

**CHARTER TOWNSHIP OF VAN BUREN
PLANNING COMMISSION - VIRTUAL MEETING ON ZOOM
October 14, 2020
MINUTES**

Prior to the start of the meeting, the public was given instructions on how to take part in the meeting.

Chairperson Thompson called the meeting to order at 7:31 p.m.

ROLL CALL:

Present: Atchinson, Budd, Boynton, Jahr, Franzoi and Thompson.

Excused: Kelley.

Staff: Director Power, Director Best and Secretary Harman.

Planning Representatives: McKenna Associate, Vidya Krishnan.

Applicant(s) in Attendance: Township Attorney Dave Greco, Nick Smarsch and Tommy Hennigan of Event Permits, LLC.

Audience: Six (6)

APPROVAL OF AGENDA:

Motion Boynton, Jahr second to approve the agenda of October 14, 2020 as presented.

Roll Call:

Yeas: Franzoi, Jahr, Boynton, Atchinson, Budd and Thompson.

Nays: None.

Absent: Kelley.

Motion Carried.

APPROVAL OF MINUTES:

Motion Boynton, Franzoi second to approve the regular meeting minutes of September 23, 2020 as presented.

Roll Call:

Yeas: Budd, Atchinson, Boynton, Jahr, Franzoi and Thompson.

Nays: None.

Absent: Kelley.

Motion Carried.

PUBLIC HEARING:

ITEM #1: MEDICAL MARIJUANA CAREGIVER ZONING ORDINANCE AMENDMENTS.

PROPOSED AMENDMENTS TO LIMIT MEDICAL MARIJUANA CAREGIVER ACTIVITIES AUTHORIZED UNDER MICHIGAN INITIATED LAW 1 OF 2008. THE AMENDMENTS WILL BE TO SECTION 2.102 – DEFINITIONS, SPECIFIC TERMS AND ARTICLE 7 – GENERAL PROVISIONS.

Motion Boynton, Atchinson second to open the public hearing.

Roll Call:

Yeas: Jahr, Boynton, Atchinson, Budd, Franzoi and Thompson.

Nays: None.

Absent: Kelley.

Motion Carried.

Director Power gave a brief overview of the proposed amendments. The Township is considering land use regulations with respect to the Michigan Medical Marijuana Act (MMMA), Michigan Law 1 of 2008. This has been a collaborative discussion with council and township staff from both the public safety and public services departments. The Township Attorney Dave Greco will provide further discussion under the New Business action item.

No comments from the Commission or the audience.

Motion Boynton, Jahr second to close the public hearing.

Roll Call:

Yeas: Franzoi, Jahr, Boynton, Atchinson, Budd and Thompson.

Nays: None.

Absent: Kelley.

Motion Carried.

NEW BUSINESS:

ITEM #1: RECOMMENDATION: MEDICAL MARIJUANA CAREGIVER ZONING ORDINANCE AMENDMENTS.

PROPOSED AMENDMENTS TO LIMIT MEDICAL MARIJUANA CAREGIVER ACTIVITIES AUTHORIZED UNDER MICHIGAN INITIATED LAW 1 OF 2008. THE AMENDMENTS WILL BE TO SECTION 2.102 – DEFINITIONS, SPECIFIC TERMS AND ARTICLE 7 – GENERAL PROVISIONS.

Township Attorney Dave Greco gave the presentation. Attorney Greco provided a brief history of the Michigan Medical Marijuana Act (MMMA) passed in 2008, the Township has opted out for both commercial and recreational uses. The Zoning Ordinance text amendment is to regulate the medical marijuana caregiver by limiting caregiver activity to residential areas and prohibiting them from commercial areas within the Township. A caregiver can be a user and harvest for themselves and up to five (5) patients, with twelve (12) plants per patient. Attorney Greco provided information from Byron Township which passed a local Zoning Ordinance in which the medical marijuana caregiver is limited to a home occupation and is prohibited from commercial buildings. The ordinance also limits the allowable space. Byron Township was having a problem with caregivers purchasing homes and not living in them and/or growing in the yard. The

