

Vassar Township Planning Commission June 3rd, 2021 Special Meeting Minutes

Meeting called to order at 6:00 PM by Chairman Foether and pledge followed.

Roll call was conducted:

Troy Eurich (Co-Chair) – Present
Sam Tester – Present
Orville Hartung – Present
Ben Partridge – Present
Shaun McDonnell – Present
Devin Foether (Chair & Acting Secretary) – Present
Nicole Tenney – Absent

Prior to opening Public Hearing for Star Budz Provisioning Center LLC, Chair D. Foether explained how 300' notices were determined. He indicated that some people may have received notice for this meeting that had not received it for the previous applicant at the impacted property. D. Foether explained that this application is a transfer of operations and that the application included an affidavit that said the previous applicant would cease to exist upon approval of Star Budz Provisioning Center LLC application.

Chair D. Foether opened the public hearing for Star Budz LLC MMFLA & MRTMA Special Land Use Permit at 6:03 PM. No member of the public signed on to the roll for comment. One member of the public asked where the business would be. Chair D. Foether indicated that the provisioning center would be in the building that was previously occupied by Cassidy's Casuals, a.k.a. the log cabin on State Rd.

Public hearing portion for Star Budz LLC was closed at 6:03 PM.

Chair D. Foether indicated that the Commission would work through Star Budz Provisioning Center LLC's MMFLA application first as the Township ordinances require a MMFLA special land use permit before a MRMTA permit can be approved. Chair opened the floor to discussion.

Hartung asked if this was a second application of the site. Chair D. Foether explained that this was a new application for a new owner.

Eurich pointed out that the Articles of Incorporation had a different name than the application was applying under, as well as the Employer Tax ID paperwork. Representative for the applicant indicated that the records were updated. Representative approached Commission and demonstrated that the documents actually showed the previous name and then had the new name further down the document.

Partridge asked about the date the changes were made. Representative indicated that they were submitted in December of last year.

Partridge indicated that the driver's license that was in the documentation was expired. Representative said the applicant will happily supply an updated copy. Applicant was willing to make copy then. D. Foether said if they wished to stay until the conclusion of the meeting, they could follow Chair D. Foether back to the Township Hall to make the copy for the official record.

Partridge indicated that the zoning permits for the signage were left blank. Representative said they had updated that with Amy, the interim zoning administrator.

Partridge site plan talks about loading being done inside, but site has an indicated loading area. Questioned the ability to access the area based on parking lot layout. Representative and applicant attempted to answer the question, but were confused on exact details of question. Chair D. Foether attempted to fill in the blanks by indicating that the current layout of the parking lot would block access to loading area if staff/customer were parked in slots next to loading area access. Representative said they would discuss changes with architect. Applicant also indicated that they could also extend lot on north side. Chair D. Foether said the applicant would need to bring updated site plan if those changes were made.

Partridge indicated he had other questions, but needed time to look through notes. Chair D. Foether said he would move to other Commission members. No other members had questions.

Chair D. Foether asked about how many employees the

Chair D. Foether indicated that he had little else that wasn't already covered. He did bring up issue that the township had recently with events held during 4/20 at the storefront in the township and the 2 in town related to parking. Explained that he knew Premier has an agreement with Family Dollar for lot usage. D. Foether further explained that most of the parking at Family Dollar was used by Premier. Partridge further explained the issues he ran into on that day as well. Representative said the applicant would work with the township, possibly apply for event operation, if such activities were to occur. Representative continued that the applicant wants to be a good neighbor. D. Foether said that event application doesn't exist since the Township does not allow for that type of activity with marijuana, this would fall more under a "sidewalk sale" type event, Partridge was in agreement. Representative understood and said the applicant would look into renting parking space somewhere and doing some sort of valet or bus service.

Partridge returned to question about loading indicated as being inside. Representative indicated that was a typo.

Chair D. Foether asked if the applicant owned any other facilities in the state. Representative and applicant said no.

Chair D. Foether commended the applicant on the thoroughness of the application and all of the information that went above and beyond in some cases. The last question he had was more around the HVAC system and filtration. Asked if the only time the raw marijuana would be in the building would be in sealed containers. Representative said that was correct and that the intensive smell mitigation is not required by this type of facility, but the applicant would be installing some to help mitigate as much smell as possible if any order was produced in the building.

MOTION to approve Star Budz Provisioning Center LLC's MMFLA Special Land Use Permit with updated parking plan was offered by Chair D. Foether and seconded by Hartung.

