

**City of Escanaba**  
**PLANNING COMMISSION – OFFICIAL PROCEEDINGS**  
**February 9, 2023**

**MEETING CALLED TO ORDER**

A regular meeting of the Escanaba Planning Commission was held on Thursday, February 9, 2023 at 6:00 pm in Room C101 at City Hall, 410 Ludington Street, Escanaba, MI 49829.

**ROLL CALL**

Chair James Hellermann:	Present	Comm. Nevin Naser:	Present
Secretary Kelli Van Ginhoven:	Present	Comm. Roy Webber:	Absent
Comm. David Mason:	Present		

The meeting was called to order at 6:10 PM. As Commissioner Naser had not yet arrived, a quorum was not present, and the chair called for a 10-minute recess at 6:15 PM.

At 6:24 PM, the meeting was reconvened. With four in attendance, a quorum of the Planning Commission was present.

**ALSO PRESENT**

**City Administration:**

Tyler Anthony, Planning & Zoning Administrator	Heather Calouette, Administrative Assistant
Ronald Beauchamp, Council Liaison	James McNeil, City Manager

**Others:**

Jared Bender, Light Up 906	Ronnie Price
Stephanie Carpenter	Tony Ruiz, Superior Law, PLLC
Robin Custance	Brian Savolainen, Civil Engineer
Bonnie Hakkola	Stosh Wasik, The Fire Station
Randy Hanna, ZA Design-Build	Keith Whitman
Zack Learman, Cannabis Attorneys of Michigan	Craig Woerpel
Karen Moore, City Council Member	

22 other unnamed individuals were present.

**MINUTES**

A motion was made by Van Ginhoven, seconded by Mason, to approve the January 12, 2023 minutes as submitted. A voice vote was taken, and the MOTION PASSED unanimously.

**AGENDA**

A motion was made by Van Ginhoven, seconded by Mason, to approve the agenda as submitted. A voice vote was taken, and the MOTION PASSED unanimously.

**CONFLICT OF INTEREST DECLARATIONS –**

None

**PUBLIC COMMENT ON AGENDA ITEMS –**

Tony Ruiz of Superior Law, PLLC (representative of The Fire Station), resident of Harvey, explained that The Fire Station needed time to review new data provided by Public Works Director Taavola. Ruiz requested that agenda item New Business #2 (Site Plan Amendment – 201 North Lincoln Road – The Fire Station Cannabis Co) be postponed for one month.

Brian Savolainen, Civil Engineer for The Fire Station and resident of Negaunee, confirmed that he had performed the impact analysis provided for agenda item New Business #2. Savolainen requested that the item in question be tabled until a State-certified traffic consultant could provide an impartial review.

Bonnie Hakkola, resident of Escanaba, spoke in support of increased distancing restrictions between marihuana establishments and schools, churches, playgrounds, and other marihuana establishments.

Keith Whitman, resident of Escanaba, shared his concerns over marihuana establishments coming to Escanaba. Whitman explained his past experiences with youth involvement with illegal drugs in his capacity as a law enforcement professional and educator.

Robin Custance, resident of Escanaba, expressed her concerns over the availability and access to marihuana by children as a former educator. Custance drew parallels between regulation and use of marihuana and alcohol.

## **PUBLIC HEARINGS**

### **1. Special Land Use Review – 2430 Ludington Street – Joyology**

In Accordance with Zoning Ordinance Section 205, the Planning Commission held a Public Hearing on the application for a Special Land Use Permit, as filed by Joyology, for a recreational marihuana provisioning center/retail establishment to be located at 2430 Ludington Street.

#### ***Hellermann Opened the Public Hearing***

Bonnie Hakkola questioned the origins of form-based code sections of the ordinance regarding marihuana establishments. She asked whether establishments need to be aesthetically appealing or not, as making a building appear uninviting may keep children away.

Keith Whitman quoted portions of an article from a January edition of the Daily Press regarding tobacco and marihuana packaging, and asked whether youth access to marihuana will be as controlled as it will appear to be.

Robin Custance expressed concern with the location of both establishments being presented in terms of parking. She noted that the clientele of marihuana establishments would likely clash with those of other businesses.

Ronnie Price asked a rhetorical question, wondering if the youth of Escanaba who don't use marihuana have ever been asked what their opinion is on marihuana establishments.

