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**NOTICE  
OSHTEMO CHARTER TOWNSHIP  
PLANNING COMMISSION**

**Work Session  
Thursday, May 24, 2018  
6:00 p.m.  
AGENDA**

1. Call to Order
2. Public Comment on Non-Agenda Items
3. Zoning Ordinance Re-Organization
  - a. Agritourism
4. Any Other Business
5. Adjournment

**Regular Meeting  
7:00 p.m.  
AGENDA**

1. Call to Order
2. Pledge of Allegiance
3. Approval of Agenda
4. Public Comment on Non-Agenda Items
5. Approval of Minutes: May 10, 2018
6. **PUBLIC HEARING: Jake's Fireworks**  
Consideration of the application from Jake's Fireworks, Inc. for a special exception use and site plan review for temporary tent sales of consumers' fireworks in Harding's Market parking lot from June 20 through July 5, 2018, pursuant to Section 33.302 of the Township's Zoning Ordinance. The subject property is located at 6430 Stadium Drive, Kalamazoo, MI, within the "VC" Village Commercial District. Parcel Number 3905-26-465-022.
7. **PUBLIC HEARING: Westgate Planned Unit Development Private Road**  
Consideration of an application from Two Squared Development, LLC for a special exception use and site plan review for the construction of an access drive from West Main Street, within the Westgate Planned Unit Development, located in the northeast corner of U.S. 131 and West Main Street, in the "C" Local Business District, pursuant to Section 60.400 of the Township Zoning Ordinance. Parcel Nos. 3905-13-80-029 and 3905-13-130-022.  
**APPLICANT REQUESTED THIS PUBLIC HEARING BE TABLED TO JUNE 14, 2018**
8. Old Business
9. Any Other Business
  - a. Continued discussion of Zoning Ordinance Re-Organization
10. Planning Commissioner Comments
11. Adjournment

**Policy for Public Comment**  
**Township Board Regular Meetings, Planning Commission & ZBA Meetings**

All public comment shall be received during one of the following portions of the Agenda of an open meeting:

- a. Citizen Comment on Non-Agenda Items or Public Comment – while this is not intended to be a forum for dialogue and/or debate, if a citizen inquiry can be answered succinctly and briefly, it will be addressed or it may be delegated to the appropriate Township Official to respond at a later date.
- b. After an agenda item is presented by staff and/or an applicant, public comment will be invited. At the close of public comment there will be board discussion prior to call for a motion.

Anyone wishing to make a comment will be asked to come to the podium to facilitate the audio/visual capabilities of the meeting room. Speakers will be invited to provide their name; it is not required unless the speaker wishes to have their comment recorded in the minutes.

All public comment offered during public hearings shall be directed, and relevant, to the item of business on which the public hearing is being conducted. Comment during the Public Comment or Citizen Comment on Non-Agenda Items may be directed to any issue.

All public comment shall be limited to four (4) minutes in duration unless special permission has been granted in advance by the Supervisor or Chairperson of the meeting.

Public comment shall not be repetitive, slanderous, abusive, threatening, boisterous, or contrary to the orderly conduct of business. The Supervisor or Chairperson of the meeting shall terminate any public comment which is in contravention of any of the principles and procedures set forth herein.

(adopted 5/9/2000)  
(revised 5/14/2013)

**Policy for Public Comment**  
**6:00 p.m. "Public Comment"/Portion of Township Board Meetings**

At the commencement of the meeting, the Supervisor shall poll the members of the public who are present to determine how many persons wish to make comments. The Supervisor shall allocate maximum comment time among persons so identified based upon the total number of persons indicating their wish to make public comments, but no longer than ten (10) minutes per person. Special permission to extend the maximum comment time may be granted in advance by the Supervisor based upon the topic of discussion.

While this is not intended to be a forum for dialogue and/or debate, if a citizen inquiry can be answered succinctly and briefly, it will be addressed or it may be delegated to the appropriate Township Official to respond at a later date.

Anyone wishing to make a comment will be asked to come to the podium to facilitate the audio/visual capabilities of the meeting room. Speakers will be invited to provide their name; it is not required unless the speaker wishes to have their comment recorded in the minutes.

Public comment shall not be repetitive, slanderous, abusive, threatening, boisterous, or contrary to the orderly conduct of business. The Supervisor shall terminate any public comment which is in contravention of any of the principles and procedures set forth herein.

