

**LIVONIA JOINT PLANNING BOARD**  
**NOVEMBER 9<sup>th</sup>, 2020**

Present: Chairman R. Bennett, D. Andersen, J. Brown, R. Haak, J. Palmer, L. Willoughby, CEO  
A. Backus, Zoning Compliance Assistant J. Holtje & Attorney J. Campbell.

Excused: J. Sparling, Secretary A. Houk

Note, Public Meetings (Covid-19) precautionary policies were followed to the best of our ability and included:

- Applicants would typically be asked to wait in their vehicles until instructed to enter the building; however, the attendees at this meeting were able to maintain social distancing and wore face coverings.
- Hand sanitizer was made available at the entrance of the town hall.
- Meeting room occupancy was restricted to no more than 50% of the maximum occupancy (or 48 persons). Less than 48 persons attended this meeting.

Agenda:

**1) *Approve the meeting minutes. –August 24<sup>th</sup>, 2020***

**2) *Benjamin Damon – South Livonia Road, Livonia, NY.***  
*Approval of Subdivision – 84.-1-44.327*

**3) *Bruce Beardsley – Price Road, Livonia, NY.***  
*Approval of Subdivision – 83.-1-10.217*

**4) *James & Joyce Willard – Adams Road, Livonia, NY.***  
*Approval of Subdivision – 85.-1-3.123*

**5) *Robert Gallagher/Prometheous Farm & Market – 5804 Decker Rd, Livonia, NY.***  
*Preliminary Site Plan review*

***Chairman Rick Bennett opened the meeting at 7:00 p.m.***

**1) Approve Meeting Minutes for August 24<sup>th</sup>, 2020.** Chairman Rick Bennett asked for a motion to approve. M/2/C (J. Palmer/ D. Andersen) approved as submitted. Carried 6-0.

**2) *Benjamin Damon – South Livonia Road, Livonia, NY.***

Chairman Rick Bennett asked Barry Carestio, Land Surveyor representing Benjamin Damon to come forward for the Subdivision of South Livonia Road, Tax Parcel # 84.-1-44.327. Benjamin Damon is proposing to divide off 5+ acres from the 35+ acre parcel. The parcel is located on the west side of South Livonia Road, 250' north of Price Road. The future desire is to combine the

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house parcel with the remaining 30 acres, but the 30 acres is located in the Ag District and the house is not, which prevents them from being combined now. That is the long-term plan. CEO Adam Backus stated that he is aware that there are some wetlands on the back side of the property. We were concerned for the north parcel, but there is plenty of room for this one being proposed. It's a simple proposal without much risk, and plenty of room to do what they want to do on the parcel. We can evaluate the Site Plan relative to a Building Permit request.

Chairman Rick Bennett asked for a Motion to waive the Public Hearing. Motion to waive: M/2/C (R. Haak/J. Palmer) Carried 6-0

Chairman Rick Bennett and the Board reviewed SEQR. Negative declaration was determined. Motion to approve: M/2/C (J. Palmer/R. Haak) Carried 6-0

CEO A. Backus stated that this Subdivision was submitted to Livingston County Planning Board for their review. Livingston County has responded that the application has no significant Countywide impact. Therefore, approval or disapproval is a matter of local option.

Chairman Rick Bennett asked for a motion to approve the Subdivision as presented. Motion to approve: M/2/C (J. Brown/J. Palmer) Carried 6-0

**2) *Bruce Beardsley – Price Road, Livonia, NY.***

Chairman Rick Bennett asked Barry Carestio, Land Surveyor representing Bruce Beardsley to come forward for the Subdivision of Price Road, Tax Parcel # 83.-1-10.27. Bruce Beardsley is proposing to divide a 60+ acre parcel into two lots. The parcel is located on the south side of Price Road, 1250' west of Pennemite Road. Barry reviewed the Subdivision map with the Board. CEO Adam Backus asked for clarification regarding maintaining the access through the existing easements. There was a driveway site distance situation in this area, but it was determined not to affect this subdivision. Barry Carestio confirmed that the easements will still provide access to both parcels. There is also plenty of room to put in a new driveway if needed in a location with good sight distance. Barry Carestio stated that it is set up so that the farm parcel to the west of that driveway, can also use the driveway. It was discussed that in the event of an emergency, any of the accesses could be used. CEO Adam Backus stated that if someone wanted to pursue building a house in the back parcel, we would have to address fire access during Site Plan approval process.

