

PLANNING COMMISSION MEETING

OCTOBER 7, 2020

Commissioners present: Derek Babcock (Chair), Mike Koshar, Donna Romanak, Joe Wooding, Georgette Peterson

Others present: Brian Knotek (Township Attorney), John O'Connell (Code Enforcer), Ken Detloff (Township Planner), Annie Funke (PC Alternate), Suzanne Klein, Ron Klein, Judy Daniels, Carmelita Beeching, Chris Brando, Roma Thurin, William Steele, Jill Murphy, Brian Alpert, Pam Dorsewitz, John Lanphear, Ted Swanson, Chuck Duncan, Charles Daubert, Johnny Walker

Derek called the meeting to order at 6:00 PM.

The Pledge of Allegiance was recited. Roll call was taken by Georgette-all commissioners present.

Review of minutes of September 2, 2020 meeting.

Mike made a motion, supported by Donna to: Approve the Minutes as Read.

All in favor. Motion carried.

PUBLIC COMMENT

Carmelita Beeching asked about a grow at 34380 CR 215. Derek explained that it is a caregiver grow.

Chuck D said there are two grows being proposed on 48th and he doesn't want either of them. He added that Galenas should be denied based on due diligence of not having done anything for 15 months.

Ron K spoke about the review for the Site Plans on Quality Cannabis and Galenas Michigan. He commented that this is a very attractive area of the township and it is a wetland area. He said that in reviewing the Site Plan, he noted a number of things that weren't considered. He said things were not considered under the EGLE maps and under historical data. He noted that wetlands go approximately 1/3 of the way in. He recommended that before anything is done, if there are any wetlands, EGLE be contacted to perform a delineation study. He said this would give an accurate representation.

Suzanne K read a letter that was written by Judy Daniels:

"Concerning the notice we received of a special land use application and site plan for the property at 47780-48th St. Lawrence.

This was a shock since we have heard nothing from Brian Alpert for 15 months.

Ordinance 2018-01, section 4.E, last sentence states, "A provisional license will lapse and be void if such permits and approval are not diligently pursued to completion". Diligence is not 15 months.

During this time I had given Brian's phone number to several people that were interested in purchasing the property. He wouldn't sell.

I was able to view the site plans.

I have concerns, this area is a WETLAND on the EGLE map. The SESC report identifies the minimum boundaries. We are in dry conditions and the exact limits or boundaries of the wetlands are not known There are now Cattails growing East into the open property. Any property that contains wetlands especially if it is an important part of a water shed should be required to delineate those wetlands. This water flows into the Paw Paw River.

In this request, delineation is necessary by EGLE.

If the request is approved it will mean, from the corner of 48th Ave. and 48th St., for the distance of 1/4 mi., there will be 2 separate Marijuana sites. This will affect all of our property and 2 homes, ours across from Galenas and Quality Cannabis across from our second home, the home we built for our severely mentally Impaired son. We built this home to insure his care and safety. Most of his daily activity is enjoying the country setting learning to propel his wheelchair, being walked by his caregiver in an environment that is enjoyable, not being subjected to the odor of producing or harvesting marijuana. His walk is from his home on 48th St. to 48th Ave and to the river to see the water, turtles, toss rocks and then to see the horses. With both grows having driveways on 48th St. the caregivers will have to deal with traffic from the grow sites and the neighborhood which has grown quickly in the past few years. Walking on the opposite side of the road also will be a safety issue because of the traffic coming from 48th Ave. will not be able to see the wheelchair in a safe amount of time.

We have lived here for 50 years, raised 7 children and worked hard to maintain our homes and properties. This is our life. This affects all of our property lowering the value. It is wrong that these sites are being allowed This will adversely impact the economic well being of the families. We aren't the only family affected. In the 1/4 mi. grow area there are 5 families on 48th St. and 2 families on 48th Ave.

I was told all have to be considered, that is what I am asking for, it isn't just me. It is also 6 other families. Many are being affected.

Please consider what I have said when deciding on what to do with Galenas' request.

Judy Daniel"

NEW BUSINESS

Joe made a motion supported by Donna to:

Close the Public Comment and open the Public Hearing for Quality Cannabis, 47200 48th St.

All in favor. Motion carried.

