

**ROSS TOWNSHIP
PLANNING COMMISSION
MINUTES
June 11, 2018**

CALL TO ORDER/PLEDGE

Chairperson Lauderdale called the special meeting of the Ross Township Planning Commission to order at 7:00 p.m. at the Ross Township Hall.

ROLL CALL

Present: Jim Lauderdale, Chairperson
 Victor Ezbenko
 Russell Fry
 Greg Pierce
 Sherri Snyder
 Jesse Zamora

Absent: None

Also present: Kelly Largent, AGS – Township Zoning Administrator
 Bert Gale, AGS – Township Zoning Administrator
 Rebecca Harvey – Township Planning Consultant
 Robert Thall – Township Attorney

APPROVAL OF AGENDA

The agenda was reviewed wherein it was suggested that the public hearing process (detailed on the agenda under New Business) be modified to increase the time allotment for public comment from 2 minutes per person to 3 minutes per person. Support for the change was noted in consideration of a request received and the reduced number of guests in attendance. The agenda was then approved as amended.

APPROVAL OF PRIOR MEETING MINUTES

It was noted that the **May 21, 2018** regular Planning Commission meeting minutes would be considered at the June 25, 2018 regular Planning Commission meeting.

NEW BUSINESS

1. Public Hearing – SLU/SPR for Medical Marihuana Facility (Seven Point Supply, LLC)

The next matter to come before the Commission was consideration of the request by Seven Point Supply, LLC for special land use permit/site plan review for the proposed construction of a medical marihuana facility consisting of both indoor grower and outdoor grower operations. The subject property (approximately 60 acres) is located at the northeast corner of EF Avenue and 44th Street (Parcel 3904-26-101-011) and is within the R-R District.

Chairperson Lauderdale gave an overview of the public hearing process, noting that the process is detailed in the meeting agenda.

Snyder moved to open the public hearing. Pierce seconded the motion. The motion carried unanimously.

Chairperson Lauderdale noted that the Planning Commission will be guided in its review of the application by Article 20, Item 36 – Commercial Medical Marihuana Facilities; Section 19.3 – Criteria for Decision (Special Land Uses); and, Section 21.6 – Criteria for Site Plan Approval.

No preliminary comments were offered by Township advisors.

Referencing the public hearing process, Chairperson Lauderdale requested applicant presentation of the plans, specifications and other data in support of the proposed medical marihuana facility.

Kyle Barker, representing Seven Point Supply, LLC, Rick Eshlaman of Byce & Associates, project engineer, Tracy Ezell of Byce & Associates, project architect, and Attorney Darren Malek, were present on behalf of the application. Referencing the application material and site plan, the June 11, 2018 Planning/Zoning Report, and the June 11, 2018 Presentation Notes from Byce & Associates prepared in response to the staff report, Barker provided introductory comments, noting the following:

- The subject property consists of approximately 60 acres and is located within the R-R District.
- The proposed grower operations are special land uses within the R-R District.
- The proposal includes both indoor and outdoor grower operations; no processing operation is proposed.
- The presentation of the proposal will demonstrate both compliance with the applicable Zoning Ordinance standards/criteria and that the operation will create less of an impact on the surrounding area than many allowed uses in the R-R District.

Eshlaman then presented the site plans for the proposed facility and provided the following overview:

- The subject property is adjacent to and surrounded by land within the R-R Rural Residential District.
- The subject property is currently being used as farmland and open space.
- The residential plat of The Woods at StoneHedge is located 1328 ft north of the northern property line of the subject site (2000 ft north of the proposed grower operation).
- The closest residence is located at the southwest corner of EF Avenue and 44th Street; the second closest is located approximately 535 ft from the southwest corner of the project site.
- The facility is proposed to consist of the following:

Initial Phase:

- 33,000 sq ft greenhouse
- 22,000 sq ft pre-engineered metal building – headhouse (indoor grow rooms, trim room, dry rooms, storage room, office, pump room, restrooms)
- 50,000 sq ft outdoor grow area (June through October)
 - Total lot coverage by buildings + parking/drives = 2.8% (1.7 acres)
 - Open space/landscape buffers = 97.2% (57.3 acres)

Future Phases (Phases 2 – 8):

- 20,000 sq ft addition to headhouse
- 200,000 sq ft additional greenhouse space
- Removal of outdoor grow area

Eshlaman stated that the site plans and application material have been revised per the review of AGS to meet all content requirements and have been accepted as complete.

