

**CITY OF LAPEER  
MINUTES OF A REGULAR  
PLANNING COMMISSION MEETING  
AUGUST 12, 2021**

A regular meeting of the City of Lapeer Planning Commission was held at 6:30 p.m. on Thursday, August 12, 2021 at Lapeer City Hall, 576 Liberty Park, Lapeer, Michigan.

**Members Present:** Chairperson Jennell RaCosta, Vice Chairman Austin Kelly, Commissioners Catherine Bostick-Tullius, Marty Johnson, Jeff Pattison, Debbie Marquardt, Doug Roberts, Dale Kerbyson and Anne Shenck.

**Members Absent:** None.

**Also Present:** Caitlyn Habben, Rowe Professional Services Company Planning Consultant, and Kimberly Hodge, Recording Secretary

Vice Chairman Kelly called the meeting to order at 6:30 p.m.

**041      2021 08-12      Minutes**

Motion by Bostick-Tullius. Seconded by Marquardt.

Approve the minutes of the regular meeting held on July 8, 2021 as presented.

**Ayes:** Commissioners RaCosta, Kelly, Bostick-Tullius, Johnson, Pattison, Shenck, Marquardt, Kerbyson and Roberts.

**Nays:** None.

**Absent:** None.

**MOTION CARRIED.**

**PUBLIC COMMENTS**

There were no public comments at this time.

**PUBLIC HEARINGS SCHEDULED**

**Rezoning – Melendez – 1109 S. Main St. – R-2 to B-2**

Ms. Habben reviewed the request from Alfred Melendez and property owner Roberta Bergin to rezone the property known as 1109 S. Main Street from R-2 Single-Family Residential to B-2 General Business. Ms. Habben reviewed the standards for approval in Section 7.23.06(b), aerial photos of the subject site and surrounding area and uses, the zoning designations of the adjacent parcels, 3 of which are located in Lapeer Township, and the future land use designations of the subject site which is located in the City of Lapeer and the surrounding parcels located in Lapeer Township. Ms. Habben stated the applicants are requesting the rezoning in order to construct a restaurant and that the request is consistent with the future land use designation of Commercial - General Business.

Vice Chairman Kelly opened the public hearing at 6:34 p.m.

There being no comments, the public hearing was closed.

Discussion was held on the fact the restaurant does not include a drive-through lane and that a walk-up take-out window is proposed.

**042      2021 08-12      Rezoning – 1109 S. Main St. – R-2 to B-2**

Moved by Kerbyson. Seconded by Marquardt.

To recommend approval to the City Commission of the rezoning request from Alfred Melendez to rezone 1109 S. Main Street from R-2 Single-Family Residential to B-2 General Business because it meets Section 7-23.06(b) Standard 1.

**Ayes:** Commissioners RaCosta, Kelly, Bostick-Tullius, Johnson, Pattison, Shenck, Marquardt, Kerbyson and Roberts.

**Nays:** None.

**Absent:** None.

**MOTION CARRIED.**

**Class A Non-Conforming Use – AJA Investments, LLC – 1330 Imlay City Rd.**

Ms. Habben reviewed the request from AJA Investments, LLC for approval of a Class A Nonconforming Use status for the professional office and marihuana provisioning center tenants at the existing facility located at 1330 Imlay City Road which is in the process of being rezoning to I-1 Industrial. Ms. Habben stated the rezoning to I-1 results in the existing non-industrial uses becoming legal nonconforming uses which are allowed to continue however will have restrictions on expansion and/or rebuilding if the property were to be destroyed. Ms. Habben reviewed the approval standards of Section 7-20.02 and the findings of fact for Standards A-D.

Ms. Habben reported the applicant is not proposing any additions or site improvements to the existing facility, that the applicant would like to retain the existing tenants and read the following letter into the record:

August 12, 2021

City Commission  
City of Lapeer

RE: AJA Investments, LLC – Request for Class A Nonconformity – 1330 Imlay City Rd.

Dear City Commissioners:

Unfortunately, I could not make it to tonight's meeting in person, so I hope that you will consider this letter prior to voting on this issue.

As you may know, the Planning Commission approved the re-zoning of this property to I-1 recently, and now AJA Investments, LLC is seeking a Class A Nonconformity status.

After speaking with Ms. Haiban, she stated Criteria D was the primary reason she was likely recommending denial, but she was kind enough to suggest I send this letter for your consideration, as I am asking that the City Commission approve this Class A Nonconformity, for the following reasons:

Criteria D: The property cannot be reasonably used as currently zoned

1. The zoning for marijuana provisioning centers/retailers does not allow them to be located in I-1, but I would be grandfathered in if re-zoned. However, if there were ever to be a fire or other catastrophic event, I would lose the grandfather status without this Class A status.
2. If that were to happen, I would have to re-locate to a conforming property, which would require finding a “green-zoned” property in the City, which are priced 2-3x the fair market value, because there are so few that meet the buffer requirements from churches, parks, schools, etc. So although Criteria D may apply with traditional retail businesses, it would be much more difficult for a marihuana retailer to find a new location in the City of Lapeer.
3. I would be required to pay the State of Michigan appx \$40-50K for new state licenses because I would be seeking new licensure for a new address.

Obviously, we hope that there will never be a catastrophic event, but I’d like to protect the very significant investment I have already made in the City with this Class A status.

Thank you for your consideration.

Mike Bahoura  
Owner

Vice Chairman Kelly opened the public hearing at 6:43 p.m.

There being no comments, the public hearing was closed.

Discussion was held on employee parking issues at the adjacent business to the east, the fact the existing nonconforming uses can continue if the request is denied, whether another industrial use could be located at the property, the existing mixture of commercial and industrial uses in the subject area and the fact the uses could not rebuild if destroyed without approval of the Class A Nonconforming Use designation.

**043      2021 08-12      Class A Nonconforming Use – 1330 Imlay City Rd.**

Moved by Bostick-Tullius. Seconded by Kerbyson.

To **deny** the Class A Nonconforming Use designation request by AJA Investments for a marihuana provisioning center and professional office located at 1330 Imlay City Road because it does not meet standard D in Section 7-20.02.

**Ayes:** Commissioners Kerbyson and Bostick-Tullius.

**Nays:** Commissioners Johnson, Marquardt, RaCosta, Pattison, Roberts, Shenck and Kelly.

**Absent:** None.

**MOTION FAILED.**

**044      2021 08-12      Class A Nonconforming Use – 1330 Imlay City Rd.**

Moved by Marquardt. Seconded by RaCosta.

To **approve** the Class A Nonconforming Use designation request by AJA Investments for a marihuana provisioning center and professional office located at 1330 Imlay City Road because it meets all four standards in Section 7-20.02

**Ayes:** Commissioners Johnson, Marquardt, RaCosta, Pattison, Roberts, Shenck, Kelly and Kerbyson.

**Nays:** Commissioner Bostick-Tullius

**Absent:** None.

**MOTION CARRIED.**

### **SITE PLAN REVIEWS**

There were no site plans to be reviewed.

### **TRAINING REPORT**

Ms. Habben reviewed upcoming training opportunities on October 20<sup>th</sup> and 25<sup>th</sup>.

Commissioners Marquardt and Roberts reviewed their notes from the Adaptive Reuse in the Downtown presentation documents.

### **COMMISSIONER COMMENTS**

There were no comments from the commissioners.

### **ADJOURNMENT**

Motion by Shenck. Seconded by Kelly.

Adjourn the meeting at 7:08 p.m.

**MOTION CARRIED.**

---

Commissioner Jeff Pattison  
Secretary

---

Kimberly Hodge  
Recording Secretary