William Steele commented that he followed all the ordinances and guidelines and the changes he made to the driveway and agreed to put in trees. He said he got the driveway permit, the septic and an EGLE review. Derek asked him when he met with EGLE. Brian K informed Mr. Steele that if the State comes back with something to change, he would have to come back to the PC and notify the Township. He told him if there are any changes, he will have to return. Ken's memo was discussed with Ken's opinion being that he is in compliance. Mike K asked him how many employees he was going to have and William responded that he would have no more than 10 at any given time.

Ron K said that his comments still stand adding there is no indication of where the water will flow and noted that we currently are in a drought so the basic "walk about" does not show the true picture. Brian K. asked Ron if EGLE signs off would he then be satisfied to which Ron responded in the negative saying he would talk to EGLE.

Derek reported that he talked with Mr. Harrelson on Monday to find out what is needed and Mr. Harrelson's advice was a 1st phase walkthrough with EGLE and 2nd, a delineation study. He added that it is the responsibility of the land owner to pay for this. Ron K said there are a number of organizations that are very sensitive to wetlands and as a Township, we are empowered as to what you can require.

Jill Murphy asked what the legal requirement is that says you will have trees and shrubs to which Derek replied it is in our ordinance and is meant to be a visual barrier. He said it is checked yearly. Jill said she did not think due diligence had been done and Derek said that was on another plan.

Carmelita B talked about the Committee that is to be formed and said she would be interested in being on it. She said the growers should be held to every single rule. Derek said the committee will be put together after the new board takes place.

Chris Brando said she thinks a committee will put a little more power back into the Township.

Brian K made a comment in response to Jill M saying that when an owner gets a SUP, it is reviewed annually and if there are violations, the Township can revoke the SUP. He added the State checks as well and they are more stringent. Jill asked if there will be a mechanism to report and Derek noted the complaint form.

Suzanne K told Mr. Steele that she is glad he got EGLE involved. She said before a SUP is approved, the documents should be seen adding that cannabis grows are manufacturing operations not farms and it is a complete change in environment. She said the Township Ordinance requires the usage be in compliance with the Township. Derek said there is nothing saying we can't review every 6 months. Mike asked for a response to the Ordinance and Brian K said it is up to the PC to state why they do or don't recommend and the Board has final say adding that the facts and findings are for review.

Carmelita noted that Suzanne brought up a good point; it is a farming and hunting area. Mike K added that this request is different because it involves 7 different homes.

Ron K said if you look at the Site Plan, water drains from the North and historically there is standing water in the Spring. He asked if there is accommodation for drainage coming from the North and inquired about natural drainage. He asked Mr. Steele if he received a copy of the SESC. Derek said Ken's memo references it. He asked if there will be adequate power to the site. Ken said he follows the data generated by the development and not wet land historically. He said there are 2 site plans with retention and not detention ponds. He said the retention pond is a manifestation of ground water issues and added that the creation of a pond is beyond his capabilities to analyze. He said several plans in the past have not had any drainage.

Derek asked Mr. Steele if he had done a power analysis and the response was no and added the reality is most of the grow is outside. Judy D said she thought it was indoor and Derek said in and out.

Suzanne K asked Mr. Steele if he was going to have someone living on the property and he responded there will be one person there all the time. Suzanne asked how many at times, asking if there will be 4 or 5. Mr. Steele said there may be someone there and that is why there is a fire wall. Derek said the State will say no to a residence. Suzanne said she had asked specific questions and did not get specific answers. She added it is frenetic activity on the property and said they could have 15 or 10 people living on the property because they will do whatever it takes. Derek said we can impose a condition. Brian Alpert asked if it wouldn't be a positive to have people there to which Judy D responded it depends on where. Suzanne said 24/7 security is good.

She then asked Derek to ask Mr. Steele about taking out trees. Mr. Steele said there are no trees there and he had trees on the original plan and that is probably what is referenced on the new site plan. Derek said there should be no trees removed. Mr. Steele said if they do anything wrong, he suggests they come to him first and, if he doesn't fix it, then go to the Board. Jill said she thought it would be safe to say you are going to have 100 plus and how would she know if it was addressed. Derek said it would be sent to him and Brian said he would like to see it be part of the report to the Board. He said the Supervisor should report these at the Board Meeting. Ron said there were a number of complaints that have been filed and asked about a time frame. Annie said the State requires 24/7 security and Derek said the State does not require it and it is up to the individual.

