

PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686

Ph: 231.223.7322 Fax: 231.223.7117

www.peninsulatownship.com

PENINSULA TOWNSHIP PLANNING COMMISSION REGULAR MEETING MINUTES

November 6th, 2024, 7:00 p.m.

1. Call to Order by Hall at 7:00 p.m.

2. Pledge

3. Roll Call

Present: Alexander, Beard, Dloski, Hall, Hornberger, Shanafelt;

Absent/Excused: Shipman

4. Approve Agenda

Request by Cram to amend agenda item #5 to remove the parenthetical to allow for public comment on non-agenda items earlier in the meeting, rather than at the end.

Motion to approve the agenda as amended by Hornberger, second by Beard.

Motion passed by consensus

5. Brief Citizen Comments:

Molly Stretten, 2822 Devils Dive Road: From the commenter's written statement, verbatim: Since 2022, the property owner at 2700 Devils Dive Road has been having excavation soil dumped onto his property. This is a near daily occurrence with multiple soil deliveries taking place on a single day. On October 28, 2024, there were more than a dozen excavation trucks dumping soil on this parcel. The same number of trucks dumped soil the following day. On October 16, 2024, we had a conversation with Caryn Chachulski, Sanitarian of Grand Traverse County Health Department, and learned that the property owner has a permit and indicated on his application that he is "using his parcel for soil storage". In fact, the property owner has been accumulating soil and then using a large bulldozer to spread the soil up in elevation along our shared property line. We have been collecting both photos and videos demonstrating this activity. We have attempted to gain greater clarity from our neighbor as to his intentions, but our text messages have gone unanswered. We are left presuming that the property owner is increasing the natural grade to build an additional house or structure with water views that couldn't be obtained without a change in elevation. In a meeting with Jenn Cram on September 27, 2024, and again on October 24, 2024, Jenn indicated that although a grading permit is not required in Peninsula Township, as per Peninsula Township zoning ordinance section 3.2, Amendment #204, a new build cannot exceed 38' of the natural grade. In her view, it appeared that several acres worth of grading has already occurred when looking at an old topographical map. Our concern is that the natural grade is being changed considerably and rapidly. From about 20' beyond our property line on the west side, the elevation drops considerably. Our neighbor has recently begun building this area upward to lessen the grade of the slope. We are requesting that the township obtain a new topographical map or survey to compare the new change in elevation from the previous and serve as a baseline for any new construction on the property. Should our neighbor not intend on building a structure on his property, it doesn't preclude a future owner from building at an increased elevation. A measurement in the new elevation is needed now. On a separate note, we are equally concerned about the

quality and source of the soil being dumped on that parcel. Without adequate testing and certification there is not a way to assure that dangerous contaminants are not being imported with the soil into a residential and farming community. The health, safety, and quality of humans, ground water, and valuable farm products are of concern.

From the commenter's delivered summary, verbatim: I am here tonight to highlight portions of my letter that I sent to several of you on October 30th, which I'm learning wasn't received. We are requesting a review of the regrading and manipulation of the natural grade taking place at 2700 Devils Dive Road. Since 2022, the property owner at this parcel has been having excavation soil dumped onto his property. This is a near daily occurrence with multiple soil deliveries taking place on a single day. On October 28th there were more than a dozen excavation trucks dumping soil. The same number of trucks were dumping soil the following day. We've met with the Grand Traverse County Health Department and learned that although there is a permit the applicant indicated that he's using his parcel for soil storage. In fact, the property owner has been accumulating soil and then using a large bulldozer to spread the soil up in elevation along our shared property line. We've been collecting photos and videos which I've shared with some of you as well as members of the Township Board and our planner. I'm happy to send those again. At a meeting with Jenn on September 27th and again on October 24th we learned that although a grading permit is not permitted in Peninsula Township as per zoning ordinance Amendment 204 a new build cannot exceed 38 ft of the natural grade. We've made an attempt to find out what our neighbor has in store and those text messages have gone unanswered. We are left to conclude that he's creating a nice perch for a new build. We are requesting that the township obtain a new topographical map or survey to compare the new change in elevation from the previous and serve as a baseline for any new construction on the property should our neighbor not even intend on building; it doesn't preclude a future owner from building at an increased elevation. We feel that a new measurement really is needed now because again this is happening rapidly and has for the last couple of years that it's been escalated. Thank you very much.

