

**ROSE TOWNSHIP PLANNING COMMISSION
REGULAR MEETING**

**AGENDA
September 2, 2021**

1. **Call the meeting to order**
2. **Roll Call:** Stanczyk, Holton, Brooks, Bolan, Noble, Jung, Lynn
3. **Approval of Agenda**
4. **Minutes: Additions, corrections and/or approval**
 - A. Regular Meeting February 4, 2021
5. **Public comments on agenda items (excluding Public Hearing)**
6. **Communications**
7. **Committee Reports**
8. **Public Hearings (Notification as required by State law)**
9. **New Business**
 - A. Introduction Jim Holton newest Planning Commission member
 - B. Caregiver Ordinance
10. **Unfinished Business**
11. **Tabled Items**
12. **Discussion Items**
 - Announcements**
 - A. Rose Township Board report-Glen Noble
 - B. Comments by Township Planner.
 - C. Next Regular Planning Commission Meeting October 7, 2021, 7:00 PM Rose Twp. Offices, 9080 Mason Street, Holly, Michigan (tentative).
 - D. Next Regular N.O.C.F.A. Meeting, September 21, 2021, 3:00 PM Holly Township.
 - E. Next Regular Township Board Meeting September 8, 2021, 7:00 PM
 - F. Zoning Board of Appeals, September 7, 2021, 7:00 PM, Rose Township Hall. (tentative)
14. **Open the meeting to the public**
15. **Adjournment** A. Motion _____ B. Time _____ PM

**ROSE TOWNSHIP PLANNING MEETING
REGULAR MEETING
February 4, 2021**

DATE: Thursday, February 4, 2021
TIME: 7:00 p.m.
PLACE: Virtual – gotomeeting.com

PRESENT: Michael Brooks, Chair Mark Bolan Glen Noble, Trustee
 Theresa Lynn, Co-Chair Maura Jung (Caller 04)
 Darlene Stanczyk (Caller 03) Jacob Maurer

OTHER(S) PRESENT AND GUESTS VIRTUALLY SIGNED IN:

Brian Borden (Township Planner) Dave Plewes (Zoning Administrator)
Debbie Miller (Township Clerk) Renee Kraft (Recording Secretary)
Supervisor Dianne Scheib-Snider (Gotomeeting.com administrator)
Julius Stern (Caller 02) Linda Dagenhardt
Linda Watson-Call

1. CALL TO ORDER:

Chairman Brooks called a regular meeting of the Rose Township Planning Commission to order at 7:01 p.m. as a virtual meeting.

2. ROLL CALL:

Board Members Present: Bolan, Jung, Lynn, Maurer, Noble, Stanczyk, Brooks
Board Members Absent: None

3. APPROVAL OF AGENDA:

Motion by Jung to approve the agenda as submitted. Seconded by Bolan.

VOTE: **YES:** Jung, Lynn, Maurer, Noble, Stanczyk, Bolan, Brooks
 NO: None

4. APPROVAL OF MINUTES:

Motion by Lynn to approve the minutes as submitted. Seconded by Bolan.

VOTE: **YES:** Lynn, Maurer, Noble, Stanczyk, Bolan, Jung, Brooks
 NO: None

5. BRIEF PUBLIC COMMENTS – AGENDA ITEMS ONLY: (limit comments to 3 minutes)

None

6. COMMUNICATIONS:

A. Glen Noble Memorandum and maps

Mr. Plewes did not receive any comments beyond Mr. Noble's Memorandum.

7. COMMITTEE REPORTS:

None

8. PUBLIC HEARINGS: (Notification as required by State law)

None

9. NEW BUSINESS:

None

10. Unfinished Business:

A) Rose Center/Hickory Ridge Commercial standards discussion

1) Master Plan & 2) Zoning Ordinance

Mr. Plewes states Master Plan is not a realistic future Master Plan as a development area. Suggests looking only at the commercial district at this time, since the whole Master Plan will be looked at in 1.5 to 2 years.

Mr. Borden doesn't think there is a problem with built-in discretion.

Mr. Brooks would like to see what the citizens would like.

Mr. Noble prepared the memo with overview of the area. Discrepancy in map in portion of land zoned C-2 or 1-a. Michigan State Police cell tower is zoned agricultural but actual land use is utility communication. Suggests conformity between four maps. The appendix in the Master Plan was misplaced and the concept of that intersection is inappropriate and needs to be reviewed and replaced. The whole intersection is zoned C-2 which means 15' setbacks. But information submitted shows C-1.

Mr. Maurer appreciates Mr. Noble's memo. Agrees Commission should close loopholes. An argument could be made on pedestrian connectivity. Suggests making provisions for right-of-way easements and sidewalk setbacks.