Mr. Steele said he is going to follow the guidelines. Judy said she thought that he and Brian Alpert were going to use the house together. Mr. Steele said they haven't decided. Suzanne said that Mr. Steele had told a resident that the Township needs to be more afraid of him than the resident. At which time, Eric Starck, legal counsel for Quality Cannabis said we are only here for site plan approval; most comments are

about use; we are here about the site plan. Georgette remarked that we do not approve, we only make a recommendation to the Board.

Pam D asked if the road and drain commission has done a study. Derek said it is part of the requirements. Pam asked if it has been received. Derek said, not yet – it is applied for. Pam asked if the drain commission approved and Derek said the drain commission had him move his retention pond. Brian K said every recommendation is contingent on the criteria. Pam asked Derek if he received them and he said not yet but before he gets a building permit, he will have those. Pam said she thinks that should come first. Jill said she would not be comfortable recommending with proof. Derek said we looked at the drain and soil last month but don't have EGLE. Suzanne said that requires that the owners do things diligently so why not just wait to have that information before the recommendation.

Georgette read a letter from Ruth Cowles:

"I am a resident of Arlington Township and live 2 miles from the proposed marijuana site on 48th Street and 48th Avenue. Because I am unable to be at the meeting tonight, I would like you to consider my input. First, I spoke with a life-long resident of Colorado to get their take on what has happened to their state as Colorado was one of the first states to legalize marijuana. In their words, **"Traffic is now nuts with drivers driving under the influence of marijuana. Traffic accidents have greatly increased due to marijuana usage. There are certain areas that when we drive through we have to close our windows and vents in our vehicles as the odor really stinks. All over we see people that are high on marijuana."** They are saddened and disgusted at what it had done to their state.

Second, this same stench is now in our township. Our daughter now drives to work every day from Bangor to the Lawrence School. Every day she noticed the horrid smell in the air but didn't know what it was, thinking perhaps a skunk had died and the smell kept lingering day after day, or other skunks had done so again. She finally realized that the horrible odor was coming from a marijuana field. She said the smell is absolutely disgusting and feels badly for the people that have to live with that smell.

Please do not allow this land to be used for marijuana. We live in the country because we love the serenity of it and no air pollution. We spend a lot of time outdoors in our back yard. Also, East Arlington Baptist Church is on 48th Street and has a lot of outdoor events for the church and community on their ballfield (picnics, ball games, fireworks, etc.) Allowing marijuana would definitely spoil this for all of them. I am sure that you board members would not want to have a marijuana field growing next to you. Please give us that same consideration. Thank you.

Respectfully submitted,
Ruth Cowles"

Carmelita asked the PC to please mention their concerns with the recommendations to the Board. She said has empathy for Mr. Steele and they are saying the same thing we said last year. Please emphasize to the Board how the residents are not happy. She said you can't fight big money and Mr. Steele knows we didn't want it here and that hasn't changed.

Judy D said her question is how long was it from the time Mr. Steele was told to move his driveway to his coming back with a Site Plan? Derek said he wasn't sure. Brian K said the decision related to the due diligence issue hasn't gotten back to the Board. He said at the last meeting, there was a 3 to 2 vote that Mr. Steele acted diligently. John Lanphear said he concurred with Judy and Mr. Steele is a great guy and he respects him. He said he lives on 48th Avenue next to the Duncans. He added that his house has been in his family over 100 years and he is renovating and whenever they look out the East window, they will see the green fencing. He said that his wife and daughters walk and that it is going to change the whole dynamic of the area and there are plenty of other places to go. He said to put grows somewhere that's not a close-knit community. He said this is not the way they want to go.

Brian Alpert asked if hemp is legal and was told it was. He said then I can grow hemp.

Ted Swanson said he wanted to remind the PC that according to the ordinance, we serve the people and are a conduit to the community.

Pam D said no one has anything against Mr. Steele and added the residents have to come before any outside entity. This is a farming community and the PC and the Board are passing over the residents feelings, welfare and wishes. She said she has nothing against Mr. Steele but money is not everything and the job of the PC and Board is to represent the residents of the township.