Cram: Commissioners were asked if they had received the correspondence mentioned above and for some reason they had not. The planning office has received it and has that documentation, which it will ensure gets to the Commission. Staff is working through this issue. The current zoning ordinance does not require a permit to remove trees (if property is not on the shoreline) or for general grading. However, if more than an acre of disturbance occurs, or said disturbance is within 500 ft of the ordinary high water mark, a stormwater control permit is required. Though the property of concern does have a soil erosion and sedimentation control permit in place, staff will be working with the county and the property owner to get a better understanding of what is happening, and to ensure that it is meeting stormwater requirements.

Hall: Asks for clarification regarding the appropriateness of this issue being brought forth to the Planning Commission, as it appears outside its purview.

Cram: Agrees that it is potentially outside their purview, but also considers it helpful from an education standpoint. Other communities do require permits for grading, and it is possible to see this issue arise in the future, as it applies to building height.

Hornberger: Recalls that much discussion was had during discussions around amendment 204 (building height) over building up the land, as it impacts building height.

Cram: Agrees that the specification of 'average natural grade' at the time of build was selected for just that purpose. Property owners are required to provide a topographical survey to determine average natural grade, and later gradual fill could change that measurement. Another issue here is increased traffic due to the use of construction vehicles, as well as wear and tear of the road surfaces.

Hall: Under our existing ordinances the only time limitation is when plans are submitted for a structure and at that time we could say well no we're going to look at the natural grade as it existed at an earlier date than now but we just have to get that documentation. We would have to know to what the pre-existing

grade was. It seems to me that this is an enforcement issue and not properly before the Planning Commission.

Cram: What might be appropriate to come before the Planning Commission is a change to the zoning ordinance to address grading, which is why staff feels it is important for the commission to hear community happenings, as they may impact future amendments.

Dloski: Highlights the importance that the Township have a grade-change ordinance, if for no other purpose than to ensure adjoining property owners aren't being impacted. From personal experience, every community dealt with had such an ordinance. Plans are submitted to the township engineer, who approves or denies it, in order to prevent the flooding of neighboring properties.

Hall: Asks staff to consider the addition of such an ordinance to their to-do list.

Cram: States that discussion is already being made with (new township supervisor) Maura Sanders and other board members and it will be addressed at the strategic planning session in the new year. Suggests that the Planning Commission keep the issue on their radar.

Hall: Reminds the public that there are private remedies that can be sought in the face of such issues.

6. Conflict of Interest: none

7. Consent Agenda: Motion to approve the consent agenda as amended (punctuation needed in October 10 minutes)

8. Business:

- a. Special Use Permit (SUP) #35 -Seven Hills Development, Amendment #3 – Continued Discussion; 13795 Seven Hills Road, Traverse City, MI, 49686

Jenn Cram, Director of Planning and Zoning, Peninsula Township: Provides Planning Commission a summary of the history of the property as well as details on the request for amendment as outlined in the staff report section of the packet material.

- The Planning Commission first heard this request on August 21, 2024, when it was introduced. The public hearing was held on October 10th, and now continued discussion on November 6th. At the October 10th meeting the Planning Commission asked the applicants to develop a plan to address the non-compliance issues happening on the property including noise complaints, overflow parking along Seven Hills Road, and concerns with exceeding capacity that have been documented.
- The applicants, Troy Daily and Jordan Valdmanis, met with a small subcommittee of the Planning Commission (made up of Susie Shipman, Kevin Beard, and Jenn Cram) the previous week. Applicants brought a proposal to that subcommittee for feedback. The resulting proposal was included in the packet in front of the revised findings of facts and conditions.
- Reminds commission that Amendment #3 to special use permit (SUP) #35 is to add additional liquor licenses to the premises to allow for micro-brewing, small wine-making, as well as beer and wine tasting.
- With the approval of Amendment #2 it was noted that any changes in the liquor licenses or any other uses on the property would require an amendment to the special use permit. The applicants/ property owners for the Seven Hills development - are now going through that amendment process. At part of the process the Planning Commission must find that it meets all the conditions of approval of Section 8.1.3.
- There were concerns about the uses being disturbing because of noise complaints, safety issues from overflow parking on Seven Hills Road, as well as the on-site septic system capacity being exceeded.
- Revisions from the last meeting were noted in red so that the commission can see where changes were made based on the compliance plan that the applicants presented.

Offers to walk through the findings of fact page by page, or to answer questions that the commission may have. Notes that one of the applicants is present to answer questions as well.