#### ***Hellermann Closed the Public Hearing***

Zack Learman and Randy Hanna, representatives of Joyology, presented the site plan for 2430 Ludington Street. They indicated a few areas of concern that needed to be addressed, such as minimum wall articulation, landscaping, and facades. Learman cited proposed security and odor control processes in detail. Commissioners pursued questions regarding vehicular site access & parking and the applicant's sidewalk design. In provided drawings, the sidewalk was shown at a proposed 5' width, whereas the City requires all sidewalks to be 6' minimum in width. Planning & Zoning Administrator Anthony explained that the site was calculated to only contain 14% proposed green space, well short of the required 20%. Anthony then offered that administration proposed an idea for alternative compliance with this green space requirement, noting that if the 20'-wide treelawn along 26<sup>th</sup> Street and the narrower treelawn along Ludington Street were factored in, calculated green space would be nearly 30%. Being that the applicant's lot was only 40' wide and that they would ultimately be the caretakers of those treelawns, administration found it acceptable to include them in green space calculations.

**A motion was made by Naser, seconded by Van Ginhoven, to approve the site plan for Joyology at 2430 Ludington Street conditioned upon the applicant connecting the existing sidewalk on Ludington Street and the proposed sidewalk on 26<sup>th</sup> Street, and that all new sidewalks have a minimum width of six feet.**

Anthony asked whether alternative green space compliance needed to be included in the motion, to which Secretary VanGinhoven and Commissioner Mason stated that inclusion appeared unnecessary.

**A roll call vote was taken with the following results:**

**Yes- Mason, Hellermann, Van Ginhoven, Naser**

**No- 0**

**MOTION PASSED 4-0**

Commissioners then discussed concern over the west wall's uninterrupted length. Learman suggested that either an awning or false window could be included to satisfy façade requirements of the ordinance. Hanna indicated that a false window would be the best approach to compliance.

**A motion was made by Hellermann, seconded by Mason, to approve the special land use permit for Joyology at 2430 Ludington Street conditioned upon a false window being installed on the west wall in compliance with marihuana establishment façade requirements.**

**A roll call vote was taken with the following results:**

**Yes- Mason, Hellermann, Van Ginhoven, Naser**

**No- 0**

**MOTION PASSED 4-0**

## **2. Special Land Use Review – 1005 Ludington Street – Light Up 906**

In Accordance with Zoning Ordinance Section 205, the Planning Commission held a Public Hearing on the application for a Special Land Use Permit as filed by Light Up 906 for a recreational marihuana provisioning center/retail establishment to be located at 1005 Ludington Street.

### ***Hellermann Opened the Public Hearing***

Craig Woerpel, owner of 1007 Ludington Street, expressed concern over the safety of his property and downtown at large. He was also concerned that odor from the proposed establishment would drive renters out of the apartment units at his property.

Robin Custance questioned the impact of both the proposed establishment and that establishment which was previously approved for 923 Ludington Street on the City at large. She expressed frustration with the number of establishments coming to town and the effect it will have on her neighborhood.

Stephanie Carpenter questioned whether any comments made to the Commission matter. She then explained that allowing marihuana establishments will lead to child trafficking as it had in California. Carpenter suggested that licensing or escrow could be a potential option for security on the part of the City.

### ***Hellermann Closed the Public Hearing***

Jared Bender, applicant for the proposed establishment, spoke on his own behalf. Bender explained that the cameras were not intended solely to protect his building from break-ins, but also to protect his merchandise from internal theft or shoplifting, just like every other business with cameras to prevent such theft. He noted that many professionals and business owners in Escanaba use marihuana and are normal, functioning

community members regardless of that fact. Chair Hellermann and Commissioner Naser asked whether loading area screening would be required the same as it had been for 923 Ludington Street. Anthony noted that the loading area is described as temporary in the drawings and doesn't require screening. He then pointed out that commercial parking is not required of any project, regardless of use or district. VanGinhoven questioned Anthony on exterior materials requirements in reference to the staff report and to conditions on the approval of 923 Ludington Street. Bender explained that he had done work to the exterior in the past, refinishing the building with "hardie-board" composite siding and metal roofing, both of which referenced multiple neighboring businesses. Mason inquired to the temporary loading zone's nature, and explained his concerns over traffic and parking. Anthony elaborated on the intent of loading zone screening requirements. Screening for solid waste and recycling containers was briefly reviewed, but was found not to be an issue as the applicant's waste receptacles will be stored indoors.