Ken said he understood the feelings of the residents but if all residents had their say, there would never be a mobile home park or winery or other things. He added the PC and the Board have to temper the requests of the public in terms of what can be done legally. He said his advice, rural character would not include a hog farm, chickens etc because they are AG. The PC has a legal obligation to stay within the confines of the law. Will Peterson said their first duty is to the people. Ken said "No". Will said then they don't belong here. Jill asked if they, as public have the ability to see where the money is going.

Ron K said to Mr. Detloff that the regulations are specific. He said farmers have a right to MEAP programs and from experience, they have had historic data. He added the marijuana grow next to them had a lot of mistakes that are trying to be remedied. He said he takes issue with out planner and when this thing rolled in, the people were ignorant, a lot of money is coming in and in his personal opinion, the people who were hurt the worst were he and his wife. He said the ordinance should be taken very seriously Derek said comments should be kept to the site plan approval of Quality Cannabis.

John L asked if there are any provisions to put something up from his West. He asked if they can have trees. Mike K asked Mr. Steele about trees and he responded that he doesn't want that as a condition.

Motion made by Joe, with support from Donna to

Close the Public hearing for Quality Cannabis and open the Public hearing for Galenas Michigan LLC.

All in favor. Motion carried.

Galenas Michigan LLC, 47780 48th St.

Brian Alpert said if he is given a chance to be a great neighbor, he will do so. He said this is not a manufacturing type environment; there is no processing. He added that he has seen other places with razor or barbed wire on top and he won't do that. He said he is going to use about 3.57 acres, not 6 and he now wants 3 licenses, not 6. He said he is going to live on the site and added that he would like to be called first if there is a problem. He said he welcomed Ron K on his property and added that we can research Galenas.com which is certified in Ohio and that they would not accept any damage to property. He said he would consider moving in the future if it doesn't work out. He said he believes the delineation is necessary and asked if that will tell us where we should go. Ron K said it will tell you where the wetlands are. He said there was a comment about a neighbor with a son with asthma and his research is there is a bronchodilator in marijuana. Regarding due diligence, Brian A said a neighbor thinks it would be better in another part of town, then Covid hit and no construction was happening. He said his State approval had to be redone and he talked with members of the Township and never felt a sense of urgency. He said there are some black walnut trees on the property which are a danger to nematodes, but he won't remove them if the Township says not to. He said he will surround his entire property with trees and shrubs that his neighbors want.

Carmelita B asked him if both his and Mr. Steele's sites get approved, what kind of lighting would there be and the answer was no lights. Suzanne asked how Covid affected plans for the property and Brian A said there were issues that caused a domino effect. He added that Galenas had 6 greenhouses in Camden which took time so he couldn't move fast enough.

Suzanne asked if he had gotten clearance from EGLE and that delineation should be done. Suzanne the first time he spoke with EGLE was yesterday and Brian A said that he was not aware that he needed to. Ted S. said the people don't want it and it is a density issue. He added that he thinks 1 is enough. He said the Township has the tools and due diligence is due diligence regardless of Covid. He said when he heard that certain people from the Board reach out to people to nudge them, that is not being impartial.

Brian A said 2 grows benefit the Township because it means less people have to be hired. Mike K said he agrees that having 2 is better but not in this situation with 7 houses involved.

Chuck D commented on due diligence and said he just got his letter 1 week ago and this was started 15 months ago.

Suzanne K commented that sharing people would mean they would have to travel on the road and the response was wherever they start out in the morning would be where they stay all day. Mike K asked if harvesting wasn't done at the same time. Suzanne K said Covid is being used as an excuse and said that it was the company working in another State. Brian A said this is Galenas Michigan LLC. Ron K asked when he received his provisional permit and the response was July 11, 2019. Ron said that is not due diligence.

Brian Knotek said in the old ordinance there is no end date but there is in the new ordinance. He said the Board will decide when he received the Provisional license and whether he pursued it.

Brian Alpert said he was in contact with members of the Board and did not perceive any urgency. Georgette asked him if he had talked to the Planning Commission members and he responded by pointing out Derek B and John O as the people he had talked to.

Mike K asked him why we would approve him is going to sell after he has taken the farm land out of it. Brian A said he thought that if a really honest chance was given to him that he didn't think anyone would have a problem with it after the first year.