Dloski: Asks if trees have been planted.

Cram: Confirms that they have, per an email received from Jordan Valdmanis. Notes that in addition to the additional buffer created by these trees, the applicant plans to install an operations manager during all music/events to ensure the volume stays appropriate by checking the noise level at the perimeter of the property. Asks the applicant to confirm that they will be checking in with neighbors.

Troy Daily, 16169 Hill Rise Road: Yes, we have talked to the neighbors before. Introducing ourselves, letting them know what we're doing, we will let them know if they hear anything they can address us and let us know. Then you asked about planting trees. We did plant those last week. We planted five. I don't know the technical term of what they are but there are five.

Cram: Suggest they might be spruce.

Daily: Spruces or arborvitae.

Dloski: How will you manage sound levels? What do you do - pull the plug out if they're too loud?

Daily: No, (we) just turn it down. We control all the volume, actually. We just set that up. When we have music, they plug in (to the house system) and we have our own control board that has volume controls. We can control their microphone and speaker volume because they hook up into our speakers. We just implemented that last week.

Dloski: What about when they're outside?

Daily: When they're outside it still hooks into our system. They'll also have their (own) speakers but we can control the volume on them.

Cram: It looks similar to this iPad. The sound board is right on it.

Daily: We just set that up last week. We're still learning how to use it. We don't have any music outside (due to weather/season) but we'll be able to get it all dialed in.

Shanafelt: How will the event manager determine what's an acceptable level of sound?

Daily: I think just based on the comfort level of the guests that are there? We don't have a measurable device or anything.

Shanafelt: The issue is not the guests there but the surrounding community. I appreciate your monitoring. Monitoring is great, but you've got to act. I didn't read anything (in the proposed plan) that determined excess noise. The noise ordinance requires the volume to be no louder than conversation at the border of the property. I'm imagining that the event manager would have to routinely be taking walks around the property to see if the music can be heard. How will that individual determine if it's too loud?

Daily: I think that's a great option. I think that could be added. Jenn, it looks like you're already writing that down. I'm more than happy to add that.

Shanafelt: I do like the idea of making sure the neighbors know how to get in contact with you.

Daily: Absolutely. We have done that.

Shanafelt: It's bigger than just immediate neighbors because people can hear way down in Bowers Harbor Park.

Daily: Hopefully we don't have that again.

Hall: As no one else has questions on excess noise control, let's move on to the issue of excess parking. You mentioned (in your plan) offering shuttle services. Assuming the end point is your location: where is the starting point? Where would vehicles be shuttled from?

Daily: Depends on where they're at. I'm the owner of a transportation company and we get people from their houses or in town or wherever they are. If there's an event or something like that there will be a central location.

Dloski: I've seen pictures on (Seven Hills) Road with cars parked up and down the shoulder of the road. Where would those cars park if they can't park there?

Daily: That's the whole idea of what this is addressing. We are going to eliminate that. If we do anticipate larger events. We've also addressed additional on-site signage and to help the County to add signage on the road as well. Those are the things that we've come up with (but we're) open to other ideas.

Dloski: Are you saying you do not have sufficient onsite parking to handle that number of vehicles? Why are they parking on the road right of way on both sides?

Daily: This was discussed a little bit at our last meeting, as well, and what we have seen with our isolated incidents is that if one person ends up parking on the road because they want to get out quicker or leave earlier then (that creates) the mentality "I'm going to also do it". We have seen that when we have ample parking on-site people still park on the road.

Cram: When the application came in for Amendment #2 the Planning Commission expressed concerns about the potential of parking on Seven Hills. I reached out to the Road Commission to see if 'no-parking' signs could be installed. They noted that they would only do that in cooperation with the Grand Traverse County Sheriff's Department. Since the Seven Hills Development has opened, our community police officers have also observed the cars parked on Seven Hills and are concerned about safety. I spoke to Officer France earlier this week about working with us and the Road Commission to get those 'no-parking' signs placed, after which our CPOs and/or the Sheriff's Department can issue parking tickets which we believe will deter people from parking on Seven Hills.

Hornberger: Why do you need a shuttle if you're going to have 70 or fewer people there, given that there are 55 dedicated parking spaces?

Daily: We just don't want there to be any opportunity for anybody to park on the road. It's just an option that we offered. Red Ginger did it just a few weeks ago and that's why we thought it was a good idea.