Michigan Supreme Court ruled in favor of Byron Township and concluded the specific regulations are legal and enforceable. The proposed Zoning Ordinance text amendment is to add Section 7.124 Medical Use of Marijuana – Home Occupation, which includes the following components:

- It will be permitted as a home occupation and an accessory use of dwelling units.
- It will not be permitted in non-residential areas.
- One caregiver may operate per dwelling.
- Medical marijuana use by registered caregivers may occupy up to 20% of the floor area of a dwelling, not to exceed 300 square feet.
- Medical marijuana facility land uses authorized in the State of Michigan by PA 281 of 2016 remain prohibited.
- Recreational marijuana land uses authorized in the State of Michigan by Michigan Initiated Law 1 of 2018 remain prohibited.

Caregivers can grow outside, however it has to be in a closed locked facility. The amendment also puts a limit on noise and odor in residential areas.

Commissioners discussed the amendments and had the following questions and comments:

- On properties with acreage are caregivers allowed to construct a pole barn or an accessory building? Caregivers are limited to it being an accessory use with an allowable size up to 300 square feet and is allowable in a garage.
- Are caregivers allowed in light industrial zoning? No, they are prohibited in all other areas except for residential.
- Is there any language to add to ensure that the strictly residential area does not become commercial by the caregiver, causing more traffic? Section 7.124 (B) subsection 9 prohibits the transfer from taking place at or on the premises of the primary caregiver.
- Will this create additional work for public safety? No, the ordinance amendments were created to address problems if they arise.
- The caregiver delivers to the patient? Yes, it was written that way in the ordinance to not increase foot traffic in the neighborhoods. If it becomes obvious there is a dealer, the ordinance has language to address it.
- The proposed ordinance is going to turn the caregiver into a home occupation, there are residents that live in other types of units. This will apply to dwellings and units, however private associations such as condo associations may try to prohibit.
- In Section B, point 11 no one under the age 18 shall have access to medical marijuana, is that in line with MMMA or a local constraint? It is a local constraint and should be access to “the” medical marijuana. This regulates the activity, if under age 18 they may be able to get medical marijuana, not recreational.
- The Zoning Ordinance determines how land is used in regards to a business and not how a business is to be conducted. Inquired why the ordinance amendment controlling how a caregiver is a home occupation is in the Zoning Ordinance instead of the General Ordinance Chapter 22. The Michigan Supreme Court held this up as a Zoning Ordinance and the amendment mirrors what has held up as allowable and legal.
- In section A, point 7, the statement “registered primary caregivers are expressly prohibited from operating outside of residentially used properties”, is that statement a

finding of the MMMA or intended to be one of our ordinances to enforce and should it be moved to Section B? We are allowing it as a home occupation and not as anything else, the statement can be moved to Section B and added as point 20.

- Commissioners agreed for staff to make the following changes: adding the word “the” to Section B, point 11 and moving the last sentence of Section A, point 7 “registered primary caregivers are expressly prohibited from operating outside of residentially used properties” to Section B, point 20.

Motion Boynton, Jahr second to recommend to the Township Board of Trustees the proposed amendments to limit medical marijuana caregiver activities authorized under Michigan initiated law 1 of 2008. The amendments will be to section 2.102 – definitions, specific terms and article 7 – general provisions, to include edits of the final line of point 7 in Section A to become point 20 of Section B and the addition of the word “the” to point 11 of Section B.

Roll Call:

Yeas: Atchinson, Budd, Boynton, Jahr, Franzoi and Thompson.

Nays: None.

Absent: Kelley.

Motion Carried.

ITEM #2: 20-029 – TEMPORARY LAND USE APPROVAL – WALMART SMALL BUSINESS SATURDAYS.