Judy Daniels said that she had talked with Brian A earlier that evening and she wanted to talk about the odor and added that she had talked to the doctor. She added that she lives on the East side and the odors will come into her house as well as her son's house. She said that "stink" will come into her home and she will lose her caregivers and asked if her vent was enough to keep the odor out of her house. Brian A said it might help her son's breathing.

John L said, of all the places in Michigan, he didn't think either of these men had any idea what they were getting into. He added that they are proud of their community and they picked the worst place. He said they picked a fight and he is praying that God will open something up. Mike K said all they had to do was look at the aerial map and added that they were misled about buying there. John L said that he will move.

Annie F said there are others that have as many homes and said remember we have the moratorium so there are no new grow sites. She added that with the problems with Dragonfly, we just didn't request what we do now.

Brian A said his goal is that none of the people will be unhappy.

Suzanne K said the Township could refund the application fee and he could go to another township.

Mike asked him what type of trees he would plant and Brian A said whatever the Board wants. Derek said we typically recommend pine trees.

John L said he would love to be friends with these men but we don't want marijuana here. He added that he believes that Brian A will do what he says. Brian responded by saying that John had said the neighbors don't want to deal with the issues and there are no issues yet.

Motion by Joe with support from Donna to:

Close the Public hearing for Galenas Michigan. All in favor.

Motion carried.

Mike made a motion with support from Joe to open the Public hearing for Left Coast Ag, LLC 48233 28th Ave. All in favor. Motion carried.

LEFT COAST

Charles Daubert said he wants greenhouses and there will be interior lights inside the barn to keep the genetics growing in the winter. Derek noted that on the Plan, they took out the smaller hoop houses and replaced them with 2 bigger ones. During the 1st Phase, lighting will be blacked out. Suzanne K asked if there are wetlands. Johnny Walker introduced himself saying he is representing Charles and he ensured the Site Plan meets the Ordinance and any added requests from the State. He said at this time, all recommendations from Ken are done and roads were added for the fire department. He said the intent is

to comply with the Township rules. Derek said EGLE was requested to walk the property which was a blueberry field. Suzanne asked to have her question about wetlands answered. The response was based on current records, there are no issues. Suzanne asked if they understood that maps off EGLE are not definitive.

Georgette asked how many licenses were being applied for. Charles responded with 1 C license.

Ted asked about all the other grows on 28th St. saying that is loaded up there are people who are not happy with it. Annie commented that they are almost down to Scott Lake on 28th and not close to the others. She added that 8 Public notices went out and that she sent out a notice for each person.

Mike asked if the driveway permit had been applied for; with the response being that they spoke with the Road Commission. Derek said they presented the Site Plan 1 month ago and then Ken reviewed it and they produced another Site Plan and submitted it yesterday. Suzanne asked if she was correct that Mr. Detloff had not submitted a new memo. Derek asked Ken if that was correct. Ken said he would draft a new Memo.

Mike K asked if there is a retention pond and the response was in the affirmative. Mike asked about the Drain Commission and John O said he had a copy.

Donna asked how many employees and Charles said it was going to be 4 and him but with the new Plan it will be 3 plus him and he might have to bring in seasonal workers. He said it will be a larger harvest due to the larger buildings.

Derek asked him if he intended to get more licenses in the future and Charles said he will see how much energy is left.

It was explained that there are 4 phases and the 1st is the greenhouse and with each phase, there may be more people. Mike said there may not be any more licenses. Johnny said Charles is getting a Class C but is not growing all he can under that license.

Motion by Joe with support from Mike to close the Public hearing for Left Coast. All in favor.

Motion carried.

FINDINGS AND FACTS FOR QUALITY CANNABIS

Derek reminded that this is solely on the Site plan. Brian said the dimensions are in compliance. Ken said there is security fencing.

Motion by Georgette with support from Donna that:

The dimensional requirements have been satisfied. All in favor. Motion carried.

Brian said the board sent the first recommendation back to the PC for further review of the Site plan re: woodlands, wetlands, etc. He said if Mr. Steele extends into any of those areas it would be in violation. He added that we asked him to move the driveway and he did that. He said this is the first time the new ordinance comes into play.

Article V of the zoning ordinance was reviewed. All found to be in compliance.

Georgette made a motion with support from Mike to add the same trees on the West side of the property. All in favor. Motion carried.

