

**FLINT ZONING BOARD OF APPEALS**  
**DRAFT Meeting Minutes**  
**December 20, 2016**

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**Commissioners Present**

Chris Zuwala  
Louis Griggs  
Birdie Brooks  
John E. Hardy  
Eric Wright  
Carolanne Blower  
Christine Monk

**Staff Present**

Claire Nowak-Boyd, Planner I  
Corey Christensen, Zoning Coordinator  
Kevin Schronce, Lead Planner  
Reed Eriksson, City Attorney

**Commissioners Not Present**

David Veasley  
Leon El-Alamin

**ROLL CALL:**

Chairman Zuwala called the meeting to order at 6:25 p.m. Roll was taken and a quorum was present. The meeting was held in the Dome, Basement, City Hall.

**ADDITIONS/CHANGES TO THE AGENDA:**

No additions or changes to the agenda.

**ADOPTION OF THE AGENDA:**

*M/S – Hardy/Brooks*

Motion to adopt the meeting agenda of as amended.

*Unanimously carried.*

**REPORT**

Kevin Schronce introduced Carol-Anne Blower, representation from the Planning Commission. She was added as a representative from the Planning Commission per the City's Zoning Ordinance, and approved by a resolution of the City Council. Mr. Schronce read the enabling language and explained the effort to get ZBA having a full complement of members. Ms. Blower, of the Fourth Ward, introduced herself.

**PUBLIC FORUM:**

There were no public comments.

Public comment closed.

**CITY ATTORNEY REPORT:**

Reed E. introduced himself and stated he's here to answer any questions that arise.

**COMMUNICATIONS:**

There were no communications.

**PUBLIC HEARINGS:**

**ZBA 16-2208:** Communities First, Inc, 415 W. Court St., Flint MI 48503, requests a height variance of 12' 5" at 1207 N. Ballenger Highway, Flint, MI 48504, parcel ID #40-11-155-014

Kevin Schronce highlighted that per the Zoning Ordinance and bylaws, a majority of all members of the board must vote to approve a variance. It would take six votes to approve each case per the members we have present. He highlighted the process that would be occurring.

Corey Christensen presented the staff report he prepared for ZBA 16-2206. Applicant Communities First Inc. requested a height variance of 12'5 on a multifamily building. They received site plan approval from PC on November 9, 2016, and their PC approval is contingent on ZBA approval.

1st standard: Mixed use development idea for this location, makes construction feasible and strict application would be an undue burden

2nd standard: Applicant has requested the minimum amount of relief necessary to make project feasible

3: All but one adjacent parcel zoned differently, so the standards they have to meet are unique to this particular site.

4: Hardship is not self-created. Staff found problem was not a self-created hardship bc in this instance ordinance is unnecessarily restrictive

5: Mixed use development of both retail and residential is intended, this development would ensure the spirit of this ordinance is met

John Asselin from Asselin McLane Architectural Group spoke. He brought a rendering. He stated the ordinance has been around for a while. 30' was once a reasonable height requirement, but they want to maintain sound differential and use 2' units. Heights are getting taller. Multiuse retail space on first floor needs more interstitial space than housing units.

Commissioner Hardy asked about the current fencing on the site. Would it be removed? Mr. Asselin stated that was part of site plan approval—the intent is to beautify the area as much as possible and match the renderings.

Commissioner Zuwala: Will there be ample parking? The applicant replied there will be.

Griggs asked how many units there will be? The applicant replied there will be a total of 22 units. The ordinance requires two spaces per unit. They've met and exceeded the requirement. Griggs asked if there will be a spot for maintenance. Asselin replied there could be. There will be no street parking, all is on site, meeting the ordinance.

There were no public comments.

M/S Griggs/Brooks

Motion to approve ZBA 16-2208: Communities First, Inc, height variance of 12' 5" at 1207 N. Ballenger Highway, Flint, MI 48504, parcel ID #40-11-155-014 as presented.

Approved unanimously.

**ZBA 16-2207:** Bacco Farms, LLC requests to establish a Special Regulated Use Permit, Group E Medical Marihuana Provisioning Center permit, at 3019 Airpark Dr. North, parcel ID # 40-34-100-021.

Corey Christensen presented the staff report. Applicant intends to use the location for cultivation of marijuana. He described how both properties must rescind the Through-the-Fence Agreement in order to move

forward. Alteration may raise FAA issues since MMJ is currently illegal at the Federal level. Mr. Christensen read

Standard 1: Property cannot be used for purposes permitted in that zone. Cultivation may not be permitted outright but traditional uses in the zone are useable.

Standard 2: Staff found that the subject property does not have an inherent characteristic that is not shared by neighboring properties.

Standard 3: Staff found that the proposed use will alter the character of the area, and the adjacent airport could lose 3.5m in federal grants as a consequence.

Standard 4: Staff found that the proposed use is a self-created hardship

Standard 5: Issuance of the variance would not ensure the spirit of the ordinance bc it would have a deleterious effect on the surrounding area.