The project team then referenced the standards applicable to a medical marihuana facility set forth in Article 20, Item 36 and provided the following assessment of compliance:

(Eshlaman)

- A. Seven Point Supply will be subject to the State licensure requirements and compliance with applicable State and local regulations.
- B. The proposed facility is not within 500 feet of a school or public park/playground. The nearest school (Galesburg-Augusta Middle School) is approximately 3 miles from the project site; the nearest park is 2.1 miles from the project site.

C. The proposed dumpster meets locational and enclosure requirements. The dumpster will be locked and located within the 10 ft high perimeter fence.

D.

Lighting

- The outdoor lighting proposal has been demonstrated to meet the fixture requirements of Section 18.3 and to exceed the light level standard of .05 footcandles at the perimeter of the property with the proposed 0 footcandle light level inside the interior landscaping buffer.
- Operations within the fully enclosed metal building will have no indoor light leakage.
- The greenhouse will be equipped with light deprivation curtains that will be automatically drawn when supplemental lighting is used.
- Security lighting will be minimal due to the use of infrared cameras with facial recognition and motion detectors.

(Ezell)

Noise

- Noise generation will be minimal . . with most work to be performed within the headhouse and greenhouse areas.
- The only exterior equipment expected to generate noise will be a 350KW commercial generator and a 50 HP utility tractor.
- The generator is proposed only to maintain building temperatures during power outages, not to provide lighting.
- The generator will be exercised once a week for approximately 10-15 minutes.
- A 6 ft high CMU wall will be installed around the perimeter of the generator for noise reduction.
- Per the specifications for the generator, a noise level of 72 decibels would be measured with the CMU enclosure . . which is equivalent to the noise level of a dishwasher or vacuum. A noise level of 60 decibels would be measured at 200 ft, equivalent to an air conditioner or normal conversational speech.
- Noise associated with the outdoor grow area will be limited to the occasional use of a 50 HP utility tractor and normal employee conversation. (ie. 60 decibels for normal speech and up to 85 decibels within 15 feet of the tractor). Planting and harvesting are largely done by hand.
- The noise associated with the proposed facility would be the same as would be generated by uses allowed within the R-R District.

(Barker/Ezell)

Odor

- The odor/scent associated with marihuana is due to the terpenes and flavonoids present in the plant. These are present in most plants, including

tomatoes, corn, soy beans, apples, and hops, which are all allowed to be grown within the R-R District.

- The odor/scent associated with marihuana is seasonal and predictable and is no greater than other seasonal/predictable agricultural scents, such as spreading of manure, fermentation of soy, or even tilling operations.
- Odor from the headhouse will be controlled by the use of carbon filters and ozone generators. Carbon filters pull the odor out of the air prior to exhaust.
- Odor from the greenhouse will be controlled by the use of organic essential oils infused in the exhaust system.
- The generator will allow continued operation of the carbon filters and ozone generators in the event of a power outage.
- Site design elements such as 1) centrally locating the 4-acre project area on the 60-acre site; 2) use of topography and prevailing wind patterns to dissipate odor; and 3) use of odor-neutralizing plants such as evergreens and lavender around the perimeter fencing are also proposed to mitigate odor associated with the grower operation.

(Eshlaman)

Water Consumption

- The facility will be served by a 6 inch Type II water well subject to MDEQ permitting.
- Approximately 4500 plants are proposed to be grown at this facility. (1500 – headhouse; 1500 – greenhouse; 1500 – outdoor grow area).
- In the headhouse and greenhouse, each plant requires an average of 0.5 gallons/day . . or 1500 gallons per day. In the outdoor grow area, each plant requires an average of 3 gallons/day . . or 4500 gallons per day. Total plant water usage is estimated to be 6000 gallons per day.
- 30 employees will require an additional 35 gallons per capita per day . . or 1050 gallons per day.
- A total water withdrawal of approximately 7050 gallons per day . . or 2,573,250 gallons per year is estimated.
- The estimated 2,573,250 gallons per year is equivalent to the yearly water usage associated with 20 single family homes.
- In contrast, a 4-acre irrigated corn field requires 7,842,181 gallons/year (per MSU).
- In contrast, the subject 60-acre site would be allowed the development of 54 single family home sites . . or a total water withdrawal of approximately 6,950,000 gallons per year.

