

**CHARTER TOWNSHIP OF VAN BUREN  
PLANNING COMMISSION  
February 13, 2019  
MINUTES**

Chairperson Thompson called the meeting to order at 7:30 p.m.

**ROLL CALL:**

**Present:** Kelley, Atchinson, Budd, Boynton, Jahr and Thompson.

**Excused:** Franzoi.

**Staff:** Director Akers and Secretary Harman.

**Planning Representatives:** McKenna Associate, Patrick Sloan.

**Audience:** Three (3).

**APPROVAL OF AGENDA:**

**Motion Budd, Boynton second to approve the agenda of February 13, 2019 as amended, removing Item #1 Trowbridge Homes under New Business, moving Phantom Fireworks to Item #1, BK Development to Item #2 and Zoning Ordinance Amendment to Item #3. Motion Carried.**

**APPROVAL OF MINUTES:**

**Motion Boynton, Jahr second to approve the regular meeting minutes of January 23, 2019 as amended with a correction to the first paragraph on page 2. Correction to read: Commissioner inquired if the applicant will be disposing of sanitizer water in the store. Yes, the applicant will be disposing of it in the store. Motion Carried.**

**PUBLIC HEARING:**

**ITEM # 1                      ZONING ORDINANCE TEXT AMENDMENT**

**TITLE:                              A PROPOSED AMENDMENT WHICH MODIFIES THE REQUIREMENTS OF SECTION 7.205 OF THE ZONING ORDINANCE REGARDING SECURITY FENCING AND FENCING STANDARDS APPLICABLE TO SPECIFIC ZONING DISTRICTS, INCLUDING FENCING MATERIALS, HEIGHT, LOCATION, AND THE PLACEMENT OF FENCES IN THE FRONT YARD OF NON-SINGLE-FAMILY RESIDENTIAL DISTRICTS.**

**Motion Boynton, Atchinson second to open the public hearing. Motion Carried.**

Patrick Sloan of McKenna Associates gave a brief presentation of the proposed amendments. Mr. Sloan previously presented text amendments to Section 7.205 of the Zoning Ordinance at the 1-23-19 Planning Commission meeting, the Commissioners reviewed the amendments and made minor modifications. The proposed amendments before the Planning Commission revise the security fencing provisions and classify fences in three (3) groups of zoning districts (residential, commercial, and industrial/office). In areas where fences are regulated by zoning district, the amendments include classifying zoning districts into groups and revising provisions for fencing material, height, location, and the placement of fences in the front yard of certain non-single-family residential districts.

There were no comments from the Commission or the audience.

**Motion Boynton, Budd second to close the public hearing. Motion Carried.**

**NEW BUSINESS:**

**ITEM # 1                    19-003 – PHANTON FIREWORKS – TEMPORARY LAND USE**

**TITLE:                        THE APPLICANT, PHANTOM FIREWORKS, IS REQUESTING A TEMPORARY LAND USE PERMIT TO OPERATE A FIREWORKS TENT IN A SHOPPING CENTER PARKING LOT AT 2095 RAWSONVILLE ROAD.**

**LOCATION:                    2095 RAWSONVILLE ROAD. THE SITE IS LOCATED NEAR THE INTERSECTION OF RAWSONVILLE ROAD AND I-94.**

Richard Tapper of Phantom Fireworks gave the presentation. Mr. Tapper is requesting a temporary land use permit to operate a fireworks tent in the shopping center parking lot at 2095 Rawsonville Road from July 21 through June 5, this is Phantom's 7<sup>th</sup> season at the same location. The storage unit will remain in the same location as previous years and Mr. Tapper has not received any complaints in the past.

Director Akers presented his staff review letter dated 2-9-19 recommending approval of the application subject to the following three (3) conditions:

1. That the applicant obtains approval from the Van Buren Township Fire Marshal.
2. That the applicant provides the Township with a current Consumer Fireworks Retail Facility: Non-Permanent license prior to the establishment of the temporary use.
3. That all proposed signage complies with the Zoning Ordinance.

No comments from the Commission or the audience.

