

- I. Call the Meeting to Order
Chairperson Ray called the meeting to order at 4:37 p.m.

II. Roll Call

Present: Matt Ray, Chair
Scott Sintkowski, Vice Chair
Dave Kramer, Secretary
Tony Bartolotta, Commissioner
Thomas Strat, Commissioner
Art Frasca, Commissioner
Steve Printz, Commissioner

Also Present: Jeffrey Polkowski, Superintendent/Planning
Justin Daymon, Zoning Administrator
Amy Williams, Recording Secretary
Scott Alef, Community Dev. Grant Coordinator

Public Present: Approximately 40 members of the public

- III. Approve the Agenda of the September 27, 2022, regular meeting of the Planning Commission as printed.

MOTION AND VOTE

Moved by Kramer

*Supported by Frasca: Resolved to **Approve** the September 27, 2022 Planning Commission Meeting Agenda.*

MOTION CARRIED UNANIMOUSLY

(7 - 0)

- IV. Approve the Minutes of the August 23, 2022, regular meeting of the Planning Commission as printed.

MOTION AND VOTE

Moved by Frasca

*Supported by Bartolotta: Resolved to **Approve** the August 23, 2022 Planning Commission Meeting Minutes as written.*

MOTION CARRIED UNANIMOUSLY

(7 - 0)

- V. Consent Agenda

MOTION AND VOTE

Moved by Kramer

Supported by Bartolotta: Resolved to move item #2 on the Consent Agenda to Case No.1 for the regular meeting.

MOTION CARRIED UNANIMOUSLY

(7 - 0)

MOTION AND VOTE

Moved by Kramer

Supported by Sintkowski: Resolved to Approve the Consent Agenda.

MOTION CARRIED UNANIMOUSLY

(7 - 0)

VI. Site Plans and Public Hearings**1.) Consent Agenda Item Minor Site Plan No. PSP 22-1417, Summit 327 New Vehicle Lot Temporary Vehicle Parking Extension**

Location: 327 N Telegraph Rd

Zoning: C-4, Extensive Business

The applicant seeks a 6-month extension to their temporary approval for vehicle parking. A text amendment to the ordinance permits a Temporary Principle Use for a property under the Temporary Use requirements outlined under Section 4-013 of the ordinance. A temporary use, not associated with a development project, may be permitted on a site up to a maximum of (144) days. The fire department has safety and security concerns that would need to be addressed.

Mr. Polkowski gave a brief history. The applicant was originally given temporary approval to park inoperable vehicles on this site that had no chips, no gas and could not be driven. Only days later many showed up with gas, and fully drivable. The cars pose a hazard if there were to be a fire issue. In conclusion, the lot would need to be paved and provide with hydrant coverage to make it safe.

Scott Liebowitz spoke on behalf of the applicant and asked that we hold off on discussion until the applicant was present.

MOTION AND VOTE

Moved by Ray: Resolved to set aside this case until the applicant arrived.

MOTION CARRIED UNANAMOUSLY

(7 - 0)

Upon arrival of the applicant, this case was re addressed by **Mr. Polkowski** who stated again that the applicant is asking for an extension for something that was Not in compliance with what was originally presented.

Fire Marshall, Wayne Peruski addressed the many concerns to the board and the hazards this presents to emergency responders in the current condition. There is inadequate fire hydrant coverage, broken asphalt, and drainage is not working causing ponding. This does not meet current fire code. All other patrons are expected to comply with code so why would this site be any different.

Mr. Lieboweitz said he can appreciate the concerns and did not feel that the site was that bad. He has invested a lot into this site, and with all the delays caused by COVID it was a way to recoup some of his financial loss. He would appreciate a six-month extension on the temporary parking agreement.

It was further noted that security on site was also inadequate. There were incidents with broken windows and keys were left in vehicles that were fully functional.

1. CDBG PY 47 Performance Report

Mr. Alef presented the CDBG report as required by HUD in which the Township met and exceeded all goals set for this year. He further detailed the number of cases and areas that received assistance under this program.

During the public portion of the meeting, no one spoke regarding this item.

