

**CHARTER TOWNSHIP OF VAN BUREN  
PLANNING COMMISSION  
March 22, 2023  
MINUTES**

Chairperson Cullin called the meeting to order at 5:30 p.m.

**ROLL CALL:**

**Present:** Jahr, Pahle, Atchinson, Grant, Budd and Cullin.

**Excused:** None.

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

**Planning Representatives:** Vidya Krishnan, McKenna Associates.

**Applicant(s) in Attendance:** Case 23-008 Chips All Gone: Peter Burgard and Mark Canvasser (remote). Case 23-009 Ricardo, Inc.: Theodore Byrne. Case 23-013 TNT Fireworks: Charles Frieese.

**Audience:** Six (6) and two (2) remote.

**APPROVAL OF AGENDA:**

Motion Jahr, Grant second to approve the agenda of March 22, 2023 as amended, removing Public Hearing Item #1, correcting the case number of New Business Item #3 TNT Fireworks to 23-013 and correcting the approval of meeting minutes to March 8, 2023. **Motion Carried.**

**APPROVAL OF MINUTES:**

Motion Jahr, Budd second to approve the regular meeting minutes of March 8, 2023 as presented. **Motion Carried.**

**NEW BUSINESS:**

**ITEM #1:        22-008 – CHIPS ALL GONE (BELLEVILLE SQUARE) – TEMPORARY LAND USE.**

**TITLE:            THE APPLICANT, PETER BURGARD, IS REQUESTING A TEMPORARY LAND USE PERMIT TO CONDUCT A TEMPORARY WINDSHIELD GLASS REPAIR LAND USE.**

**10972 BELLEVILLE ROAD (PARCEL ID NUMBER 83-064-99-0003-707). THIS SITE IS LOCATED IN THE BELLEVILLE SQUARE SHOPPING PLAZA PARKING LOT ON THE WEST SIDE OF BELLEVILLE ROAD BETWEEN THE NORTH INTERSTATE 94 SERVICE DRIVE AND WESTLAKE CIRCLE. THE ACTIVITY IS PROPOSED FROM MARCH 2023 TO NOVEMBER 2023.**

Director Power presented his staff review letter dated 3-16-23 and displayed the site and tent. The applicant is seeking a temporary land use permit for a tent service use involving minor automotive glass repair at the Belleville Square Shopping Plaza at 10900 Belleville Road. A temporary land use that operates for more than seven (7) consecutive days requires Planning Commission approval. The use is proposed to be from March 1, 2023 through November 20, 2023 with hours of operation from 8:00 a.m. to 9:00 p.m. seven days a week. The proposed use involves using adhesives to complete minor glass repairs to chipped windshields, based out of a tent in an existing parking lot. The repair uses a small amount of adhesive resin, there will be full containment and daily disposal of any excess resin. No generator or electrical is required at the site and the applicant is looking to operate for six (6) months.

If the Planning Commission finds that the proposed use meets the criteria of Section 7.120(C) of the Van Buren Township Zoning Ordinance, Director Power recommends that the proposed use may be granted conditional approval on the following conditions:

1. The use shall involve full containment and daily disposal of excess resin that is generated as part of the use.
2. The temporary tent must be inspected by the Van Buren Township Building Department with regard to wind, loading and security.
3. The applicant shall indicate whether a generator or any electrical power will be required as part of their use. If so, and if the use is approved, an electrical inspection shall be required prior to the start of the operation.
4. The Peddler's license must match the approval duration of use as the temporary land use permit is for.
5. The applicant shall also submit any available liability insurance policy that covers this use on the site.
6. The applicant shall clarify if the resin that is applied with the use causes any odors, and if so, shall clarify the means used to mitigate the odor.
7. Any conditions of the Van Buren Township Fire Department must be addressed prior to the commencement of the use.
8. The use is limited to no more than six months under the authority granted to the Van Buren Township Planning Commission per Section 7.120(F)(7) of the Van Buren Township Zoning Ordinance.
9. Any proposed temporary sign must meet the sign requirements in Article 11 of the Van Buren Township Zoning Ordinance.

Applicant, Peter Burgard, gave a brief presentation. Chips All Gone has been in operation for over 13 years. If a rock hits a windshield and causes a chip, the chip can be fixed in about 3-5 minutes and is guaranteed not to break. The resin does have an odor, the odor has never been an issue for the applicant. Mr. Burgard brought samples of the resin capsules used for the windshield repairs and in his 13 years of operation, no claims have been made. Mr. Burgard is fine with the duration of 6 months of operation, there is no electricity or generator at the site and the Building Inspector and Fire Marshal will inspect the site prior to opening. The landlord Mark Canvasser is attending via Zoom and would like to speak on the agenda item.