**Motion Kelley, Jahr second to grant temporary land use approval to operate a fireworks tent in a shopping center parking lot at 2095 Rawsonville Road June 21<sup>st</sup> through July 5<sup>th</sup> based on the recommendations and analysis in the staff review letter dated 2-9-19. Motion Carried. (Letter attached)**

**ITEM # 2                    19-004 – SITE PLAN AMENDMENT**

**TITLE:                        THE APPLICANT, BK DEVELOPMENT GROUP, IS REQUESTING AN AMENDMENT TO THE APPROVED SITE PLAN FOR THE COBBLESTONE CREEK WOODLANDS DEVELOPMENT TO ALLOW FOR A SINGLE ADDITIONAL ELEVATION TO BE CONSTRUCTED IN THE SUBDIVISION.**

**LOCATION:                    COBBLESTONE CREEK DEVELOPMENT IS LOCATED ON THE SOUTH SIDE OF W. HURON RIVER DRIVE BETWEEN RAWSONVILLE AND ELWELL ROADS.**

Director Akers gave the presentation. Boji Homes is requesting approval of a single home elevation to offer a new model in the Cobblestone Creek Woodlands development. Director Akers presented his staff review letter dated 2-9-19 recommending approval of the amendment to the site plan for the Cobblestone Creek development in order to allow the additional elevation depicted in plans dated 1-22-19, based upon the staff review letter dated 2-9-19 and conditioned upon the following:

1. That the applicant provides a revised plan which depicts the detached unit having a minimum of 50% brick, stone or other decorative material on the exterior façade of the entire building, measured by taking the total area of all walls minus the area of windows, doors and gable ends.
2. Township Planning staff shall review each application for a new single-family home in the Cobblestone Creek development in order to determine that the new home meets the required setbacks and that the elevation meets the Township's "substantially different" architectural design standards set forth in the PRD agreement.

Commissioners inquired if a color rendering of the elevation was submitted, had staff compared to previous elevations to confirm it meets the substantially different requirement, is a side entry garage offered, does the HOA play a role in the process of new home elevations and façade colors and if exterior façade colors were agreed to in the PRD. Commissioners would like the developers to present exterior façade colors, materials and color renderings in the future. A color rendering was not submitted, staff has compared the new elevation to the existing elevations to confirm the substantially different requirement is met, the side entry garage is not offered on this model, Cobblestone Creek has an Advisory Board to discuss concerns with the developer and exterior façade colors were not included in the PRD agreement.

No comments from the audience.

**Motion Boynton, Kelley second to grant BK Development and amendment to the approved site plan for the Cobblestone Creek Woodlands development to allow for a single additional elevation to be constructed in the subdivision, subject to the recommendations in the staff review letter dated 2-9-19. Motion Carried. (Letter Attached)**

**ITEM # 3                      ZONING ORDINANCE AMENDMENT**

**TITLE:                      A PROPOSED AMENDMENT WHICH MODIFIES THE REQUIREMENTS OF SECTION 7.205 OF THE ZONING ORDINANCE REGARDING SECURITY FENCING AND FENCING STANDARDS APPLICABLE TO SPECIFIC ZONING DISTRICTS, INCLUDING FENCING MATERIALS, HEIGHT, LOCATION, AND THE PLACEMENT OF FENCES IN THE FRONT YARD OF NON-SINGLE-FAMILY RESIDENTIAL DISTRICTS.**

No additional comments from staff, the Commission or the audience. Commissioners thanked Mr. Sloan for incorporating their feedback in the amendments.

**Motion Boynton, Kelley second to recommend to the Township Board of Trustees a proposed amendment which modifies the requirements of section 7.205 of the Zoning Ordinance regarding security fencing and fencing standards applicable to specific zoning districts, including fencing materials, height, location, and the placement of fences in the front yard of non-single-family residential districts.**

**Roll Call:**

**Yeas: Atchinson, Budd, Kelley, Boynton, Jahr and Thompson.**

**Nays: None.**

**Absent: Franzoi.**

**Motion Carried.**

**GENERAL DISCUSSION:**

**ITEM # 1                      LOT SIZE REQUIREMENTS IN THE RM, MULTIPLE FAMILY ZONING DISTRICT**

Patrick Sloan of McKenna Associates gave a presentation on his review and comparison of multi-family residential standards in the RM District. The current minimum lot size required is 10 acres with a minimum 400 ft. lot width. Because the minimum lot area is 10 acres, the size of the smallest multi-family development can be between 100-400 units. The standards make it difficult to develop smaller multi-family developments, McKenna Associates recommends the Township consider a sliding scale that allows for smaller lot areas and lot widths for multi-family residential development. Mr. Sloan presented comparisons from Garden City and Lyon Township both of which have smaller lot size requirements. Mr. Sloan can provide more examples if needed.

Director Akers has received feedback from the Township Board and residents concerning the lack of senior housing in the Township, both independent and assisted living. The RM District can accommodate senior housing, those types of facilities typically don't need or desire a parcel that large and would benefit from a change to the minimum lot size requirement.

