

Chair
Bruce Keilen
Vice-Chair
Tim Fair
Secretary
Mike Nolen
Commissioners
Trustee Fedewa
Dale Dailey
Brett Hanlon
Adam Bertram
Erika Hayes
Abby Lorenzen



Community Development Director
Brett C. Wittenberg

Planner
Salam Habhab

Recording Secretary
Linda K. Parkinson

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MEETING WILL BE CONFERENCE CALL ONLY
Call-In Information
Conference Dial-In Phone # - 1-623-600-3750
Conference Code – 346832

Per the State of Michigan Department of Health and Human Services (MDHHS) Emergency Order – Gatherings and Face Mask Order dated January 13, 2021, and the Open Meetings Act (OMA) 1976 PA 267, this meeting will be held virtually by phone conference. Per OMA, Board members and public may listen and participate at the phone number above.

The call will be muted to reduce interference with proceedings. The public will be invited to make comments during the public comment sections of the meeting as well as before any vote. If you desire to comment, you will be invited to dial 5* so we can unmute your line. Please contact the Planning Department at (517) 669-6576 with any additional questions.

PLANNING COMMISSION
MINUTES
MONDAY, FEBRUARY 1, 2021
7:00 p.m.

The regular meeting of the DeWitt Charter Township Planning Commission meeting was called to order at 7:00 p.m. by Chairman Keilen.

The Pledge of Allegiance to the Flag was said by those present.

ROLL CALL by Recording Secretary Linda Parkinson-Gray.

MEMBERS PRESENT: Hanlon (remote), Nolen (remote), Lorenzen (remote), Hayes (remote), Keilen (in person), Dailey (remote), Bertram (remote), Trustee Fedewa (remote) and Fair (remote).

MEMBERS ABSENT: None.

APPROVAL OF AGENDA: Fair moved to approve the Agenda as presented. Supported.

ROLL CALL vote on motion:
AYES: 9 NAYS: 0
MOTION CARRIED.

APPROVAL OF MINUTES: Hayes moved to approve the minutes of the January 4, 2021 Planning Commission meeting as presented. Supported.

ROLL CALL vote on motion:
AYES: 9 NAYS: 0
MOTION CARRIED.

CORRESPONDENCE: None.

PUBLIC COMMENTS: None.

INTRODUCTION: Chairman Keilen introduced Assistant Planner Salam Habhab of the Planning Department.

Habhab introduced herself to the Planning Commission stating her background is in architecture/engineering and interior design.

UNFINISHED BUSINESS:

I. **PUBLIC HEARING - Proposed Ordinance Amendment 20-2 Medical and Recreational Marihuana** to amend the DeWitt Charter Township Zoning Ordinance, Article 4.0 “Use Standards” to add Section 4.82 to establish “Marihuana Operations Zoning” provided under the Michigan Regulation and Taxation of Marihuana Act and the Michigan Medical Marihuana Facilities Licensing Act and applicable rules promulgated under LARA; to establish penalties for violation; to repeal ordinances in conflict herewith; and to establish an effective date hereof.

- A. Open Public Hearing. **Chairman Keilen declared the Public Hearing opened at 7:08 p.m.**
- B. Administrative Comments/Public Comments.

Community Development Director Brett Wittenberg advised the Township Attorney is also in attendance of this meeting and will be available for questions following staff’s brief report.

Wittenberg noted at the January 4th Planning Commission meeting the following items were narrowed down to the following:

1. Location – within a specific zoning district or geographic boundary.
2. Limitation on the number of uses.
3. Separation requirements.
4. Permitted by right or Special Use Permit.

With regard to the location item, there was discussion about limiting the use to a specific zoning district. Staff has identified a specific geographic area located south of State Road, east of S. US 27, west of US 127 and north of Sheridan Road (map attached to the proposed ordinance). Staff initially provided a map with the above-mentioned geographic boundaries on the Future Land Use Map. The intent was to show the areas where future industrial uses are planned as identified in the Comprehensive Development Plan. Staff’s concern is that while the Future Land Use Map identifies areas for possible future industrial uses (IH, IL, and IP Zoning District), nothing would prevent a property owner requesting a rezoning to IH (Heavy Industrial) even though it may not be identified as an industrial use on the Future Land Use Map. This could potentially open the door to a property being rezoned, say to IH, which could allow for marihuana operations in an area where it was not intended. By providing the geographic boundary, it limits the location of marihuana operations to an area primarily planned for industrial uses. So, if a property outside of the identified boundary is rezoned to a zoning district that allows for marihuana operations, it would not be allowing as it is outside of the specified boundary area.

With respect to the limitation on number of uses item, it was noted that a few Commission members indicated a consideration for limiting the total number of facilities. In conjunction

with the specific geographic area and separation requirements proposed as part of the ordinance, minimum setbacks and lot size requirements in the applicable zoning districts the proposed ordinance would in essence limit the number of uses as it is limited to a specific geographic area, separation requirements are provided, and minimum setbacks and lot sizes would have to be met.

