

**PAW PAW TOWNSHIP  
PLANNING COMMISSION MINUTES**

**Regular Meeting – April 19, 2022**

**1. CALL TO ORDER AND ROLL CALL**

Chairman Kerby called the Paw Paw Township Planning Commission meeting to order at 6:00 PM.

**PRESENT:** Chairman Kip Kerby, Phillip Arbanas, Phil Hover, E. Frances Sanders, Chuck Felcyn, Mark Root,

**ABSENT:** Chad Learned

Also present were David Jirousek, AICP, Township Consulting Planner; Tom Palenick, Deputy Township Supervisor; and several Paw Paw Township citizens.

**2. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited.

**3. APPROVAL OF THE AGENDA**

A motion was offered by Mr. Hover to approve the agenda with the addition of training and overlay district open house discussions. The motion was supported by Mr. Root.

- Chairman Kerby called for the vote, and the motion passed unanimously (6-0).
- Aye: Chairman Kerby, Phillip Arbanas, Phil Hover, E. Frances Sanders, Chuck Felcyn, Mark Root,
- Nay: none
- Abstain: none

**4. APPROVAL OF MINUTES- February 15, 2022**

A motion was offered by Mr. Arbanas to approve the minutes from the meeting held on March 15, 2022, as submitted. The motion was supported by Mr. Root.

- Chairman Kerby called for the vote, and the motion passed unanimously (6-0).
- Aye: Chairman Kerby, Phillip Arbanas, Phil Hover, E. Frances Sanders, Chuck Felcyn, Mark Root,
- Nay: none
- Abstain: none

**5. PUBLIC COMMENT ON NON-AGENDA ITEMS**

Chairman Kerby called for general public comments.

- Someone mentioned opposition to new retailers (no name provided).

## 6. BUSINESS:

### **a. Public Hearing and Consideration of a Special Land Use and Site Plan: Black River Heritage, LLC- Joseph Muvrin, requests approval of a commercial marihuana retailer business at 42800 Red Arrow Highway, Paw Paw, MI 49079 (parcel # 80-14-017-021-10).**

Mr. Jirousek explained that the applicant requests special land use and site plan approval for a commercial marihuana retailer. The subject parcel is approximately 1.3 acres and is zoned Neighborhood Convenience Commercial (NCC). Township approval of the application will authorize the proposed use and the following improvements:

- Building reuse and renovation
- Parking lot and driveway resurfacing and striping
- Site lighting
- Dumpster enclosure

Mr. Jirousek outlined the positive findings of his April 11, 2022, memorandum, which is available as a public record. Mr. Jirousek also outlined recommended conditions of approval.

Joe Muvrin introduced himself as the applicant and stated they were applying for a commercial marihuana retail use, building renovation, and driveway improvements.

Mr. Felcyn asked if screening would be required, and Mr. Muvrin clarified that it was not.

Mr. Hover asked about a downed tree, and Mr. Muvrin clarified that it was from a neighboring property.

Ms. Sanders asked about hours of operation, and Mr. Muvrin clarified that hours may vary but would not exceed 9:00 AM to 9:00 PM.

Mr. Felcyn expressed support.

Mr. Hover asked about a deceleration lane. Mr. Muvrin stated that a deceleration lane would be needed, and they are working with the Road Commission. Construction would occur in conjunction with improvements to Red Arrow. Mr. Felcyn asked how it would be coordinated. Mr. Muvrin explained the process of working with the Road Commission.

Chairman Kerby called open the hearing at 6:13 PM.

- Wendy Sinkhill (sp?) asked about the deceleration lane, and Mr. Hover explained.
- Someone expressed concern with semi-traffic and safety issues (no name provided).
- Wendy Sinkhill (sp?) also asked where the building is located, and it was clarified by the Planning Commission.

Chairman Kerby closed the hearing at 6:16 PM.

Chairman Kerby asked if a lighting plan would be submitted, and Mr. Muvrin explained they would comply with the Township's requirements.

Chairman Kerby asked about security, and Mr. Muvrin stated that they would exceed the state requirements.