Mark Canvasser, owner/developer of the Belleville Square Shopping Plaza gave a brief presentation. Mr. Canvasser is also the developer of Walgreens and Menards, he has been working with Mr. Burgard for over 6 months. Typically, he doesn't allow short term rentals, however he felt this was a good use and complimentary to the shopping center. For the first time in a dozen years there are a few vacancies in the shopping center, this may bring in more business. Mr. Canvasser was available to answer any questions. Mr. Burgard commented that there is a similar windshield repair shop in Ann Arbor.

Commissioners had the following questions and comments:

- The owner made a comment that they typically don't allow short term rentals, why? Mark Canvasser informed that they are a lot of work, dangerous and don't feel safe, referencing

that most of the requests are for fireworks tent sales. Mr. Burgard's use has no electricity and it doesn't generate much trash or a whole lot of traffic.

- Relative to the description of minor vehicle service, would windshield wipers, battery replacement and headlights be considered as minor repairs? Director Power confirmed yes, they are all classified as minor repairs. Commissioner is concerned it could set a precedence. Vidya Krishnan informed that it would be precedence setting. The applicant might run an excellent operation, but it does open up for other requests.
- Commissioner has concern with there being no electrical power at the site and the location of the tent facing the main drive. Mr. Burgard informed that the tent is optional. Director Power informed Mr. Burgard and Mr. Canvasser that there might be other areas in the parking lot worth considering for placement of the tent.
- Commissioner does not want to see a table, chair and garbage can sitting in the parking lot.
- How will the applicant advertise, by having the tent at the entrance? Mr. Burgard informed by FaceBook, passing out flyers and on the radio. Commissioner inquired how the applicant came to see that the Township needs these services? Mr. Burgard informed that his service works everywhere, in some places better than others.
- Commissioner inquired about nights, what happens when it gets dark? Mr. Burgard informed that he can use a black light on the resin and if it's dark at 8:00 p.m., then he will leave.
- Commissioner inquired if the weather is bad, do you leave? Mr. Burgard confirmed, yes.
- Commissioner commented that staff indicated this is the first time an applicant has asked for this type of use, we have seen a lot of fireworks requests. Vidya Krishnan of McKenna Associates commented that the fireworks requests are not comparable, they are a short timeframe. The concern is that at what point does a temporary land use have no time frame and what other special land uses does this open the door to? Precedence setting is the biggest problem.
- Commissioner inquired if the difference between special land use and temporary land use, is that minor vehicle repair is allowed as a special land use? Vidya Krishnan conformed, yes. Commissioner inquired are we allowed to grant special land use and temporary land use? Vidya Krishnan informed that there is nothing in the zoning ordinance saying that a special land use couldn't be a temporary land use. Commissioner inquired it's not a two-part process? Director Power interpreted that a temporary land use holds on its own and it does not allow to exceed a year.
- Commissioner commented that minor vehicle repairs such as windshield wipers, battery and radiator replacement if in a building, there would be a concern for spills. What is the potential damage and cleanup? Vidya Krishnan informed that there is not much waste.
- Commissioner asked Mr. Burgard if he washes the windows? Mr. Burgard informed that he wipes the windows with a clean rag and washes them with windshield/glass cleaner, it's a clean procedure. The resin hardens with UV light, the biggest thing with chip repair is that it saves the environment by not producing much waste.
- Commissioner inquired if the tent is meant to be up the entire time, what's stored inside and is there security? Mr. Burgard confirmed the tent will be up the whole time, with a chair, table and garbage can inside and there is no security.