Energy Consumption

- Consumers Energy has indicated that adequate energy can be provided to all users in the area without interruption.
- Per Consumers Energy, the system is designed to supply energy with a 99.9% reliability.

- Discussions are in progress with Consumers Energy for the supply of three phase electrical service to the facility, currently approximately 3500 feet away on EF Avenue.

(Barker)

Waste Disposal

- The indoor grow operations will use a drip irrigation system, to ensure slow and consistent feeding with minimal water runoff.
- The wastewater will be recaptured in a cistern, filtered and reintroduced into the irrigation process.
- A septic system complying with MDEQ and Kalamazoo County standards will provide for human waste disposal.
- Plant waste will be composted on a concrete pad located within the perimeter fencing, mixed with topsoil, and reused within the outdoor grow area.

Storage/Use of Products

- Integrated Pest Management (IPM) will be used to maintain a pest-free facility.
- The storage and use of products in the proposed operation are subject to and will comply with LARA Rules (Rule 35), which requires 'locked storage areas'.
- The fertilizers and nutrients used in the grow operations will be at concentrations of less than 1% by volume.
- The buildings are proposed to be constructed in compliance with applicable building and fire codes.

(Eshlaman)

Storm Water Management

- Storm water from the roofs and parking area will be routed to 3 natural low areas on the site.
- The storm water retention areas all have adequate 100-year storage capacity.
- Storm water overflow from plant irrigation will be collected in a cistern and reused on the plants.
- Overflow from the cistern will be directed to a bio-retention swale which will allow for the runoff to be transformed, degraded, immobilized and absorbed into the plant community medium prior to discharging to the natural retention areas on the site.

(Eshlaman/Barker)

Traffic

- Access to the site will be provided off 44th Street and will not require routing through a residential neighborhood.

- Delivery will occur 5 times per week and will include only a transit van - 3 weekly deliveries will be inbound; 2 weekly deliveries will be outbound. Delivery will be conducted only by a licensed secured transporter per State law. Loading operations will occur within a secured sally port and be out of public view.
- 44th Street is a County local road with an average daily traffic count of 74 vehicles (2006) and an estimated design capacity of 2,000 vehicles per day.
- The estimated trip generation for the facility is approximately 93 trips per day, including deliveries. (per ITE Traffic Manual)

(Ezell)
Security

- Security measures include a 10 ft tall perimeter fence with razor ribbon; indoor/outdoor 24-hour security cameras with facial recognition; and dual security access control.
- Security personnel will be hired during harvest times.
- A sally port is proposed for delivery truck access to the headhouse.
- Facility/site access will be restricted to employees and deliveries.
- A gate will be installed near the driveway entrance restricting access by the general public.
- Security will be subject to compliance with LARA (Rule 27).

(Eshlaman)
Impact on Neighboring Property

- The proposed setbacks exceed setback requirements:
 - 44th Street – 50 ft required; 302 ft proposed
 - Rear Yard – 20 ft required; 1180 ft proposed
 - Side Yards – 20 ft required; 380 - 580 ft proposed
- Proposed buffers (including use of existing tree lines exceed applicable screening standards set forth in Section 18.6.
- Two videos were presented: one documenting the view of the project site and the surrounding area from 44th Street and one documenting an aerial view of the project site and surrounding area. Both videos were used to document the on-site vegetation to be retained as buffers, general land cover in the area, including surrounding agricultural lands, and the general absence of residential land use in close proximity of the project site.

Attorney Malek stated that the material presented clearly demonstrates that the proposal meets and exceeds the zoning requirements of Article 20, Item 36 and the applicable LARA Rules. He further noted that the data that has been presented indicates that any impacts associated with the proposed facility would be comparable to or less than many uses allowed within the R-R District.