Commissioners discussed looking at more comparisons to determine the right fit for the Township, addressing senior housing within the RM District, possibly adding a senior housing section to the Zoning Ordinance. Mr. Sloan will bring more comparisons back to the Planning Commission including senior housing ordinance examples.

**ADJOURNMENT:**

**Motion Boynton, Kelley second to adjourn at 8:36 p.m. Motion Carried.**

Respectfully submitted,

Christina Harman  
Recording Secretary



# Memo

**TO: Van Buren Township Planning Commission**  
**FROM: Ron Akers, AICP - Director of Planning and Economic Development**  
**RE: Review of Temporary Land Use Request #TLU19-001 – Phantom Fireworks**

**DATE: February 9, 2019**

Phantom of Michigan, Inc. is requesting a Temporary Land Use permit for a tent sale of fireworks at the Lakewood Shopping Plaza at 2095 Rawsonville Road. The use is proposed to be from June 21, 2019 through July 5, 2019, 10:00 a.m. to 10:00 p.m. Per the Zoning Ordinance, temporary uses that operate for more than seven (7) consecutive days require Planning Commission approval.

Under Section 7 of Michigan Public Act 256 of 2011, local units of government are limited in their ability to regulate the sale of fireworks within their communities. The Michigan Attorney General has issued an Opinion on this section of the Act (Opinion #7266), which states, “so long as the local ordinance does not prohibit fireworks vendors from undertaking their commercial operations in any way that other vendors may undertake their operations, the ordinance is not preempted by the Act.” Therefore, fireworks vendors are subject to the same Zoning Ordinance regulations as any other temporary land use.

In reviewing past applications for this temporary land use, the current application and the requirements of the Zoning Ordinance for temporary use approval, the following comments are pertinent to the Planning Commission.

**1. Adequacy of parking and access**

The site currently has 877 public parking spaces, 31 of which are handicapped reserved. The tent, portable storage container, and surrounding space will only remove approximately 39 regular parking spaces, the site will still have adequate parking while the temporary land use is ongoing.

**2. Adequate drainage**

The site is in an existing parking lot that already has storm water drainage. The tent and storage container will not affect the amount of impervious surface or water that would be diverted into the storm system.

**3. Compatibility with surrounding land uses**

The proposed use is retail sales in a parking lot of an existing shopping plaza. Therefore, the uses are compatible.

**4. Size, height, and type of construction of proposed buildings and structures in relation to surrounding site**

The tent and portable storage container are temporary in nature and tent sales regularly take place in parking lots, so no impacts are expected to the surrounding sites.

**5. Sufficient setbacks from road right-of-ways and lot lines**

The sales area is setback 50 feet from the right-of-way of the South I-94 Service Drive and 30 feet from the adjoining outlot of the plaza to the east.

**6. Adequate utilities**

Phantom will supply its own electrical generation. The generator and electrical hook-up will be inspected to ensure compliance with National Fire Protection Association requirements.

**7. Trash disposal and site clean-up**

Phantom will be responsible for all trash disposal and site clean-up in relation to their agreement with Schostak Brothers and Company, managing agent for Lakewood Shopping Center.

**8. Sanitary facilities**

Due to the short nature of the customer shopping, no sanitary facilities will be provided.

**9. Hours of operation**

From 10:00 a.m. to 10:00 p.m. Although Van Buren Township has a Fireworks Ordinance (adopted in 1986) which requires fireworks sales to conclude at 9:00 p.m., Act 256 preempts this requirement as there is no restriction on the hours of operation for other temporary uses. However, we are not aware of any complaints with Phantom closing at 10:00 p.m. in previous years, so the hours of operation are reasonable.

**10. Outdoor light and signs**

No exterior lights are provided. Interior lights will be hung by the tent company. The Zoning Ordinance permits one (1) 32 sq. ft. temporary sign for a period not to exceed 30 days. Phantom requests a banner to measure 5' x 16' (80 sq. ft.). Phantom's temporary signage must comply with the Zoning Ordinance before it obtains a sign permit from the Building Department.

**11. Other licenses and permits required**

A current Consumer Fireworks Retail Facility: Non-Permanent license must be provided by the applicant prior to the establishment of the temporary use. The Van Buren Fire Marshall shall be separately issuing a review letter.

**12. Potential noise, odor, dust, and glare**

The proposed temporary use should not increase the noise, odor, dust of glare from their use.

**13. Fire lanes, fire protection, and security**

The Van Buren Fire Marshall shall review the application for adequacy of fire lanes and fire protection. The site will be staffed with 3-6 employees during open hours. During non-operating hours, all products will be returned to their fire-proof storage unit and locked up until the materials are returned for redisplay the following day.

