



CASS COUNTY PLANNING COMMISSION

*Dan Stutsman • David Kring • Jayne Bailey • Richard Palmisano • Annie File
Samuel Barrera • Char Hiemstra • Dianna McGrew • Tyler Augst*

Wednesday, November 29, 2023 at 4:00 PM

**Cass County Building
120 N. Broadway
2nd Floor Conference Room
Cassopolis, MI 49031**

1. Call to Order
2. Approval of Agenda
3. Approval of Minutes — October 25, 2023
4. Public Comment
5. New Business
 - a) Penn Township — Zoning Amendment
 - b) Master Plan Consultant — McKenna
6. Other Business
7. Adjournment

CASS COUNTY PLANNING COMMISSION

October 25, 2023 Meeting Minutes

1. Present: D Stutsman, D Kring, J Bailey, R Palmisano, C Hiemstra. Absent: Tyler Augst, Samuel Barrera
Guests: Linda McGregor, several Howard Township residents
2. Meeting was called to order by D Stutsman at 4:03 PM
3. Palmisano moved, Bailey seconded to approve the agenda as presented.
4. Kring motioned, Palmisano seconded to approve the minutes with the correction of Palmisano motioned seconded by Marchetti to rescind the engagement with Baxmeyer. Motion carried.
5. Public Comment: public comment was given.
6. New Business:
 - a. Howard Township; Linda McGregor answered questions about Solar Amendment. R Palmisano motioned and J Bailey mad a motion to accept amendment as presented. Roll call showed all in favor. Motion carried.
 - b. Master plan consultant; Marchetti let us know that T Augst know of McKenna and suggests we get a new quote. We sent Vandalia and townships that are participating their checks back as cost may end up being higher. Administrator Newton is assisting in getting updated quotes. We will need to have special meeting when info is received to get ball rolling on Master Plan.
7. Other business:
 - a. J Bailey thanked the board of commissioners for appointing her to Parks and Recreation commission.
 - b. Administrator Newton shared that Heritage Southwest is looking into providing Vocational Technology school.
 - c. Tyler Augst is putting a county planning commission rolls and responsibility seminar together in PawPaw on November 15 at 6:30pm. Location to be provided.
8. D Stutsman stated adjournment at 5:15 PM

Respectfully Submitted,

Char Hiemstra

Law Office of Sara A. Senica

A Professional Limited Liability Company

12 LONGMEADOW VILLAGE DRIVE
NILES, MI 49120

SARA A. SENICA

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Cass County Planning Commission
120 N. Broadway, Suite 116
Cassopolis, MI 49031

November 9, 2023

Re: Amendment to Penn Township Zoning Ordinance – Equivalent Licenses – An
Amendment to Allow Co-Location of Recreational Establishments and Medical
Marijuana Facilities Under the Current Terms and Conditions Provided in the Township
Zoning Ordinance for Recreational Marijuana Establishments

Dear Planning Commission Members:

Attached please find a copy of a proposed Zoning Ordinance text amendment for Penn Township, a copy of the Cass County Planning Commission Checklist, and a copy of the minutes of the Township Planning Commission meeting and public hearing held on September 12, 2023.

This amendment is simple and straight-forward: it proposes to allow Medical Marijuana Facilities to co-locate at a business or location in Penn Township that allows Recreational Marijuana Establishments under the Zoning Ordinance. Thus, if a location allows a particular Recreational Marijuana Establishment under the Zoning Ordinance, the location would also be permitted to have an “equivalent license” from the State and the Township would permit the Medical Establishment to co-locate at the location or property.

This Amendment was recommended for adoption by the Penn Township Planning Commission on September 12, 2023, after a public hearing was held on the topic of co-location of recreational and medical marijuana businesses. Kindly place this amendment on the November Planning Commission agenda, and do not hesitate to let me know if there are any questions.