This was determined to be a minor Subdivision that was exempt from Livingston County Planning Board for review, per Section 239-m and n of the NYS General Municipal Law.

Chairman Rick Bennett asked for a Motion to waive the Public Hearing. Motion to waive: M/2/C (J. Brown/J. Palmer) Carried 6-0

Chairman Rick Bennett and the Board reviewed SEQR. Negative declaration was determined. Motion to approve: M/2/C (J. Palmer/R. Haak) Carried 6-0

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Chairman Rick Bennett asked for a motion to approve the Subdivision as presented. Motion to approve: M/2/C (R. Haak/D. Anders0n) Carried 6-0

**2) *James & Joyce Willard – Adams Road, Livonia, NY.***

Chairman Rick Bennett asked Barry Carestio, Land Surveyor representing James & Joyce Willard to come forward for the Subdivision of Adams Road, Tax Parcel # 85.-1-3.123, located in the Agriculture Residential District 3, (ARC-3). The Willard's are proposing to divide a 5+ acre parcel from 113-acre parcel. The parcel is located on the north side of Adams Road, 658' east of Federal Road. Barry Carestio stated that an additional note (3), has been added to the plans regarding the wetland, and any needed separation for future Building Permits. Zoning Compliance Assistant Julie Holtje stated that the Board should be aware of road frontage disappearing and due to the angle, and the way that the existing farmhouse is located, access to the land in the rear should be considered. Barry Carestio agreed and stated that an additional Subdivision application will be coming next month that addresses this issue.

This was determined to be a minor Subdivision that was exempt from Livingston County Planning Board for review, per Section 239-m and n of the NYS General Municipal Law.

Chairman Rick Bennett asked for a Motion to waive the Public Hearing. Motion to waive: M/2/C (J. Palmer/L. Willoughby) Carried 6-0

Chairman Rick Bennett and the Board reviewed SEQR. Negative declaration was determined. Motion to approve: M/2/C (J. Palmer/J. Brown) Carried 6-0

Chairman Rick Bennett asked for a motion to approve the Subdivision as presented. Motion to approve: M/2/C (R. Haak/D. Anderson) Carried 6-0

**5) *Robert Gallagher/Prometheous Farm & Market – 5804 Decker Rd, Livonia, NY.***

Chairman Rick Bennett asked Robert Gallagher and Attorney Steven Sessler to come forward for the Site Plan review. This is for the proposed development of Prometheus Farm and Market. Robert Gallagher stated that they have submitted a preliminary Site Plan for review. The Site Plan covered the Farm overview and statutory compliance, which was presented to the Board the last time they were here. A description of the Farm, and what the business is going to be. It addresses the points in CEO Adam Backus's memo. Attorney Steven Sessler stated that they would like to know where they are at within the Planning Board process. The October 2019 memo from CEO A. Backus, provided points to proceed with a preliminary Site Plan application. In that period of time, Prometheus Farms did respond to the items from the memo. They are present in hopes of having the preliminary Site Plan approved. They would like to proceed with a Livingston County referral at their next meeting on December 10<sup>th</sup>, 2020. They feel that the County's review is important to their application. They are also asking that the Planning Board waive the Public Hearing on the Preliminary Site Plan. If a Public Hearing is needed, they are requesting that be on the Final Site Plan application. This would give enough time to get input back from the County Planning Board. Jeanne Brown stated that it may be better to have it

