

**CHARTER TOWNSHIP OF VAN BUREN
PLANNING COMMISSION
April 13, 2022
MINUTES**

Chairperson Kelley called the meeting to order at 5:31 p.m.

ROLL CALL:

Present: Cullin, Atchinson, Barr, Budd, Jahr and Kelley.

Excused: Garrett.

Staff: Director Power and Secretary Harman.

Planning Representatives: McKenna Associates, Vidya Krishnan.

Applicant(s) in Attendance: Richard Tapper of Phantom Fireworks (remote).

Audience: One (1).

APPROVAL OF AGENDA:

Motion Atchinson, Cullin second to approve the agenda of April 13, 2022 as presented. **Motion Carried.**

APPROVAL OF MINUTES:

Motion Budd, Jahr second to approve the regular meeting minutes of March 23, 2022 as amended, removing Atchinson listed as present under roll call. **Motion Carried.**

NEW BUSINESS:

ITEM #1: 22-013 – PHANTOM FIREWORKS (LAKEWOOD SHOPPING CENTER) – TEMPORARY LAND USE.

THE APPLICANT, PHANTOM FIREWORKS, IS REQUESTING A TEMPORARY LAND USE PERMIT TO CONDUCT A TEMPORARY OUTDOOR FIREWORKS TENT SALE.

2095 RAWSONVILLE ROAD. THIS SITE IS LOCATED IN THE LAKEWOOD SHOPPING PLAZA PARKING LOT ON THE EAST SIDE OF RAWSONVILLE ROAD AND ON THE SOUTH SIDE OF THE I-94 SERVICE DRIVE.

Director Power presented his staff review letter dated 4-8-22. Phantom Fireworks is requesting a temporary land use permit to conduct a temporary outdoor fireworks tent sale in the parking lot of the Lakewood Shopping Plaza from June 22, 2022 through July 4, 2022 with hours of operation from 10:00 a.m. to 10:00 p.m. This will be the tenth (10th) year that Phantom has operated at this location and Director Power is not aware of any complaints or issues that have taken place in previous years. Based on the review dated 4-8-22, Director Power recommends approval of the application subject to the following condition:

1. All application materials shall reference Van Buren Township, MI as the municipality.

Director Power presented the Fire Department review letter dated 3-24-22, finding the application and site plan is in compliance with the Van Buren Township adopted fire code, as well as state regulations for fireworks sales.

The applicant, Richard Tapper, was present via Zoom to answer any questions. Mr. Tapper informed that the tent and storage unit are in the same location and that he has had no problems at this location in previous years.

Commissioners agreed that seeing the applicant has been at this location for 10 years with no problems, they have no issue moving forward. Commissioner thanked the applicant for the nice layout that displays all three (3) fire extinguishers.

No questions or comments from the audience or remote viewers.

Motion Atchinson, Barr second to grant the applicant, Phantom Fireworks, a temporary land use permit to conduct a temporary outdoor fireworks tent sale, located at 2095 Rawsonville Road, also known as the Lakewood Shopping Plaza, based on the analysis and subject to the conditions in Director Power's review letter dated 4-8-22, the Van Buren Fire Department review letter dated 3-24-22 and noting the application is to reference the municipality as Van Buren Township not Belleville.

Roll Call:

Yeas: Budd, Barr, Atchinson, Cullin, Jahr and Kelley.

Nays: None.

Excused: Garrett.

Motion Carried. (Letters Attached)

ITEM #2: 22-017 – PHANTOM FIREWORKS (MENARDS SITE) – TEMPORARY LAND USE.

THE APPLICANT, PHANTOM FIREWORKS, IS REQUESTING A TEMPORARY LAND USE PERMIT TO CONDUCT A TEMPORARY OUTDOOR FIREWORKS TENT SALE.

10010 BELLEVILLE ROAD. THIS SITE IS LOCATED IN THE MENARDS PARKING LOT, WHICH IS ON THE WEST SIDE OF BELLEVILLE ROAD, SOUTH OF TYLER ROAD.

Director Power presented his staff review letter dated 4-8-22. Phantom Fireworks is requesting a temporary land use permit to conduct a temporary outdoor fireworks tent sale in the Menards parking lot from June 22, 2022 through July 4, 2022 with hours of operation from 10:00 a.m. to 10:00 p.m. This will be the third (3rd) year that Phantom has operated at this location and Director Power is not aware of any complaints or issues that have taken place in previous years. Based on the review dated 4-8-22, Director Power recommends approval of the application subject to the following condition:

1. All application materials shall reference Van Buren Township, MI as the municipality.

Director Power presented the Fire Department review letter dated 3-24-22, finding the application and site plan is in compliance with the Van Buren Township adopted fire code, as well as state regulations for fireworks sales.

The applicant, Richard Tapper, was present via Zoom to answer any questions. Mr. Tapper informed that they always make sure that the area is cleaned up after the tent sale and there are no holes in the asphalt of the parking lot area. Mr. Tapper has already obtained the state license and has had no problems in the past two (2) seasons at this location.