Additional standards for MMJ:

A decision to postpone may be considered

Promotion of public health and safety must be considered

Compatibility with goals of master plan must be considered

(Complete to include all comments here)

Bruce Leach presented. He stated the agenda failed to note change in attorney.

Mr. Leach spoke to address what he described as bias that has no basis in the law, and what he described as nonsense in the past minutes. Medical marijuana is recognized in state of MI. Governor signed laws that took effect today regarding them. Councilmembers and other Flint members he's spoken with want to develop jobs in Flint, and this is an opportunity.

Mr. Leach stated the area is heavy industry and manufacturing jobs, and this is the same type of use. The type of manufacturing is a red herring, he stated. He stated commentary is purely founded in bias. It is his client's intention to seek a state license for commercial cultivation at this location. The City's map, he stated, indicated this area was "perfect" for this business. He stated, the reason for the Planning Commission's denial was proximity to a park. If that's the reason for denial, it's a mistake. He stated it does not qualify as a park.

Mr. Leach stated Bishop Airport is a neighbor. Many people don't like their neighbors, but that's an issue of bias and not a legal matter. He said the property is not Airport property. Comments about whether someone will come get high from next door are pure nonsense. They're not talking about a dispensary. It's a "private facility fortress" that will be state licensed. He stated the Governor had not enacted these laws at the time of the last hearing. This use was designated as a yellow area on the medical marijuana map. He reminded the ZBA their decision is a legal one. Simply stating there's harm is not a reason to deny. These facilities spend thousands of dollars on smell and odor control technologies. Flint has an MMJ ordinance, therefore it's not out of character. The neighborhood's character is manufacturing and heavy industry. He stated what they are manufacturing is out of bounds on whether it meets the criteria. He would consider the source of who is objecting to this. He believes the imagined \$3.5 million loss is unproven. He believes the PC's decision was incorrect and must be overturned. He stated licensing these facilities will create multimillion dollar revenues. Licensing fees, taxes, etc, will provide income. Does personal opposition to drinking mean a liquor facility can't be next door? This is exactly where these operations should be—not near homes. They're here to correct the PC's decision. He cited the new state law and stated it is undue hardship—Ms. Momgaudas bought the building and spent a lot of money, only to be denied based on bias. He asked the panel to consider the legal issues at hand and not fall victim to bias.

Commissioner Monk stated they're assuming people have bad attitudes regarding pot. PC denied the application for a reason. She encouraged the applicant to go to Howell, where they are from, to do a use like this. You're assuming because you don't get your way with PC that it's because of people's negative and bad attitudes towards mmj. She emphasized that this is a bad location. If this is going to stimulate growth, help Howell.

Commissioner Monk, stated the applicant didn't get what they want from the Planning Commission. The Planning Commission very clearly denied the applicant. Commissioner Griggs asked if it was denied for thinking it was a park. Christine Monk replied it was denied for other reasons.

Commissioner Zuwala asked if Carol-Anne can explain the Planning Commission's decision.

Commissioner Blower replied that the Through-the-Fence Agreement was the foremost reason for denial. They believed that what they were bringing to the table did not supersede the loss from BIAA. According to the standards, it was not in the findings of the master plan. They looked at the application and found inconsistencies. There were places where they referenced cultivating and dispensing. There were inconsistencies with number of employees and several names shown on the application. The four standards that were brought by staff as adjacent uses were considered. Commissioner Blower stated the park was not considered a park by the legal department. They had discussions that the park was a lowercase p, versus City-owned Park.

Commissioner Zuwala asked if there are any comments from the public in favor of the application?

There were none

Commissioner Zuwala asked if there are any comments opposed?

Howard William Campbell spoke. They own four lots in the airpark and have a multimillion dollar investment there. They also have other locations in Flint. They drug test all their employees because they've had people come back from lunch and hurt themselves in the plant. It's a manufacturing plant. He's had buildings in the Airpark since 1985. The building is right across the taxiway from the manufacturing plant. They are all drug tested randomly all the time. From what he's been able to read, odor comes off. That will be a detriment to the facility and the value of their property. MMJ is more akin to agriculture than manufacturing. He also doesn't quite understand the difference between a provisioning center and a dispensary. Cultivation sounds like a grow operation.

They're concerned about unnecessary traffic, and what kind it will be if it is indeed a distribution center. They don't think it's a good fit for the industrial airpark. The land there was bought from the City of Flint. They built the Airpark for people with airplanes and light manufacturing. He's been there since 1985. He is with a group of four business people from the community, and none of them want this to happen.

Todd Campbell, 3022 Airpark Dr. spoke and he is 100 % against it. It will have the opposite of a job incentive effect for the rest of the properties in the Airpark. All of the customers require drug free zones. He brought three excerpts of contracts they have with people, showing the requirement of a drug free zone. Industrial workers, customers, employees, there are semi drivers in the area. The DOT regulations strictly prohibit any type of drug and alcohol interaction. A big consideration for the Airport and job creation in Flint is industrial aid and what that brings to the City of Flint and the workers of the airport complex. It would not be fair to put them at risk. Cultivating, growing MMJ is farming and not manufacturing.