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submitted to the County Planning Board first. If the public had any concerns, the answers may be provided back from the County after their review. Attorney Steven Sessler stated that the plans that have had prepared, include architectural, septic, site & parking plans. The engineering that has gone on has been very extensive. The County Planning Board would be a good resource to use in their referral and recommendation process. It would be good to see if they have any questions regarding the items that are coming up. Chairman Rick Bennett stated that his initial thought was that if we wait to have a Public Hearing after the County Referral, you may have to go through that again. In the preliminary process, it would be beneficial to get the comments from the Public in regard to the Site Plan, then send it to Livingston County Planning Board for their review and comments. When the Board receives the Final Site Plan, at that point it is done. Joanne Palmer stated that she agreed. CEO A. Backus stated that, in an attempt to honor the request for an expedited site plan (which doesn't really exist), we already tried to get this through to the County Planning Board, but they were questioning whether we had a complete application. The challenge that we are all dealing with is that the Town of Livonia recognizes the importance of agricultural operations, and their ability to be free from unreasonable and unwarranted interference or restriction; but this proposed agricultural operation is not what most people think of when they chose to live in an agricultural community. This new type of operation (to our community) has greater potential to cause adverse impacts to the neighbors, so we are trying to strike a balance between Ag & residential uses. The proposed operation includes retail sales and public assembly, which is not typical in our residential/agricultural districts. The County is waiting for us to find this balance and determine what level of review is appropriate. We are not far away from advising the County that this is a complete application. Attorney Steven Sessler stated that he thought they would need to wait until the County responds. CEO A. Backus stated that we have tried to get the County to respond back, but when they read our site plan procedures, this use doesn't seem to fit. Attorney Steven Sessler asked what the County suggested that they wanted to see when the application was submitted. Attorney James Campbell stated that he didn't believe it had gone that far. The County stated that the application didn't check all the boxes in terms of Code in relation to a completed Site Plan application. When it was discussed about the balancing regarding the Ag & Markets. The County had some concern that our Code doesn't provide adequate language to that effect. They don't believe that the "Right to farm" impacts Zoning. Attorney Steven Sessler asked, how does the applicant move forward. Attorney James Campbell stated that the Building & Zoning office is required to make sure the application is complete for review, and the County will honor that. The County will review it and schedule it on the December County Planning Board meeting. They will make comments on the referral. He is in favor of doing the Public Hearing early in the process as it can be insightful for the applicant. Any comments can be addressed during the process. It's not a matter of having multiple Public Hearings, but when they would be most efficient. They provide everyone with feedback that would be pertinent to a good project. Chairman Rick Bennett asked, at what point should we schedule a Public Hearing? Attorney James Campbell stated that you can schedule a Public Hearing once there is a determination by the Building & Zoning office as to the sufficiency of the application. CEO A. Backus stated that the discussion at this point is identifying the issues and indicating to the County that we have a complete application. Chairman Rick Bennett stated that items within the submitted Preliminary Site Plan needs to be clarified.