Yours very truly,

LAW OFFICE OF SARA A. SENICA



Sara A. Senica

Attachments:

1. Checklist – Cass County Planning Commission
2. Proposed Text Amendment
3. September 12, 2023, Planning Commission Meeting Minutes



Cass County Planning Commission

Checklist



Dear Local Government Official:

When you send the Cass County Planning Commission material for their review, please use the attached checklist and include it with the other documents that you submit. Thank you.

- ☒ Signed cover letter requesting review and summarizing the process which has already occurred.
- ☒ Copy of the public hearing minutes.
- ☐ Copy of section of Township Land Use Plan that applies to/supports action.
- ☐ Copy of section of zoning ordinance, including amendments or supplements, which apply to/support action.
- ☐ For an initial zoning ordinance: 8 copies on loan with map(s).
- ☒ For text changes (amendments or supplements): those portions affected or a comprehensive summary of the changes and, if affected, the map.
- ☐ For petitions for rezoning, a copy of the petition with the map(s) showing: zoning of adjoining properties within 300 ft. for which action was taken and the parcel(s) of consideration and roads need to be clearly identified and labeled. If not included on the petition, the cover letter should indicate acreage, existing zoning, requested zoning, existing use and proposed use.
- ☐ Does the action taken by the Township concur with the Township Ordinance, Zoning Map and/or Land Use Master Plan for that property? If not, is the request eligible for Zoning Board of Appeals action?
- ☐ If any provision of public services is or will be involved, include correspondence from the affected unit expressing its awareness.

IT IS RECOMMENDED THAT A MEMBER OF THE PLANNING COMMISSION ATTEND THE COUNTY PLANNING COMMISSION MEETING TO FURTHER EXPLAIN THE REQUEST AND TO ANSWER QUESTIONS.

Date: 11-9-23

Signed: L A L

PENN TOWNSHIP
COUNTY OF CASS
STATE OF MICHIGAN

AN ORDINANCE TO AMEND THE PENN TOWNSHIP ZONING ORDINANCE TO INCLUDE EQUIVALENT LICENSED MEDICAL MARIJUANA FACILITIES AS ALLOWED USES UNDER THE TERMS OF THE TOWNSHIP ZONING ORDINANCE, AND PERMITTING EQUIVALENT LICENSED MEDICAL MARIJUANA FACILITIES TO CO-LOCATE WITH RECREATIONAL MARIJUANA ESTABLISHMENTS UNDER THE TERMS AND CONDITIONS OF THE ORDINANCE REGULATING RECREATIONAL MARIJUAHA USES.

PENN TOWNSHIP ORDAINS:

Section 1. Equivalent Licenses and Co-Location of Medical Facilities and Recreational Marijuana Establishments as Permitted Use. Section VII, Subsection 6, is hereby adopted and added to the Penn Township Zoning Ordinance:

VII.

6. Equivalent Licenses and Co-Location of Medical and Recreational Marijuana Facilities and Establishments Allowed as Permitted Uses.

Clarification and limitation on Medical Facilities Operations and Co-Location of Medical and Recreational Marijuana Facilities and Establishments in Penn Township: By this amendment to Penn Township Recreational Marihuana Establishment Ordinance, with emphasized reference to MCL Section 333.27205, Penn Township shall permit and allow co-location of Medical Marijuana growing and processing along with Recreational Marijuana within in the Township in accordance with State law, but does not permit any Medical Marijuana operations that exceed limitations placed on Recreational Marijuana operations by any Township Ordinance or Zoning restrictions, unless superseded by State Law. Medical Marijuana Facilities as defined in MCL section 333.27205 are permitted in Penn Township and are subject to the same limitations placed on Recreational Marijuana Establishments within the Township.

Section 2. Effective Date.

This ordinance shall take effect seven (7) days after publication as required by law.

Section 3. Severability.

If any part or provision of this ordinance is declared invalid or unenforceable, such declaration shall not affect the validity or enforceability of the remaining portions of this ordinance.

Section 4. Repeal.