A motion was offered by Mr. Root to approve the special land use and site plan for a commercial marihuana retailer (last revised on September 29, 2021), including the plans and supplemental materials provided by the applicant. This motion is based on the documented findings included within the staff report dated April 11, 2022, provided by the Township Planner. Additionally, approval is conditioned on the following, with items 1-5 to be completed prior to the issuance of building permits.

1. Secure Van Buren County Road Commission approval of a driveway permit.
2. Secure Van Buren County Drain Commission for stormwater management, if applicable.
3. Secure Van Buren County Drain Commission of an SESC permit, if applicable.
4. Provide light fixture details and a photometric plan indicating lighting levels on the site.
5. Provide a buffer type C along the north property line, or demonstrate buffer compliance with existing vegetation.
6. Hours open to the public shall be 9 AM to 9 PM.
7. Outdoor storage is not approved.
8. The use must remain compliant with the annual Township marihuana permit and State Rules promulgated under the respective statutes. Marihuana growing operations associated with the special land use approval shall not commence until permitted by the State of Michigan.
9. The facility shall be subject to an annual review by the Planning Commission to confirm compliance with the special land use permit and the provisions of the Zoning Ordinance.
10. All site improvements shall be finalized and inspected prior to building occupancy.

The motion was supported by Mr. Felcyn.

- Chairman Kerby called for the vote, and the motion passed unanimously (6-0).
- Aye: Chairman Kerby, Phillip Arbanas, Phil Hover, E. Frances Sanders, Chuck Felcyn, Mark Root,
- Nay: none
- Abstain: none

**b. Public Hearing and Consideration of a Special Land Use and Site Plan: Misty Mee, LLC- Allison Ireton, requests approval of a commercial marihuana retailer business at 37445 Red Arrow Highway, Paw Paw, MI 49079 (parcel # 80-14-014-027-20).**

Mr. Jirousek explained that the applicant requests special land use and site plan approval for a commercial marijuana retailer. The subject parcel is approximately one acre and is zoned General Commercial (GC). Township approval of the application will authorize the proposed use and building reuse and renovation. The building is also proposed for multi-tenant use, with Misty Mee on the west side and a future business on the east side.

Mr. Jirousek outlined the positive findings of his April 11, 2022, memorandum, which is available as a public record. Mr. Jirousek also outlined recommended conditions of approval.

Mr. Hover and Ms. Sanders asked how many permits were available, and Mr. Kerby asked for confirmation that separation requirements would be met.

Timothy Johnson represented the applicant and introduced the project.

Mr. Felcyn asked if the building would sell, and Mr. Johnson stated that it would not.

Mr. Felcyn also asked if the fire department would review regularly, and Mr. Johnson said that the state would review the building every six months.

Mr. Hover asked if there be a separation wall, and Mr. Johnson stated that it would be a fire-rated wall with no access between units.

Mr. Hover asked if approval would be needed for other tenant space. Mr. Jirousek stated that it would either be administrative or special land use, depending on the use classification.

Chairman Kerby called open the hearing at 6:33 PM.

- Donna Hansen asked if the crime rate would increase.
- Joe Muvrin stated that crime does not increase, and there will be more security in the area.
- Jan Palmer stated that traffic safety is an issue in this location.
- Mr. Felcyn believed the traffic would be equal to or less than the previous dollar store. Mr. Johnson agreed.

Chairman Kerby closed the hearing at 6:39 PM.

Mr. Felcyn asked about revenues, and Mr. Palenick stated that we would have state revenue sharing from five permits (retailers and microbusinesses). Mr. Palenick stated that the Township could potentially receive a quarter of a million dollars next year.

A motion was offered by Mr. Root to approve the special land use and site plan for a commercial marijuana retailer (last revised on February 17, 2022), including the plans and supplemental materials provided by the applicant. This motion is based on the documented findings included within the staff report dated April 11, 2022, provided by the Township Planner. Additionally, approval is conditioned on the following, with items 1-2 to be completed prior to the issuance of building permits.