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CEO Adam Backus had previously stated that there is worker housing which needs to be looked at, and he referenced manufactured homes, but it turns out that they are using RV's, and not Mobile Homes. We again need to figure out how to balance worker housing in relation to the code, which states you cannot occupy an RV for more than 14 consecutive days. It would be nice to know what AG & Markets recognizes as suitable housing. How do we deal with our Zoning Code that states 14 consecutive days? Chairman Rick Bennett stated that there was reference to the 14 consecutive days, and the use of a Conditional Use Permit for a period longer than 14 days. Robert Gallagher stated that what he had planned, can comply with the 14-day restriction. Robbyn Haak asked how many workers are there staying at one time? There looks to be 6 RV's. Robert Gallagher stated that there are two that are functional with air condition & heating which serve as one person units. Two of the RV's will be used for marketing sales and a food operation. CEO Adam Backus stated that it needs to be determined if the other RV's are projects, outdoor storage, part of a farm operation or are junk/scrap. Specifically, the Fire Code does address Food Truck operations. Attorney James Campbell stated that Mr. Gallagher is stating that four of them are going to be used in the operation. It needs to be determined how they will be used. Will customers be coming in and out of them? Robert Gallagher stated that the larger one will have consumers entering & existing. The smaller RV will be used as a food pantry that will not have access to the public. The final RV is a project for him personally. There are two for living, one large Spartan Trailer that is silver, which will be renovated into a sales area or a place for people to sit. It will be mobile and will be licensed. Attorney James Campbell asked the applicant to explain why the 14 consecutive days won't be an issue for him. Robert Gallagher stated that it is the nature of the people who will stay there. They will move out and stay in other locations, such as Rochester, so the 14 days is not an issue. Robbyn Haak asked, what is the time in between the 14 consecutive days. CEO Adam Backus stated that it is not specific. The intent is that if your living there for more than two weeks, it's more of a permanent nature. We need to look at the intent of it. There are situations where RV's are hooked up to water & sewer. CEO Adam Backus brought up the hours of operation and business hours. Robert Gallagher stated that, although some Agri-tourism activities may begin no earlier than 6am, finishing no later than 10pm. Direct sales and Agri-tourism activities will operate Wednesday through Sunday, May through October. Limited days in the off season to sustain the business. Hours and days may be added during the main season if economically justifiable. As a working farm operation, some generally accepted agricultural practices may need to occur outside of the 6:00 am to 10:00 pm time frame. However, they expect these situations to be rare. Chair Rick Bennett stated that in regard to the RV's, the location will need to be noted in the Final Site Plan, as well as their purpose. This will also provide assistance to the Fire Department if there is ever a fire. CEO Adam Backus stated that the hours of operation are relative to the impact. On the deck and in the building, it is being proposed that there could be 101 occupants, plus whatever is going on outside. Would there be 200 people on site? That would make a difference on the impact to the community. Attorney James Campbell stated it makes sense to break it down when it would be open to the public, opposed to when farm operation business is being conducted. It would make sense to separate the hours of operation, indicating what is taking place during those hours. CEO Adam Backus stated that there seems to be some confusion over standard operating practices for a farm. From cutting Hay to a Stoke Farms. They are stating that it falls all under the terms of a farm operation because of the right to farm definition. Chairman Rick Bennett referenced a training session that referred to Agritourism

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with an example of a corn maze. It stated that the corn maze had very specific hours that it would be open, with running late on occasion. The rest of the activity is cut off at 5pm. CEO Adam Backus stated that standard operating procedures for a farm is not what the applicant is talking about. They are saying that it all falls under an umbrella definition that they took out of "Right to Farm" which references Ag & Markets, and references State Certified Ag properties, which this is not. There is some confusion here. Jeanne Brown stated that you're not going to tell a dairy farmer when to milk his cows, but it is reasonable to know when he is going to sell the milk to the general public on the property. CEO Adam Backus stated that when you are talking about Agritourism, there is more of an impact. Robbyn Haak asked Chairman Rick Bennett to further explain the training conference he attended, in relation to the Corn Maze in Macedon, and Agritourism. Chairman Rick Bennett stated that over the years it has developed from just a little farm stand, into selling cider, wine and bake goods. The Corn Maze starts at 6-7pm and at 11pm they blow the horn to signal that it is time to leave. The site is huge, but they are restricted to the number of cars that they can park which is about 200 cars. Prometheus Farms has approximately 10 acres and is limited to the number of cars that they can park. CEO Adam Backus stated that at the last meeting, the Board specifically asked the applicant to provide detail on overflow parking. In one explanation they stated there is room for 20 parking spaces, but the preliminary Site Plan only shows 7 parking spaces, with one being for handicapped. This plan is proposing to accommodate 101 people in the barn and on the deck, as well as other people on the property. Chairman Rick Bennett stated we have a partial Site Plan for a small plot of land. Chairman Rick Bennett stated that the applicant has enough room for the people, but there is not enough room to park the cars. Robert Gallagher stated that for that occupancy, the legal minimum is 7 spaces. Attorney James Campbell clarified that what the Board wants to see, is a Site Plan that shows how it will look in the end. Robert Gallagher stated that his Design Engineer advised him to proceed with the minimum required parking spaces. It is requested that the applicant provide further details regarding accommodating additional parking. If the Site Plan only shows 7 parking spaces, that is what the applicant will be restricted to. CEO Adam Backus explained that the Building/Fire Code gave the minimum number of parking spaces per the occupant load, that is different from what is required for the Site Plan. If the applicant only wants to have 7 people, then they have met the Fire Code, but not your intended occupancy. Attorney James Campbell stated that the Planning Board is asking what's the impact going to be and wants to ensure the applicants plan will work. Robert Gallagher stated that he thought they could configure for 25 spaces. Attorney James Campbell suggested that the applicant build his plan largely around the parking, ingress and egress. The applicant is limited based on what you propose to do with the building, based on the geography of the site, and how many parking spaces you can accommodate. The goal is to create a plan on paper that gives it the best chance of working fluidly in practice. This Board wants to know if you have reasonable parking accommodations and what is the flow of traffic will be in and out. Chairman Rick Bennett stated that the Board is looking for a Site Plan that shows what the applicant is asking for so that the Board can ensure that the plan is compliant. Chair Rick Bennett stated that the Board needs to know what the maximum possible cars (on-site) is going to be. Attorney Steven Sessler stated that if there were to be twenty-five cars maximum, that would not result in over a hundred people on site. Even though the building is capable for that occupancy, parking cannot accommodate that amount of people on site at once. Chairman Rick Bennett stated that if in the future the amount of parking and people on site at one time were to change, they would

