Section 86-368 (b) (15) a. states up to a maximum of 72 plants shall be cultivated in any dwelling unit.

Chair Deits noted several public comments expressed concern the home occupation ordinance would permit the sale or dispensing of medical marihuana within a residential district.

Principal Planner Oranchak responded the proposed language was specifically written not as part of the home occupation ordinance, but as a separate section of the ordinance.

Chair Deits noted public comments expressed concern with medical marihuana cultivation in duplexes, apartments, etc. He indicated it was his understanding that the only residential district in which medical marihuana cultivation would be permitted is in rural residential.

Principal Planner Oranchak responded medical marihuana could be cultivated in a one family, two family or multiple family dwelling.

Commissioner Scales felt it important to state the Planning Commission is not trying to circumvent the law. He indicated he has been one of the most vocal proponents of medical marihuana regulation, while acknowledging he is not opposed to medical marihuana use. Commissioner Scales noted staff is moving in the right direction with the proposed ordinance. He asked staff to look at the language stating a dispensary shall not be located within 500 feet from a school building vs. school property.

Principal Planner Oranchak indicated staff would typically use the property line for measuring the distance, but will look into this issue.

Commissioner Cordill questioned the necessity for the length of dispensary hours from 8:00 a.m. until 11:00 p.m. seven days per week.

Principal Planner Oranchak responded business hours of operation apply to dispensaries in a commercial or industrial district, and are typical hours of operation for a retail type of use.

Commissioner Cordill inquired how much footage in a home would need to be used to cultivate 72 plants.

Principal Planner Oranchak responded that while how much of a home can be used to cultivate plants is not discussed in the ordinance, the size of a home would certainly be a limiting factor.

Commissioner Jackson pointed out for the public that the Township Attorney has reviewed the proposed language.

Commissioner Beyea expressed appreciation for the insightful comments offered by the public. He noted the Planning Commission met with the Township Attorney in February and many concepts in the MMMA are unsettled. He asked staff to speak to the definition of dispensary in the zoning amendment.

Principal Planner Oranchak responded the MMMA does not address how the physical transfer of the product from the primary caregiver to the qualifying patient takes place. She added many creative ways of accomplishing this transfer are being developed and staff is attempting to address this new use.

Commissioner Beyea inquired if the definition of dispensary before the Planning Commission is a hybrid of what other communities have used.

Principal Planner Oranchak answered the definition was written by staff based on other ordinances.

Commissioner Beyea inquired as to how the separation distance was derived.

Principal Planner Oranchak responded the code of ordinances contains separation distances for other land uses such as gas stations, etc. She stated staff ascertained what was best for the community with the circumstances at hand, but is open do a different separation distance if the Planning Commission felt it more appropriate.

Commissioner Beyea asked staff to speak to the effect of this proposed amendment on residential neighborhoods.

Principal Planner Oranchak responded the residential district standard was written to minimize contact compared to what a dispensary would have in a commercial district. She stated some concern has been expressed that the way the residential district standard is written it could become a dispensary and that was not staff's intent.

Commissioner Beyea asked if staff, through use of a map, identified areas which could exist in the Township to meet the regulations within the residential district.

Principal Planner Oranchak responded she was not aware of the existence of such a map.

Commissioner Beyea felt that such a map would be beneficial for the Commission members.

Chair Deits added there was an article in the most recent *Planning and Zoning News* regarding a court case which "turned" on exactly that point: For a particular use, are there sufficient places within the ordinance to make it possible to meet the demand for a particular service? He added the implication from the court was that if there were not enough places defined as legal to meet the anticipated demand, that ordinance would be too restrictive and rendered invalid.

Commissioner Scales inquired as to penalties for non-compliance if the proposed ordinance was enacted into law.

Principal Planner Oranchak responded it would be the same penalties for not complying with a zoning ordinance.

Commissioner Scales inquired if those would be criminal penalties.

Principal Planner Oranchak responded it would be the same as any type of zoning code enforcement case. She stressed staff always works with individuals to bring them into compliance before issuing tickets and going to court.

Commissioner Deits inquired if the activity of a physician approving a patient for legitimate medical marihuana use and issuance of a registration card is spoken to in this ordinance. He believed it to be a function of any medical doctor's office.

Chair Deits noted language in the proposed ordinance states that a dispensary cannot be a place where medical marihuana can be consumed, smoked or ingested. He inquired if this would prohibit "compassion clubs" or other places where shared consumption of medical marihuana takes place.

Principal Planner Oranchak responded in the affirmative.

Commissioner Jackson addressed earlier public comment which equated dispensaries with liquor stores in order to have the ability to limit the number of dispensaries within the Township. She believed this could not be accomplished without a licensing process.

Principal Planner Oranchak responded staff will look into this issue.