APPLICANT NICHOLAS SMARSCH ON BEHALF OF OWNER ANDREW KLUNGLAND OF WALMART HAS APPLIED SEEKING TO OCCUPY A 17,300 SQ. FT. AREA FOR FOUR (4) “SMALL BUSINESS SATURDAYS” TENT SALE AND FOOD TRUCK EVENTS ON OCTOBER 17, 24, 30 AND 31, 2020.

LOCATION: THE PROPERTY IS LOCATED AT 10562 BELLEVILLE ROAD (PARCEL NUMBER 83-061-99-0005-714), ON THE WEST SIDE OF BELLEVILLE ROAD BETWEEN TYLER ROAD AND NORTH I-94 SERVICE DRIVE.

Nick Smarsch of Event Permits, LLC gave the presentation. Walmart recognizes small businesses have been hurt by recent events and would like to host four (4) Small Business Saturdays with eight (8) vendors and two (2) food trucks. The event will be limited to fifty (50) people attending at a time, the applicant has hired an off-site security team and is working with the Wayne County Health Department to follow all COVID requirements. Walmart hopes the Small Business Saturdays will help to boost the local business economy.

Director Power gave an overview of the event series and presented his staff review letter dated 10-6-20 recommending approval of the application subject to the following conditions:

1. Disposal of food waste will be required to meet state and local standards.
2. The applicant and the vendors on site will be required to provide waste receptacles and waste must be promptly removed from the site following the event.

3. The applicant should clarify whether existing Walmart parking lot lights will provide adequate event and security lighting for evening hours.
4. The event signage that is publicly visible from a road right-of-way should not exceed 32 square feet for banner signage or 45 square feet for temporary flag signage and should be contained completely on the parcel at 10562 Belleville Road.
5. Any required State of Michigan or Wayne County permits or licenses for vendors or food trucks must be available on site.
6. Activities must remain clear of designated fire lanes.
7. The applicant must adhere to any State of Michigan Executive Orders that remain in effect including capacity limits, social distancing, and sanitation measures as required.
8. Any additional requirements imposed by the Van Buren Township Police or Fire Departments must be adhered to.
9. Inspection(s) at the discretion of the Van Buren Township Building Department and Fire Department may be required prior to the first event date.
10. Food truck vendors should verify with the Public Safety Department whether any local Peddler's License is required and shall obtain such a license if so prior to the first event date.
11. The permit materials shall be updated to reference Van Buren Township and its Township Supervisor in addition to, or in place of, references to the City of Belleville and its Mayor.
12. The use will be completed after the October 31, 2020 event. Any extension, if requested, will be subject to review by the Township Planning Director or Planning Commission.

Commissioners inquired if the tents are staying up overnight on October 30th through to the October 31st event and where the small businesses are coming from. The small businesses are coming from the Belleville area and the intention is to keep the tent up overnight on October 30th. The tents will be emptied out completely by the vendors at the end of the day and security will be onsite.

Motion Jahr, Boynton second to grant a temporary land use permit on behalf of owner Andrew Klungland of Walmart to occupy a 17,300 square foot area for four (4) "Small Business Saturdays" tent sale and food truck events on October 17, 24, 30 and 31, 2020, located at 10562 Belleville Road between Tyler Road and the North I-94 Service Drive, subject to the conditions in the staff report dated 10-6-20.

Roll Call:

Yeas: Atchinson, Budd, Boynton, Jahr, Franzoi and Thompson.

Nays: None.

Absent: Kelley.

Motion Carried. (Letter Attached)

GENERAL DISCUSSION:

ITEM #1: STAFF UPDATE – ACTIVE RESIDENTIAL DEVELOPMENT PROJECTS.

Director Power provided an update on active residential development projects. Victoria Park is preparing for Phase II which includes 67 additional units, the land has already been divided and the last few units in Phase I are nearing completion. Staff will be seeing preconstruction and construction activities for the road in Phase II soon. Cobblestone Creek is preparing for Phase III which includes 69 detached single family site condominium units. Both projects were previously approved by the Planning Commission.

ITEM #2: STAFF UPDATE – ACTIVE PROJECTS AT THE WILLOW RUN AIRPORT OF VAN BUREN TOWNSHIP.