Mark Kreuger owns E&L construction group on Airpark Dr S. They moved there a year and a half ago. They've been residents of Flint and chose to be a part of Flint's comeback, to stay. They would not have chosen the place they're at if there was a provisioning center. They entertain clients. He stated the property would not increase in value. He stated members has asked in the Airpark to be part of their business—he can assure you no one in his facility has asked to be a part of it. They have spent over a million dollars in the past year and have over a million dollars of construction equipment there. He raised concerns that people coming seeking MMJ might come find his equipment or damage vehicles. Their lifts must operate safely and be untampered with. It's not personal—it's purely a business concern. They need to do their job safely and return with the same number of hands and fingers they started with.

Jim Evans, 3023 Airpark Dr S introduced his counsel, Charles Boike. He thanked the ZBA for their time. He stated the PC's report (actually Staff report) accurately reflected the PC meeting. He stated the report addressed the correct legal standard and came to the correct decision, to deny. He stated he disagrees with Attorney Leach's statement the commission should feel threatened with legal action if they deny. Had the applicants reached out to nearby owners, they would have found they were in opposition. That's the cost of doing business. He noted that this could be federally illegal and could threaten the BIAA's federal funding. One must weigh the risk of losing those funds. He noted during the PC meeting, the issue that MMJ could fly anywhere via the tarmac was raised. He noted the business owners said the tax base from their businesses would be jeopardized.

At the request of Commissioner Zuwala, Reed Erickson stepped to the podium. Commissioner Zuwala asked about the new law approved by Governor Snyder. Mr. Erickson stated it does not become effective this month. The Flint ordinance will be addressed in the future. New state law does allow for cultivation in larger scale. That licensing process has not yet been done here. It would be premature to apply the new law and licenses that have not been attained to this case.

Commissioner Griggs said it's been his experience that the Planning Commission carefully resisted anything new. He stated Flint's first B&B and met with much opposition because Flint's commissioners were not familiar with B&Bs. He stated the PC turns its nose up at anything new.

Mr. Erickson stated he is here to answer legal questions and not to serve in a decision making role.

There were no additional comments in opposition.

Commissioner Hardy stated his concern is security. This changes the actual look of what the Airpark is all about. It also changes what the businesses have to face in terms of safety. He's concerned about that. He's also concerned about mmj still being federally illegal. BIAA is an international airport. He's concerned about the TTF. All sorts of things could happen in the future. They have access to the runways. He's also concerned that some nearby businesses have employee requirements for drug clearances, a drug free area. Especially with BIAA and it being a TSA facility. Those are his concerns.

Allan Griggs stated he doesn't think it's a dispensary. They're growing. He asked how many customers in a day? Mr. Leach replied there will be none.

Commissioner Hardy stated the word "dispensary" is used in the application process. Mr. Leach stated provisioning center. Commissioner Hardy stated it leaves that door open.

Reed Erickson stated Flint's ordinance regulating MMJ treats dispensing and cultivation the same. City

ordinance has not been changed to date.

Commissioner Blower spoke. She stated the PC has heard 25 plus cases. This is not new for them to see. They've actually approved around 16 facilities in Flint. It's not a bias based on this being an MMJ facility or a new application of any sort. They felt standards were not met. The site plan was not complete or clear, and there were inconsistencies. This application was no different than any of the other special use apps received. None of the standards were met for MMJ, and no ZBA standards were met. For her it's not a close call—there's no variances or leeway. There are a number of issues with the application.

Commissioner Griggs asked about the projected income? Mr. Leach replied that with a state license, tens of thousands in revenue per year. 3% excise tax. Regina Momgaudas, applicant, stated 4 million to the municipality itself and another 2 percent to law enforcement for each tier improved.

M/S Monk/Hardy

Motion to approve ZBA 16-2207: Bacco Farms, LLC requests to establish a Special Regulated Use Permit, Group E Medical Marihuana Provisioning Center permit, at 3019 Airpark Dr. North, parcel ID # 40-34-100-021 as presented.

**Yes: Louis Griggs**

**Nay: Chris Zuwala, Birdie Brooks, John E. Hardy, Eric Wright, Christine Monk**

***Motion Denied 1-6***

UNFINISHED BUSINESS:

Commissioners discussed the chair and vice of the commission, and the outcome of the elections in April.

NEW BUSINESS:

Commissioner Hardy asked if David Veasley would be unavailable. Birdie Brooks stated she had been told several times he would not attend anymore, but noted he had not told staff. Kevin Schronce stated that the Ward 7 seat was empty, and that Staff would work with the Councilwoman to appoint someone there.

PUBLIC FORUM:

There were no public comments.

ADJOURNMENT:

Zuwala/Hardy

The meeting was adjourned at 7:56pm.