Chairperson Lauderdale inquired if there were questions by Commission members at this time. In response to questions posed, the project team provided the following additional comments:

- : The outdoor grow facility is proposed to be replaced with Phase 5 of the operation.
- : The data provided on water consumption used the number of plants associated with Phase 1.
- : Approval is being requested for Phase 1 only at this time.
- : Security lighting will be minimal due to the use of infrared cameras; security lighting for law enforcement will be available if needed.
- : Proposed outdoor lighting will be turned off at 10:00 p.m.
- : Decibel levels were presented only on the generator; the HVAC units will not have unusual noise levels.
- : A plant list (with sizes) for the buffer areas can be provided if desired.
- : A Phase I BEA has been completed on the site and the presence of existing environmental issues has not been identified.
- : All employees will be certified pesticide applicators.
- : The storm water management plan proposes the use of existing grades and natural flow patterns; the use of pumps is not proposed.
- : The trip generation data was obtained from the Kalamazoo County Road Commission traffic counts last conducted in 2006. Though 12 years dated, the data still demonstrates current and proposed volumes to be well below the capacity of the road.
- : The proposed facility will include only grow operations; no processing or transport elements are proposed.
- : A specific delivery route has not been identified. Travel on 44th Street is estimated to be both north and south, depending on the destination.

No further questions from the Planning Commission were offered.

Snyder stated that the odor associated with a marijuana grow facility is a strong concern for the Township residents and that the statements made comparing that odor with the odor associated with a corn field was not fair. She further noted that use of essential oils to 'mask' the odor was not ideal given that the odor associated with the oils can be equally as impactful in terms of allergies. Snyder expressed overall reservations with the proposed odor mitigation efforts, adding that lavender does not grow well in clay and falls short of being an effective way to address the issue.

Pierce questioned the water usage data provided and questioned how the data could be validated. Zamora suggested that the Planning Commission consider getting an independent assessment of all of the data presented on the project before proceeding with a review of the proposal.

In response to a question from Chairperson Lauderdale, Barker stated that he would like to proceed with the assessment of compliance with Section 19.3 – Special Land Use Criteria following receipt of public comment.

Chairperson Lauderdale referenced written correspondence received by the Township relative to the application. He noted that the correspondence will not be read at the meeting but will be included as part of the record.

Chairperson Lauderdale stated that public comment on the application will now be received. He advised that each member of the audience wishing to comment will be limited to 3 minutes and reminded that a name/address is requested for the record. In response to a question, Attorney Thall advised that the comment time of an individual cannot be transferred to another individual. Chairperson Lauderdale noted that all comments are to be directed to the Planning Commission and not the applicant or other members of the audience. He reminded that the public comment portion of the public hearing is for receipt of comment and is not a question/answer period.

A speaker stated that the applicant has not presented a business plan or financial analysis regarding the impact of a MMF facility on the community. It was noted that no information has been presented that suggests the Township residents will prosper from the proposed use.

Gary King commented that the Township roads cannot withstand the traffic increase from the proposed facility, noting that traffic volumes in the area are already high and that 44th Street has potholes. He added that power is not reliable in the area and that the proposed facility will impact future development. He expressed support for an independent assessment of the data presented.

Pat ?, representing Ross Township for Sustainable Development, stated that he objects to use of the property for an MMF. He stated that Ordinance 209 does not meet State law which requires an MMF be located within an industrial or agricultural zoning district. He further opined that neither the Master Plan nor the Zoning Ordinance encourage agricultural activity within the R-R District and that instead it is designed to support residential growth.

Chuck ? stated that a pond exists on the property that has not been shown on the site plan.

? Bradley expressed concern that the proposed facility will introduce a criminal element into the neighborhood.

Robert Snyder questioned the need for an MMF in the area. He stated that he feels the proposed operation is a 'front' for recreational marihuana production and that a rural area with limited law enforcement has been targeted as a way to avoid compliance with regulations.

Dan Sager stated that the subject property was previously contaminated with arsenic that has not yet been mitigated. He further noted that the wind blows north in this area and that with the topography of the site all of the odors from the facility will be 'pushed' directly toward The Woods at StoneHedge.