(adopted 2/27/2001)  
(revised 5/14/2013)

**OSHTEMO CHARTER TOWNSHIP  
PLANNING COMMISSION**

**MINUTES OF A MEETING HELD MAY10, 2018**

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**Agenda**

**PUBLIC HEARING: BARN CAMP**

**CONSIDERATION OF AN APPLICATION FROM DOREEN BELTZ FOR A SPECIAL EXCEPTION USE, TO ALLOW A CHILDREN'S BARN CAMP AS A TEMPORARY OUTDOOR EVENT PURSUANT TO SECTION 20.410 AND 60.000 OF THE TOWNSHIP ZONING ORDINANCE. THE SUBJECT PROPERTY ADDRESS IS 2582 SOUTH 6<sup>TH</sup> STREET IN THE RR: RURAL RESIDENTIAL DISTRICT. PARCEL NO. 3905-28-430-041.**

**PUBLIC HEARING: CONSIDERATION OF DRAFT ZONING ORDINANCE TEXT AMENDMENTS**

- a. SECTION 66.200: DIMENSIONAL REQUIREMENTS FOR PARCELS, LOTS AND BUILDING SITES**
- b. SECTION 68.300: OFF-STREET PARKING AND SITE CIRCULATION REQUIREMENTS**

**OLD BUSINESS**

- a. AGRITOURISM (DISCUSSION CONTINUED FROM APRIL 22<sup>ND</sup> MEETING)**
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A meeting of the Oshtemo Charter Township Planning Commission was held on Thursday, May 10, 2018, commencing at approximately 7:00 p.m. at the Oshtemo Charter Township Hall.

**MEMBERS PRESENT:** Fred Antosz  
Ollie Chambers  
Dusty Farmer, Secretary  
Micki Maxwell  
Bruce VanderWeele, Vice Chairperson

**MEMBERS ABSENT:** Cheri Bell, Chairperson  
Mary Smith

Also present were Julie Johnston, Planning Director, James Porter, Township Attorney, Martha Coash, Meeting Transcriptionist, and two interested persons.

## **Call to Order and Pledge of Allegiance**

Vice Chairperson VanderWeele called the meeting to order at approximately 7:00 p.m. and invited those present to join in reciting the "Pledge of Allegiance."

## **Agenda**

Vice Chairperson VanderWeele asked if there were any additions or deletions to the proposed agenda. Hearing none, he noted the agenda would stand as presented.

## **Public Comment on Non-Agenda Items**

The Vice Chair determined no one in the audience cared to comment regarding non-agenda items and moved to the next agenda item.

## **APPROVAL OF THE MINUTES OF THE WORK SESSION AND REGULAR MEETING OF APRIL 26, 2018**

Vice Chairperson VanderWeele asked if there were any additions, deletions or corrections to the Work Session or Minutes of the Regular Meeting of April 26, 2018.

Mr. Antosz offered a correction to both sets of minutes to change the listed title of Vice Chairperson from Mr. Antosz to Mr. VanderWeele. He also noted the meeting date for the minutes listed as approved for the first meeting in April should have been April 12 rather than April 10.

The Chair asked for a motion.

Mr. Chambers made a motion to approve the minutes of the Work Session and the Regular Meeting of April 26, 2018 with the corrections as requested. Mr. Antosz supported the motion. The motion was approved unanimously.

Vice Chairperson VanderWeele moved to the next agenda item.

## **PUBLIC HEARING: BARN CAMP CONSIDERATION OF AN APPLICATION FROM DOREEN BELTZ FOR A SPECIAL EXCEPTION USE, TO ALLOW A CHILDREN'S BARN CAMP AS A TEMPORARY OUTDOOR EVENT PURSUANT TO SECTION 20.410 AND 60.000 OF THE TOWNSHIP ZONING ORDINANCE. THE SUBJECT PROPERTY ADDRESS IS 2582 SOUTH 6<sup>TH</sup> STREET IN THE RR: RURAL RESIDENTIAL DISTRICT. PARCEL NO. 3905-28-430-041.**

The Vice Chairperson asked Ms. Johnston to present the Staff report regarding the application from Doreen Beltz for a special exception use and general site layout for a children's "Barn Camp" as a temporary outdoor event.

Ms. Johnston explained the purpose of the Barn Camp is to allow elementary school age children to access the property for a day camp that would focus on nature exploration and appreciation. The camp would be held three days a week for a total of three weeks. Children would attend the camp for three days in a row, three hours a day. The requested schedule is as follows:

Camp times: 9:00 am to 12:00 noon  
1:00 pm to 4:00 pm

Camp dates: June 18, 19, and 20  
July 16, 17, 18  
July 23, 24, 25

She said the schedule equates to six total camp experiences (three hours a day, three days a week). Per the applicant, no more than 18 children would be enrolled in each camp time period. The property is zoned RR: Rural Residential District, which requires Planning Commission approval for outdoor events lasting more than one day.

