**TORCH LAKE TOWNSHIP**

**APPROVED PLANNING COMMISSION WITH CHANGES 5-0**

**May 10, 2022**

**Community Services Building**

**Members Present:** L. Carleton, D. Walker, B. Hawkins, A. Graves, B. Dvorak J. MERCHANT

B. Budros arrived at 7:14 pm

Members Absent: none

Others: S. Kopriva, Zoning Administrator/Consultant

Recording Secretary: V. Beitner

Audience: 45+/-

**1. Call to Order** at 7:01 pm by Chair Andy Graves.

**2. Pledge of Allegiance** Recited by all

**3. Consideration of Agenda** and explanation regarding two (2) Special Use Permits – Item #6 Public Comment is limited to any questions not related to agenda items. (M/S) B. Hawkins/B. Dvorak. No discussion. Passed 5-0.

**4. Conflicts of Interest** – L. Carleton has a conflict with SUP for Torchport Airpark due to proximity of home. B. Hawkins has a conflict due to proximity of 31 Scoops SUP.

**5. Approval of March 8, 2022 Minutes.** (M/S) B. Hawkins/J. Merchant motion to approve as presented. Passed 6-0.

**6. Public Comments** – None

**7. Ongoing Reports**

A. Zoning Administrators Report – provided by S. Kopriva and open to questions. A. Graves wonders if current activity is about average for time of year. Response is that it does appear to be normal.

B. PC Representative to ZBA Report – no action items. Reviewed Rules of Procedures and May meeting cancelled. Based on tonight’s activity, anticipates seeing some added activity.

C. TLT Board Representative on PC Report – very few action items. One new EMS hire. Elk Rapids Public School Superintendent did attend and speak to current construction activity.

**8. Correspondence** – None

**9. New Business**

A. PCA 2021-35, 31 Scoops at 2786 N US 31 & 2722 N US 31, parcel numbers 05-14-324-030-00, 05-14-795-023-10, & 05-14-795-022-00 for sales and rentals of watercraft.

**1. Presentation by Applicant** – Requests ability to rent out kayaks and canoes for visitors to area. A trailer located on the property would house equipment. Overnight storage would be located at Village parcels noted. Launches would be encouraged to happen at the DNR Boat launch at the north end of the lake. Customers wishing to utilize the Day Park would have to pay fee and follow Day Park guidelines.

A. Graves asks for time of rentals. Answer: Summer months/seasonal. Hours? Answer: 10:00 am to 2:00 pm and 2:00 pm to 6:00 pm.

Commissioner B. Budros arrived at 7:14 pm. Commissioner B. Hawkins excused himself from room at 7:16 pm due to Conflict of Interest.

D. Walker has a question regarding the Business Plan and knowledge of launch activity. Requests exact numbers of equipment and size of trailer. Answer: 6 units. Will add as business increases. Questions parking lot being marked for loading/unloading. Requests specific area for this activity. Answer: South side. A. Graves asks how many units in total: 9 units all together: 4 kayaks, 4 standup paddleboards, 1 canoe. Does not know how many they may add due to demand.

**2. Public Hearing began at 7:21 pm.**

**B. Agar**, 5911 N. M-88 spoke to high summer traffic at the north end boat launch. Asks for location of renters parking. Second question relates to DNR site being accessible for a commercial business. Third question relates to number of units and asks Commission to limit number.

**C. Goossen,** 3930 Thierry Circlenot in favor of this permit request. Spoke to finite resource in the Day Park and the North end launch access.

**J. Garrison**, 508 Whitefish Trail spoke to people parking on his property which makes the homeowner liable. Growth is a good thing but has concerns regarding general public utilizing Road Ends.

**A. Dobzyniak**, 3312 Mich-Ind-Oh spoke to DNR and Torch Lake Boat Launch being high traffic areas and added congestion from added service. Expressed safety concerns for those unaware of lake.

**L. Johnston**, lives at end of Third St. Spoke to historical legal issues with Third St. Road End. Continues to be a “bone of contention.” Unknown activity for Road ends if SUP is approved should be a concern.