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need to return to the Planning Board for review. Robert Gallagher stated that there may be times when there is an Agritourism event and buses are bringing people to the site. There may be over a hundred people, the building could handle that. Chairman Rick Bennett stated that if you bring in a bus with only seven parking spaces, that wouldn't leave room for any available parking for any other cars. We need you to take that into account when preparing your Site Plan. Zoning Compliance Assistant Julie Holtje stated that if Mr. Gallagher does expect buses to be a part of the Agritourism then the parking area needs to reflect the traffic pattern showing drop off and pick up points, as well as where the bus would be turning around. Attorney Steven Sessler asked for clarification on if a map with arrows showing the traffic pattern would be sufficient. Chairman Rick Bennett stated it would. Chairman Rick Bennett wanted the applicant to clarify the hours of operation ending at 10pm. CEO Adam Backus stated that this would be similar to the Wedding Barn's in the area, and while wedding barns have been successful, they have also caused much stress for the neighbors. The neighbors who live next door to the Wedding venue thought they were buying a house out in the country next to a hundred-acre farm. Now they have the potential for over 100 people partying, twenty-nine weekends a year. That is what we are trying to get out in front of. Is this going to be a hundred cars, a hundred people, or is it going to be seven to twenty cars periodically? The Board needs to know what the impact is going to be. Robert Gallagher stated that with just the Farm Market, they just don't know, but he has never seen a Farm Market back up traffic. As his Attorney stated, the number of parking spaces is going to dictate how many people they can have on-site. Attorney James Campbell stated that the hours of operation need to be defined. There is language in the Site Plan that states in regard to accepted agricultural practices, hours may need to occur outside of the 6:00 am to 10:00 pm time frame. However, they expect these situations to be rare. Robbyn Haak stated that there is also reference to over-nights. Chairman Rick Bennett stated this needs to be defined. Attorney James Campbell stated that the Board would like to see the vision you want to try to accomplish. Robbyn Haak stated that the Board would also like to know how often these events are planned. Joanne Palmer stated that if there was music planned at any of these events, the Board would like to know what type of music that would be. Robert Gallagher stated that it might be hard to predict that. CEO Adam Backus stated that this was a big problem with the Wedding venues and OSB Cider. There needs to be a balance so there is no negative impact to the neighbors. Chairman Rick Bennett stated that no music with sub-woofers, and the music stops by 10pm. It is better to just keep the music to a reasonable level, than try to measure what the decibels are. Robbyn Haak stated that the Board would like more information detailing what is being requested. Jeanne Brown stated that the public will want to know about these items as well. Joanne Palmer stated to the applicant to give the Board their worst-case scenario. Chairman Rick Bennett agreed and stated that the Board will advise you what will work, and what will not.