The applicant will utilize their small hobby farm for the camp. The existing barn will be the focal point, with outdoor activities happening throughout the 27-acre parcel.

Ms. Johnston said the applicant provided a general layout plan showing the locations of the buildings on site, the driveway for drop-off, and parking areas. The applicant states restroom facilities will be provided within the barn. No additional trailers or equipment will be brought to the subject property, so the Fire Marshal has no concerns with the site. All ordinance requirements have been met.

She addressed the Special Exception Use Considerations from *Section 60.100* of the Zoning Ordinance:

**A. Is the proposed use compatible with the other uses expressly permitted within the RR: Rural Residential District zoning classification?**

Currently, agricultural uses are not expressly permitted within the Rural Residential District. However, with recent changes to the Township's Master Plan, specifically the Rural Character Preservation Strategies, the Township has acknowledged the need to recognize the importance of agricultural uses within this District. In addition, the Rural Residential District allows two other uses which have some correlation to the requested use, which are:

- Section 20.207: Nonprofit educational, noncommercial recreational and noncommercial business center (permitted use)

- Section 20.410: Golf courses, parks, motorized vehicular roadways, and outdoor recreational areas (special exception use)

A non-profit barn camp could be viewed as both an educational and recreational use, which contributes to its compatibility with other uses in the District.

**B. Will the proposed use be detrimental or injurious to the use or development of adjacent properties or to the general public?**

The subject site is over 27 acres in size, allowing for substantial setbacks from adjacent properties to the north, south, and west. The barn and adjacent farm uses are located approximately 380 feet from the northern property line and 650 feet from the southern property line. The railroad track serves as a border to the west.

The barn use is closer to 6<sup>th</sup> Street, located approximately 120 feet from the right-of-way. In addition, across 6<sup>th</sup> Street to the east, parcelization has occurred and a number of smaller one-acre residential parcels exist, which equates to more driveway curb cuts. While not detrimental to the use of these adjacent properties, the increase in area traffic during camp drop-off and pick-up may impact these property owners. However, the temporary nature of the event should minimize this compatibility issue.

**C. Will the proposed use promote the public health, safety, and welfare of the community?**

Staff does not have any concerns regarding the public's health, safety, or welfare, however, reiterated the need to manage traffic entering the site, ensuring safety on 6<sup>th</sup> Street. Having small signage along the one-way drive for drop-off and pick-up directing traffic to move forward and not block the entrance may be beneficial.

The State of Michigan Department of Licensing and Regulatory Affairs (LARA) defines day camps as operating for more than four hours but less than 24 hours per day for five or more days within a 14-day period. Since the children attending this day camp will be on site for only three hours a day for three consecutive days, the applicant is not required to be licensed by the State. However, Ms. Beltz has indicated that if this venture is successful and a longer duration is approved by the Township, she will secure the appropriate licenses from LARA.

**D. Will the proposed use encourage the use of the land in accordance with its character and adaptability?**

The barn camp request is a temporary use that reflects the rural character of this parcel and area land uses. In addition, it is supported by the Township's Master Plan. The Rural Character Preservation Strategy chapter indicates:

*“Policy AG-5: Encourage and promote agricultural tourism within the study area, at an appropriate scale and intensity that limits impacts to adjacent properties, public services and the natural environment.”*

Agricultural tourism is often defined as any agriculturally based operation or activity that brings public to a working farm for the purpose of enjoyment, education, or active involvement in the farm operation. Utilizing the hobby farm to provide educational opportunities to children on a temporary basis is both supported by this definition and the character of subject property.

Ms. Johnston said Planning Department Staff is satisfied this project meets all Special Exception Use requirements and recommended the Planning Commission grant approval for the Barn Camp temporary outdoor event, subject to three conditions:

1. The Barn Camp be operational during the following dates/times:

Camp times:           9:00 am to 12:00 noon  
                              1:00 pm to 4:00 pm

Camp dates:           June 18, 19, and 20  
                              July 16, 17, 18  
                              July 23, 24, 25

2. A final inspection by the Fire Marshal prior to the commencement of the event, if needed.
3. Signage be placed on the property directing traffic to appropriate child drop-off locations, moving traffic onto the site and away from 6<sup>th</sup> Street.

