

**PAW PAW TOWNSHIP
PLANNING COMMISSION MINUTES**

Regular Meeting – August 16, 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, Mark Root, Chad Learned

ABSENT: Chuck Felcyn

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

2. APPROVAL OF THE AGENDA

A motion was offered by Mr. Arbanas to approve the agenda as presented. The motion was supported by Mr. Learned.

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

3. APPROVAL OF MINUTES- June 21, 2022

A motion was offered by Mr. Hover to approve the minutes from the joint meeting held on June 21, 2022, as presented. The motion was supported by Mr. Learned.

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

4. APPROVAL OF MINUTES- July 19, 2022

A motion was offered by Mr. Learned to approve the minutes from the meeting held on July 19, 2022, as presented. The motion was supported by Mr. Root.

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

5. PUBLIC COMMENT ON NON-AGENDA ITEMS

Chairman Kerby called for general public comments. There were none.

6. BUSINESS:

a. Annual Review of Special Land Use: Huntington Valley Ventures Inc., indoor commercial marihuana growing facility at 37555 Peters Drive, Paw Paw, MI 49079 (parcel # 80-14-014-027-45).

Deputy Supervisor Palenick explained the requirement for a special land use annual review. Mr. Palenick stated that West Michigan farms has been in operation for over a year in Paw Paw Township. The operation initially started as a medical grow and switched over to an adult retail grow. During that time West Michigan farms received three complaints regarding marijuana smell. All these complaints occurred during a single month of 2021, and all three were sent in from persons living miles away from the business who reported odor complaints while driving by the business. These complaints were checked and could not be substantiated after the fact. Each complaint was brought to the attention of West Michigan farms which changed their charcoal Hepa filters early and added additional filtration systems to the building. No odor complaints were received prior to or after that month. No complaints have ever been received from anyone living close to the operation.

Mr. Palenick also stated that west Michigan farms employs 7 to 10 persons at any given time. West Michigan farms passed all state and local inspections during the course of the last year.

No action was necessary based on the applicant's continued compliance with Township regulations.

b. Public Hearing and Consideration of a Zoning Map Amendment: Jon Moyle, M4, LLC, requests approval of a rezoning from Agricultural Rural Residential (ARR) to Heavy Commercial/Industrial (HCI) for a parcel located at 58000 40th Street, Paw Paw, MI 49079 (parcel # 80-14-015-005-00)

Mr. Jirousek explained applicant requests the rezoning of a parcel of land from Agricultural Rural Residential (ARR) to Heavy Commercial/Industrial (HCI). The subject parcel is approximately 61 acres. The applicant anticipates that the land will be developed for warehousing and distribution purposes.

The site is currently undeveloped. The west half has been farmed in recent years while the east half is vegetated. Adjacent lands are industrial and commercial to the east and northeast, residential to the northwest and west.

Mr. Jirousek stated that Ms. Sanders confirmed that the future land use map called for Heavy Commercial and Light Industrial.

Chair Kerby asked if there was a berm to the north. Mr. Palenick stated that a berm is along the railroad property, and it may be a future extension of Ampey Road.

The Planning Commission generally discussed the correct future land use map.

Mr. Arbanas described the history of zoning and development within the project area.

The applicant stated that they intend to take access to Red Arrow through their other property, not 40th Street. There was concern with 40th Street safety issues and surface type.

Chairman Kerby called open the hearing at 6:16 PM.

- Tammy Hipmop (sp) lives nearby, and stated that she was concerned about the development, environmental impact, and noise.
- Sue Krause asked if consideration could be tabled until the easement is approved.
- Craig Ernsberger echoed Tammy Hipmop comments.
- An owner to the north stated that they are already violating the zoning ordinance, and it is used for storage. He was concerned with noise, lack of sewer, and environmental impact.

Chairman Kerby closed the hearing at 6:21 PM.

Mr. Learned asked if they had a site plan or concept. The applicant stated that they do not, but they intend to expand. They wish to have the property rezoned to be better prepared for it. Mr. Learned asked if there are increased buffers and setbacks when adjacent to ARR. Mr. Jirousek confirmed that was true.

Mr. Arbanas addressed alternative truck access and circulation.

Chair Kerby asked if a site plan was required. Mr. Jirousek stated that it was not required; however, the applicant could offer voluntary conditions or more information to address concerns.

Mr. Learned was concerned with wetlands and questions concerning the future land use map.

There was a general discussion concerning wetlands and potential impact.

The applicant expressed willingness to gather additional information to satisfy the concerns of the Planning Commission and neighbors.

Mr. Learned is not opposed to expanding the zoning but would like an increased buffer, environmental information and impact assessment, and restrictions on 40th Street access.

Mr. Root agreed that the railway approval easement would be essential to have prior to a recommendation.