All the criteria for the Ordinance have been met including visual and sound barriers, fencing, heavy machinery only during construction, drainage, off street parking, outside storage properly screened, adequate services and utilities.

Mike asked what is missing and Derek said the commercial driveway permit and the EGLE report. Brian K said making it contingent is the same. Georgette asked if all was in the file and Derek replied yes and before occupancy is allowed, they have to have all in the file. Derek said he would like to add a recommendation of doing a 6-month review. Joe W said he can't do anything unless all things are completed. Derek said he wants to cover all bases.

Georgette made a motion with support from Donna to:

Do a 6-month review of the documentation. All in favor. Motion carried.

Joe made a motion with support from Donna to:

Recommend approval of the Site Plan to the Township Board with all the usual conditions and the same trees being planted on the West side as on the others and review of the documentation in 6 months. All in favor. Motion carried.

FINDING AND FACTS FOR GALENAS MICHIGAN LLC

Mike made a motion with support from Donna that the dimension criteria has been satisfied. All in favor. Motion carried.

All the criteria was reviewed. Ken's Memo said the use is compatible with future adjacent property use and zoning. The property is close to residents; Derek said there are setbacks. Georgette said it impacts social and traffic.

Motion by Georgette, with support from Mike that:

This criterion has not been satisfied based on the social impact of adjacent properties.

No votes: Joe, Donna Yes votes: Mike, Derek, Georgette

Motion carried.

Discussion about long term compatibility with surrounding land uses. Derek said it is AG.
Discussion about traffic.

Georgette made a motion with support from Mike that:

This criterion has not been met because there is increased traffic.

No votes: Joe, Donna, Derek Yes votes: Mike, Georgette Motion failed.

The remainder of the criteria was discussed.

Motion by Georgette with support from Mike to:

Recommend denial due to due diligence and the social and economic impact criterion not having been met.

Mike withdrew his support. Georgette withdrew her motion.

Motion by Georgette with support from Mike to:

Recommend denial due to the social and economic impact criterion not having been met.

No votes: Joe, Donna Yes votes: Mike, Derek, Georgette Motion carried.

Motion by Georgette with support from Mike to:

Recommend denial based on due diligence not having been met.

No votes: Joe, Donna, Derek Yes votes: Mike, Georgette Motion failed.

Motion made by Donna with support from Mike to:

Recommend approval of the Site plan with the conditions as noted in the ordinance and the addition of a 6-month review of documentation.

All in favor. Motion carried.

FINDINGS AND FACTS FOR LEFT COAST

All criteria were reviewed per the Ordinance.

Motion by Mike with support from Donna that:

All dimensional requirements have been met. All in support. Motion carried.

Motion by Joe with support from Donna to:

Recommend to the Board approval of the SUP with the usual conditions and a 6 month review of the documentation.

All in favor. Motion carried.

Motion by Donna with support from Georgette to recommend approval of the Site plan subject to Ken's final review.

All in favor. Motion carried.

Public Comment

Chuck D said he wanted to talk about due diligence and asked if there is a definition. Brian explained that the old Ordinance did not have one. Chuck asked who would write such a generic rule. Chuck said "Our Township voted no on recreational marijuana".

A letter from Reverend Glen Cowles

October 7, 2020

Arlington Township Board and Community Members,

I am writing this letter to express my concern in allowing recreational marijuana into our township. I believe there are many reasons why this would be an unwise decision.

Number One: As a pastor I have witnessed the affects recreational use of marijuana has on the family. I have had couples who are going through financial and emotional distress because of dependence on marijuana. Those issues involve things like financial problems, lack of job opportunities cause by not being able to pass drug test, marital problems, etc.

Number Two: The recent primary vote clearly and indisputably shows where Arlington Township stands on this issue. To ignore the will of the people is inexcusable.

Number Three: Property values around marijuana fields that smell like skunk will decrease. I'm sure you board members would not want that smell in your back yards.

Number Four: We know that crime increases in communities where this has been allowed.

I know we will hear all kinds of arguments concerning the value of medical marijuana, this is not about medical marijuana, it is about recreational marijuana.

My appeal to you board members is to please listen to the people you were elected to represent not the growers of marijuana!

Praying for a wise outcome!

Rev. Glen Cowles

Respectfully submitted,

Georgette Peterson