**A motion was made by Van Ginhoven, seconded by Naser, to approve the site plan for Light Up 906 at 1005 Ludington Street conditioned upon the applicant providing signage at the back of the building indicating a) no customer parking in rear, b) no customer entrance in rear, and c) temporary unloading area location, including hours for unloading within those prescribed for deliveries by Ord. 1269, Sec. 5(e).**

**A roll call vote was taken with the following results:**

**Yes- Hellermann, Van Ginhoven, Naser**

**No- Mason**

**MOTION PASSED 3-1**

**A motion was made by Naser, seconded by Van Ginhoven, to approve the special land use permit for Light Up 906 at 1005 Ludington Street.**

**A roll call vote was taken with the following results:**

**Yes- Hellermann, Van Ginhoven, Naser**

**No- Mason**

**MOTION PASSED 3-1**

Anthony interrupted to note a problem originating from the Commission's bylaws which may have caused both motions to fail. The language of Section 10.F(5) could be construed to require four votes minimum to pass any motion. [Note: this was found as a misinterpretation of the bylaws, and both motions did effectively carry.]

#### **NEW BUSINESS-**

##### **1. Whitetail Industrial Park Lots 12 and 13**

The Commission concluded that they lacked enough members to formally recommend sale of City property.

**A motion was made by Van Ginhoven, seconded by Hellermann, to table the sale request of lots 12 and 13 in the Whitetail Industrial Park to Nu Way Laundry & Rentals. A voice vote was taken, and the MOTION PASSED unanimously.**

Chair Hellermann explained that language which required a quorum of the original nine-member Commission to recommend sale held that five members were necessary, rather than simply stating that a quorum was required.

##### **2. Site Plan Amendment—201 North Lincoln Road—The Fire Station Cannabis Co.**

**A motion was made by Van Ginhoven, seconded by Mason, to table the site plan amendment request for 201 North Lincoln Road. A voice vote was taken, and the MOTION PASSED 3-1.**

Following the motion, the Commission was again halted by the apparent lack of votes to pass the motion. [Note: again, this problem was found to be a misinterpretation of the bylaws, and this motion did effectively carry. Since that was not known at the time, Commission business continued for this item.]

Anthony presented the proposed site plan amendment for 201 North Lincoln Road and described the nature of major site plan amendments. Tony Ruiz presented the case and narrative for The Fire Station's site plan amendment. Ruiz acknowledged that The Fire Station had acquired the property without knowing the disposition of site vehicular access, and it was later discovered that the previous owner had a license agreement with Dial Properties allowing such access across their parking lot. At some time during that previous ownership, the license had been allowed to lapse. Since that time, no legal access via that parking lot existed. Ruiz continued, expressing frustration with a perceived lack of communication between the City and The Fire Station, and requested that the Commission allow more time for The Fire Station to review information provided by MDOT and Public Works Director Taavola. Stosh Wasik, co-owner/CEO of The Fire Station, added that they wanted advice from an MDOT-certified traffic consultant to review their proposed amendment, and to inquire with MDOT regarding changing their North Lincoln Road access drive.

Hellermann explained that the site plan, both in its original form and in its proposed amended form, is concerning to him as Planning Commission Chair. He acknowledged that a neighboring retail tenant and its supporters have been borderline hostile towards The Fire Station, and while hostile actions are inexcusable, they are not to be ignored. Mason added that significant traffic congestion surrounding the site is not to be ignored either. VanGinhoven expressed that it is only fair to allow The Fire Station time to seek a second opinion. Anthony cited Zoning Ordinance Sec. 1704.1 in its entirety as previously requested by administration.

Brian Savolainen clarified that the data provided by Wendy Taavola was a traffic count, not a traffic study. Savolainen explained that they approached the site plan amendment with care, creating a vehicular path with right-hand turns only to alleviate concerns with left-hand turns. He then asked that the amendment be tabled, and that The Fire Station be allowed one month to redress their site plan. Anthony explained the timeline which led to this point; when the applicant requested this site plan amendment, CUPPAD agreed to conduct a traffic count in January, but remained incommunicado until two days before the meeting agenda's required publishing date. At that time, Director Taavola was able to arrange for MDOT to conduct a traffic count on the very last day before publishing. Hellermann was informed that no time limit existed for this decision.