A motion was offered by Mr. Learned to table the item until the next meeting or whenever the applicant can gather more information.

The motion was supported by Mr. Root.

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

- Abstain: none

c. Public Hearing and Consideration of a Special Land Use and Site Plan: Adam Smith requests approval of an indoor commercial marihuana growing operation at 64471 46th Street, Paw Paw, MI 49079 (parcel # 80-14-030-007-20).

Mr. Jirousek explained that the applicant requests special land use and site plan approval for an indoor commercial marihuana grower facility within a single building. The subject parcel is approximately 10 acres and is zoned Agricultural- Farmland Preservation (AGR). Additionally, as part of the special land use review, the Planning Commission must approve the building beyond the 250-foot maximum setback for the AGR zoning district. Township approval of the application would authorize the proposed use and the following site improvements:

- 2,592 square foot building
- Eight-space parking lot and driveway improvements
- Private well and septic service
- Lighting and stormwater management

Attorney Devin Loaker(sp) presented on behalf of the applicant and explained the operation would be smaller-scale. Carbon filtration would be used to address odor.

Mr. Learned read an email from the property owner to the south in opposition to the application.

Mr. Palenick stated that Mr. Smith would be living on the property, and this is one of the smallest operations proposed within the Township. The barn can be repurposed if the use ever ceases, and the property has not been farmed in recent years.

Mr. Loaker explained that the state encourages small growing in agricultural areas, and the use is much less intense than a more industrial operation.

Chairman Kerby called open the hearing at 6:40 PM.

- Judie Barns of 64th Avenue stated that there are wetlands on the property and expressed concern.
- Lynn Bingham(sp) lives across the street and felt that it is a farmland preservation district and was also concerned with security and wetlands.
- Tom(?) asked about notification purposes and was concerned with wetland impact.
- Sue Krause did not receive a notice and was concerned with traffic, operations, disposal, and lighting.
- Someone spoke on the pollinator program and the lake water quality.
- Sue Krause asked about water use.

Chairman Kerby closed the hearing at 6: 46 PM.

Tyler Bourdo, the applicant's engineer, stated that all permits would be secured. The applicant stated that 70 gallons would be used a day.

Devin Loaker(sp) stated that there was a comprehensive waste management plan, low water use, security plan, state-required disposal requirements, and state-restricted chemical use. He also stated that small businesses are better scaled and have been fairly successful.

Mr. Hover asked about the septic system, and Mr. Bourdo stated that it would be replaced and gave general specifications. Mr. Hover was concerned with the placement.

Mr. Hover clarified that there is a dwelling on the property.

Ms. Sanders stated that there are a number of other local and state requirements.

Mr. Learned stated that they should ensure that all EGLE requirements are met.

The applicant stated it would be an organic operation.

Mr. Learned outlined the conditions noted in Mr. Jirousek's staff report.

The applicant stated that all rooms would include odor control, and the dumpster should be moved out of the setback.

A motion was offered by Mr. Learned to approve the special land use and site plan for indoor commercial marihuana growing (last revised May 27, 2022), including the plans and supplemental materials provided by the applicant, along with a building exceeding 250 feet from the right-of-way. The motion was based on the documented findings included within the staff report dated August 11, 2022, provided by the Township Planner. Additionally, approval is conditioned on the following, with items 1-6 to be completed prior to the issuance of building permits.

1. Provide compliant cut-off and down-lit wall pack specification sheets.
2. Shift dumpster location out of the required side setback area.
3. Provide carbon air filter technical specifications.
4. Secure Fire Department approval of the site plan.
5. Secure Van Buren County Drain Commission approval for stormwater design and Van Buren County Drain Commission SESC permit, unless proof of exemption is provided.
6. Secure Van Buren County Road Commission approval of a driveway permit.
7. Improvements to the air filtration and odor control system shall be implemented if there are complaints from neighboring property owners if required by the Township.

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. Root.

- Chairman Kerby called for the vote, and the motion passed unanimously (5-1).
- Aye: Chairman Kip Kerby, Phil Hover, E. Frances Sanders, Mark Root, Chad Learned
- Nay: Phillip Arbanas
- Abstain: none

7. ADDITIONAL PUBLIC COMMENT

Chairman Kerby called for general public comments.

- Sue Krause was worried about the process.
- Tom wanted to see the EGLE permit.
- Mr. Jirousek explained that all outside agency permits are required to be secured before building permitting.

8. ADJOURNMENT

Mr. Hover made a motion to adjourn the meeting at 7:11 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, Mark Root, Chad Learned
- Nay: none
- Abstain: none

Prepared by: David Jirousek, AICP
Township Consulting Planner
August 23, 2022

Approved: September 20, 2022