Vice Chairperson VanderWeele asked if Board Members had questions for Ms. Johnston.

In response to questions, Ms. Johnston said she had visited the site, non-profit status has not been sought and is not necessary for a temporary event, nor does it require state licensing. If the venture is successful and the applicant seeks and is allowed to provide camp next year, she would seek appropriate licensing from the state.

There were no further questions; the Vice Chair asked the applicant to speak.

Ms. Doreen Beltz, 2582 South 6<sup>th</sup> Street, explained the camp is not non-profit at this time but if it is successful she will pursue 501-C3 non-profit status in the future. She would like to be able to offer scholarships and will need state accreditation for that purpose. This summer will be a pilot program after which she will consider next steps. She stressed profit is not a goal. She has a tremendous vision for what the camp could be and felt it could be a poster child for agribusiness. The camp will be a controlled

experience with direct, personal relationships, like a small group field trip rather than a traditional day camp.

In response to a question from Ms. Maxwell, Ms. Beltz said she has scaled back the number of campers from 18 to a maximum of 16 per day.

There was extended discussion of concern regarding the amount of possible increased traffic, how traffic will flow on the property, and available parking spaces. Noted was that in the case of future expansion parking would need to be kept off the street.

Ms. Beltz noted she installed a fence and double gate so there is no road access to children or animals.

Ms. Maxwell said she was all for the project, but that the traffic concerns her.

Ms. Johnston pointed out that if the flow of traffic on the property were changed to the right instead of to the left as is shown on the site drawing, additional queuing of cars would be possible and safety would be improved.

Ms. Maxwell confirmed the applicant need to return to the Planning Commission next year with an application if she wishes to provide a camp in the future.

Mr. Antosz asked how children would be divided into groups.

Ms. Beltz replied the children would range from kindergarten to 5<sup>th</sup> grade and would likely be split into two groups, with two supervisors as well as interns.

Vice Chair VanderWeele noted he attended an event for 100 children organized and run by Ms. Beltz and that she does a great job with children. He indicated the resulting traffic was well coordinated.

There were no further questions for the applicant; Vice Chair VanderWeele asked if there were any members of the public who wished to speak.

Ms. Barb Melson, 2824 South 6<sup>th</sup> Street, said her property is directly south of Ms. Beltz' property and she was concerned about the ability of the camp to expand in the future and wondered how large it could become under Township Ordinance.

Ms. Johnston explained current Ordinance allows only a temporary event. The Planning Commission is reviewing changes to the agritourism and agribusiness sections of the Ordinance that would allow more flexibility to owners. Since nothing has been approved yet, it is hard to answer what might happen in the future. Theoretically, the camp could become permanent, but seasonal.

Attorney Porter noted the goal is to create a balance for use of property that is not injurious to neighbors. Rights and responsibilities need to be weighed.

The applicant, Ms. Johnston said, would be required to return with a special use request for future camps; a public hearing and notice to neighbors would be mandated.

Ms. Melson asked whether under the current Ordinance if there were 180 children who wanted to attend the camp that would be possible.

Ms. Johnston said it would be possible, but the Planning Commission would have to consider that. They might say 180 children for five days is not permitted because it is more commercial, or that a one-day event would be permitted as long as it is considered a "similar use" to that on their property.

Ms. Farmer told attendees that public work sessions of the Planning Commission are held prior to the second scheduled Planning Commission meetings of the month (4th Thursday) and they are currently discussing zoning/uses of Rural Residential. She noted the next session is scheduled for May 24 at 6:00.

There being no further comments, Vice Chair VanderWeele closed the Public Hearing and moved to Board Deliberations. As there were no further comments from Board Members, he invited a motion.

Ms. Maxwell made a motion to approve the application from Doreen Beltz to allow a Barn Camp as requested, subject to the three conditions recommended by Staff and the additional condition that the traffic pattern be changed, reversing the one-way traffic from left to right. Ms. Farmer supported the motion. The motion was approved unanimously.

## **PUBLIC HEARING: CONSIDERATION OF DRAFT ZONING ORDINANCE TEXT AMENDMENTS**

- a. **SECTION 66.200: DIMENSIONAL REQUIREMENTS FOR PARCELS, LOTS AND BUILDING SITES**
- b. **SECTION 68.300: OFF-STREET PARKING AND SITE CIRCULATION REQUIREMENTS**

Vice Chair VanderWeele asked Ms. Johnston to review this item for the Board.