- Commissioner asked Director Power if there is a performance bond for cleanup? Director Power informed it was not recommended, but it could be considered.
- Commissioner inquired what sets the precedence, the duration or the service? Vidya Krishnan informed that anytime you approve a use, it can set a precedence.
- Commissioner inquired what happens at the end of the 6 months, does the applicant pack up and leave? Mr. Burgard confirmed, yes.
- Commissioner inquired if the applicant has a really good season, can they reapply immediately? Director Power informed the approval is good for one year, would be up to the Planning Commission to decide. Vidya Krishnan confirmed, they can come back next season, would have to reappear before the Planning Commission for approval. Director Power informed that the Planning Commission has the ability to clarify the limits and would have the opportunity to reevaluate if the applicant applied the following year.
- Commissioner inquired if there is a limitation as to how many can be setup at one site? Commissioners concern is the ordinance, would that allow for more temporary land use? There are limits, the shopping center has to have excess parking spaces that must be maintained. Vidya Krishnan informed that many shopping plazas have surplus parking spaces.
- Commissioner commented that we can reconsider the application each year.
- Commissioner commented on the place in Ann Arbor, she has only seen them at that location, not other businesses.
- Commissioner commented that places like Auto Zone and O'Reilly's can change out wipers and batteries. Vidya Krishnan confirmed, yes, it was discussed as part of their site plan approval.
- Commissioner inquired if the address is located in the Belleville Road Overlay District (BROD) and does BROD have anything to say about this type of use? Director Power informed that it is located in the BROD and they would not allow this type of use on a permanent basis.
- Commissioner inquired when a temporary land use, how long? Director Power informed that the Zoning Ordinance does specify 1 year time frame for approval. Commissioner commented that it has to go 12 months before it can be reapplied for. Director Power confirmed and informed the applicant would have to reapply and meet the standards.
- Commissioner thinks the Downtown Development Authority (DDA) would be unhappy with a tent in the location for 6 months.
- Commissioner inquired what is the longest temporary land use time frame provided to a food truck? Director Power informed possibly 3-4 months.
- Commissioner would like to know what about without the tent, the applicant has offered to give up his tent. Fellow Commissioner commented that the applicant would then have a table, chair and garbage can sitting in the parking lot.
- Commissioner commented that the owner is looking to bring more business into the mall, this would bring more traffic. What is the minimum number of months the applicant could do? Mr. Burgard informed he hadn't thought about that, possibly 4-5 months.
- Commissioner inquired if the tent could be relocated away from the entrance? Mr. Burgard informed that it could move towards the Service Drive, closer to Planet Fitness.
- Commissioner has concern with the length of time, signage and placement and inquired if it would be appropriate to have the applicant come back in 2 weeks.

- Commissioner commented that moving the tent will interfere with Arby's traffic and having the applicant come back in 2 weeks wouldn't help.
- Commissioner suggested to go to a motion to move the location further south and for a 4-month time frame.
- Commissioner commented that he would like to see the location change and operating till November doesn't work, looking more like September. Commissioner commented that the DDA should also be notified.
- Director Power will research a more suitable location with the DDA Director, the applicant and owner.
- Commissioner inquired if the applicant has any concern with tabling for 2 weeks? Mr. Burgard is ok with tabling the discussion.

Chuck Friese of TNT Fireworks inquired if this would apply only to this parcel, or the precedence to everywhere else? Vidya Krishnan informed precedence setting is Township wide and every parcel would be subject to it. The DDA has never allowed for a deviation in the BROD, they will tell us what their requirements are. Need to be very aware when opening up an interpretation on a certain use.

**Motion Jahr, Atchinson second to table the item until such a time as the applicant can provide us with the minimum amount of time his application could be for and for staff to alert the DDA and to obtain their feedback on the issue.**

**Roll Call:**

**Yeas:** Grant, Atchinson, Pahle, Jahr and Cullin.

**Nays:** Budd.

**Excused:** None.

**Motion Carried.**

**ITEM #2: 23-009 – RICARDO, INC. – TEMPORARY LAND USE.**

**TITLE: THE APPLICANT, RICARDO, INC., IS REQUESTING TEMPORARY LAND USE APPROVAL TO OPERATE A MOBILE REFUELING STATION AT 40000 RICARDO DRIVE, VAN BUREN TOWNSHIP, MI 48111.**

**PARCEL NUMBER V-125-83-047-99-0007-702 (40000 RICARDO DRIVE). THIS PROPERTY IS LOCATED ON RICARDO DRIVE WHICH IS ON THE EAST SIDE OF HAGGERTY ROAD, NORTH OF TYLER ROAD.**

Applicant, Theodore Byrne of Ricardo, Inc. gave the presentation. Ricardo, Inc. has been in Van Buren Township for over 30 years and have twice previously requested and been approved for a mobile refueling station. The refueling station is a self-contained hydrogen refueling station used in support of project activity. This is a vehicle powered by hydrogen as a fuel source, it will not be used to refuel vehicles, it is used only to test and verify the function of the hydrogen tanks of the vehicle. The refueling station is located in a confidential parking lot, not visible by the public and the station is secured with CCTV.

Director Power presented his staff review letter dated 3-16-23. Ricardo, Inc. submitted an application for the same Mobile Hydrogen Refueling Station in 2016 and in 2018-2019 and was granted approval. To Director Power's understanding, there were no concerns or issues that arose as part of the temporary land use activities. If this year's application is approved, it would meet all of the same standards and requirements that the approved 2016 temporary land use did. Director Power recommends approval of case #23-009 for Ricardo Inc.'s temporary land use permit for a Mobile Hydrogen Refueling Unit for Fuel Cell Vehicles from March 2023 – May 2023, subject to the following condition:

1. Compliance with any conditions set forth by the Van Buren Township Fire Marshal.

Director Power presented the Fire Marshal's review letter dated 3-21-23, the request is in compliance with NFPA 2.