Wittenberg went on to discuss the item of separation requirements. He stated, in response to discussion concerning separation from residential uses and potential nuisances from marihuana operations, the proposed ordinance provides a minimum setback for growing and processing uses of 1,000 feet of a childcare center, school, public park, religious institution, Substance Abuse Program licensed by the State of Michigan, and a residential zoning district. The separation requirements are not applicable to Secure Transporters or Safety Compliance Facilities as these types of uses do not typically have the associated nuisances (e.g. odor).

Lastly, Wittenberg addressed the item of the use being permitted by right or Special Use Permit. He stated given the restrictions in the proposed ordinance, geographic location, separation requirements and existing setback and lot size requirements, the proposed uses, would be a use by right in the applicable zoning districts unless the proposed marihuana operation is located less than 1,000 feet from the uses identified under the separation requirements. In this instance, it would require a special use permit. In an attempt to focus on the issues as directed by the Board, and to better utilize staff resources, staff will not be proposing any ordinance changes that include the retail component. However, this could be revisited at a later time.

In closing, Wittenberg suggested Chairman Keilen call on each Commissioner to see if there are any questions for the Township Attorney.

Dailey questioned how “unreasonable marihuana odor” could be defined as stated on page 8 of the proposed ordinance. In addition, he expressed concern with the Cadgewith Farms community being within the boundary area.

David Revore, Township Attorney, David M. Revore Atty. PLC, 836 Centennial Way, Ste. 130, Lansing, MI 48917, stated trying to determine what is unreasonable would sometimes involve a panel of individuals or an expert that would make the decision. He added that harvest time is when the odor may be the highest. Typically, indoor growers harvest four times a year. It is impractical to expect that there would be no odor. This is true of any type of harvested crop. To allow no odor would lend itself to an enforcement action that would be quite expensive to enforce. The best situation is to work with the developer to come up with an odor mitigation plan that involves internal ventilation systems. Another way to mitigate odor issues is to locate grow and processing operations in an industrial area that is not heavily influenced by residential.

Wittenberg stated odor will be difficult to enforce. However, that is one of the reasons for having separation requirements included within the proposed ordinance.

There were no other Commissioner questions or comments for Mr. Revore.

Brief discussion followed regarding the notification requirements for this Public Hearing.

Trustee Fedewa stated that he feels this proposed ordinance accurately reflects the discussions taken place both at the Board of Trustees and Planning Commission meetings. It is a good place to get started, knowing if there is a reason to make an amendment it can be done in the future.

Brief discussion followed regarding the fact that this ordinance is for indoor grow facilities.

Lorenzen noted a few minor grammatical changes on page 10 of the proposed ordinance.

Fair concurred with Commissioner Dailey's concerns related to odor. He suggested the Township notify a certain residential area within the boundary that this is coming.

Wittenberg noted that there are other uses allowing within the industrial zoning districts that also produce odors. The proposed ordinance tries to mitigate the issue by requiring certain types of ventilation.

Commissioner Hayes stated it is hard when statutes provide and require certain types of notifications/publications. There could be a problem with singling out certain neighborhoods and notifying one group and not another. These statutes are set up so that the Township is equally providing notification to everyone. The Township could run into some problems by straying from what the notification requirements are.

Chairman Keilen invited public comments.

There were no public comments.

- C. Close Public Hearing. **Fair moved to close the Public Hearing at 7:36 p.m. Supported.**

ROLL CALL vote on motion:

AYES: 9 NAYS: 0

MOTION CARRIED.

- D. Discussion and possible action by Planning Commission.

Fair moved that the Planning Commission recommend that the Township Board approve Ordinance 20-2 based on the finding that the proposed amendment complies with the process for amending the Zoning Ordinance. Supported.

ROLL CALL vote on motion:

AYES: 9 NAYS: 0

MOTION CARRIED.

NEW BUSINESS: None.

EXTENDED PUBLIC COMMENTS ON NON-AGENDA ITEMS: None.

REPORTS:

- I. Trustee:

Trustee Fedewa gave a brief report on business conducted and action taken at recent Board of Trustees meetings.

- II. Zoning Board of Appeals: No meeting was held in January.

- III. Committees: None.

IV. Staff:

Wittenberg reported he has had a conference call with the consultant that will be undertaking the upcoming Housing Study Report. It is most likely that a joint meeting (video conference) will be held with the consultant in the end of March or early April.

Assistant Planner Salam Habhab stated that the Planning Department staff is in the initial process of researching provisions to assist local businesses and restaurants in easing back into operation during the Covid-19 pandemic. One example would be to streamline the process to permit restaurants to expand their services to outdoor dining areas such as igloos or pergolas.

DISCUSSION: None.

ADJOURNMENT: **Fair moved to adjourn the meeting at 7:45 p.m. Supported. MOTION CARRIED.**

Linda K. Parkinson-Gray, Recording Secretary

Mike Nolen, Secretary