### **Area Requirements**

Ms. Johnston said on March 22, 2018, the Planning Commission forwarded a recommendation of approval to the Township Board for the Residential Condominium Development Standards. In reviewing associated ordinances related to residential development, Staff recommended changes to the Schedule of Area, Frontage, and/or Width Requirements (Section 66.200) at the April 12<sup>th</sup> Planning Commission meeting.

Currently, she said, Section 66.200 outlines different area requirements for one and two-family dwellings. For example, if a project has public water and sewer, a single-family dwelling requires 10,560 square feet where a two-family dwelling requires 13,200 square feet. In a platted subdivision or site condominium, this ordinance actually incentivizes two-family dwellings. The density for single-family would equate to 4.12 dwelling units per acre while the density for two-family increases to 6.60 dwelling units per acre.

Density is determined by dividing the total required square footage per lot into an acre (43,560 square feet). The increase seen for two-family is that on every 13,200 square foot lot or building site, two dwelling units are permitted.

Staff recommended changing the table from “*Area Requirements*” to “*Area Requirements per Dwelling Unit*.” This would stipulate that each individual residential unit have the same amount of area, regardless of the number of units planned for the parcel or lot. A two-unit with public water and sewer would be required to have a lot that is 21,120 square feet. This recommended change aligns with the densities allowed in the Residential Condominium Development Standards Ordinance and ensures a level playing field for density regardless of the number of attached or detached units planned.

### **Circulation Aisle Widths**

Ms. Johnston explained in December of 2017, the Planning Commission forwarded amendments to the Township Board for changes to the Off-Street Parking Ordinance. The amendments primarily centered on ensuring ADA compliance for accessible spaces and regulating circulation aisles. As part of the discussion with the Township Board, a request was forwarded back to the Planning Commission that circulation aisle widths be reviewed. The overall intent of the request was to determine if the Township could allow for reduced widths and therefore reduced asphalt on site.

She said there are several types of circulation aisles that could be found on a non-residential site, such as within parking lots, dedicated fire lanes, to get to loading/unloading facilities, to ensure access around the entirety of the building, etc. The recently approved changes to the Off-Street Parking Ordinance would require all circulation aisles be 24-feet in width for two-way traffic and 20-feet in width for one-way traffic.

Over the last three months, the Planning Commission reviewed research from other communities and amended Ordinance language provided by staff. Based on the Planning Commission discussions during this time period, these recommended amendments to Section 68.300.C: Circulation Aisle Width, were:

- C. *Circulation Aisle Width.* Aisles for the general vehicular circulation of the public shall be 24 feet wide for two-way traffic and 20 feet wide for one-way traffic. The reviewing body may grant, upon request, reduced widths for circulation aisles.**

The reviewing body will consider the following before making a determination if drive aisles may be reduced:

1. overall circulation of the site,
2. access to public rights-of-way,
3. public safety,
4. volume of traffic,
5. visibility,
6. location of nonmotorized traffic,
7. grade or slope of the drive,
8. other site considerations which may impact general circulation.

Ms. Johnston endorsed a recommendation of approval by the Planning Commission be forwarded to the Township Board.

Vice Chair VanderWeele determined there was neither public comment, nor any Board discussion on this item and asked for a motion.

Mr. Chambers made a motion to approve the changes to 66.200 and 68.300 as proposed and recommend them to the Township Board for approval. Ms. Maxwell supported the motion. The motion was approved unanimously.

## **OLD BUSINESS**

- a. **Agritourism** (discussion continued from April 22<sup>nd</sup> meeting)

Given that two Planning Commission Members were absent, it was the consensus of the Board to table this discussion until the May 24 work session.

## **ANY OTHER BUSINESS**

Ms. Johnston said she had flyers for any Board Members who might be interested in attending a free Planning Commissioner's ToolKit training workshop on Thursday, June 7<sup>th</sup>.

## **PLANNING COMMISSIONER COMMENTS**

Ms. Farmer said she is planning to compile educational accomplishments of Boards and Staff for inclusion in the Township Newsletter.

## **ADJOURNMENT**

Hearing no further comments, Vice Chairperson VanderWeele asked for a motion to adjourn.

Ms. Farmer made a motion to adjourn the Meeting of the Planning Commission. Ms. Maxwell supported the motion. The motion was approved unanimously.

The Planning Commission meeting adjourned at approximately 7:52 p.m.