Mr. Byrne informed that this a production unit that is built and supplied by Air Products. The use and conditions will be exactly the same as previous requests.

Commissioner inquired, what does Ricardo, Inc. do? Mr. Bryne informed it is an engineering and consulting firm based in the UK, have been at this location for approximately 30 years. Commissioner inquired if the unit requested is part of the testing for a vehicle under engineering review? Mr. Byrne informed the refueling unit is only to be used to place the hydrogen in the tank for the prototype vehicle, just for verification of the hydrogen.

No comments from the audience or remote viewers.

**Motion Jahr, Grant second to grant Ricardo, Inc. temporary land use approval to operate a mobile refueling station, located at 40000 Ricardo Drive from April 2023 through the end of June 2023, based on the analysis and subject to the conditions in the staff review letter dated 3-16-23 and Fire Department review letter dated 3-21-23.**

**Roll Call:**

**Yeas: Budd, Grant, Atchinson, Pahle, Jahr and Cullin.**

**Nays: None.**

**Excused: None.**

**Motion Carried. (Letters Attached)**

**ITEM #3: 22-013 – TNT FIREWORKS (WALMART SITE) – TEMPORARY LAND USE.**

**TITLE: THE APPLICANT, TNT FIREWORKS, IS REQUESTING A TEMPORARY LAND USE PERMIT TO CONDUCT A TEMPORARY OUTDOOR FIREWORKS TENT SALE.**

**10562 BELLEVILLE ROAD. THIS SITE IS LOCATED IN THE WALMART PARKING LOT, WHICH IS ON THE WEST SIDE OF BELLEVILLE ROAD, SOUTH OF TYLER ROAD.**

Director Power presented his staff review letter dated 3-16-23. TNT Fireworks is requesting a temporary land use permit to operate a temporary outdoor fireworks tent sale from June 22,

2023 through July 5, 2023 with hours of operation from 9:00 a.m. to 10:00 p.m. They have operated at this location in the Walmart parking lot for the previous nine (9) years and Director Power is not aware of any issues or concerns. Director Power recommends approval of the application subject to the following conditions:

1. That the applicant obtains approval from the Van Buren Township Fire Marshal.
2. That all proposed signage complies with the Zoning Ordinance.
3. All application materials shall refer to Van Buren Township and not Belleville as the jurisdiction of the project site.

Applicant, Charles Frieese gave a brief presentation. This will be TNT Fireworks tenth year at the location in the Walmart parking lot, they requested a few extra days to run from June 22, 2023 through July 5, 2023 to cover two (2) weekends of tent sales. Mr. Frieese was present to answer any questions.

No comments from the Commission, audience or remote viewers.

**Motion Jahr, Grant second to grant the applicant, TNT Fireworks, a temporary land use permit to conduct a temporary outdoor fireworks tent sale, located at 10562 Belleville Road in the Walmart parking lot, from June 22, 2023 through July 5, 2023, based on the analysis and subject to the conditions in the staff review letter dated 3-16-23 and Fire Department review letter date 3-16-23.**

**Roll Call:**

**Yeas: Atchinson, Grant, Budd, Pahle, Jahr and Cullin.**

**Nays: None.**

**Excused: None.**

**Motion Carried. (Letters Attached)**

**ITEM #4: DISCUSSION – RESIDENTIAL ZONING ORDINANCE TEXT AMENDMENT**

**INFO: THE PLANNING COMMISSION WILL BE REQUESTED TO BEGIN CONSIDERATION OF A ZONING ORDINANCE TEXT AMENDMENT TO ALLOW BUILDING HEIGHT TO BE LIMITED TO THE MORE RESTRICTIVE OF THE FOLLOWING STANDARDS UNDER SECTION 3.106(D) OF THE VAN BUREN TOWNSHIP ZONING ORDINANCE:**

- 30 FEET IN HEIGHT
- 2.5 STORIES, AS AMENDED FROM THE CURRENT LIMIT OF 2 STORIES.

Director Power gave the presentation. The Planning Commission is requested to consider reviewing a potential Zoning Ordinance text amendment to clarify section 3.106(D) of the Van Buren Township Zoning Ordinance, R-1A, R-2A, R-1B, Single-Family Residential Districts – Dimensional Regulations and AG, Agricultural and Estates Districts – Dimensional Regulations. Under Section 3.106(D) the maximum building height is 30 feet and the maximum building height in stories is 2. Staff has been reviewing an application for a home on Ormond Drive, the home applied for has 2.5 stories, but does meet the 30-foot height requirement. The building permit application was brought before the Board of Zoning Appeals (BZA) at their March 14, 2023

meeting in which they did not take action. The BZA requested staff to work with the applicant to apply to seek a variance from the BZA from Section 3.106(D) and staff to work with the Planning Commission to consider a zoning ordinance text amendment to clarify the section. If the intent is to limit the height, the Planning Commission might find that it should not matter how many stories there are if the height is met. If it remains capped at 2 stories, there are some existing homes that are non-conforming. Staff is asking the Planning Commission to consider end capping the height and number of stories.