Jennie Doan stated that she misspoke at the May 21, 2018 public hearing regarding Jon Scott. She noted that her comments were inaccurate and that she would like to withdraw them.

Joanne ? stated that the application does not comply with Section 19.3 A.1. and A.5. due to associated light, traffic, crime, and noise.

Robert ? commented that greenhouses are allowed within the AG District but not within the R-R District. This should clarify that the R-R District is not an agricultural district and the subject property is not agricultural land.

A speaker stated that the applicant did not meet the application deadline; that the proposal is inconsistent with the Master Plan; and that an MMF will discourage residential growth in the area.

A speaker complained that the MMF ordinance provisions are not measurable and therefore do not allow for a satisfactory review of the proposal or for enforcement. The associated odors and energy use were cited as detriments to the neighborhood.

Linda ? stated that any wastewater discharge would be subject to compliance with LARA Rules and the MDEQ. She expressed concern that the data presented was only for Phase 1 of the MMF.

A speaker stated that the proposed MMF cannot be compared to a corn field. It was felt that the proposed facility would negatively impact the eco-system and result in habitat fragmentation. Reference was made to California studies and impacts to owls.

A speaker stated that the pesticides approved by LARA are proven to be dangerous to wildlife and domestic animals.

Elizabeth Lake opined that the proposed use is a higher intensity than the current use as a corn field, citing the proposed use of chemicals, the proposed build-out, its potential to create dead zones in the Kalamazoo River and Augusta Creek, the number of cultivations, and its failure to comply with Section 19.3 A.2. and A.6.

Rob Baker stated that the Township's decision to 'opt-in' was uninformed. He noted that the research presented by the area residents is critical and demonstrates the proposal's lack of compliance with Section 19.3., citing a difference in the size and nature of buildings proposed, noise, odor and crime.

Tracy Mills stated that the applicant is not being honest and is not providing the full scope of the proposal. She warned that the applicant's effort is to simply get a 'foot in the door'. Support for an independent assessment of the data presented was expressed.

Sally Lapert also expressed support for an independent assessment of the data presented. She noted concern regarding water usage, noise, odor and overall impact of the facility.

Barb Ritter stated that the applicant has presented incomplete data regarding water withdrawal. She referenced California studies that suggests the data used is inaccurate and that instead the MMF will dry up the water resources and rob the property of its value.

A speaker stated that the applicant has offered no proof of compliance with Ordinance 209 or how it will protect resources and the rural character of the area. Action on the request should be put on hold until the residents' wishes can be met.

Mona Bowden opined that the video presented showing the property from 44th Street was misleading because it did not show the entire route. Further, she noted disagreement with the claim of no adverse impact, citing the proposed fencing and security measures as proof that the facility will introduce criminal activity to the area.

A speaker stated that only the neighborhood residents are in a position to evaluate the impact of the proposal.

Dave Sakowitz stated that the proposal is inconsistent with the Master Plan, the R-R District, and Section 19.3. He noted that the MMF is an industrial use and can provide no proof of compatibility, as is evident by the proposal's inability to meet fence height and lot coverage standards.

Carol Snyder expressed concern that the applicant is minimizing the real impact of the proposed facility. She stated that money is at the root of this problem.

Angela Bowers noted her agreement that money is the issue.

John Croddoman stated that he is a local business owner and that he believes these are the highest standards that he has ever seen applied to a site plan. He expressed support for the economic growth that the proposed facility will generate and noted that he would love to have the operation in the community.

Mike ? noted the following concerns: existing potholes in the road; odor can't be controlled with the outdoor grow operation; lack of water supply available; and, the use of security measures that will include rifles and chase.

A speaker stated that the proposed facility will have a positive economic impact and provide good paying jobs. Concern was noted at the prospect of passing up such a great opportunity.

Jerry Powells requested that the Planning Commission stop any action on the request in light of a lack of legal authority and given that required procedures were not followed.

Ellie ? stated that water usage does not equal water withdrawal. She urged an independent assessment of the data presented.