Director Power provided an update on active projects at the Willow Run Airport. Active Aero, a 23,597 square foot airplane parts storage building, administrative zoning approval is granted and the building permit application is pending. Anglin Aviation, five (5) new 14,700 square foot T Hangar buildings, conditional zoning approval has been granted and final site plan approval is pending. Yankee Air Museum has an application under review for educational hangars and Avflight has a hangars application under review.

ADJOURNMENT:

Motion Boynton, Atchinson second to adjourn the meeting at 8:54 p.m. Motion Carried.

Respectfully submitted,

Christina Harman
Recording Secretary



Memo

TO: Van Buren Township Planning Commission
FROM: Dan Power – Director of Planning and Economic Development
RE: VBT 20-029 - Small Business Saturdays Temporary Land Use – 10562 Belleville Road
DATE: October 6, 2020

PROJECT REVIEW

Nicholas Smarsch of Walmart has applied to host an event series that will include booth spaces for tent retail sales and food trucks which will occupy 17,300-sq. ft. of the existing Walmart parking lot at 10562 Belleville Road over the course of four (4) different days including October 17, October 24, October 30 and October 31. The event will have components of *“Tent” sales or sidewalk sales of retail goods or carnivals and fairs*. Each of these uses are permitted under Section 7.120(A) of the Van Buren Township Zoning Ordinance. Per the Zoning Ordinance, temporary uses that operate for more than seven (7) consecutive days or two (2) consecutive weekends require Planning Commission approval.

The following items are the approval standards in section 7.120 of the Township’s Zoning Ordinance and our review is based upon conversations with the applicant and the provided materials. Please consider the following:

1. **Adequacy of parking and access** - The event is proposed to occupy a 17,300-sq. ft. area which encompasses 60 parking spaces and two (2) 24’-wide drive aisles adjacent to the northeast corner of the Walmart store. The Walmart site contains 775 parking spaces according to development plans Van Buren Township has on file, where only 679 spaces were required. The proposed event will allow the maintenance of adequate parking and access.
2. **Adequate drainage** - The site is in an existing parking lot that already has storm water drainage. The proposed event tents, food trucks and activities will not impact stormwater drainage.

3. **Compatibility with surrounding land uses** – The proposed event site is zoned C-2 – Extensive Highway Business. This zoning district is characterized by large parcels and is intended to permit extensive business uses along heavily traveled highways. The proposed use is therefore consistent with the parcel's zoning. The adjacent parcels are zoned C-2 (north, east and south) and R-1B – Single Family Residential (west). The use will be on the far side of the main retail store on the site (Walmart) in relation to homes to the west of the site and will be roughly 520' from the lot lines of those homes.
4. **Size, height, and type of construction of proposed buildings and structures in relation to surrounding site** – Manufacturer's drawings have been provided which show how the proposed tents will be constructed. The tents are temporary in nature and are consistent with a temporary tent sale event.
5. **Sufficient setbacks from road rights-of-way and lot lines** – The proposed use will be roughly 250' from the side lot line to the north, 520' from the rear lot line to the west, and 230' from the front lot line to the east. The use will therefore be substantially and adequately set back from adjacent parcels. The proposed use will be roughly 465' from the Belleville Road right-of-way.
6. **Adequate utilities** – At this time, there do not appear to be plans to alter any utilities on the site. The applicant should clarify if any connections to the electrical supply will be required.
7. **Trash disposal and site clean-up** – Tent vendors and food trucks will be responsible for all trash disposal and site clean-up.
 - Disposal of food waste will be required to meet state and local standards.
 - The applicant and the vendors on site will be required to provide waste receptacles and waste must be promptly removed from the site following the event.
8. **Sanitary facilities** - There are restrooms in the Walmart store. Due to the nature of the proposed temporary vending and food truck activities, and the availability of the Walmart store restrooms, the vendors will not be required to provide their own restroom. Fourteen (14) sanitizing stations are proposed throughout the event space.
9. **Hours of operation** – The hours proposed are from 8:00 a.m. to 9:00 p.m. on the four event dates. These hours are consistent with the Walmart store's hours of operation.
10. **Outdoor light and signs** - No exterior lights are proposed. The applicant proposes feather flags within the event space.