**T. Joseph,** 2464 US Hwy 31 N, asks the Planning Commission to consider what has happened to the south end of Torch Lake in the last 2 years. Referenced specifically the Tiki Torch business,

Review of photos taken by Township staff provided to review for concerns of screening.

Written Correspondence from: **C. McAuliff** and **K. House** opposed to application due to concerns with added congestion.

**Public Hearing ended at 7:36.**

**3. Review, Discussion, and Possible Decision**

Questions to S. Kopriva for summary of Application and to walk Commission through considerations. Commercial Lot where 31 Scoops is located and includes use of lot that is Zoned Commercial/Residential but currently being used as Residential and would be used as storage for business equipment.

Screening and Planning Commission – Applicant provided more information stating that there is existing screening. The existing screening is on the neighboring properties and not the applicants.

Set Back Information – not on application and is required.

S. Kopriva – does not know the rules of the DNR. The PC could put requirement that they must obtain all proper documentation for usage of boat launches and road ends. Cautions the Commission regarding specifics to parking as this goes beyond the power of the Planning Commission.

Commission asks for additional usage information to Road ends. Per S. Kopriva, these are public access to the water in some form. Is not aware of any specific Township Zoning Ordinances.

J. Merchant asks specifically about the Third St. Road end and comments from L. Johnston. B. Budros would like specifics of the Third St. Agreement and asks if any other agencies are involved; specifically, EGLE. L. Johnston detailed example related to governing ordinance over the Road End as a tree had fallen onto their property. The County Road Commission controls the public road and the Township controls the public access to the water at the end of Third St. per S. Kopriva. B. Dvorak asks about agency review regarding the SUP. S. Kopriva does not foresee any outside agencies but the publics’ comments to safety would suggest that the Fire Department, MDOT or Soil Erosion may need to be contacted regarding this concern. D. Walker would like to have the concern of commercial usage at the DNR launch reviewed. S. Kopriva agrees that this would be an outside agency input to be provided but reminds the Commission that we do not enforce the rulings of the DNR. Public Comment read from the DNR website states that Commercial usage is allowed with a permit. J. Merchant asks how dock and hoist companies conduct their commercial use and boat launches. Discussion ensued. He further states there should be a limit to the number of units and reviewed before any expansion. L. Carleton asks for answer regarding transportation of equipment units and customers in relation to parking. Applicant states that dependent on situation it may be one vehicle would go to launch site and leave all other vehicles at 31 Scoop property. Smaller groups may choose to ride with renters. Applicant also commented that renters may be taking the equipment to their own property on the lake. Discussion with the Day Park Committee reviewed that the applicants feel the road ends are not a sensible place to launch their equipment. Access via the Torch Lake Nature Preserve questioned. Unclear who maintains that area. 31 Scoops states there is a provision in the rental agreement that renters would not be allowed to launch in the Bay. L. Carleton asks if the Rental Agreement is available. Applicant does not have copy to provide for review. C. Goossen states the Commercial entities that use the DNR launch and Torch Lake Boat Launch do so at this time of the season and not during the high tourist season.

Additional clarifications requested of the applicant regarding model of business in rental/delivery of equipment and renters. Discussion continued focusing on Road Ends with input from S. Kopriva, Zoning Administrator/Consultant.

**Standards –**

*Site Plan:*

1. Partially satisfied by the Zoning Administrator. Commission agrees to added requirements: Needs to better define the parking spaces for loading/unloading. B. Budros spoke to striping the parking spots and the posting of signs and which should be required. General agreement that both of these conditions would be good to require.

2. Satisfied by Zoning Administrator. Commission agrees

3. Satisfied by Zoning Administrator and agreement with Commission having no concerns or questions.

4. Partially satisfied by the Zoning Administrator. Screening has definite concerns by the Commission for the site and the storage of the equipment at the residential home. Commission requires that added screening be in place and could include a privacy fence to hide the trailer or evergreen screen/plant with enough coverage to cover the trailer. L. Carleton asks for clarification of storage in the trailer. Answer is that some will be in the trailer and some will be stored outside of the trailer due to number of units. Screening will be a condition and requirement of the applicants. This condition will be completed with input from Township staff. Screening for the Residential component will be that the units will be placed in the driveway and the garage. The driveway has existing grapevine coverage.