No comments from the Commission, audience or remote viewers.

Motion Jahr, Cullin second to grant the applicant, Phantom Fireworks, a temporary land use permit to conduct a temporary fireworks outdoor tent sale, located at 10010 Belleville Road from June 22, 2022 through July 4, 2022 with hours of operation from 10:00 a.m. to 10:00 p.m., based on the analysis and subject to the recommendations in Director Power's review letter dated 4-8-22 and the Fire Department review letter dated 3-24-22.

Roll Call:

Yeas: Barr, Budd, Atchinson, Cullin, Jahr and Kelley.

Nays: None.

Excused: Garrett.

Motion Carried. (Letters Attached)

ITEM #3: DISCUSSION: SUMPTER ROAD MIXED USE ZONING DISTRICT (SRMU) AND SUMPTER ROAD OVERLAY DISTRICT (SROD).

WORK SESSION TO DISCUSS PROPOSED TEXT AMENDMENTS TO THE VAN BUREN TOWNSHIP ZONING ORDINANCE TO CONSIDER THE ADDITION OF SECTION 3.121 (SUMPTER ROAD MIXED USE DISTRICT) AND ARTICLE 6, CHAPTER 4 (SUPPLEMENTAL ZONING DISTRICT STANDARDS – SUMPTER ROAD OVERLAY DISTRICT), AND RELATED AMENDMENTS. THE FIRST WORK SESSION WILL FOCUS ON THE PURPOSE OF THE SRMU DISTRICT PERMITTED USES, BUILDING TYPES AND DIMENSIONAL REQUIREMENTS WITHIN CERTAIN AREAS OF THE PROPOSED DISTRICT.

Director Power thanked everyone for their review and considering the Sumpter Road Mixed Use District (SRMU) zoning ordinance, he has received a lot of good feedback. A full draft of the zoning ordinance update with worksheets and an interactive map was sent to the Commission for review. Director Power also provided a guide for discussion and feedback and Commission members were asked to consider the following questions:

1. Are there any issues with the statement of purpose for the District?
2. Formatting issues? Do you have any suggestions or questions regarding things that are unclear in the way they are written or formatted?
3. Dimension issues? Do you see any problems with the minimum setbacks or height restrictions on the building types in Section 3.121(E)?

4. Permitted and special land uses: Removals? Are there any uses listed in Section 3.121(B) that you would not like to see anywhere in the District?
5. Permitted and special land uses: Additions? Are there any uses not listed in Section 3.121(B) that you would like to see somewhere in the District?
6. Area-specific uses and building types: Do you have any deletions or additions to the building types in the specific lot types? (Anchor lots, Shallow frontage lots, Deep frontage lots, Landlocked lots)

Director Power provided a brief overview of the Sumpter Road Mixed Use (SRMU) zoning ordinance and deferred to the Commission for questions and comments.

Commissioners had the following questions and comments:

- When making the changes, will there be click access to link to different parts of the ordinance. Yes, they will be in place by the time the ordinance is published.
- In Section D, drive-thru and drive-in restaurants are prohibited uses. The next sentence says that bars or standalone taverns that are not affiliated with a restaurant or brew pub are prohibited. If a restaurant is not allowed, how can any of it be there? Director Power explained they want to make sure that the uses are not excluding each other and there is some restrictive language that may not be appropriate. A drive-through is a traffic generating vehicle oriented use and the choice was made to move that out of the district.
- If someone is looking at the new Corridor and not satisfied with how some of the area has been kept up, would we want to prohibit that use from moving down? Director Power informed that the D2 language will be removed and D3 rural industrial language will be revised.
- The Township has had someone who wanted a drive-through coffee shop on Sumpter Road, would this allow for that? Vidya Krishnan informed that the properties do not have the dimensions available to allow for stacking in order to accommodate the traffic.
- Can a clause be added that no stacking is allowed on Sumpter Road, that the lot would have to be deep enough? Vidya Krishnan explained that even with small buildings, the lot must be large in order to meet the parking and stacking requirements. The lots in this area may not be deep enough and we are trying to make this a less traffic intensive district.
- Does a service road help with stacking? The intent is to make this an area that people wouldn't mind walking past.
- SLU categories, if we address for the SRMU they won't be available in the rest of the districts? Evaluate and context? Director Power agreed that it makes sense to evaluate as we may decide that it only works in the SRMU District and not the districts to the north.
- Metal working machine shops, what about a blacksmith? Vidya Krishnan informed that footnote 4 addresses this and they are not intending to exclude small metal working places. Language can be added for further clarification.
- The layout of where the City of Belleville is, noticed that Belleville has an industrial area. Are we going to work with them? Director Power can reach out to the City of Belleville.
- Didn't see anything that discussed the zoning adjacency requirements, has that been addressed yet? Director Power informed that's currently being working on.

No comments from the audience or remote viewers.

Director Power provided an overview of the table of building types and use types and discussed how to review them using the guide. The comments received from Phase 1 of the review will be addressed and the zoning ordinance will be brought back to the Commission for further review. Director Power asked Commission members to continue sending questions and providing feedback.