Commissioner Scott-Craig inquired if staff looked at laws and regulations in surrounding communities, since there is a move toward overall regionalism. He inquired if the Tri-County Regional Planning Commission (TCRPC) has taken up this issue.

Principal Planner Oranchak responded staff looked at surrounding communities' ordinances to see how the issue was addressed. She added that information was used to draft an ordinance based on an evaluation of Meridian Township's needs. Principal Planner Oranchak has not heard that TCRPC has taken a position on this issue.

Commissioner Scott-Craig said the number of dispensaries in Meridian Township is very limited, while the City of Lansing currently has 30. He inquired if staff has a sense of the number of certified patients within Meridian Township.

Principal Planner Oranchak was not aware of any numbers, and believed they would be difficult to obtain due to privacy issues. She indicated staff will attempt to obtain numbers.

Commissioner Beyea indicated a comment made during one presentation stated the Township needed to facilitate the lawful execution of the act, and a number of references were made to pharmacies. He asked if staff looked at the analogy to pharmacies.

Principal Planner Oranchak responded she didn't know how this use can be equated with pharmacies since pharmacies were specifically not mentioned in the MMMA because of the illegal status of marihuana. She added staff will obtain more information on this specific question.

Commissioner Beyea suggested staff consult with the Township's legal counsel to have a prepared response to this question.

Commissioner Cordill mentioned she believed a Michigan community approached dispensaries as pharmacies and was challenged in court.

Chair Deits believed cultivation of medical marihuana in an indoor environment uses considerable energy consumption. He expressed concern with overpowering electrical systems during cultivation as a public safety issue. Chair Deits inquired if staff could place into the ordinance a value on total electrical service in a given dwelling. He suggested inserting language which stated that any home exceeding [insert number] amps would be subject to an inspection subsequent to the installation of any additional power

Principal Planner Oranchak responded any time electrical service is installed or upgraded, an applicant must go through the electrical permitting process in the Township.

Commissioner Jackson expressed appreciation to Bill Fahey for his comprehensive and detailed contribution to this discussion and to staff for its balanced and reasonable draft on this issue.

Chair Deits stated he continues to believe the Planning Commission is not the proper body to initiate this zoning amendment as it is the responsibility of the Township Board. He encouraged fellow Commissioners and staff not to invest considerable resources before sending to the Township Board to see if they will take action on any medical marihuana zoning ordinance. Chair Deits reminded the Planning Commission members that to date, the Township Board has chosen not to take any action.

Chair Deits closed the public hearing at 8:21 P.M.

7. Unfinished Business

- A. Special Use Permit #11031 (Omega Architects), request to develop 3010 E. Lake Lansing Road for use as a gas station, drive-through restaurant and convenience store. Principal Planner Oranchak summarized the proposed special use permit as outlined in staff memorandum dated August 4, 2011.

Commissioner Scales moved [and read into the record] NOW THEREFORE, BE IT RESOLVED THE PLANNING COMMISSION OF THE CHARTER TOWNSHIP OF MERIDIAN hereby approves Special Use Permit #11031 (Omega Architects) with the following conditions:

- 1. Approval is based on the submitted application materials and the revised plans prepared by Feenstra & Associates, dated July 28, 2011, subject to revisions as required.**
- 2. The applicant shall apply for and receive all necessary variances from the Zoning Board of Appeals.**
- 3. No more than eight fueling stations under one canopy shall be located on the site. The single gas pump and canopy nearest Hagadorn Road shall be removed to improve site circulation and access to the three proposed uses on the site—gas station, drive-through restaurant and convenience store.**
- 4. The menu/order board shall be moved approximately 30 feet to the west to provide the minimum three stacking spaces.**
- 5. The Lake Lansing Road driveway shall be redesigned as a MDOT “M” type driveway with one left turn lane, one right turn lane and one ingress lane.**
- 6. During site plan review, staff shall evaluate the potential for consolidating the two driveways on Hagadorn Road and rotating the parking spaces along the east side of the building. If a single driveway design is not feasible, the southernmost driveway shall be redesigned and signed as an “exit only” driveway; the northern driveway shall be rebuilt to coordinate with the location of the median in Hagadorn Road. The feasibility of narrowing all driveways on the site to increase the amount of pervious surfaces shall also be evaluated.**
- 7. The two parking spaces in the northeast corner of the site shall be signed for “employees only.”**
- 8. A connecting sidewalk shall be shown on the site plan leading from the pedestrian-bicycle pathway along Lake Lansing Road and/or the sidewalk on Hagadorn Road to the building entrance.**

- 9. A minimum of two bicycle parking spaces shall be shown on the site plan.**
- 10. Merchandise for sale shall not be displayed outside the building or elsewhere on the site except as permitted by Section 86-404(e)(13). All activities associated with the gas station shall be conducted entirely within a building.**
- 11. The donation box located in the southwest corner of the site shall be removed or a special use permit requested and granted allowing it to remain.**
- 12. The applicant shall obtain all other necessary and applicable permits, licenses, and approvals from the Michigan Department of Environmental Quality, Ingham County Road Commission, Ingham County Drain Commissioner, and the Township prior to any construction on the site. All approval documents shall be submitted to the Department of Community Planning and Development.**
- 13. No demolition, grading, fill, or construction, including removal and replacement of the underground storage tanks, shall begin until a building permit has been issued and approved by the Director of Community Planning and Development.**
- 14. The applicant's stormwater management plan and calculations shall be approved by the Department of Public Works and Engineering.**

Seconded by Commissioner Jackson.