Hornberger: I can see it's a good idea if you're going to promise us that you are going to keep the number of people there at any one time at 70 or less.

Daily: That is the whole goal of this.

Hornberger: I don't want to hear "goal". I want to hear "promise".

Hall: It might be a question of how we enforce that. If the permit says there's a 70 person maximum then how is that enforced and what happens if it's violated?

Cram: It's my understanding that the fire chief and the building official could enforce the capacity. We also know that the Health Department is monitoring capacity to some degree because a flow meter was installed on the on-site septic system.

Shanafelt: I want to commend you for doing the shuttle service. I think that's been a solution for a long time on the peninsula.

Daily: Not only for the actual parking (issue) but also (for) safety.

Shanafelt: If you're at capacity and someone wants to enter, does that mean they must leave the premises entirely, or just wait outside? If parking is full, will overflow vehicles park on Seven Hills? Will there be a "No Parking" sign with warnings about ticketing? Given the potential for more than 70 people on-site exceeding septic capacity, how will you monitor and address overflow parking on Seven Hills? Will you take proactive steps to ensure those cars are moved?

Daily: Obviously that's a loaded question. I think it gets me into hypothetical things. To address that: I think the on-site manager that we have that's going to be also monitoring the music is letting people know that we are at capacity, we don't have any parking spots, (and to) please come visit us at another time. (Also,) don't park on Seven Hills. That's the ultimate goal. I also think that if they see people parking on Seven Hills to make sure (to say) "hey, you cannot park here. There's one sign on premises now. There will be signs on the road.

Shanafelt: Now we're getting into the gray area: who ultimately is responsible? For the sake of argument, I'm going to say you're responsible because you're having the event. If the event manager identifies there are four cars on the road how will they track down those people?

Daily: I think that comes to where we probably call the sheriff's department. I'm not sure where the authorization (is) there because if there are signs, I think they're going to come and ticket them. I don't know what the legality of us (enforcing that) is. That just gets into a very gray area for me.

Cram: With your speaker system, is there a way for the manager to announce, say, "we've observed four cars parked on Seven Hills, please move them or you will get a ticket".

Daily: We do have a microphone now, yes.

Hall: Could you explain what the event for Red Ginger was and how the shuttle service worked in connection with that event?

Daily: They had their employee appreciation party there for all their employees. We did catering and bar service. They wanted to have a safe way for (their staff) to get from Red Ginger in town to the event. They had an open bar and so it was more of a safety concern than (for) over-capacity. There was 68 people. There were four cars in the parking lot. We weren't even open. It was good to understand what the options if we have a ticketed event.

Cram: When we met with Troy and Jordan they shared that with us and we thought it would be helpful for you all to have an example of a successful way that they addressed parking and safety.

Alexander: I like the idea of reserved tickets. You could even post a sign on your door indicating a ticketed event is being held and others won't be admitted.

Daily: For the Red Ginger event we did get an A-frame (sign) that says "we have an event. we're not open."

Hall: Asks Cram to take Commission through this proposed amendment.

Cram: Under Section 8.1.3(1)(a) of the General Standards, the amendment must be designed, constructed, operated, and maintained in a way that aligns with the character of the area and does not alter its essence. This development is attractive and appreciated by the community, and the property is zoned C-1. The approved uses comply with C-1 zoning, and the amendments will remain compliant if they exclude manufacturing not permitted in the C-1 district, similar to how the small distilling liquor license was addressed. Under (b), the amendment must not be hazardous or disturbing to current or future uses in the vicinity and should substantially improve the property and community. The submitted plan aims to address noise complaints, and with sufficient conditions of approval, it should mitigate disturbances. The Planning Commission and staff are encouraged to ensure these conditions provide the necessary assurances. Additionally, adding the two requested liquor licenses could enhance the community, particularly by offering lower alcohol by volume options. Input from the commission is requested to establish how these amendments meet these criteria.

Shanafelt: Offers that the lower ABV offering is a substantial improvement, as is offering a shuttle service to avoid excess parking and traffic on the peninsula.

Dloski: Does not believe it's a substantial improvement to the nearest residents.

Hall: Suggests that some residents would likely appreciate the ability to walk/avoid drinking and driving.

Dloski: We're analyzing it based on the use itself but this standard goes outside of the use. It says the "immediate vicinity" so we have to look at what kind of benefit the immediate vicinity is receiving.