Any prior ordinances or regulations that are inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

AYES: _____

NAYS: _____

ABSTAIN: _____

RESOLUTION DECLARED ADOPTED.

CHELSA GREATHOUSE, Clerk

CERTIFICATION

I, CHELSA GREATHOUSE, Clerk in and for Penn Township, County of Cass, State of Michigan, do certify that the foregoing Ordinance is a true and exact copy of an Ordinance adopted by the Township Board during its regular meeting, held December _____, 2023, and that public notice of said meeting was given pursuant to the Michigan Open Meetings Act, as amended.

CHELSA GREATHOUSE, Clerk

Planning Commission Meeting

September 12, 2023

Member Present at meeting:

Carl Sparks

Craig Danzy

Roger Leach

Israel Yoder

Meeting called to session at 5:42pm

Prayer provided by Carl Sparks

Pledge of Allegiance cited.

Introduction of board members

Proposed amendment for the Penn Township Recreational Marihuana Establishment Ordinance, NO 2.8.2021, adopted February 8, 2021, was read by Roger Leach. The proposed amendment will reaffirm existing Ordinance and specifically clarify scope of Medical Marijuana facilities noted in above referenced ordinance and that they follow same restrictions as Adult Use Recreational Marijuana Facilities.

Proposed Amendment: Clarification and limitation of Medical Facilities Operations in Penn Township by this amendment to Penn Township Recreational Marihuana Establishment Ordinance, with emphasized reference to Michigan Law, NLC Section 333.27205.

Penn Township continues to allow co-location of Medical Marijuana growing and processing along with Recreational Marijuana within the Township in accordance with State law but does not permit any Medical Marijuana operations that don't comport with limitations placed on Recreational Marijuana operations by any Township Ordinance or Zoning restrictions, unless superseded or otherwise defined by State Law.

This amendment reiterates that Medical Marijuana Facilities as defined in MCL section 333.27205 are permitted in Penn Township and are subject to the same limitations that are placed on Recreational Marijuana Establishments within the Township.

Resident Mike Biesboer has concerns that this amendment conflicts with current ordinance.

Oli Olafsson addressed resident Mike Biesboer concerns.

Resident Matt Harrington questioned board members about their knowledge of the current Marijuana Ordinance and the potential violations that are occurring.

Board member Leach addressed resident concerns.

Resident Peggy Biesboer shared concerns of the Penn Twp Board voting never voting no on anything to do with marijuana.

Resident Mike Biesboer suggested the Planning Commission write a separate ordinance for Medical Marijuana Establishments. That the two types of marijuana establishments within one ordinance will create inconsistencies.

Leach closed public comments.

Board Comments

Carl Sparks asked for clarification on medical verse recreational licenses in Penn Twp.

Oli Olafsson mentioned over the past 3 years the grows in Penn Township have more recreational licenses than medical. This year Penn Township has had an increase in medical licenses due to the ability to stack licenses.

Resident Matt Harrington feels this is a complex issue and this topic should be tabled.

Oli Olafsson stated that this is not a new subject and that it has been in the process for 4 months.

Resident Bucher feels that Supervisor Oli is rushing this amendment change.

Resident Peggy Biesboer questioned the preparation of board on making an educated decision.

Resident Questioned who the grower can sell to, just to recreational marijuana establishments or to medical marijuana establishments. And questioned if the licenses are annual.

Leach addressed the Planning Commission Board for recommendation of the amendment to the existing Ordinance (No.2.8.2021)

Leach motioned to approve adoption of the proposed amendment to our current Marijuana Ordinance. Israel Yoder seconded.

Roll Call

Israel Yoder – Yes

Carl Sparks – Yes

Roger Leach – Yes

Craig Danzy – Yes

Motion carried.

Leach brings issues to the table for discussion.

1. Zoning Limitations of marijuana grows- Should Penn Township ban outdoor growing operations adjacent to Residentially (R1, R2) zoned areas.

Petitioner Oli Olafsson stated the biggest complaints from residents are smell, health concerns, and safety.