Vidya Krishnan of McKenna Associates had discussion with her fellow staff members at McKenna Associates regarding the requirements in other communities, most have 2.5 stories and 30-foot maximums. The maximum found is 3 stories and 30-feet. The question is, does it matter how many stories there are if there is a 30-foot maximum requirement. A 3 story home does create the illusion that it is taller with the 3 levels of windows and there are roof pitch changes. The minimum of the slope and pitch of the roof can be regulated. Mrs. Krishnan is unsure how 2 stories came about in the Township Zoning Ordinance, as it would normally be 2.5 stories. The Planning Commission is being asked to discuss and provide feedback as to what they prefer.

Director Power informed that Section 5.114 of the Zoning Ordinance does require that all detached single family residential dwellings that are esthetically compatible in design and appearance of other residences within the vicinity. Generally, we do have some latitude to evaluate adjacent roof pitches.

Commissioners had the following questions and comments:

- Commissioner was at the BZA meeting, the request was being reviewed as an interpretation of the Zoning Ordinance. A 2.5 story home on Ormond Drive currently in the application process was used as an example. Were the BZA to make to make an interpretation on the spot, the story restriction would have been removed, bypassing the Planning Commissions input and Township Board of Trustees vote, which was not an appropriate path. The examples displayed in the staff review letter, are both 2.5 stories the upper floor takes up less than half the space and the roof is pitched. The change to 2.5 stories doesn't seem unreasonable, completely eliminating the number of stories is a different thing. Commissioner looked at new modernistic architecture, 3-story buildings, they all had flat roofs and looked very tall, not in keeping with the architecture in the Township. There has to be some protection against someone putting in a 3-story modernistic home in the middle of an existing neighborhood. There are not protections against building one in any new development. Commissioner is not against removal of the number of stories, it may have some unintended consequences that need to be considered, changing the type of architecture within the Township. The Commission might want to consider 2.5 stories, would ask McKenna Associates if there are communities that have gone from 2 stories to 2.5 stories, did they have any problems and if so, what they might be.
- Commissioner commented that the Commission is not talking about 3 stories. Think there needs to be both control factors, the number of stories and the height maximum. Commission needs to start talking about the scope of the roof.



- Commissioner inquired in talking about the 30 feet, are we using “or”? Vidya Krishnan informed no, we are using “and”. Commissioner inquired about the slope, are we measuring the 30 feet from the back of the house? Director Power informed we measure from the average grade at the front of the house to the halfway point between the eave and the peak of the roof.
- Commissioner inquired if someone came in and wanted to build a very modern home with a flat roof, could they do that, there are some already existing on the lake. If they have a site that they really like with a couple of homes around it, could they still do that? Director Power informed that there are no restrictions around it and he has not seen any applications come in for flat roofs.
- Commissioner inquired if the “substantially different” standard only applied to Planned Resident Developments (PRD’s). Director Power informed that site condominiums in subdivisions have to meet the substantially different requirement.
- Commissioners discussed two homes off of the S. I-94 Service Drive on Belleville Lake that look to exceed the 30 feet in height.
- Director Power informed that he is also asking the Planning Commission to also consider the AG District.
- Commissioner would like to see a report and what other communities have. If any communities have done this change, what was their experience. Director Power informed that what may set the Township apart is that most communities already have 2.5 stories and 30-foot height maximum.
- Commissioner commented that the Commission should probably go back and modify the ordinance for clarity and to make edits.
- Director Power read a comment from a remote viewer, who is fully supportive of increasing the allowable number of stories and increasing the height.
- Director Power and Vidya Krishnan will bring more information to the Commission at a future meeting.

No comments from the audience or remote viewers.

#### **GENERAL DISCUSSION:**

Director Power informed that there will be a meeting on April 12, 2023.

#### **ADJOURNMENT:**

**Motion Budd, Jahr second to adjourn the meeting at 7:42 p.m. Motion Carried.**

Respectfully submitted,



Christina Harman  
Recording Secretary



## MEMO

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TO: Van Buren Township Planning Commission

FROM: Dan Power – Director of Planning and Economic Development

RE: Review of Temporary Land Use Request #23-009 – Ricardo, Inc. – Mobile Hydrogen Refueling Station

DATE: March 16, 2023

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### PROJECT REVIEW

Ricardo, Inc. has applied seeking a Temporary Land Use permit for a Mobile Hydrogen Refueling Station for Fuel Cell Vehicles in their secured vehicle lot at 40000 Ricardo Drive. The use is proposed to be from March 2023 – May 2023. Per article 7, section 7.120 of the Zoning Ordinance, temporary uses that operate for more than seven (7) consecutive days require Planning Commission approval.