Ms. Lynn appreciates having discretion with last application. Questions if Planning Commission has a say on easements rather than OCRC (Oakland County Road Commission).

Mr. Plewes responds stating 66' for Road Commission then Planning Commission beyond that.

Mr. Borden states there is room beyond right-of-way for sidewalks.

Mr. Noble comments there is a buried cable in the road right-of-way and we need to call OCRC.

Ms. Lynn also suggests we require applicants put in their portion of sidewalk.

Mr. Bolan states sidewalks should be in Master Plan. Questions if all parcels are buildable? Questions where water runoff would go.

Mr. Plewes states retention/detention ponds would be required.

Mrs. Stanczyk agrees with what has been brought up.

Ms. Jung compared Master Plan to ordinance related items for C-2 (and C-1). Only a few areas not compatible; sidewalks, 40% glazing, rear of building, bike paths, type of architecture. States we can wait the 1.5 to 2 years to revamp the Master Plan. But concerned the vision is not realistic due to conflicts with density.

Mr. Brooks agrees there is nothing "glaring" that needs attention before the next Master Plan review. Future land use and zoning map should be codified.

Mr. Borden states referenced maps should not match identically, since they are all meant for different uses.

11. Tabled Items:

None

12: Discussion Items:

None

13. Announcements:

A. Rose Township Board Report-Glen Noble: Mr. Noble will report discussion to Rose Township Board to financially plan for this in the next few years.

B. Comments by Township Planner-Brian Borden: None

C. Next Regular Planning Commission Meeting: March 4, 2021, 7:00pm (tentative)

D. Next Regular N.O.C.F.A. Meeting: February 16, 2021, 3:00pm at Rose Twp. offices

E. Next Regular Township Board Meeting: February 10, 2021, 7:00pm (virtually)

F. Zoning Board of Appeals: March 2, 2021, 7:00pm, Rose Township Hall (tentative)

14. Open the Meeting to the Public:

Julius Stern – Compliments Mr. Noble on his detailed work. Disagrees with lax ordinance that can be unfirm and open for litigation. Disagrees with planners that they can't use setbacks to provide right-of-way. Believes OCRC will put a round-about at Rose Center and Hickory Ridge and he does not want one. His opinion is that the process for ordinance should be to look at other municipalities with ordinance success.

15. Adjournment: 8:06pm

Motion to adjourn by Lynn. Seconded by Stanczyk. All say aye. Meeting adjourned at 8:06 p.m.

Approved/Corrected

Debbie Miller, MMC, MiPMC
Rose Township Clerk

Sec. 38-403. - Home occupation.

(a) It is the intent of this section to allow for and regulate the establishment of home occupations that are compatible with the neighborhood in which they are located and which will preserve the peace, quiet, and domestic tranquility within all residential districts in the township. Home occupations shall be permitted subject to the following conditions:

- 1) No more than 20 percent of the usable floor area of the principal and accessory buildings shall be dedicated to the occupation.
- 2) There shall be no significant traffic volume increase associated with the occupation.
- 3) No storage of materials, goods, supplies or equipment related to the occupation shall be visible from the outside of any structure located on the premises or adjacent premises.
- 4) There shall be no change in the outside appearance of the building or premises, no structural alterations, or visible evidence of the conduct of such occupation.
- 5) No equipment or process shall be used in such occupation, which creates noise, vibration, glare, fumes, toxic/hazardous substances, odors, or electrical interference. No equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises.
- 6) No more than two clients or customers shall visit the premises at any one time.
- 7) Any need for parking shall be met off the street and in other than the front yard.
- 8) There shall be no exterior advertising.
- 9) These regulations shall not apply to farms or other nonresidential uses allowed in the district.

(b) Medical marihuana home occupation regulations.

- 1) Intent. It is the intent of this section to give effect to the intent of the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq. (hereinafter "Act") as approved by the electors and not to determine and establish an altered policy with regard to marihuana. These provisions are designed to recognize the fundamental intent of the Act to allow the creation and maintenance of a private and confidential patient-caregiver relationship to facilitate the statutory authorization for the limited cultivation, storage, distribution and use of marihuana for medical purposes; and to regulate this fundamental intent in a manner that does not conflict with the Act so as to address issues that would otherwise expose Rose Township and its residents to significant adverse conditions.

In consideration of this concern, local regulations enumerated below generally provide that: the primary caregiver must reside in the dwelling where his/her medical marihuana is cultivated and/or stored; medical marihuana primary caregiver activity only occur within a single-family dwelling except as otherwise set forth herein; and, the distribution and use of medical marihuana occur on the lot, parcel, or site condominium unit occupied by the qualifying patient.