Roll Call Vote:

Orville Hartung – Yes
Troy Eurich – Yes

Ben Partridge – Yes
Sam Tester – Yes
Devin Foether – Yes
Shaun McDonnell – Yes
Nicole Tenney – Absent

Motion carried by roll call vote of 6-0-1.

Chair D. Foether then moved to Commission discussion on Star Budz Provisioning Center LLC MRTMA Special Land Use Permit. Chair D. Foether asked if the applicant understood that the site plan corrections from the MMFLA app also applied to this app. The representative and applicant agreed. Asked Commission members if they had any further questions related to this application. Partridge indicated that the updated parking plan should come with an updated drainage plan. Representative will have architect update both.

Partridge asked if question 46 of the MRTMA Site Plan Review Checklist was checked incorrectly. Representative said it was indeed a typo.

Motion to approve Star Budz Provisioning Center LLC's MRTMA Special Land Use Permit with updated parking plan & drainage plan offered by Partridge and seconded by Chair D. Foether.

Roll Call Vote:

Devin Foether – Yes
Shaun McDonnell – Yes
Orville Hartung – Yes
Sam Tester – Yes
Troy Eurich – Yes
Ben Partridge – Yes
Nicole Tenney – Absent

Motion carried by roll call vote of 6-0-1.

Before moving to next agenda item, Chair D. Foether asked if anyone would like to abstain. Partridge indicated that he would be abstaining from the agenda item. Partridge removed himself from the Commission at 6:29 PM.

Chair D. Foether explained that the DD & MH LLC rezoning request was before the Commission during their last meeting held virtually. After the recommended rezoning action went to the Tuscola County Planning Commission, it was delivered to the Board of Trustees for final approval. At the meeting of the Board of Trustees, it was brought to their attention that the incorrect properties were noticed about the potential change. After investigation into the potential error and confirmation of it, the rezoning request was sent back to the Commission to renote and review the matter again. Then then the Commission was forced to renote again because of the notices received were not the correct date. During the first meeting and during the Board of Trustees meeting it was mentioned that the properties in question were never used for agricultural use and the rezoning would allow for a use never intended for that area. D. Foether explained that the past use of the property is a moot point as the current zoning allows for agricultural activities as a use by right. If the owner so chose to sell to a farmer, there would be nothing the Commission could do to stop that use. The only control they may have is the required

minimum lot size, and that was questionable under the Right to Farm Act. Chair D. Foether also indicated that at the time of the first review, there was a rumor that the land was being rezoned for a commercial marijuana facility. While it was still not known for certain that the stated use was set in stone, more discussion about the person involved and conversations had made it a more of a possibility.

Chair D. Foether explained that he would be going over the public hearing register and those who had received a 300' notice would be allowed to speak first, followed by those who had not. If a question came up as to whether or not the indication of notice being received was accurate, he would check the mailing list to verify the attestation of notice reception.

Chair D. Foether opened the Public Hearing for DD & MH LLC rezoning request for properties on Nature's Nest at 6:32 PM and retrieved the sign-in roster.

Laurie Riegel – Laurie indicated that she received the notice with the wrong date previously, but not the new notice. Questioned what the difference was between commercial and non-commercial agriculture. D. Foether explained that commercial was protected by the Right to farm act and had little limits that the Township could enforce and non-commercial being for personal use. Laurie then asked how big the proposed buildings would be, and D. Foether explained that it was unknown as nothing related to site development was filed with the request. Laurie finished her comment with concern about the look of the buildings and views being blocked.

Dan & Nancy Cavanaugh – Felt sorry for the people that lived directly on the road where the rezoning was to happen. What was the water table issue mentioned before and how would these building impact that? D. Foether reminded them that it was potential use not actual use and that he could not speak to a water table impact as the facilities currently in operation use different water capture/use methods. Residents indicated that they heard it was potentially 3 pole barns. D. Foether indicated again that he is not aware of what would be on the property as there isn't anything attached to the rezoning for a specific use, just what has been talked about as a potential use.

Rodney Loomis – Questions. How can you rezone? D. Foether explained that it was in an area that meets the criteria for that type of zoning. Would the green building on one of the properties be removed? D. Foether said he could not answer that. Would lighting from these places be shining toward his property? D. Foether said that the ordinances that control the potential use say that the lighting must be motion activated or block from view by landscaping if dust until dawn lighting. D. Foether further explained that he was aware this was an issue with some previously approved facilities, and that they were trying to rectify that issue and make sure it was not an issue moving forward. What about buildings out behind residents? Were they going to be responsible for road maintenance? D. Foether explained that if such a facility were to move in, they would be held to at least the minimum agreement that the road owner already enforces, if not more. Would there be semis down the road? D. Foether indicated that he was not sure, but most facilities use cargo vans or small box trucks. 2-3 employees per building? That would be a lot more traffic if multiple buildings. Asked if there would be armed guards? D. Foether explained that based on experience with other facilities, the only way there would be armed guards was if the operator hired a security firm that had the proper training.