Leach opens for public comments.

Resident Peggy Biesboer expanded why she feels the marijuana grows are a nuisance, noise, dust, drones, and problems of people going onto others resident property. This is a commercial product, not agriculture.

Resident Jodi Bucher explained that she has experienced people on her property, drones over her property due to the adjacent grow.

Resident 3 has concerns of the smell.

Resident 4 also has concerns of the smell.

Resident Bill Schuld stated he could smell marijuana at the hall which could be coming from Fox Rd.

Resident Mike Biesboer

Resident Matt Harrington has concerns about the smell and how it impacts the quality of life. He would like the marijuana grows to be non-adjacent to resident areas.

Resident 8 stated that marijuana is a commercial product.

Resident Bucher has concerns about long-term health affects that may not be known yet.

Board Comments

Israel Yoder

Carl Sparks is open to discussion and finding a solution.

Craig Danzy

2. Set limitations on marijuana growers. – Should marijuana crops have a minimum setback from primary residents. If so, what should they be and would they be permissible if the owner of the resident in question waives setback requirements?

Leach opens for public comments.

Resident Peggy Biesboer is pro-setback, recommends 1 mile.

Resident Bill Schuld would favor a ½ mile away. He has concerns that the marijuana fields could impact the Donnell Lake watershed.

Resident 3 Wonders where the accountability falls on the growers.

Resident 4 favors a 1-mile setback, limitation of grow sites and limitation of plants.

Resident Mike Biesboer favors a 1-mile setback.

Resident Matt Harrington favors a 1-mile setback.

Resident 7 favors a 1-mile setback.

Resident Bucher favors a 1-mile setback.

Board Comments

No comments

3. Claims of annoyance by property owners on Donnell Lake, pertaining to specific grow sites in vicinity of the lake.

Leach opens for public comments.

Public Comments

Resident Peggy Biesboer addressed health issue concerns.

Resident Jodi Bucher has concerns about the smell and concerns of these potential health issues could impact the elderly.

Resident Bill Schuld questioned if one of the grow sites had 2 grow seasons. And questioned if the processing is taking place on premises?

Resident 4 has concerns about the smell.

Resident Mike Biesboer has concerns about the crop dusting and the fertilizing.

Resident Matt Harrington has concerns about how marijuana grows are impacting the quality of life.

Resident 7 Feels that there would be more people at the meeting if it was publicized more.

Board Comments

No comments

4. Ability by growers to wind up operations in the event of abrupt change in township policies, without unrecoverable financial losses. - What recourses do operators have in the event of change in policy. Protecting the Township from legal ramifications?

Petitioner Oli Olafsson explained how the Township board members have concerns about how a change in policy / ordinance would impact current establishments and the legal liabilities.

Leach opens for public comments.

Public Comments

Resident Peggy Biesboer doesn't agree with how the ordinance was passed.

Resident Bill Schuld questioned how much the grow sites (closes to Donnell Lake) had to invest.

Resident 3 Feels that the current ordinance protects Penn Township from legal recourse.

Resident 4 Wants ordinance enforcement to check on the grow sites to make sure they are following regulations.

Resident Mike Biesboer wants the township to seek legal opinion.

Resident Matt Harrington feels that the current marijuana establishments know how residents feel and that there is always risk involved. Harrington voiced that the township could give the establishments financial incentives to move. Harrington also mentioned how he has offered to help raise money for township projects and would like to raise money to go towards helping the township and marijuana establishments move their location. Harrington mentioned the Michigan Tort Liability Act, and how it is protection for a township, the township should seek legal advice.

Resident 7 Acknowledged that people can sue the township, but courts will dismiss cases that are frivolous and that you can repeal the statute.

Resident Bucher feels there is a lack of concern for the residents verse the businesses.

Leach closed public comments.

Board Comments

No comments.

Meeting adjourned at 7:46pm

Respectfully submitted,

Chelsa Greathouse

Penn Township Planning Commission Secretary