- The applicant should clarify whether existing Walmart parking lot lighting will provide adequate event and security lighting for evening hours.
 - The event signage that is publicly visible from a road right-of-way should not exceed 32-sq. ft. for banner signage or 45-sq. ft. for temporary flag signage and should be contained completely on the parcel at 10562 Belleville Road.
11. **Other licenses and permits required** – With respect to the proposed food trucks, the applicant should verify that any food truck vendors have current versions of any required licenses or permits from the State of Michigan Department of Agriculture and Rural Development or the Wayne County Department of Health, Human and Veterans Services posted in the event space.
- Any required State of Michigan or Wayne County permits or licenses for vendors or food trucks must be available on site.
12. **Potential noise, odor, dust, and glare** - The proposed temporary use should not increase the noise, odor, dust or glare in relation to the typical Walmart store parking lot use. The proposed area would otherwise be used as a vehicular traffic and parking area.
13. **Fire lanes, fire protection, and security** –
- Activities must remain clear of designated fire lanes.
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. Much of the traffic to this use will be anticipated to be captured traffic from those visiting the Walmart store.
15. **Necessity of performance bond to ensure prompt removal** - The property owner will be responsible for ensuring the site is returned to its pre-event condition.
16. **Other concerns which may impact the public health, safety, or general welfare** – The applicant indicates that the site plan and event design were created based on current CDC guidelines, including limiting the occupancy to 50 persons, requiring face masks, using contactless sales transactions, and routing restroom usage to the Walmart indoor restrooms.

- The applicant must adhere to any State of Michigan Executive Orders that remain in effect including capacity limits, social distancing, and sanitation measures as required.
- Any additional requirements imposed by the Van Buren Township Police or Fire Departments must be adhered to.

Recommendation

The applicant has provided the following materials to support the findings in this report:

- Completed Application Form;
- A 20-slide presentation / handout including a site plan which describes the event and provides required site plan details;
- Manufacturer's drawings demonstrating the proposed tent construction; and
- A letter signed by a representative of Walmart dated October 2, 2020.

Based on these materials and the findings in my report, I recommend approval of this application subject to the following conditions:

- Disposal of food waste will be required to meet state and local standards.
- The applicant and the vendors on site will be required to provide waste receptacles and waste must be promptly removed from the site following the event.
- The applicant should clarify whether existing Walmart parking lot lighting will provide adequate event and security lighting for evening hours.
- The event signage that is publicly visible from a road right-of-way should not exceed 32-sq. ft. for banner signage or 45-sq. ft. for temporary flag signage and should be contained completely on the parcel at 10562 Belleville Road.
- Any required State of Michigan or Wayne County permits or licenses for vendors or food trucks must be available on site.
- Activities must remain clear of designated fire lanes.
- The applicant must adhere to any State of Michigan Executive Orders that remain in effect including capacity limits, social distancing, and sanitation measures as required.
- Any additional requirements imposed by the Van Buren Township Police or Fire Departments must be adhered to.
- Inspection(s) at the discretion of the Van Buren Township Building Department and Fire Department may be required prior to the first event date.
- Food truck vendors should verify with the Public Safety Department whether any local Peddler's License is required and shall obtain such a license if so prior to the first event date.
- The permit materials shall be updated to reference Van Buren Township and its Township Supervisor in addition to, or in place of, references to the City of Belleville and its Mayor.

- The use will be completed after the October 31, 2020 event. Any extension, if requested, will be subject to review by the Township Planning Director or Planning Commission.

Thank you,

A handwritten signature in black ink, appearing to read "Dan Power". The signature is fluid and cursive, with a long horizontal stroke at the end.

Dan Power, AICP
Planning and Economic Development Director
Public Services Department
Charter Township of Van Buren