2. Case No. PRSA 22-08-02 (PSP 22-1438) MULTI TENANT COMMERCIAL PROPERTY INCLUDING A COMMERCIAL FUELING FACILITY – Public Hearing

Parcel I.D. No. 13-04-433-008; T3N, R9E, SEC 4 PART OF SE 1/4 BEG AT PT DIST S 42-25-40 E 135.00 FT FROM MOST SLY COR OF LOT 1 OF 'EAGLE LAKE HEIGHTS', TH N 47-39-20 E 160.00 FT, TH N 42-25-40 W 89.54 FT, TH N 46-01-50 E 640.00 FT, TH S 42-27-30 E 471.33 FT, TH S 47-39-20 W 800.00 FT, TH N 42-25-40 W 363.65 FT TO BEG 8.13 A

Requesting: Special Approval for a Commercial Fueling Facility within a multi-tenant commercial property in a C-4, Extensive Business District.

Property Location: 5100 DIXIE HWY

Property Zoned: C-4, Extensive Business

Applicant: Dixie Farms, LLC

Applicant or representative present: Patrick Mannor and Bill Nanoshi (property owner)

Mr. Polkowski gave a brief history. This former retail space has been vacant for over a decade and the applicants want to repurpose the site to a multi-tenant space and include a gas station (not a truck stop).

Mr. Mannor briefly described the unique market concept that would include space for a comedy club, restaurant and bar with outdoor seating as well as a fueling station.

During the public portion of the meeting, the following spoke regarding this request.

Rick Barrett of 4972 Lake Ponte Drive, voiced concerns with storm drains possibly be flowing into their drainage and possible lake contamination from the fueling station.

Steve Darling of 4138 Rural Street spoke about a short term rental hall (for estate sales that offered indoor storage) and wanted the applicant to consider this use.

Tom Talbot of 4894 Harbor Pointe Drive voiced concerns regarding noise from the concert, and contamination to Eagle Lake from the fueling station.

Kathy Rathbun of 1812 Birchcrest voiced concerns with the gas station, and wanted to know why did they need one when there are seven in the nearby vicinity.

Dave Cyplik of 3533 Lakewood has concerns with the gas station.

Rebecca Wolford of 5235 Eagle Lake Drive voiced concerns with the restaurant and not having seafood due to the smell and also, noise. She said she is for this project but there have been issues with this location in the past with trucks idling, Bright lights from Johnny Blacks, trash and fencing.

Karen Dedenbach of 4894 Harbor Pointe Dr. agreed with former comments regarding gas and traffic concerns. She did favor the market.

Charlene Romanow of 4297 Ledgestone Dr. voiced concerns with rats from the Happy's pizza garbage. (corner of Dixie and Andersonville Rd.)

Teresa Hebert of 5096 Harbor Oaks Dr. said she was glad to see this space occupied but did have concerns with a gas station and traffic.

Andy Zywicki of 3850 Meinrad voiced concerns with noise and stated that Shorty's bar is always playing music on their deck until 2am and when police are called, nothing happens.

Chairperson Ray addressed these questions to the applicant who responded with the following:

The concert hall will be similar to the one that was on Hospital Rd. They ended around 10:30pm and there were no complaints. The outside seating is for dining only and if there was any music, it would be a solo guitarist and it would end by 10:30.

Garbage dumpster enclosures will be required by the site plan.

Gas tank concerns were addressed by **Conner, an employee of Oscar Larson Co.** He stated that the fueling industry is regulated by the State and inspected every two years.

Chairperson Ray made further comments regarding the safety of gas tanks today versus what they were like years ago.

The applicant further addressed concerns made by the public and stated that they want to be "good neighbors".

MOTION AND VOTE

Moved by Kramer

*Supported by Bartolotta: Resolved to approve with conditions the request for special approval in this **Case No. PRSA 22-08-02 (PSP 22-1438) MULTI TENANT COMMERCIAL PROPERTY INCLUDING A COMMERCIAL FUELING FACILITY** based on the following findings and conclusions under the Ordinance review criteria and considerations, which are*

based on assessment of the information and statements presented in this case by or for the Township Staff, Applicant, and members of the public.

Findings:

- A. The proposed use is in accordance with the objectives of the Master Plan and with future land use plans for the area as adopted or maintained by the Planning Commission.
- B.1 The proposed use will be compatible with adjacent uses of land in terms of building and activity location, scope of activity, character, hours of operation, and compliance with the performance standards required under ARTICLE II, Division 2-2.
- B.2 The proposed use will not have an adverse effect on the environment or adjacent properties beyond the normal effects of permitted principal uses in the same zoning district.
- B.3 The proposed use will not result in an impairment, pollution, and/or destruction of air, water, natural resources and/or the public trust therein.
- C. The proposed use is not located in any Special Approval use service areas identified and adopted by the Planning Commission.
- D. The proposed use will not impose an unreasonable burden upon public services and utilities.
- E. The proposed use will be in compliance with the regulations of the Zoning District in which it is proposed to be located.