**14. Off-site impacts of traffic volumes**

The roads in the immediate vicinity are major Township roads, and this temporary use will not impact their flow or travel volumes.

**15. Necessity of performance bond to ensure prompt removal**

The property owner will be responsible for ensuring the site is returned to its pre-sale condition.

**16. Other concerns which may impact the public health, safety, or general welfare**

There are no additional concerns; however, the applicant is subject to the regulations of Act 256 and applicable regulations of the Fire Department.

**Recommendation**

This will be the seventh (7) year that Phantom has operated at this location, and I am not aware of any complaints or issues that have taken place in the previous years. Based on this review dated February 9, 2019, I recommend approval of this application subject to the following three (3) conditions:

1. That the applicant obtains approval from the Van Buren Township Fire Marshall.
2. That the applicant provides the Township with a current Consumer Fireworks Retail Facility: Non-Permanent license prior to the establishment of the temporary use.
3. That all proposed signage complies with the Zoning Ordinance.



# Memo

**DATE:** February 9, 2019  
**TO:** Planning Commission  
**FROM:** Ron Akers, AICP – Director of Planning & Economic Development  
**RE:** SPR 19-004 Site Plan Amendment for BK Development in Cobblestone Creek Review.

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The applicant, BK Development, is requesting architectural approval for a single additional home plan and façade elevations for residential dwellings in the Cobblestone Creek development. There is an existing Planned Residential Development (PRD) Agreement in place for the property which was approved in 2005 which outlines some of the requirements of the Township's Zoning Ordinance with regards to these elevations.

These plans are subject to the PRD agreement and the standards of the Zoning Ordinance, specifically section 4.54 which addresses specific architectural standards in these types of development.

The following is my review of the architectural plan based on Zoning Ordinance and PRD agreement. I offer the following comments:

## **Comments**

### **1. Site Plan**

The setbacks, as described in the approved site plan for the Cobblestone Creek development, depict a front yard setback of 25', a required rear yard setback of 35', and a required side yard setback of 5'. The typical lot size in the development are 80' in width and 120' in depth.

The applicant has submitted dimensions for all of the proposed house plans which are 43' X 57.5'. Based on those plans it appears the houses will fit on the lots and be able to meet the required setbacks.

### **2. Floor Area**

The PRD agreement requires that the square footages of the detached single-family homes in Cobblestone Creek be a minimum of 1,800 square feet. The proposed Denton elevation has a total floor area of 2,010 square feet. This requirement has been met.



### **3. Façade Elevations**

The Zoning Ordinance and the PRD agreement have specific requirements to ensure that the Township's "Substantially Different" architectural design standard is met. Section j(ix) of the PRD agreement specifically requires that the "Substantially Different" requirement be met by varying the following two (2) criteria:

- Roof pitch by varying three or more vertical units in twelve from one another (i.e. 6/12, 9/12, 12/12, etc.)
- Location of major design features relative to main mass by varying the location of at least two major design features that include, but are not limited to dormers, gables, garages (i.e. front-entry versus side-entry), and porches.

The Zoning Ordinance requires that this substantially different requirement be maintained from neighboring lots within three (3) lots of the proposed parcel and within three (3) lots of the property across the street. BK Development has previously submitted the minimum number of elevations to meet this requirement so any additional elevations would further this requirement. Staff reviews each individual elevation for compliance with this requirement and based on prior approvals the applicant can meet this standard.

### **4. Building Materials**

The PRD agreement mirrors the Zoning Ordinance requirement that the detached dwelling units must have a minimum of 50% brick, stone, or other decorative material on the exterior façade of each unit.

Based on the provided plans it does not appear that the total percentage of exterior material (total area of all walls minus the area of windows, doors, and gable ends) would meet the 50% requirement, but the applicant would easily be able to achieve this by making modifications to the plans in order to reflect this. I would recommend that the Planning Commission require that this item be satisfied as a condition of approval.

### **Recommendation**

Based on the comments listed above, staff recommends that the Planning Commission approve an amendment to the site plan for the Cobblestone Creek development in order to allow the additional elevation depicted in the plans dated 1-22-2019. This approval should be based upon the staff review letter dated February 9, 2019 and conditioned upon the following:

1. That the applicant provides a revised plan which depicts the detached unit having a minimum of 50% brick, stone, or other decorative material on the exterior façade of the entire building measured by taking the total area of all walls minus the area of windows, doors, and gable ends.
2. Township Planning Staff shall review each application for a new single-family home in the Cobblestone Creek development in order to determine that the new home meets

the required setbacks and that the elevation meets the Township's "Substantially Different" architectural design standards set forth in the PRD agreement.