5. Satisfied by Zoning Administrator as no new buildings proposed. Commission agrees.

6. Satisfied by Zoning Administrator. Commission agrees.

7. Satisfied by Zoning Administrator and Commission has no questions/concerns.

8. Loading/unloading and Outdoor storage areas: Partially satisfied by the Zoning Administrator. B. Dvorak speaks to governance over a residential site. Zoning Administrator speaks to the applicant’s SUP, which includes commercial site and residential property, which are zoned Village Business/residential; as a function of the business. Therefore, the residential property could be argued to be considered. Residential Zoning ordinances in Torch Lake Township speaks to both the commercial and residential sites being used as a function for the Commercial business. Commission agrees to make a condition that the storage would have to remain in the driveway. Public Comment: Concern regarding allowing storage on residential property that may not be adjacent to commercial property made by M. HeAley.

J. Garrison speaks to added cost of placing no trespassing and unfavorable look. If the Commission agrees to have screening and parking of trailer over the septic area, this would go against the Health Department. D. Wright spoke to safety concerns. Feels there are many concerns and issues with the Day Park and swim area. Would like the Master Plan regarding the Day Park taken into concern.

9. Exterior Lighting – Satisfied by Zoning Administrator and Commission has no questions.

10. Satisfied by Zoning Administrator and Commission has no questions.

11. Satisfied by Zoning Administrator and Commission has no questions/concerns.

12. Satisfied by Zoning Administrator and Commission has no questions/concerns.

13. Partially satisfied by the Zoning Administrator but staff recommends that statement from the fire department be obtained. Commission agrees.

14. Satisfied by Zoning Administrator and Commission has not questions/concerns.

15. Satisfied by Zoning Administrator. Commission requires the applicants to obtain written approval of business/usage by the DNR and the Torch Lake Township Fire Department

*Special Use:*

1. Partially satisfied by the Zoning Administrator. Commissioner Walker is not satisfied with the Business Plan that has been explained by the applicants. Commission charged with ensuring the health and safety of the community and this has not been addressed. Commissioner Dvorak states that in listening to the concerns, these may be turned into a condition. Business plan details requested by the Commission would not include financials. They would like to see the logistics, renter agreements, etc. L. Carleton agrees to limiting the number of units and to add language that speaks to the applicant stating where they will launch (i.e. DNR launch at north end) if doing so for the renter. Commission adds the following conditions: Applicant cannot provide transportation to road ends. Number of units’ limit to 12. Rental hours are fine.

2. Zoning Administrator finds partially satisfied. Screening, storage already addressed.

3. Satisfied by Zoning Administrator and Commission has no questions/concerns.

4. Commission feels that this can be satisfied with limiting the number of units.

B. Budros states she is disappointed that the Day Park committee is not willing to work with applicants. Applicant states they were asked to attend meetings twice with Day park committee that didn’t happen and then were asked to come in and told they would not be allowed to launch from park. J. Merchant; as a member of the Day Park Committee spoke to safety concerns and implementation to address include parking restructure and adding a fence. Additionally, this will be the first year with an Ordinance Enforcement Officer, which may make a difference.

Summary of Conditions:

1. Loading spaces to be marked with paint and sign that they are loading spaces only, not for parking.

2. Outside agency permits required prior to land use permit.

3. Sign permit required for any change to signage on site.

4. Additions to the site plan prior to the issuance of a land use permit: a. Lot area for both commercial and residential parcels, b. Screening/buffering drawn on the plan, c. Square foot of the existing restaurant, d. setbacks

5. Screening provided on Commercial area. Applicants to work with Township staff.

Storage is located in the driveway on the residential property.