Minutes prepared:  
May 12, 2018

Minutes approved:  
\_\_\_\_\_, 2018

May 17, 2018



**Mtg Date:** May 24, 2018  
**To:** Planning Commission  
**From:** Julie Johnston, AICP  
**Subject:** Agritourism – Commercial Events

Recently, we had a resident interested in holding a one-day event on their residential property that staff deemed commercial in nature and therefore not in compliance with standards of a temporary outdoor event, which states that the *“use is incidental to principal use of the property.”* The event was for a “Barn Market,” which was to allow vendors to set up tables and sell their wares from within and adjacent to the barn. At the time staff became aware of the event, there were 20 vendors planning to attend. Staff determined that the commercial nature of the event was well beyond what would be considered “incidental” to a residential use in the Rural Residential District, for example a garage sale or yard sale.

This request, similar to a past request brought before the Planning Commission for a wedding venue in an agricultural setting, is not included in the draft agritourism ordinance currently being reviewed. The draft agritourism ordinance is designed to allow those with an agricultural use to expand into other economic opportunities. But, a legitimate agricultural business must be in use on the property as the draft ordinance requires a certain percentage of products sold be directly produced on the farm.

With that said, staff has seen other agritourism regulations that allow commercial events or activities that are “farm” related but produce no farm products. Staff brings this to the Planning Commission’s attention to see if we should consider a Category 3 agritourism special exception use that would allow commercial activities within agricultural buildings or rural settings, in a limited capacity. Very strict regulations would be needed to ensure that the commercial activity does not impede neighboring properties enjoyment of their own rural setting.

The draft Category 2 ordinance allows for six special events between the months of May and October and an additional two events between November and April. This language has not yet been discussed by the Planning Commission, but if a Category 3 special exception use is considered, similar language would likely be needed.

If the Planning Commission is interested in exploring these types of events, staff could have draft ordinance language prepared for the June 28<sup>th</sup> meeting.

Thank you.

May 17<sup>th</sup>, 2018



**Mtg Date:** May 24<sup>th</sup>, 2018

**To:** Planning Commission

**From:** Ben Clark, Zoning Administrator

**Applicant:** Jake's Fireworks, Inc.

**Owner:** Harding's Market Corp.

**Property:** 6430 Stadium Drive, parcel #3905-26-465-022

**Zoning:** VC-Village Commercial

**Request:** Special Exception Use to establish a Temporary Sales Event for more than one day for a tent in the parking lot to sell fireworks

**Section(s):** Section 33.000 – VC Village Commercial District

**Project Name:** Jake's Fireworks

## OVERVIEW

The applicant is seeking permission to locate a temporary fireworks sales tent in the parking lot of the Harding's grocery store at the corner of 9<sup>th</sup> Street and Stadium Drive, which is zoned VC: Village Commercial District. Temporary outdoor sales for longer than one day is a special exception use in the VC zoning district. The Harding's location is an existing site for this vendor. They have been at this location for six years, with the 2018 application the seventh request.

## TEMPORARY EVENT REQUEST

The applicant is proposing a 1,600-square foot (40' x 40') tent for the sale and display of fireworks at the Harding's location. The tent will be located in the southern portion of the parking lot between the retail structure that contains Subway and the driveway to Stadium Drive at the Parkview Drive intersection. The tent will be located in approximately the same location as it was located last year and is the same size as last year. As with previous years, the tent will need to be set back 10 feet from the edge of the parking lot pavement to satisfy separation requirements.

The tent and the required buffer area to surrounding vehicles at both locations shall occupy approximately 10-15 of the current parking spaces existing at the site. Although this will reduce the total number of parking spaces, this is not anticipated to be problematic, particularly for only a three-week period. In previous years, the tent has been located at these same locations at both sites, and there have been no formal complaints filed regarding impacts of the proposed development on parking or circulation.

Jake's will be selling a full line of consumer fireworks ranging from sparklers to aerials at retail prices from the tent. Per the applicant, the tent will be on-site from June 20<sup>th</sup> to July 10<sup>th</sup>, and hours of actual operation will be from 9am to 9pm on June 25<sup>th</sup> through July 1<sup>st</sup>, expanding to 8am to 11pm July 2<sup>nd</sup> through the 4<sup>th</sup>. During the night when the store is closed, representatives of the company would remain on site to monitor the inventory and ensure nothing happens to the firework devices.

The Fire Department has reviewed the plans and did not have any comments regarding the proposed facility at this time. The Fire Marshall will inspect the facility prior to initiating operation.