Nothing in this section shall be construed as allowing persons to engage in conduct that endangers other or causes a public nuisance, or to allow the use, cultivation, growth, possession or control of marihuana not in strict accordance with the express authorizations of the Act and these regulations; and nothing in this section shall be construed to undermine or provide immunity from federal and state law as it may be enforced by the federal or state government relative to the cultivation, storage, distribution or use of marihuana.

2) *Definitions.* The following definitions shall apply for the purposes of this section:

Collective ingestion facility means a facility that allows multiple qualifying patients to consume or ingest medical marihuana upon the premises. This term does not encompass the consumption or ingestion of medical marihuana by a qualifying patient at his/her residence or at a hospital or hospice at which the qualifying patient is receiving care.

Dispensary means any operation where marihuana is distributed to a qualifying patient by someone other than his/her designated primary caregiver.

Enclosed locked facility means a closet, room, or other comparable, stationary, and fully enclosed area contained within the primary residence accessible only from its interior by means of passage through a doorway equipped with secured locks or other security devices which permits access only by a registered primary caregiver or qualifying patient. The growing of marihuana plants outdoors is expressly prohibited.

Marihuana means the substance defined as such in Section 7106 of the Public Health Code, 1076 PA 368, MCL 333.7106.

Michigan Medical Marihuana Act or Act means the Michigan Initiated Law 1 of 2008, MCL 333.26421, et seq.

Primary caregiver means a primary caregiver as defined under MCL 333.26423(h) of the Act, and who has been issued and possesses a registry identification card under the Act.

Qualifying patient means a qualifying patient as defined under MCL 333.26423(i) of the Act, and who has been issued by the State of Michigan to identify a person as a registered qualifying patient or registered primary caregiver.

Registry identification card means the document defined as such under MCL 333.26423(j) of the Act and which is issued by the State of Michigan to identify a person as a registered qualifying patient or registered primary caregiver.

3) *Remainder of article; effect of permit approval.* In recognition of the unique nature of the medical marihuana home occupation provided for hereunder, the conditions and requirements set forth in paragraph (a) above for home occupations shall not be applicable to medical marihuana home occupations. In addition, the issues of a medical marihuana home occupation permit hereunder shall relieve the applicant from any obligation of site plan review or a land use permit for the activity authorized thereunder.

4) *Regulations.*

1) Medical marihuana home occupation permit requirement.

- a. The cultivation, storage and/or distribution of marihuana by a primary caregiver conducted in accordance with the Act shall be allowed as a permitted use in the AG/RP agricultural and rural preserve district subject to the terms and conditions set forth in this section. Except as set forth in subsection (e) below, no such cultivation, storage and/or distribution shall be lawful in Rose Township unless and until the location of the premises in which such primary caregiver activity is conducted has received a medical marihuana home occupation permit under this section.
- b. The requirement of this section is to require a permit for a location and not to license persons. A confidential application for a medical marihuana home occupation permit on a form approved by the Township Board shall be submitted to the Zoning Administrator. An application shall:
1. Not require the name, home address or date of birth of a qualifying patient.
 2. Include the name of the primary caregiver (or medical marihuana home occupation permit holder, if different), and the address of the premises (lot, parcel, or site condominium unit).
 3. Describe the enclosed locked facility in which any and all cultivation of marihuana is proposed to occur or where marihuana will be stored, with such description including the location of the facility in the building.
 4. For safety and other code inspection purposes, describe and provide detailed specifications of equipment proposed to be used to facilitate the cultivation and harvesting of marihuana plants including, but not limited to, lighting, HVAC, electrical service, and plumbing.
 5. Include a description of the odor mitigation systems and a ventilation plan that provides for adequate ventilation so as to prevent pesticides, insecticides or other chemicals used in the cultivation of marihuana from being dispersed or released outside of the building.
 6. Include an operations plan that addresses water use, wastewater, and the disposal of waste, as well as a description of type, quantity, location and method of containment for any herbicides, pesticides, or fertilizers that will be used for growing, cultivating, and harvesting marihuana.
 7. Contain such other information as the Township Board determines is needed for the administration of this section or to ascertain satisfaction of the standards for the granting of a permit hereunder.
- c. No application for a permit hereunder shall be approved without payment of a non-refundable application fee to help defer a portion of the cost of administering and enforcing this section. The application fee shall be set by resolution of the Township Board and may be adjusted from time to time thereafter as the Township Board deems appropriate.
- d. It is the intent of this section that the information acquired through the permitting procedure prescribed herein shall be accessible to the Zoning Administrator, Michigan Construction Code, fire code enforcement officials, and law enforcement officials and

their support personnel, in the performance of their duties and shall otherwise remain confidential and not subject to public disclosure except as otherwise required by law.