I have reviewed the application, and have the following comments based on the requirements of Section 7.120 for temporary land use approval:

- 1. Adequacy of parking and access** (Section 7.120(C.1)) – The proposed use is placed in a location that does not impede access to the lot it is in. Its use will not increase vehicle traffic on the site and it does not take up any parking stalls in the main lot, so overall parking on the site remains adequate. The proposed use leaves a maneuverable area of greater than 20 feet between where it is proposed to be placed and the furthest extents of the nearest parking spaces.
- 2. Adequate drainage** (Section 7.120(C.2)) – The proposed use will be placed on the existing parking lot. It will not cause drainage issues because it does not change the amount of impervious lot surface or the amount of water directed into the storm system.
- 3. Compatibility with surrounding land uses** (Section 7.120(C.3)) – The site is zoned M-1, light industrial. It is bounded to the east by I-275, the south by Tyler Road, the north by another light industrial development, and the west by an open field. The proposed use is permitted on parcels zoned light industrial and is related to the current light industrial use of automotive research and development on the parcel, so it is compatible with surrounding land uses.
- 4. Size, height, and type of construction of proposed buildings and structures in relation to surrounding site** (Section 7.120(C.4)) – There is no building to be constructed. The proposed use is a temporary mobile unit that will be removed when the permit expires.

- 5. Sufficient setbacks from road rights-of-way and lot lines** (Section 7.120(C.5))  
– The location of the proposed use meets the 50' front, 40' rear, and 40' side setback requirements.
- 6. Adequate utilities** (Section 7.120(C.6)) – The proposed use does not require the use of any utilities at the site, so the site's current utilities are adequate.
- 7. Trash disposal and site clean-up** (Section 7.120(C.7)) – The proposed use is not expected to generate any trash per correspondence with the applicant.
- 8. Sanitary facilities** (Section 7.120(C.8)) – The proposed use will support the current operations of the applicant, not attract more people to the site. The applicant's existing sanitary facilities are sufficient.
- 9. Hours of operation** (Section 7.120(C.9)) – The expected hours of operation are again during normal business hours from 7am- 5pm.
- 10. Outdoor light and signs** (Section 7.120(C.10)) – The proposed use does not include any outdoor lights or signs.
- 11. Other licenses and permits required** (Section 7.120(C.11)) – There are no other licenses or permits required for the proposed use.
- 12. Potential noise, odor, dust, and glare** (Section 7.120(C.12)) – Per past correspondences with the applicant, the proposed use creates little if any noise, so there is not expected to be any noise, odors, dust, or glare from the proposed use which impacts surrounding properties or the public.
- 13. Fire lanes, fire protection, and security** (Section 7.120(C.13)) – The location of the proposed use leaves adequate access to the lot it is placed in. The Fire Marshall is currently reviewing the application and will forward any recommended conditions of approval. When this use was most recently conditionally approved in December 2018, this approval was conditioned upon conditions stated in the Fire Marshal's letter dated 12-5-2018, which can be summarized below:
  - Certification of dispensing facilities;
  - The provision of a hazard analysis;
  - A requirement that the hydrogen dispensing systems must be leak tested;
  - That system maintenance shall be performed as required by manufacturer's instructions;
  - That dispensing equipment shall be provided with gas, leak, and flame detection,
  - That the Fire Department shall be notified of unauthorized release,
  - That personnel shall be trained in the hazards of the materials employed and actions required by an emergency plan,
  - That certain emergency plan procedures shall be followed; and
  - That protection is provided from vehicular damage.

14. **Off-site impacts of traffic volumes** (Section 7.120(C.14)) – The proposed refueling station will be placed in a secured lot on the property and only used by the applicant. Therefore, it will not increase or impede off-site traffic volume.
15. **Necessity of performance bond to ensure prompt removal** (Section 7.120(C.15)) – As the proposed use is not expected to negatively impact the site or the surrounding area, there is no need for a performance guarantee or insurance.
16. **Other concerns which may impact the public health, safety, or general welfare** (Section 7.120(C.16)) – The proposed use entails chemical storage (hydrogen) within the refueling unit, which would cause concern if the chemicals were not stored properly. However, the applicant has outlined safety measures and guidelines to sufficiently show that the unit is safe.

### **Recommendation**

Ricardo, Inc. submitted an application for the same Mobile Hydrogen Refueling Station in 2016 and in 2018-2019 and was granted approval. To my understanding, there were no concerns or issues that arose as part of these temporary land use activities. If this year's application is approved, it would meet all of the same standards and requirements that the approved 2016 temporary land use did.