## **PROJECT HISTORY**

The first approval for Jake's Fireworks within the Township was on June 28, 2012. At that meeting, it was noted that the applicant raised their tent prior to receiving Planning Commission approval. There was discussion with the applicant regarding proper application procedures. The minutes of the meeting are attached. Ultimately, the Planning Commission granted approval with a 5 to 2 vote.

Since that time, compliance and enforcement issues have been a consistent concern with this vendor. The following is a list of approvals and problems Township staff has recorded over the last five years:

- 2012: Planning Commission approved on June 28, 2012.  
Tent set-up was completed prior to Planning Commission approval.  
Tear-down was not completed on time.
- 2013: Planning Commission approved on May 31, 2013.  
Tent tear down was not completed on time.
- 2014: Planning Commission approved on May 22, 2014.  
Township required a \$450 escrow because of history of tent tear-down issues.  
No issues reported in 2014.
- 2015: Planning Commission approved on May 14, 2015. Administrative approval was granted for future applications.  
Tent tear down was not completed on time. A fee of \$75 for late tear down was withdrawn from the escrow account.
- 2016: Township staff granted administrative approval on March 22, 2016.  
Two racing stock cars on trailers were parked near the fireworks tent. On June 28<sup>th</sup>, the Township Ordinance Enforcement Officer informed on-site management that the cars were not approved as part of the site plan for the Special Exception Use permit and would have to be moved. A move-by date of June 29<sup>th</sup> was provided. The Fire Marshal also had an issue with the placement of a gas can and generator near the tent.

On July 4<sup>th</sup>, a member of the Planning Commission observed that the stock cars had been returned to the site over the holiday weekend when Township staff were not on duty to enforce the site plan.

Allegations were also made by persons not affiliated with the Township that fireworks staff were setting off fireworks in the evening in the Harding's parking lot and smoking near the fireworks tent.

A portion of the escrow fee was retained by the Township equal to a first offense civil fraction.

2017: Due to ordinance enforcement activity related to past events, Township staff referred Jake's back to the Planning Commission for review, and approval for the 2017 sales event was approved by that body on June 8<sup>th</sup>, 2017. Among the conditions added to the approval was a proclamation by the Commission that any violations of the granted special exception use would result in the rejection of any future applications from Jake's. No such issues arose from last year's event, and the tent was erected and removed within the pre-arranged timeframe. The compliance deposit submitted by Jake's to the Township—doubled to \$800 for this particular instance—was returned to the applicant in full.

### **STAFF RECOMMENDATION**

Given that the 2017 event occurred with no complaints and instigated no enforcement actions, Township staff do recommend that this special exception use request be approved, with the following recommended conditions:

1. The tent at the Harding's site shall be permitted from June 20<sup>th</sup> through July 10<sup>th</sup> and sale of fireworks shall not occur on site until June 25<sup>th</sup>.
2. The hours of operation are limited to 9am to 9pm from June 25<sup>th</sup> through July 1<sup>st</sup> and 8am to 11pm from July 2<sup>nd</sup> to July 4<sup>th</sup>.
3. All signs shall satisfy the requirements of the Township Zoning Ordinance.
4. At least one person from Jake's Fireworks staff shall be onsite 24-hours a day while product is present.
5. Compliance with all comments or issues raised by the Fire Department during the course of their review and/or any subsequent inspections.
6. A compliance deposit in the amount of \$400 shall be paid to the Township prior to setting up the tent. The deposit will be refunded to the applicant in full provided that all conditions are met.
7. As there were no enforcement issues with last year's outdoor sales event, if the Planning Commission is so inclined, staff request that future Jake's Fireworks events at this location be allowed administrative review and approval, provided no changes are made to the site layout. Staff would retain the right to refer the applicant back to the Planning Commission, should that need arise.

Respectfully Submitted,

A handwritten signature in blue ink that reads "Ben Clark". The signature is written in a cursive style.

Ben Clark,  
Zoning Administrator

Attachments: Application  
Application Materials



7275 W. Main Street, Kalamazoo, Michigan 49009-9334  
Phone: 269-216-5223 Fax: 269-375-7180

### PLANNING & ZONING APPLICATION

#### APPLICANT:

Name TOM DUNN  
 Please print  
 Company JAKES FIREWORKS  
 Address 1500 E. 27<sup>th</sup> TERRACE  
PLATTSBURG KS 66262  
 E-mail TOM DUNN @ JAKES FIREWORKS . COM  
 Telephone 620-231-2264 EXT 1126 Fax 620-231-2416  
 Interest in Property RETAIL SALE OF CONSUMER GRADE FIREWORKS