Cram: Since the property is zoned C-1 - Commercial, restaurant/taverns are permitted with a special use permit. While typically a Class C liquor license would be held, the applicant's creative solution of limiting manufacturing with lesser licenses ensures compliance with C-1 zoning. Their proposed plan addresses key issues like noise, parking, and traffic. Additionally, having local amenities like live music, comedy, and adult beverages reduces trips into Traverse City, enhancing convenience for the community. The mitigation of parking and traffic concerns, particularly on Seven Hills, also improves safety and represents a meaningful improvement to the area. Input from the Planning Commission is essential to confirm that you agree these conditions are met.

Dloski: Asks if the Township is looking at the 'substantial improvement' condition.

Cram: The Planning Commission has found the current subjective language challenging to apply, especially for amendments. A subcommittee, including Randy, Susie, Kevin, and myself, has been formed to address this issue. Once Susie returns, we'll review collected example ordinances to clarify how to define and evaluate public benefits, making the language more objective. This is a priority for the commission.

Hall: Recent projects have shown the difficulty of applying the "substantial improvement" standard. Many municipalities, like Ann Arbor with its advanced ordinance, avoid this concept and instead focus on identifying potential detriments. If no significant detriments exist, the project is deemed acceptable, making it a clearer and more practical approach than the vague standard in our current ordinance.

Cram: Reminds Commission that the existing zoning ordinance must guide this decision.

Hall: A liberal interpretation of "substantial improvement" to the property and community leads to the conclusion that expanding alcoholic beverage offerings qualifies as a significant enhancement.

Shanafelt: The key factor is the plan's focus on preventing cars from parking on Seven Hills, which addresses a serious safety concern. The responsibility to ensure this is effectively managed falls on them, and that's what makes the plan compelling.

Dloski: Good points have been made regarding parking improvements and concludes the commission could apply the standard to that issue alone.

Shanafelt: It sets good precedent for thinking about other C-1 properties and parking.

Cram: To reiterate: the Planning Commission finds that the requested amendments to add additional liquor licenses is a substantial improvement based on the lower alcoholic alcohol by volume options and their plan to address parking, capacity, and noise.

The Commission agrees with that statement.

Cram: Moves on to the next standard to be met. 8.1.3(1)(c), confirms the project still meets the requirements for essential services, with no changes needed. (d) ensures no excessive costs for public services. A condition of approval requires the applicants to work with local police and the Grand Traverse County Road Commission to install "no-parking" signs along Seven Hills Road at their own expense.

Shanafelt: Asks if there is a timeframe for installation of no-parking signs.

Cram: There is no specific timeframe yet, but Deputy France confirmed he will be working on it. If the Planning Commission is comfortable, the motion can be sent to the board, where a timeframe can be addressed.

Shanafelt: Notes concern that without a stipulation on when this objective must be achieved the commission runs the risk of not seeing it fulfilled.

Cram: A reasonable timeframe should be set. Since winter is slower and no outdoor music is planned, installing the signs by spring would be a practical target.

Beard: Points out that the commission should avoid committing either the sheriff's department or the road commission to a timeline. Perhaps the applicants report back to the zoning administrator within six months for the status of this aspect of the project instead.

Shanafelt: Wonders how excess parking is avoided without the signs in place.

Hall: I'd like to ask Jenn. I know we have other people like Kevin and Larry with a lot of experience on this question. If we put a requirement in here that the project owner manages parking the way that they've offered and they don't do it - what are the enforcement options that we have? Can we send them a notice and if they keep violating it can we then revoke the SUP? Then they couldn't (sell) the extended (offerings).

Cram: There's a process. If we receive complaints, or we observe a violation, the first thing we do is let them know. We issue a violation letter. (In this case) a violation letter has already been issued for the noise complaints. If there's another noise violation we could issue a citation and then that citation goes to the Circuit Court. The Circuit Court could put conditions of approval on it. The Planning Commission could recommend to the Board that if there continues to be violation letters and citations then, yes, the Board could consider rescinding the SUP or changing some elements of it that are problematic.

Dloski: On that point, Jenn, whereabouts in the zoning ordinance does it allow the Township Board to revoke a SUP?

Cram: I don't know that off the top of my head.

Dloski: It's not in the zoning ordinance that I can find.

Cram: I would have to look and possibly refer to legal counsel. I know that they have discussed that with other SUPs.

Dloski: I was looking for it. I don't see it.