Tim ? noted the need for independent verification of the data presented. He stated that the applicant's data was not scientific and that the Township should check the MDEQ water withdrawal records that shows water supply is at a deficit.

Brad Borsef expressed concern with the number of applications that have been received and that all four of them are within 2.5 miles of each other. He questioned what this will mean regarding water withdrawal.

Jamie Enis urged an independent assessment of the data presented noting concern for potential environmental impacts, water contamination, deforestation, and loss of wildlife.

Rick Diamond noted that he recently purchased his home in the area but would not do so now in light of the MMF applications.

Several speakers noted that the residents in the area do not want the MMFs and that approval of same will be contrary to the history and heritage of the Township.

No further public comment was offered on the matter.

Barker clarified that hops and marihuana are in the same botanical family and both have a very similar smell. He noted that the R-R District allows 'agricultural production' as a permitted use which would allow the growing of hops on the entire 60-acre site without the need to seek any permits.

Malek provided the following summary comments:

- Ordinances 205 and 209 have been adopted and were relied upon by the applicant; the applicant deserves a fair review of the request.
- State law provides that 'a grower license does not authorize a grower to operate in an area unless the area is zoned for industrial or agricultural uses' . . . it does not require that a grower facility be located within an 'agricultural zoning district'.
- The R-R District allows 'agricultural production' as a permitted use, which could include a hops farm, as well as bio-fuel production facilities.
- Existing special land uses within the R-R District include campgrounds, gravel pits, mining operations, kennels, communication towers, ski parks and high-density residential development.
- The project site and surrounding area are all within the R-R District and are not limited to low density residential land use and open space.
- The Planning Commission has the authority to condition approvals of special land use permits to ensure compliance with the special land use criteria.
- The Zoning Ordinance establishes the mechanisms for enforcement of zoning requirements and permit/plan approvals, including the invalidation of the approval.
- The proposed facility is a legitimate special land use.
- The proposal complies with all applicable requirements.

- The proposal strives to mitigate all potential impacts.

Chairperson Lauderdale inquired if there were follow up questions by Commission members at this time.

Snyder commented that written correspondence has been received in support of the proposed MMF. Though not widely represented at the meeting, there is support that is being expressed and it should be noted.

Fry inquired regarding the status of identifying the infrastructure needed to provide the required electric service. Eshlaman stated that they are currently in conversation with Consumers Energy on the design details, but that Consumers Energy has committed to providing whatever service is necessary to fully serve all customers.

Snyder inquired regarding the concern raised that a deadline had not been met. Attorney Thall stated that all required noticing had been completed consistent with the law. He noted that application deadlines are generally established by policy and that the Planning Commission can always postpone action if additional time is required.

No further follow up questions were posed to the applicant.

Pierce then moved to close the public hearing. Fry seconded the motion. The motion carried unanimously.

Chairperson Lauderdale stated that concerns have been raised and information presented regarding odor, water consumption, storm water management, noise and buffering as it relates to the proposed MMF. He inquired regarding support of the earlier suggestion that the Planning Commission postpone action on the request in order to seek an independent assessment of the data provided.

Fry suggested that this may represent an opportunity to obtain a third party assessment that is structured such that it can be applied to all four MMF applications.

In discussion regarding the Planning Commission meeting schedule, Ezbenko questioned if there is a need to schedule special meetings to allow the Planning Commission to proceed with consideration of other pending agenda items.

Following general discussion of the meeting schedule, Snyder moved to postpone consideration of the Special Land Use Permit/Site Plan Review application to the July 23, 2018 regular Planning Commission meeting to allow for an independent assessment of the data presented to be completed and provided to the Planning Commission. Zamora seconded the motion. The motion carried unanimously.

UNFINISHED BUSINESS

It was noted that all Unfinished Business was on hold until the June 25, 2018 regular meeting of the Planning Commission.

PUBLIC COMMENT ON NON-AGENDA ITEMS

No public comment on non-agenda items was offered.

ADJOURN

There being no further business to come before the Commission, the meeting was adjourned at 10:17 p.m.

Respectfully Submitted,
Rebecca Harvey, AICP, PCP
Township Planning Consultant