CEO Adam Backus stated that the next item to be discussed was event boundaries with respect to hours of operation and neighborhood buffers. Robert Gallagher stated in his Site Plan that most of the agritourism activities will occur in the vicinity of the farm market building, which provides a neighborhood (residence) buffer in excess of 300 ft to the Stevens and Swain residences west of their properties. The Clements and Keele properties to the east are in the Agricultural District. Prometheus Farms will abide by societal norms regarding noise and light pollution within the context of a working farm. They will work with the Livingston County

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Sheriff's Office if there is any chance of traffic flow interference resulting from any activities. They expect those situations to be rare. CEO Adam Backus stated that it sounds like more than seven cars if the Sheriff's department is needed. The Sheriff's department should weigh in on this.

CEO Adam Backus stated that we would like to request that the existing Septic & well water locations to be shown on the map. Multiple concerns have been received by the public and feel that a Public Hearing is appropriate. The Livingston County Planning Board questions if the submitted Site Plan is complete. In order to feel that the Site Plan is complete, clarity needs to be provided regarding the public assembly, public impacts verse Ag exemptions. Livingston County Planning Board questions whether the application qualifies for the exemptions. CEO Adam Backus has questions for the Architect regarding the computation of parking spaces based on occupant loads. Currently no listed use is proposed for the second floor of the barn. Architectural plans do not show the north, south or west exterior building elevations, which is more of a Fire Code issue. Kitchen exhausts going over walkways, he would like to see heights of railings, etc. Snow & ice guards should be considered to protect occupants from sliding snow. Animal shelters require a hundred-foot setback. From a residential structure, there should be a hundred-foot buffer from animal housing. State certified Ag District was referred in regard to an expedited Site Plan review, I do not believe the property is listed in that District. It is difficult to navigate this application because we are trying to balance the Ag operation, which doesn't usually include some of the features that are being introduced here. The impact to the neighbors should not be ignored due to the Ag exemptions and not being a typical Site Plan. We are trying to balance the essence of our Code and the impact to the community with someone's right to farm under the definitions they are describing.

Chair Rick Bennett stated that we have discussed several different numbers regarding the property's acreage. He would like the applicant to provide clarification regarding all the parcels. He also requests layouts of all buildings, RV trailers, etc. Zoning Compliance Assistant Julie Holtje asked if any part of 5816 Decker was going to be part of the operation. Robert Gallagher stated that is where the residence is located, and the animal barns. There will be no public at this location. 5804 Decker will have small scale production, maybe a green house in the future. Sales and marketing will be located at 5804 Decker Road. Any land that they are renting with be on a year to year basis. Chairman Rick Bennett stated that he would like to see the two parcels detailed on the Site Plan showing all buildings and what they are. Attorney James Campbell stated that it should be on a formal Site Plan. It should show the site and all the improvements, including the travel trailers, as well as all the parking area.

Chairman Rick Bennett requested CEO Adam Backus provide a summary of what the Board is requesting. Attorney James Campbell stated that the cut off for the Livingston County Planning Board was the end of November. He is requesting that the applicant provide this information as soon as possible as the County Planning Board is overwhelmed with bigger projects and are requesting applications sooner if possible, in order to get into their queue for the December meeting. CEO Adam Backus stated that the good news is that the County has the gist of what we have been talking about already. Its matter of cleaning up the package, if we can meet the



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deadlines, we will schedule it on the first available meeting date. Chair Rick Bennett stated that the meeting will be scheduled as a Public Hearing.

Fred Forsburg located on Price Road, owns Honey Hill Farms. He has attended the meeting in support of some of what Robert Gallagher does. He has been there for 42 years and asked if anyone has ever heard of Honey Hill Farms. He stated that he has more customers in NYC & Buffalo than he does in Livonia. There raise 100% grass fed beef. Someone stated traditional agricultural. He is a certified organic farm. Robert has a non-traditional agriculture and he is in support of his proposal. He requests that the Board consider that what Mr. Gallagher is doing may be a little different, but it is still agriculture. Robert Gallagher stated that everything they plan to do fits within document number 25301, accepted agricultural practices. It is important that people become familiar with this document. Anything that he is proposing, is addressed in this document.

With no further questions, Chairman Rick Bennett asked for Motion to adjourn the meeting at 8:36 p.m... Motion to adjourn: M/2/C (R. Haak/J. Brown) Carried 6-0

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Respectfully Submitted,  
Alison Houk, Recording Secretary