Dan & Nancy – Would there be other facility types there, like the dispensary that was approved tonight? D. Foether explained that provisioning centers could only go in commercial areas.

D. Foether asked Loomis if he had any further comment. Loomis had nothing else at this time without more information. He is not against marijuana facilities, but just not near him. More like factories, not farming.

D. Foether read letter delivered to the Commission for entry into record from Bill and Pam Woolwine. Copy of letter attached.

After reading the letter, D. Foether addressed the indication of a smell issue, stating that they are required to put in filtration to abate smells from the facility. The wording in the ordinance used to read as smell at the building, but State law changed and ordinance wording changed to at the property line.

Mitchell indicated that Bob Reil said the facilities still smell. D. Foether said if that's the case, the Commission is unaware of any smell issues being reported to them.

Mitchell – Asked about dispensaries on the property. Asked what was meant about there not being much difference in agricultural types. D. Foether explained regulations around agricultural activities again. Asked to see plot map. D. Foether let Mitchell approach and see map. Mitchell indicated that one of the outlined properties did not receive a notice. D. Foether said the land owner of record according to Land Search was noticed. Bob Reil said that the trust hadn't owned that property in over 3 years. Bruce Foether said that is what was on record and that is what is required to be used. Mitchell then indicated that Laurie should have also received a notice as he staked it out and her property was within 300'. D. Foether explained all notice distances were double-checked according to lot line lengths and map scale, Laurie was not within 300' regardless of what Mitchell opinion on distance was.

Loomis also requested to see the plot map. D. Foether allowed Loomis to view map as well.

Nancy – No one around the site wants the potential use. Does the Commission just say yes to everything? What do you do if an operator doesn't follow the ordinance? Hartung explained that an applicant would need to come back yearly for renewal. He further explained that if they don't follow the ordinances, their rights get revoked by Commission and State. D. Foether further explained that the rezoning process is different from permitting process.

Mitchell indicated that he talked to others in the area that couldn't make it because of work. They all said they didn't want the facilities there.

Laurie made a plea to the Commission to consider the look of the facilities and having to live near them.

Cathy Partridge (Representative of DD & MH LLC) – Make I speak. D. Foether allowed her to speak. The person who would purchase those properties would have deed restrictions to minimize seeing buildings. Would require berm to be built then fence on top of that.

Mitchell asked if they were going to be putting in a cul-de-sac at the end for semis to turn around? C. Partridge indicated that they were not and not required to.

B. Foether said many of these facility owners just pay for fixes out of pocket to be good neighbors and to get the fix accomplished quicker.

Peggy Morley – How can you approve something that is Federally illegal. D. Foether explained that it was allowed and sanctioned by State law. Peggy totally against the ability to allow facilities there.

Loomis – Can I still hunt on my property? D. Foether said that would be DNR laws regarding hunting near occupied buildings. Reil said no, requirement was 450’.

Peggy – Bought property out there because they were closer to nature and wildlife. Wouldn’t be any wildlife once those facilities move in.

Bob Reil – Sees the questions and concerns about the facilities. Once they rezone and place one facility, they can add transport, processor. He has to chloride the roads. Current zoning doesn’t allow for it. Sat on the Commission when rezoning for the Ethanol Plant. Listened to the people and didn’t approve it. Lot of positives though, more tax base. Some willing to help. D. Foether explained that Ethanol Plant only similar in that it was a rezoning, but approving it would have been illegal spot zoning, this was not the same in that regard.

Peggy asked why B. Partridge was sitting out. D. Foether explained that he abstained. Peggy pressed on why he abstained. D. Foether explained that he felt he had a conflict of interest. Peggy pressed on why he felt he had a conflict of interest. D. Foether explained that he was related to C. Partridge. Peggy said she just wanted to know why he was setting out while selling out his neighbors. D. Foether warned her to keep it civil and that further aggression would not be tolerated.

Reil – Rezoning opens up property to other operations, windmills and solar. Would rather live near marijuana facility than them. Rather have them than a pig farm. Peggy asked how many were near him if he is so for them. Reil indicated that there are several near and around him.