I recommend approval of Case #23-009 for Ricardo Inc.'s temporary land use permit for a Mobile Hydrogen Refueling Unit for Fuel Cell Vehicles from March 2023 – May 2023, subject to the following condition:

1. Compliance with any conditions set forth by the Van Buren Township Fire Marshal

Thank you for allowing me to review and comment on this request.



## **VAN BUREN TOWNSHIP FIRE DEPARTMENT**

**46425 Tyler Road, Van Buren Township, MI 48111**

*David C. McNally II, Fire Chief: (734) 699-8900 x 8916*

*Andrew Lenaghan, Deputy Chief/Fire Marshal: (734) 699-8900 x 9416*

March 21, 2023

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

Re: Mobil Hydrogen Refueling Station  
Ricardo Incorporated  
40000 Ricardo Drive  
Van Buren Township, MI 48111

I have reviewed a set of email attachments submitted by Theodore Byrne for a temporary use permit for the Air Products Mobile On-Site Hydrogen Fueler trailer submitted on 3/16/2023

### **Project Overview:**

The refueling unit is requested to be used to fill Toyota Fuel Cell Vehicles at their facility. Since there are limited number of local hydrogen fueling stations throughout the state, Toyota Motor Sales is offering a refueling unit to be placed temporarily to refuel the vehicles during this testing period. (March 2023-May 2023) Per the application, this mobile refueler is an identical set-up and use as previously approved in 2016 and 2018. The set up complies with NFPA 2

1. Dispensing facilities shall be certified as meeting the requirements of this code by qualified engineer with expertise and competence in the design, fabrication and construction of the hydrogen containers, piping systems, site fire protection, gaseous detection, emergency shutdown provisions, isolation, drainage, site spacing, fire protection equipment, operating procedures, worker protection and other components of the facility. **NFPA 2**  
**10.2.1.1**
2. Hydrogen dispensing systems shall be leak tested after final installation to prove them free from leaks at a pressure equal to at least the normal service pressure of that portion of the system. **NFPA 2 10.3.1.10.1**



3. System maintenance shall be performed as required by manufactures instructions.  
**NFPA 2 10.3.1.11**
4. Dispensing equipment shall be provided with hydrogen gas detection, leak detection, and flame detection at the fueling area. **NFPA 2 10.3.1.18.1**
5. **Notification of unauthorized release.** The fire department shall be notified immediately or in accordance with approved emergency procedures when an unauthorized release becomes reportable understate, federal, or local regulations.  
**NFPA 2 4.10.4**
6. Personnel shall be trained in the hazards of the materials employed and actions required by the emergency plan. The level of training to be conducted shall be consistent with the responsibilities of the persons to be trained in accordance with 4.11.1 through 4.11.4 **NFPA 2 4.11**
7. Protection from vehicular damage **NFPA 2 4.14-4.14.1.2**

Review and approval by the Authority Having Jurisdiction shall not relieve the applicant of the responsibility of compliance with sections of these codes.

If you have any questions about this plan review report, please feel free to contact me at [alenaghan@vanburen-mi.org](mailto:alenaghan@vanburen-mi.org)

Respectfully submitted,

Andrew Lenaghan  
Deputy Fire Chief/ Fire Marshal  
Van Buren Township Fire Department



## MEMO

TO: Van Buren Township Planning Commission  
FROM: Dan Power – Director of Planning and Economic Development  
RE: Review of Temporary Land Use Request #23-013 – TNT Fireworks  
DATE: March 16, 2023

### PROJECT REVIEW

Charles Friese of TNT Fireworks has applied seeking a Temporary Land Use permit for a tent sale of fireworks at the Belleville Road Walmart, Store #2872, at 10562 Belleville Road. The use is proposed to be from June 22, 2023 through July 5, 2023. Per Section 7.120 of the Zoning Ordinance, temporary land 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.

I have reviewed the application and the requirements of Section 7.120 for temporary land use approval and have the following comments:

- 1. Adequacy of parking and access** (Section 7.120(C.1)) – The site has 714 public parking spaces, 23 of which are handicapped reserved. The site is currently is over-parked, and the tent will have a limited impact on the number of available parking spaces. The tent and surrounding buffer will occupy roughly 18 parking spaces. Sufficient access is available.
- 2. Adequate drainage** (Section 7.120(C.2)) – The site is in an existing parking lot that already has storm water drainage. The tent will not affect the amount of impervious surface or water that would be diverted into the storm system.
- 3. Compatibility with surrounding land uses** (Section 7.120(C.3)) – The surrounding parcels are all commercial in nature, and this temporary land use is not expected to impact the surrounding commercial uses.
- 4. Size, height, and type of construction of proposed buildings and structures in relation to surrounding site** (Section 7.120(C.4)) – The tent is temporary in nature, and the parking lot, Walmart store, and the surrounding commercial businesses will not be impacted by the bulk of the tent. The only change to the proposed buildings and structures in comparison with past applications is the addition of a storage unit for goods at night time.