Conclusions:

- A.1 The proposed use is of such location, size and character as to be compatible with the orderly development of the Zoning District in which it is proposed to be situated.
- A.2 The proposed use will be compatible with the orderly development or use of adjacent zoning lots.
- A.3 Pedestrian circulation will not be hindered by the proposed use.
- A.4 Outdoor operations and display in connection with the proposed use will not burden and/or disrupt uses on adjacent properties.
- A.5 The natural and surrounding environment will not be negatively impacted by the proposed use.
- B. The proposed use will be within the capacity limitations of the existing or proposed public services and facilities which serve its proposed location.
- C. The proposed use will be conducive to fulfilling a gap in the geographic coverage of such services to Township residents.

Conditions:

The conditions of this approval, which have considered the Planning Commission's ability to impose reasonable restrictions to ensure compliance with the performance standards established in the Zoning Ordinance, are as follows:

1. All comments will be addressed to the satisfaction of staff prior to final approval.
2. Staff may coordinate and finalize site plan details.
3. The Planning Commission reserves the right to modify or revoke this special approval following complaints, safety concerns, or site plan violations.

MOTION CARRIED UNANIMOUSLY BY SHOW OF HANDS

(7 - 0)

3. Case No. PSP 22-1419 MEDICAL MARIHUANA PROVISIONING CENTER SUMMIT 327 LLC

Parcel I.D. No. 13-25-200-004; T3N, R9E, SEC 25 PART OF NE 1/4 BEG AT PT DIST N 00-32-10 W 60 FT & W 225.00 FT FROM E 1/4 COR, TH W 150.00 FT, TH N 00-32-10 W 130.00 FT, TH E 150.00 FT, TH S 00-32-10 E 130.00 FT TO BEG 0.45 A W526D

Requesting: Site Plan Review for a Medical Marihuana Provisioning Center in a C-2, Small Business District

Property Location: **NW CORNER OF ELIZABETH LAKE RD & N TELEGRAPH RD**

Property Zoned: C-2, Small Business

Applicant: Summit 327, LLC

Applicant present: Ari Leibovitz

Mr. Polkowski gave a brief history and noted that this is conditional on the applicant's lot split application. He further voiced a few concerns with the application.

Mr. Leibovitz said the he understands that a drive-through is not permitted, and that he would work with staff so that landscaping would not cause an issue.

MOTION AND VOTE

Moved by Frasca

*Supported by Bartolotta: Resolved to **approve with conditions** the request for site plan approval in this case based on the following findings and conclusions under the Ordinance review criteria and considerations, which are based on assessment of the information and statements presented in this case by or for the Township Staff, Applicant, and members of the public.*

Conditions:

1. *A final site plan shall be submitted for review and all department comments from this application and related site plan shall be addressed to the satisfaction of department staff.*
2. *No drive through.*
3. *Landscaping adjustments be made per DPW comments.*

**MOTION CARRIED UNANIMOUSLY BY SHOW OF HANDS
(7 - 0)**

VII. Discussions

Mr. Leibovitz wanted to discuss further the vehicle parking. He described his interest to recoup some of the financial strain caused by the delay in re-building this site due to Covid. He was hoping the Township would work with him for six more months.

Chairperson Ray stated that they had to stand by our own Fire Department and their concerns with this site.

Mr. Polkowski pointed out that what they were proposing is not legal, what was approved previously, was NOT what was used. He further stated that the Township was willing to work with the applicant but we cannot approve what does not meet our code.

VIII. All Else

IX. Adjourn the Meeting

Chairperson Ray adjourned the meeting at 6:03 p.m.

Members of the public will only be able to speak during the public comment period at the end each public comment agenda item and such comments will be limited to three minutes per person. To provide for orderly public participation, a person wishing to speak must first state their name and address then request to be recognized by the Chairperson of the meeting. The Chairperson will recognize all persons wishing to speak during the public comment period. Prior to the meeting, members of the public may contact the members of the Planning Division to provide input or ask questions by email or mail to the Township employee/official and at the addresses listed below. Persons with disabilities in need of accommodations to be able to participate in the meeting should provide at least 24-hour advance notice to the listed Township employee by phone, email, or mail and an attempt will be made to provide reasonable accommodations.

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