7. Limited to 12 boats or vehicles at this time.

8. If participating in launching, it has to be at the north end with DNR LAUNCH

(M/S) B. Dvorak/J. Merchant motion to approve with Conditions PCA 2021-35, for 31 Scoops at 2786 N US 31, 0 N US 31 & 2722 N US 31, parcel numbers 05-14-324-030-00, 05-14-795-023-10 & 05-14-795-022-00, for the sales and rentals of non-motorized watercraft based on the criteria in the staff report and as discussed tonight. Roll Call Vote: L. Carleton – yes, J. Merchant – yes, B. Budros – yes, D.WALKER – yes, B. Dvorak – yes, A. Graves – yes. Approve with conditions unanimously with exception of B Hawkins due to recusal.

Meeting break at 8:55 pm

**Meeting called back to order at 9:05 pm.**

B. Hawkins rejoins the meeting and L. Carleton recused herself at this time.

B. SUP 2022-03, Torchport Airpark 1391 N US 31, parcel numbers 05-14-770-000-10, 05-14-770-014-00 and 05-14-325-025-00 for outdoor event to hold charity fundraiser.

**1. Presentation from the Applicant:** Goal to have a fun kickoff to summer activity at the airport. Most of the events planned do not require a SUP as the facility is an MDOT and FAA regulated entity. Fireworks show is a residential show and not a Commercial event. Trying to resurrect something that has been happening for decades. Personally runs charities and is trying to raise funds for the area. Goal to raise $25,000 for the 4 local food banks that surround Torch Lake. Addressed voiced obstacles to event. (1) attempt to do commercial activities which goes against his 100 acres of Commercial property. He is using only Commercial property. (2) Not consistent with the Master Plan. Has received a letter from the State of Michigan that states that leaving the airport off the Master Plan is a violation of State law. He has provided this documentation to the Township Zoning Department. The last time Torch Lake Township reviewed the Master Plan, the Airport was inadvertently left off. (3) Camping. Camping is not new to the airport per documentation and approved from MDOT and the FAA. (4) Lite sport aviation sounds like lawn mowers in the sky. While the applicant understands the concern, there is no legal regulation from the Township. Power Para motors is the fastest growing aviation sport. While he understands some may not like the noise, this is a reality of living around an airport; they do try and keep participants at 500 ft. above the area to minimize the sound.

Commission comments: B. Dvorak asks ZA question regarding hours of event. Applicant states Para motors cannot function 30 minutes before daybreak and 30 minutes after sunset. Hours were listed on application. How many airplanes and Para motors? Applicant does not have a number but states irrelevant to SUP. Discussion surrounding SUP carrying on with the land. B. Hawkins clarifies time regulations for added reference. Asks how communication with the Para motors happens. Applicant stated specific runways closed and usage clearly marked for those on ground. B. Dvorak asks if the applicant will work with the Township in regards to the hours of the event. Applicant states he will not change hours of the aviation events as he is following FAA governing rules. A. Graves offers scenario in reference to capacity usage. Applicant states the pilot will dictate according to congestion. Does not feel it will be an issue.