Nancy asked how many grows were currently in the township? D. Foether indicated that his last count was 25 permits approved. B. Foether said only 4 were actually active. Nancy asked how many dispensaries there were. D. Foether said 1 active and 1 other permitted. Nancy asked when was enough enough and who shuts them down. D. Foether explained that this question has come up multiple times and every time the Commission has told them public to give a number and request the Board of Trustees to add a cap. Nancy asked if we just keep approving them and the whole thing blows up, who shuts them down? B. Foether stated that is a State level power. Nancy indicated that we have the most in the county. B. Foether explained that it was because many other municipalities had opted out. B. Foether explained how much taxes the provisioning centers collect and how it is split up at the end of the year, this has led to Caro opting in on the ordinances.

Loomis – State makes money, great. What about us? B. Foether explained that township received over \$20,000 in the tax share for just one dispensary.

Mitchell asked if their taxes would go up. B. Foether explained only based on whatever the SEV was and the Townships regular 1.5% on that amount.

Peggy commented that their houses would be worthless because no one would want to buy near a pot farm. Their properties would be worthless.

Mitchell asked how many buildings they could put on that property. D. Foether said that without consideration to setbacks and road right-of-way, with 20% square footage usage, they could put up 20 buildings of 140'x60', but that is not the case with current approved facilities.

Reil – Didn't you just approve buildings to be 5' apart? D. Foether explained that it was the ZBA and that situation is not the same as this because the building was there prior to the splits creating the separate buildings.

Loomis – We know nothing about the use. Eurich said the we don't even know if a marijuana facility will even go in there.

Mike Morley – Who approves the rezoning. D. Foether explained that the Commission recommends rezoning to the Board of Trustees and they make the final call. Peggy said that they'll just rubber stamp it.

Loomis – Will they be putting lights down the road? D. Foether said that was not a requirement of the zoning ordinance.

D. Foether asked if there was any further public comment. No further comment made. D. Foether closed the public hearing on DD & MH LLC rezoning request at 7:37 PM.

D. Foether opened the floor to general discussion by the Commission. No one began discussion.

D. Foether called on McDonnell for his thoughts. McDonnell had no objections to the rezoning, but he would take public opinion into consideration. Peggy pressed McDonnell for what his vote would be, and he answered that he didn't know at this time.

Nancy asked if the Commission would be voting on the rezoning tonight. D. Foether said he hoped to resolve the rezoning question tonight.

D. Foether called on Tester for his thoughts. Tester said he was a firm believer in doing what you want on your property. He continued that he would be raising hell too if something were going in near him he didn't want.

D. Foether called on Eurich for his thoughts. Eurich asked which properties had houses on them. D. Foether asked C. Partridge to approach and indicate on the plot map which properties near the rezoning area have houses. C. Partridge obliged.

D. Foether called on Hartung for his thoughts. Hartung said he believed as Tester does. What you do with your property is your business. If everything meets the requirements, it's their choice. Peggy asked if he cared about public opinion. Hartung responded that they can do as they please as long as it meets the requirements.

D. Foether said that when they first started holding meetings about marijuana facilities, people's first complaint was they didn't want it in their backyard even though they had no problem with it otherwise. If the Commission moves to approve the rezoning and a facility does open up, we have essentially forced it into these people's backyards even after them saying they don't even want the potential for it to

happen. I feel we should not vote for a rezoning until more concrete details about the actual use are known.

D. Foether read **Resolution PC 04-2021** with Hartung offering the resolution and McDonnell supporting. Copy of resolution text attached.

Roll Call Vote:

Orville Hartung – Yes
Troy Eurich – No
Sam Tester – No
Shaun McDonnell – Yes
Ben Partridge – Abstained
Nicole Tenney – Absent
Devin Foether – No

Resolution PC 04-2021 was declared defeated by Chair D. Foether

B. Partridge rejoined the Commission at 8:00 PM.

PUBLIC COMMENT

Mike Morley would like to commend the members participation in the Planning and Zoning process. Agreements around in the public.

Mitchell asked for a copy of the defeated Resolution. D. Foether said he needed to finalize the Resolution for record. D. Foether said he could get a copy the next day at the Township Hall.

Reil asked for a copy of the notice registry. This can't be the only time a notice was made to the wrong land owner. Eye opening for other properties. Wants to confirm Land Search is up to date. Knows one of the properties tonight was owned by someone else. Eurich gave Reil his copy of the registry.

D. Foether asked if there was further public comment. No further comment made.

MOTION to adjourn the meeting offered by D. Foether and seconded by Tester.

"AYES" – 6, "NAYS" – 0, ABSENT – 1

Motion to adjourn the meeting carries 6-0-1.

Meeting adjourned at 8:04 PM.



Devin Foether, Chair & Acting Secretary