**A motion was made by Van Ginhoven, seconded by Mason, to postpone review of the site plan amendment until the Commission's meeting in March. A voice vote was taken, and the MOTION PASSED unanimously.**

*Hellermann adjourned for a 5-minute recess at 8:27 PM*

*Hellermann called the meeting to order at 8:34 PM*

### **3. Discussion—Corner Lot Language in Zoning Ordinance**

Anthony explained that staff was instructed to provide first-draft revisions of Zoning Ordinance language. The intent of this action was to review conflicting language regarding corner lots, setbacks, and accessory structures and ultimately recommend a Zoning Ordinance amendment to City Council. He explained the nature of presented changes, specifically those relating to setbacks and lot lines, and that he and former Commissioner Mark Hannemann were both chosen as the Commission's *ad hoc* committee to address these matters (Anthony served on the Planning Commission at that time). Hellermann recommended that the revisions be addressed in sections, rather than as the presented whole. Commissioners and Anthony discussed changes specific to corner lot language. The Planning Commission thanked Anthony and Hannemann for their hard work, agreed with the proposed language, and asked that item be added to unfinished business.

#### 4. Discussion—Marihuana Zoning & Regulatory Ordinance

During the joint City Council and Planning Commission meeting on January 23, 2023, the Commission was asked to consider requiring additional buffers. Recommendations included buffers between marihuana establishments and Bay College, daycares, playgrounds, churches, and other establishments. They were also asked to revisit the idea of overlay districts for marihuana establishments, and to reconsider the 100' residential distance exception for the E3 zoning district. Commissioners agreed that a 750' buffer around Bay College was necessary. Hellermann noted that the UP State Fair property would be considered a park, and that if the Commission established distances for parks, the impact to viable properties would be significant. He disagreed that buffers should be provided for daycares as they were only located in residential districts, and that maintaining current records for such uses was virtually impossible for the City. The Planning Commission decided to review changes at the next meeting, as they felt they lacked enough members to make the strongest decision necessary.

#### 5. Project Updates

- A.) Van Ginhoven reported that the Delta County Planning Commission tabled most of their agenda items, and that a few vacancies on that Commission existed.
- B.) Anthony noted a dimensional variance request submitted to the Zoning Board of Appeals, which was tentatively scheduled to be heard on March 7, 2023.
- C.) The Commission reviewed submitted year-to-date reports of permit activity and other zoning processes.

#### 6. Training Updates

Anthony recommended that the Planning Commission read *Common Sense Zoning* by Connor Murphy, and suggested that copies be purchased with the Commission's allocated budget for books and periodicals.

**A motion was made by Hellermann, seconded by Van Ginhoven, to purchase five copies of *Common Sense Zoning*. A voice vote was taken, and the MOTION PASSED unanimously.**

Anthony and VanGinhoven discussed options which could qualify time reading or discussing the book as training.

#### GENERAL PUBLIC COMMENT

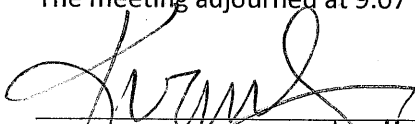
Bonnie Hakkola thanked the Commission for their work.

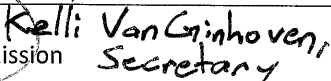
#### COMMISSION/STAFF COMMENTS

Anthony announced two new vacancies on the Planning Commission, as both Commissioners Benetti and Hannemann had resigned since the last meeting. He noted that the Clerk's office had three old applications on file and one new application. Hellermann expressed disappointed with City Council's decision against a moratorium on marihuana establishment applications. Van Ginhoven announced that the Delta County Board of Commissioners scheduled a Special Meeting on February 14, 2023 to discuss an interim County Administrator. The Board previously terminated Administrator DeSalvo's employment at a meeting on February 7, 2023.

#### ADJOURNMENT

The meeting adjourned at 9:07 pm.

  
James Hellermann, Chair  
Escanaba Planning Commission

  
Kelli Van Ginhoven,  
Secretary

  
Tyler Anthony, Planning & Zoning Administrator  
City of Escanaba

Minutes approved at the March 15, 2023 meeting. JA