**2. Public Hearing opens at 9:29 pm**

Public Comment: **B. Stridiron, 5903 N. M-88** spoke to details of the Applicant’s information. Questions signature on file. Page 2 states the fee should be taken from the escrow fee that is still owed from last year. Feels this is outrageous behavior of Township. County permits for camping will be used according to application. This is a privately owned facility so it should be held to Township zoning ordinances. Dates do not include year. Wants it returned to applicant to be properly completed. **B. Agar, 5911 N. M-88** How can a private airpark be governed by MDOT and the FAA. Does this application fit with the Airpark bylaws? Is the applicant speaking for the whole community or himself? **D. Klinefelter, 1853 San Marino Trail** wants to enjoy the first holiday weekend and states that last year was not without issues. Noise pollution was horrendous. Has fire concerns. **D. Swanson, 2693 Bay Harbor Club Lane** requests that the application be denied or subject to two conditions. Eliminate the Para Motor and all corresponding events. **L. Willard, 2453 San Marino Trail** had toe dipping on her beach and disturbing the lowest dune. Being a part of the Critical Dune area, she feels she must be present to protect her property. Agrees that the Para Motor aspect be denied. Has safety concerns regarding fire resources and protection of private roads due to increased traffic. (B. Hawkins called away at 9:44 for Fire call) **A. Martel 901 Wooden Gate**, is a Trustee of the Township and is speaking tonight as SUP does not go before the Township Board. Questions to what extent private property can be used for such events. Speaks to fact that the airport was not included in the Master Plan due to fact that the property was converted to an airpark and listed under residential. Spoke to value of quiet area. As a veteran, he feels that fireworks do not work with the purpose of the Memorial Weekend. **H. Willard, 2153 San Marino Trail** spoke to feeling offended by the applicant’s approach in stating his property governance. Spoke to Memorial weekend intent and how it matches the application. **G. Jones, 11085 Wood Special Dr.** supports the application. Asks that applicant if the proceeds of the Pancake Breakfast will go to the Fire Department. Answer that the proceeds will be going to four Torch Lake Area Food Pantry’s. M. Jorgensen, Lake Shore Dr. Elk Rapids former employee of airport until 1989 and then purchased property. They have never had to ask the Township for permission. Spoke to proceeds going to benefit those in need. **D. Steggles, 12325 Third St** has been coming here for years and feels that she has attended many fun events and supports the applicant. **R. Bishop, 11089 Wood Special Dr.** spoke to the FAA overseeing the Airpark and does not understand why the applicant felt it necessary to try and work with the Board. Spoke to having the ability to partner with the applicant using his FCC license and hold a concert every Friday in the summer. Feels it is time to heal the community. **D. Graber, 1227 Beechnut Lane** read statement that spoke to applicant not having the right to use property for camping and states Food Trucks are not allowed. Stated existing ordinances to substantiate objections which also include runway complications. **K. Barry 5404 N. US 31** spoke to her and her husband as licensed Para Motor instructors. Has never experienced the level of anger as they have been exposed to in this Township. Welcomes anyone interested to come speak to them and take a lesson from them.

**Written Correspondence:** L. Willard, San Marino Trail opposed. J. Battershall, San Marino Trail opposed. L. Marmion, San Marino Trail opposed. C. Bean, San Marino Trail opposed. M. Lorenz, Bay Harbor Ln opposed. B. Vitito, San Marino Trail opposed, J. Butzer, San Marino Trail opposed. S. Baumann opposed. D. Graber, Beechnut Lane opposed. P. Taylor, San Marino Trail opposed. S. Szynal US Hwy 31 N opposed. P. Elbert opposed. T. Caulfield, Wild Cherry Ln opposed.

Chair A. Graves spoke to purpose of Commission and need for structure. Reminds audience of generally acceptable behavior and protocols.

**3. Review, Discussion, and Possible Decision**

S. Kopriva reviewed specific areas where the Township may regulate events. Example given that State Law states there are specific times where all citizens are allowed to go to the store and purchase fireworks and discharge. Memorial Weekend is one such weekend and the applicant is not utilizing Commercial Fireworks. S. Kopriva encourages the Commission to focus on only the aspects that are allowable by law and detailed these events. Historical information also provided from last year as an added explanation.

A. Graves asks about the “signature on file” and the reference to $400 escrow owed to applicant. S. Kopriva referenced a letter that is also included in the Planning Commission packet for review to explain these matters. Further, he asks why the camping was referenced as “county permits.” Applicant stated that MDOT has explained and provided documents that show the State of MI has already approved this function. J. Merchant asked the applicant if the Board has the authority to deny the Para Motor event(s). Applicant states this is not a governance of the Township Board. In trying to be thorough, the applicant added all events for review. B. Budros asks for clarification of name and status change of Torchport Airport to Airpark.

**Public Hearing closed at 10:19 pm**

**Standards:**

1. Site Plans – Partially satisfied to reflect concern with parking management. Applicant states they will be cautioning off areas and will present in writing the plans. The Township also still has Two (2) 15,000 water tanks within 1000 ft.

2. Minimize tree removal – Not applicable unless there is a fire. Applicant states he is currently working with the Fire Department and if there is a ban, the fireworks will be cancelled.

3. Storm Water – Satisfied and no concerns from Commission

4. Zoning Administrator partially satisfied and spoke to added condition of parking plans and restrictions on the music; this would be satisfied. No concerns from the commission.