2. Requirements and standards for approval of permit and for the activity permitted.

a. There shall be not more than one primary caregiver operating upon the lot, parcel, or site condominium unit for which a permit is requested. The primary caregiver shall reside within the dwelling located upon the lot, parcel, or site condominium unit for which a permit is requested. A primary caregiver may assist not more than five qualifying patients with their medical use of marihuana.

b. The lot, parcel, or site condominium unit for which a permit is requested shall not be located:

1. Within 1,000 feet of a public or private elementary or secondary school, public or private preschool or licensed daycare facility.

2. Within 300 feet of public park or public recreational area.

3. Within 500 feet of another lot, parcel, or site condominium unit for which a medical marihuana home occupation permit has been issued pursuant to this section.

Measurements for purposes of this subsection shall be made from the parcel or lot line, or site condominium unit boundary, to the public park, public recreational area, or a lot, parcel or site condominium unit which previously received a medical marihuana home occupation permit.

c. Subject to the exceptions set forth in subsection (f) below, the medical marihuana primary caregiver activity shall occur only within a single-family dwelling. The primary caregiver activity shall at all times be subordinate and incidental to the use of the dwelling as a residence.

d. The primary caregiver shall be allowed to cultivate not more than 12 marihuana plants for each of his/her qualifying patients. All marihuana and marihuana plants shall be contained inside the main residential structure except when being delivered by the primary caregiver to a qualifying patient off-site.

e. That portion of the single-family dwelling unit used for the growing, processing, or storage of medical marihuana shall not exceed a gross floor area of 150 square feet.

f. All medical marihuana must be kept in an enclosed locked facility to which only the registered patient and/or primary caregiver have access.

g. The primary caregiver shall not distribute or allow the use of marihuana by the qualifying patients he/she is designated to serve upon the lot, parcel, or site condominium unit for which a permit is issued hereunder unless the qualifying patient resides therein.

h. The distribution of ancillary products by the primary caregiver shall be permitted, subject to any Township business licensing requirements, if any.

i. If a residential room with windows is utilized as a marihuana growing location, any lighting methods that exceed usual residential use between the hours of 10:00 p.m. and 6:00 a.m. shall

employ shielding methods to prevent ambient light spillage that causes or creates a distraction or nuisance to any adjacent residential properties.

- j. No equipment or process shall be used in growing, processing, or handling marihuana which creates additional noise, vibration, glare, light, fumes, odors or electrical interference detectable to the normal senses at or beyond the property line of the property. In case of electrical interference, no equipment or process shall be used which creates visual or audible interference with any radio, television, broadband, or similar receiver off the premises or cause fluctuation in line voltage off the premises.
- k. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of a premises in which electrical wiring, lighting and/or watering devices are located, installed or modified that support the cultivation or harvesting of marihuana. Prior to a permit issued hereunder taking effect and the commencement of primary caregiver activities, the premises shall be inspected for compliance with applicable provisions of the Michigan Construction Code and the Michigan Fire Code. The premises shall be inspected annually thereafter for continued compliance with all applicable Zoning Ordinance and construction code and fire code requirements.
- l. There shall be no sign identifying the premises as a site at which medical marihuana is cultivated, harvested or distributed.
- m. The primary caregiver activities conducted on the premises for which a medical marihuana home occupation permit is granted hereunder shall be in conformance with the application approved hereunder, the Act, and the administrative rules promulgated pursuant to the Act.
- n. Nothing in this section shall be deemed to allow dispensaries or collective ingestion facilities, which are hereby strictly prohibited.
- e. *Disclaimer of immunity.* Nothing in this section shall be construed as allowing the use, cultivation, distribution or possession of marihuana not in strict compliance with the express provisions of the Act and the provisions of this section. Further, nothing in this section shall be construed to undermine or provide immunity from federal or state law as it may be enforced by the federal or state government relative to the use, cultivation, distribution or possession of marihuana or to prevent prosecution thereunder.
- f. *Exceptions.* This section shall not be deemed to prohibit or restrict or require a permit for the following:

 - 1) The cultivation, storage and/or use of marihuana by a qualifying patient solely for his/her personal use at his/her residence or at a hospital or hospice at which he/she is received care and in accordance with the provisions of the Act and the administrative rules adopted thereunder.
 - 2) The cultivation, storage and/or distribution of marihuana in accordance with the Act by a primary caregiver solely to provide services to not more than one qualifying patient who is a member of the primary caregiver's household and whose residence is shared with the primary caregiver.
 - 3) The provision of assistance to a qualifying patient by his/her designated primary caregiver relating to medical marihuana use, including distribution or other assistance, in accordance with

the Act and the administrative rules adopted thereunder, at the residence of the qualifying patient or at a hospital or hospice at which the qualifying patient is receiving care.

g. *Enforcement.* Any violation of this section shall be considered a civil infraction.