1. Secure Van Buren County Road Commission approval of a driveway permit.

2. Secure fire department approval of site access.
3. Hours open to the public shall be limited to 9:00 AM to 9:00 PM Monday through Saturday and 9:00 AM to 7:00 PM on Sunday.
4. Outdoor storage is not approved.
5. The use must remain compliant with the annual Township marihuana permit and State Rules promulgated under the respective statutes. Marihuana growing operations associated with the special land use approval shall not commence until permitted by the State of Michigan.
6. The facility shall be subject to an annual review by the Planning Commission to confirm compliance with the special land use permit and the provisions of the Zoning Ordinance.

The motion was supported by Mr. Hover.

- Chairman Kerby called for the vote, and the motion passed unanimously (6-0).
- Aye: Chairman Kerby, Phillip Arbanas, Phil Hover, E. Frances Sanders, Chuck Felcyn, Mark Root,
- Nay: none
- Abstain: none

#### **c. Zoning and Overlay District General Discussion.**

Mr. Jirousek explained the draft regulatory structure for an overlay district and stated that the project intends to restrict land uses and residential activity that may impact an important agricultural area identified by the Township. The draft includes the following components:

1. Intent and Purpose Statements. Statements were drafted to reflect the intent of this process in subsection A.
2. Use Regulation. The overlay district would restrict land uses to best protect the niche fruit growing area. Permitted and special uses for the underlying AGR and ARR zoning districts were compiled in subsections B and C. Uses determined to be inconsistent with the proposed overlay district should be struck. While the first attempt at striking uses was reflected, it was noted that certain uses must be retained to ensure compliance with the Michigan Zoning Enabling Act.
3. Lot, Yard, and Area Requirements. It was noted that all zoning districts include dimensional requirements for lots and structures. In this case, we would need to refer back to AGR and ARR requirements, except when limited by the proposed overlay district. In subsection D, it was recommended that future residential properties would be required to be between one (1) and three (3) acres to limit the amount of farmland taken out of production. Also, this subsection would limit the number of future parcels, lots, and units by way of a sliding scale relative to property acreage at the time the overlay district becomes effective.

Mr. Jirousek mentioned that the document was for review and comment only.

Mr. Palenick echoed the purpose of an overlay and outlined the approval process and the Planning Commission's role. Mr. Palenick stated that the unique fruit-growing area in the Township is north of Red Arrow.

Mr. Muvrin asked if the requirements could be applied to all of AGR and ARR, and Mr. Jirousek stated that regulations could apply to ARG and ARR if that were the desire of the Planning Commission.

Mr. Felcyn stated that we should take our time with the process.

Mr. Hover would like farmland protection zoning tools to apply to more than just the overlay district.

There was a general discussion concerning the timing and phasing of the overlay district establishment as well as zoning tools for farmland preservation.

The discussion will be continued at the May meeting.

## **7. ADDITIONAL PUBLIC COMMENT**

Chairman Kerby opened the meeting for public comments at 7:11 PM.

- Joe Muvrin expressed concerns with the additional restrictions, especially on the fruit-growing area farmers. It would be a burden on landowners in the overlay district.
- George Multer stated that the anti-cannabis effort was the driver, so the Planning Commission should not just pinpoint this area.
- Joe Muvrin stated that the squeaky wheels were not farmers, so be careful about who is effective.
- George Multer requested a copy of the draft discussion language.

## **8. TRAINING DISCUSSION**

Ms. Sanders mentioned opportunities with MTA and MAP for continuing education training. Information was distributed to the group.

## **9. ADJOURNMENT**

Mr. Felcyn made a motion to adjourn the meeting at 7:20 PM. The motion was supported by Mr. Root.

- Chairman Kerby called for the vote, and the motion passed unanimously (6-0).
- Aye: Chairman Kerby, Phillip Arbanas, Phil Hover, E. Frances Sanders, Chuck Felcyn, Mark Root,
- Nay: none
- Abstain: none

Prepared by: David Jirousek, AICP  
Township Consulting Planner  
April 20, 2022

Approved: May 17, 2022