- 5. Sufficient setbacks from road rights-of-way and lot lines** (Section 7.120(C.5))  
– The tent is located behind a landscaping island within the Walmart Parking Lot near the southeast corner of the site. It is over 100 feet from the southern lot line, and 20 feet from the interior service road. Therefore, the setbacks are sufficient and the tent will not impact traffic flow or adjoining commercial businesses.
- 6. Adequate utilities** (Section 7.120(C.6)) – TNT Fireworks 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** (Section 7.120(C.7)) – TNT Fireworks will be responsible for all trash disposal and site clean-up in relation to their lease agreement with Walmart.
- 8. Sanitary facilities** (Section 7.120(C.8)) – Walmart has authorized all customers and TNT employees to use its restroom facilities.
- 9. Hours of operation** (Section 7.120(C.9)) – The hours of operation will be from 9:00 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, staff are not aware of any complaints with TNT Fireworks closing at 10:00 p.m. in previous years, so the hours of operation approved last year are reasonable and we recommend the same hours of operation for this year.
- 10. Outdoor light and signs** (Section 7.120(C.10)) – No exterior lights are provided. Interior lights will be hung inside the tent. Although no temporary commercial sign permit requests have been received, the Zoning Ordinance permits one (1) 32 sq. ft. temporary sign for a period not to exceed 30 days. Any temporary signage must comply with the Zoning Ordinance.
- 11. Other licenses and permits required** (Section 7.120(C.11)) –A current Consumer Fireworks Retail Facility license must be provided by the applicant prior to the establishment of the temporary use. The Van Buren Fire Marshal will be separately issuing his review letter.
- 12. Potential noise, odor, dust, and glare** (Section 7.120(C.12)) – The proposed temporary use should not increase the noise, odor, dust or glare from their use.
- 13. Fire lanes, fire protection, and security** (Section 7.120(C.13)) – The Van Buren Fire Marshal shall review the application for adequacy of fire lanes and fire protection. The site will be continually staffed. During non-operating hours, all products will be stored inside the tent and tent security will be maintained at all times by the tent operator or their representative.
- 14. Off-site impacts of traffic volumes** (Section 7.120(C.14)) – The road in the immediate vicinity is a major Township road (Belleville Road) and this temporary use will not impact the flow or travel volumes. During 2014's Public Hearing, a resident raised a concern of the launching of fireworks at the site. No fireworks are permitted to be launched within 300 feet.
- 15. Necessity of performance bond to ensure prompt removal** (Section 7.120(C.15)) – 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** (Section 7.120(C.16)) – 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 would be the ninth (9<sup>th</sup>) year that TNT Fireworks has been granted a temporary land use permit to operate at this location, and I am not aware of any issues or concerns from those previous years. I recommend approval of this application subject to the following conditions:

1. That the applicant obtains approval from the Van Buren Township Fire Marshal.
2. That all proposed signage complies with the Zoning Ordinance.
3. All application materials shall refer to Van Buren Township and not Belleville as the jurisdiction of the project site.



## ***VAN BUREN TOWNSHIP FIRE DEPARTMENT***

**46425 Tyler Road, Van Buren Township, MI 48111**

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*David C. McNally II, Fire Chief: (734) 699-8900 x 8916*

*Andrew Lenaghan, Deputy Chief/Fire Marshal: (734) 699-8900 x 9416*

March 16, 2023

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

Re: American Promotional Events Inc. /TNT Fireworks  
Wal-Mart Parking Lot, 10562 Belleville Rd  
VBT23-013

### **Project Overview:**

This site plan review is for a temporary fireworks retail facility. Included in the permit application package is a letter of authorization signed by TNT and Wal-Mart representatives. Also included, is the site plan for the stand, showing the location of the tent as it sits in the store parking lot as well as proof of insurance and the Van Buren Township application for temporary land use. The Temporary facility and the retail sales of fireworks must comply with **NFPA 1124** as required by the State of Michigan and the Township of Van Buren.

Upon approval from the State of Michigan Bureau of Fire Services, and the issuance of a tentative permit to sell fireworks, the site will be inspected by the Van Buren Township Fire Department. A detailed floor plan showing the location of tables, displays and exits shall be kept on site of the CFRS location.

Respectfully submitted,

Andrew Lenaghan  
Deputy Fire Chief/Fire Marshal  
Van Buren Township Fire Department