Planning Commission, staff and applicant discussion:

- Township traffic consultant reoriented the parking spaces on the east side of the site
- Traffic consultant suggested elimination of the one pump island as its location caused considerable conflict on the site
- No distinction in the ordinance between the words reestablishment and redevelopment
- Proposal is a new combination of uses
- Ordinance does not address the issue of redevelopment
- Staff decision to remove the canopy nearest Hagadorn Road as circulation for the drive-through precludes the single canopy remaining
- New site plan as a reasonable compromise
- Inquiry as to the possibility of moving the canopy nearest Hagadorn Road to the south
- Applicant has recourse by appealing condition(s) of the special use permit approval to the Township Board
- Communication with the neighbors from the Carriage Hills Annex has taken place
- Adequate opportunity for surrounding neighbors to provide input
- Applicant belief that not having the second canopy to acquire commercial customers would be a detriment to the business
- Percentage of the operation which would be commercial customers
- Applicant's intent to market to specific commercial businesses in the Township
- Inquiry if the single pump on the east side of the site could be moved to the south to avoid conflict with the cars stacking for the drive-through
- Traffic flow will be looked at more closely during site plan review
- Concern with lack of greenspace on the site
- Rotation of the single canopy 90 degrees would give greater clearance and could accommodate commercial business

ROLL CALL VOTE: YEAS: Commissioners Beyea, Cordill, Scales, Scott-Craig, Vice Chair Jackson, Chair Deits

NAYS: None

Motion carried 6-0.

8. Other Business

A. Sports field sponsorship banners

Principal Planner Oranchak summarized the issue of sponsorship signs in Research Park as outlined in staff memorandum dated August 5, 2011.

Planning Commission and staff discussion:

- Places not intended to include public recreational facilities as they are primarily located in residential districts
- Schools are exempt
- Preference to include community recreational and public facilities as an allowed use
- Sponsorship signs could assist in raising money
- Preference not to include a time limit
- Size limit is reasonable as proposed
- Number of sites which would be affected by this issue
- Signs should be allowed to be visible from a public street while restricted to the inside of the fence
- Sponsorship banners as a possible source of revenue
- Signs must be content neutral
- Include language to enable the Park Commission to have authority over a sign's appropriateness when placed on a public site
- Off-premise signs advertise for a use that does not exist on the site
- Temporary nature of the sponsorship signs require a time limit
- Intended viewer of an off-premise sign are those attending the function
- Prohibition of political signs in this proposed ordinance
- Sign over Hamilton Road advertising annual high school productions is a different type of sign allowed by the Ingham County Road Commission

[Commissioner Cordill left the room at 9:20 P.M.]

- Suggestion to keep sponsorship signs in the district as proposed until more is known about the process
- Preference for a size limit of 32 square feet, with a limit of six (6) feet in height as shown in the staff memorandum
- 180-day time limit to ensure the signs remain temporary
- Suggestion to allow sponsorship signs only on the fence away from the street
- Preference for minimizing the visibility of sponsorship signs from a public street
- Limit the draft ordinance to the RP district

B. Planning Commission Meeting Schedule

Principal Planner Oranchak summarized the Planning Commission meeting schedule as outlined in staff memorandum dated August 4, 2011.

Planning Commission discussion:

- Difficulty of additional meetings for some Commissioners
- Suggestion of August 23rd for an additional work session meeting
- Availability of the Town Hall Room on the first and third Mondays of each month

Commissioner Jackson moved to set a simple Planning Commission work session on August 23, 2011 beginning at 6:00 P.M. Seconded by Commissioner Scales.

VOICE VOTE: Motion carried 5-0.

9. Township Board, Planning Commission officer, committee chair, and staff comment or reports
(None)

10. New applications

- A. Zoning Amendment #11070 (Township Board), amend Section 86-687 of the Code of Ordinances to establish regulations for murals in commercial zoning districts.

11. Site plans received (None)

12. Site plans approved

- A. Site Plan Review #11-00-03 (Parolero), addition to an office building at 1536 Haslett Road.

13. Public remarks

Chair Deits opened and closed public remarks.

14. Adjournment

Chair Deits adjourned the regular meeting at 9:40 P.M.

Respectfully Submitted,

Sandra K. Otto
Recording Secretary