ITEM #4: DISCUSSION: SUMPTER ROAD CORRIDOR PLAN PUBLIC HEARING.

THE PLANNING COMMISSION WILL CONSIDER A DATE OF MAY 11, 2022 TO HOLD A PUBLIC HEARING REGARDING THE DRAFT SUMPTER ROAD CORRIDOR PLAN.

Director Power informed the Commission that they can schedule the public hearing for the draft Sumpter Road Corridor Plan in about a month, inviting the public to review the draft plan.

Commissioner inquired if this is the same draft plan that was submitted for a 30-day review by neighboring communities. Director Power confirmed, yes, it is. Commissioner inquired if there will be an addendum to the plan and will the public see the plan with a record of all the changes? Director Power informed that some residents have provided feedback. There is a zoning ordinance clarification for landlocked lots and there may be a more appropriate name for them. Director Power is tracking a list of the changes and they will be available for review.

Commissioners discussed having further review after changes have been made and agreed to wait on scheduling the public hearing until a later meeting.

GENERAL DISCUSSION:

Director Power informed that there will be meetings on April 27th and May 11th and to stay tuned for the agendas.

ADJOURNMENT:

Motion Budd, Cullin second to adjourn the meeting at 6:57 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: Review of Temporary Land Use Request #22-013 – Phantom Fireworks at Lakewood Shopping Plaza

DATE: April 8, 2022

PROJECT REVIEW

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 22, 2022 through July 4, 2022, 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 30 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 over 100 feet from the right-of-way of the South I-94 Service Drive and over 30 feet from the adjoining outlot of the plaza to the west.
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 4' x 8' (32 sq. ft.). This requirement is therefore met.
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 or 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 tenth (10th) 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 April 8, 2022, I recommend approval of this application subject to the following condition:

1. All application materials shall reference Van Buren Township, MI as the municipality.

Andrew Lenaghan
Deputy Fire Chief/Fire Marshal
O: 734-699-8900 ext. 9416

Van Buren Fire Department
46425 Tyler Rd
Van Buren Twp., MI 48111



March 24, 2022

Director of Building and Planning
46425 Tyler Road
Van Buren Township, MI 48111

VB T 22-013

Re: Phantom Fireworks Eastern Region LLC Temporary Land use at 2095 Rawsonville Road.

I have reviewed the plans submitted to my office on March 22, 2022 and found their application and site plan is in compliance with the Van Buren Township adopted fire code, as well as state regulations for fireworks sales.

The Van Buren Fire Department will conduct an onsite inspection for Van Buren Township only. The State of Michigan will conduct the required inspection per license requirements from the State.

Respectfully Submitted,

Andrew Lenaghan
Deputy Fire Chief/Fire Marshal

Our Mission: The members of the Van Buren Fire Department shall work together in a professional and caring way to protect life and property from the adverse effects of fire, trauma, illness and dangerous conditions. Our services will be provided in a fair, honest, and ethical manner with the highest respect and dignity to all.



MEMO

TO: Township Planning Commission

FROM: Dan Power – Director of Planning and Economic Development

RE: Review of Temporary Land Use Request #22-017 – Phantom Fireworks Menards

DATE: April 8, 2022

PROJECT REVIEW

Phantom of Michigan, Inc. is requesting a Temporary Land Use permit for a tent sale of fireworks at the Menards parking lot at 10010 Belleville Road. The use is proposed to be from June 22, 2022 through July 4, 2022, 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 adequate public parking spaces, and has the appropriate number handicapped reserved. The tent, portable storage container, and surrounding space will remove regular parking spaces, but 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 rights-of-way and lot lines – The sales area is setback more than 50 feet from the right-of-way of Belleville Road and more than 30 feet from the adjoining property to the west.
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 Menards.
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.
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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 third year that Phantom has operated at this location, and I am not aware of any complaints or issues that have taken place at this location or Phantom Fireworks' other location in the Township (Lakewood Shopping Center) in previous years. Based on this review dated April 8, 2022, I recommend approval of this application, subject to one condition:

- Ensure all documentation references Van Buren Township, MI as the municipality.

Andrew Lenaghan
Deputy Fire Chief/Fire Marshal
O: 734-699-8900 ext. 9416

Van Buren Fire Department
46425 Tyler Rd
Van Buren Twp., MI 48111



March 24, 2022

Director of Building and Planning
46425 Tyler Road
Van Buren Township, MI 48111

VBt 22-017

Re: Phantom Fireworks Eastern Region LLC, Temporary Land use 10010 Belleville Rd.

I have reviewed the plans submitted to my office on March 22, 2022 and found their application and site plan is in compliance with the Van Buren Township adopted fire code as well as state regulations for fireworks sales.

The Van Buren Fire Department will conduct an onsite inspection for Van Buren Township only. The State of Michigan will conduct the required inspection per license requirements from the State.

Respectfully Submitted,

Andrew Lenaghan
Deputy Fire Chief/Fire Marshal

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