THIS  
SPACE  
FOR  
TOWNSHIP  
USE  
ONLY

Fee Amount \_\_\_\_\_  
 Escrow Amount \_\_\_\_\_

#### OWNER\*:

Name HARDING'S MARKET  
 Please print  
 Address 211 BANNISTER  
PLAINWELL, MI. 49080  
 E-mail \_\_\_\_\_  
 Telephone 269-775-0980 Fax \_\_\_\_\_

**NATURE OF THE REQUEST:** (Please check the appropriate item(s))

<input checked="" type="checkbox"/> Site Plan Review	<input type="checkbox"/> Subdivision Plat Review
<input type="checkbox"/> Administrative Site Plan Review	<input type="checkbox"/> Rezoning
<input checked="" type="checkbox"/> Special Exception Use	<input type="checkbox"/> Interpretation
<input type="checkbox"/> Zoning Variance	<input type="checkbox"/> Text Amendment
<input type="checkbox"/> Site Condominium	<input type="checkbox"/> Sign Deviation
<input type="checkbox"/> Accessory Building Review	<input type="checkbox"/> Other: _____

#### BRIEFLY DESCRIBE YOUR REQUEST (Use Attachments if Necessary):

RETAIL SALE OF CONSUMER GRADE FIREWORKS FROM UNDER A FLAME  
RESTAURANT TENT FOR THE 4<sup>th</sup> OF JULY HOLIDAY



1831

Lease Agreement

THIS AGREEMENT, made and entered into this January 25, 2018, by and between Harding's Market West, hereinafter referred to as LESSOR, and Jake's Fireworks, Inc., hereinafter referred to as LESSEE.

LESSOR, in consideration of the covenants and agreements hereafter made by LESEE, hereby leases exclusively unto LESSEE on the following described real estate:

6430 West Stadium Dr  
Kalamazoo, MI 49009

for the purpose of selling and distributing fireworks for the period of June 20, 2018, through July 5, 2018; provided, however, LESSEE shall be allowed to erect and remove his equipment on and from the premises within a reasonable period prior to and following the lease period.

LESSEE AGREES:

1. To pay LESSOR, as rent on the above-described premises, the sum of \_\_\_\_\_ plus \_\_\_\_\_ of the net sales over \_\_\_\_\_ to be paid after sales are finalized and settled. LESSEE agrees to pay electrician to put additional plugs on sign.
2. To operate his business on the leased premises in a lawful manner and in full compliance with applicable laws and regulations.
3. To remove all trash, debris, and rubbish that shall have been caused to be place thereon by LESSEE's operations.
4. To accept liability for any damages that occur on the property from the initial set up until the site is returned to its original condition, including the patching of asphalt due to tent tie downs.

In the event the leased premises are annexed to a city where the sale of fireworks is not permitted or it is in any other way deemed unlawful to sell fireworks on the leased premises this lease will be terminated and rental money returned to the LESSEE.

This lease may be renewed each year by signature of lease agreement on or about **May 15<sup>th</sup>** of each consecutive year, provided that the ground is vacant.

LESSEE is hereby granted right of first refusal at this location for the same purpose and period for the year following expiration of this lease.

The agreement and covenants shall extend to the heirs and assigns of each of the parties.

**Jake's Fireworks will provide a certificate of insurance on or before June 10, 2018.**

IN WITNESS WHEREOF, the parties have executed this lease the day and year first above written.

  
\_\_\_\_\_  
**Harding's Market**

  
\_\_\_\_\_  
**Jake's Fireworks, Inc**



# SITE PLAN

## 6430 W Stadium Drive, Kalamazoo MI

Minimum Separation Distances as shown in plan below:

*Buildings:* No buildings are located within 20 ft of the tent

*Combustibles:* No combustibles are located within 20 feet of the tent

*Tents:* No tents will be located within 20 feet of tent

*Vehicle Parking:* No Vehicle will be allowed within 10 feet of tent. If parking spots are shown in diagram below within 10 feet of tent these spots will be barricaded and marked as to not allow parking.

*Stands:* No stands are located within 20 feet of tent.

*Storage of Consumer Fireworks:* No storage of consumer fireworks will occur at this location.



**7.4.2 Site Plan.** The site plan for tents shall show the location of the tent on the site and indicate the minimum separation distances required by 7.4.7.

**7.4.7.2 Temporary Facilities.** Temporary CFRS facilities shall be located as specified in Table 7.4.7.2.

\*nearest gas station over 50' away

\*no flammable gas bulk dispenser within 300ft