5. Emergency vehicle access – Fire department has reviewed and has no issues. Commission has no concerns.

6. No new structures proposed – satisfied and no concerns

7. Vehicle circulation system – delineated by the applicant as was done this last year. Additional traffic control question posed. Safety concern of the Commission is that the parking would go down 31. No other questions from commission.

8. Loading and unloading of storage (trash) – question regarding trash states that there is a contract with American Waste to have several rolling totes in place and picked up after the event.

9. Exterior lighting – none proposed no concerns.

10 Existing roads – no concerns

11. Satisfied but the Commission strongly asks the applicant to be cognizant of vehicles leaving after dark (fireworks)

12. Satisfied – no concerns

13. Water supplies – Fire Dept. is not requiring any further requirements. No concerns

14. New buildings – none proposed. Satisfied

15. Site plans – Satisfied as the County Camping permit has been addressed. No Concerns

**Special Use**

1. Sanitation will be provided by Gmoser Septic Service. Conditions: all camping will be on the Commercial property. J. Merchant feels standard is met. Commission agrees

2. Use of adjacent land – must be consistent with application as stated. B. Budros does not feel compatible with adjacent residential lots. A. Graves asks S. Kopriva where this standard would be incompatible. B. Budros states the noise, hazards, traffic cannot be compatible with any residential area. B. Dvorak states this is compatible with the permits. Particular activities may not be liked by the community but the standard is met. B. Budros – not satisfied, D. Walker – satisfied, B. Dvorak – satisfied, J. Merchant – satisfied, A. Graves – satisfied.

3. Impact on environment – Applicant reiterates that the only issues being addressed are those that relate to activities not related to the para motors and fireworks. B. Dvorak asks if good will is being offered, he would allow with a condition of hours to the para motors activity. J. Merchant spoke to cherry farmers use of a sprayer and reality that this is a function that happens regularly so the issue with noise is not relevant in this case. A. Graves appreciates the comments but states that he struggles with this standard. Applicant states dependent on weather, there may not be any activity. B. Budros: feels that there are environmental impacts and incompatible for these type of activities for this area. Further spoke to continued confusion regarding his property. She is suspicious and does not trust the applicant. B. Budros – not satisfied, D. Walker – satisfied, B. Dvorak – not satisfied, J. Merchant – satisfied, A. Graves – satisfied

4. Fire safety – satisfied. No comments concern from commission.

**Summary of Conditions**

Outside agency permits limited to those in the application.

Add year of 2022 to application

Add hard signature

Days and times of events

Parking plan submitted prior to event

Traffic control after dusk

All camping on the Commercial Property

Extensive discussion regarding information provided by the Applicant that he received from the State of MI yesterday regarding FAA regulated vehicles.

B. Dvorak proposes the condition of adding a time limit for the Para Motors be limited to 9:00 am to 5:00 pm Roll Call: B. Budros – yes, D. Walker – no, B. Dvorak – yes, J. Merchant – no, A. Graves – no. Passed 3-2.

(M/S) J. Merchant/D. Walker Motion to approve with conditions SUP 2022-03, for Torchport Airpark at 1391 N US 31 parcel numbers 05-14-770-015-00, 05-14-770-000-10, & 05-14-770-014-00, for outdoor event over the 2022 Memorial Weekend as presented as it meets the criteria. J. Merchant – yes, B. Dvorak – no, D. Walker – yes, B. Budros – no, A. Graves – yes. Passed 3-2.

**10. Unfinished Business**

A. Annual Report moved to next month meeting

**11. Concerns of the Commission**

J. Merchant states that his concern is for tomorrow’s meeting having to read all the correspondence as there are 200+ letters. S. Kopriva states that we can summarize and add general concerns.

**13. Public Comment** – A. Martel, spoke to importance of understanding the FAA regulations regarding Para Motor sports for next year.

**14. Adjournment** – (M/S) J. Merchant/B. Dvorak motion to adjourn at 11:18 pm. Passed 5-0.

Minutes Respectfully Submitted by Veronica Beitner and subject to approval at the next regularly scheduled meeting.