Hall: Jenn, if you would please check with legal counsel on this? This has come up a number of times when we struggle with how to put some teeth into an approval. What happens if there's noncompliance? I think we need to understand that. If we're comfortable that there's a process then maybe that answers the question: it's a condition of this approval that they do x, y, and z.

Shanafelt: What we have in the conditions of approval are actions that will be taken to mitigate the parking issue...

Hornberger: And noise...

Shanafelt: ...maybe we need to preface that these actions are intended to eliminate extraneous parking on Seven Hills Road. The purpose is not to fulfill the actions, the purpose is to keep cars off Seven Hills Road. I don't know that it adds any teeth but it does sort of explain what the purpose of all that stuff is. In the absence of the parking signs, it's still clear that you're trying to get people off Seven Hills Road.

Cram: I will talk to legal counsel. I did not think they were needed this evening, so I did not invite them. I could call Kyle OMeara, if needed, but in my memory of discussions with legal counsel I believe the way that that could happen is via a condition of approval. The board could initiate a condition of approval that if they continue to have 'x' number of violations it could be rescinded. I can confirm that and have that information ready when this goes to the board if that gives you a better level of comfort.

Hall: Yes, I think we need to understand the legal nuance.

Cram: That concludes the summary of the highlighted revised finding of facts and conditions. Staff believes that with proposed conditions of approval that the proposed amendment meets all of the required conditions of approval per section 8.1.3.

Alexander: Notes that there was no discussion about the plan to ensure that capacity is not exceeded by requiring the on-site manager to monitor capacity and turn people away as needed.

Cram: On page eight - conditions of approval - condition #3 was revised. It was originally noted that the maximum number of patrons for the restaurant/coffee shop with a market retail space and tasting room/bar/tavern within the Eastern Building and outdoor use areas as depicted on the application site plan at any time both indoors and Outdoors is 70. This condition will be monitored by an on-site manager.

Hornberger: Asks that the language be changed to "monitored and enforced by an onsite manager.

Cram: Noted. Then Condition #5, the original condition noted all use of the property shall comply with the Peninsula Township Noise Ordinance #40 and as may be amended in the future. OMP Seven Hills LLC acknowledges that as part of the board's prior approval of amendment #1 to SUP#35 that the noise level at the property line was to be no greater than normal conversation as perceived by a reasonable person. OMP Seven Hills LLC agrees that the noise condition of that amendment carries through to the approval of this amendment to the extent that noise levels at the edge of the property will not exceed normal conversation noise as perceived by a reasonable person. This condition will be met by utilizing an on-site manager to monitor sound at the property line and reducing the volume as needed. I thought that captured both parts of the conversation.

Beard: Suggests that language should include an indication that Noise Ordinance #40 is not part of the zoning ordinance, but a police power ordinance.

Cram: Condition #11 is a new condition that the applicant/property owners will work with the Grand Traverse County Sheriff's Department and Grand Traverse County Road Commission to install "no-parking"

signs along Seven Hills Road at their expense. Notes the lack of time frame and Kevin's concern about committing those entities to one.

Shanafelt: Requests Commission think of a way to add language that would ensure compliance in a reasonable time.

Hall: Suggests starting Condition #11 with a statement that the applicant/property owners will use their best efforts to ensure patrons of their facility do not park along Seven Hills. We're putting the onus on them. I would go on to say 'may include working with the Grand Traverse County Sheriff's Department and the Road Commission.

Shanafelt: Ultimately, we want no-parking signs installed, though.

Cram: Believes there should be two conditions. We should add a new condition #11 that the applicants will monitor parking along Seven Hills Road and take action to mitigate said parking.

Hall: Yes. We can enforce that whether or not the Road Commission installs "no-parking" signs.

Cram: Then Condition #12 would be that they work with the Road Commission to get those signs installed. New condition #13 - originally condition #12 - noted that continued maintenance of the approved landscaping is required. I noted that the five new evergreens were installed to provide additional buffers to adjacent properties. Former condition #18 - which would be become #19 - notes this SUP amendment shall expire one year after the final date of approval unless a land use permit has been issued for a change of the uses on the property. That land use permit helps to document that the use has changed to allow these liquor licenses with this plan for compliance in place. I would welcome any other comments, questions, or additional conditions.

Beard: Condition #4: outdoor uses shall cease at 10 p.m. 7 days a week. What are the operating hours of the establishment?

Cram: They open in the morning for coffee. Hours of operation were not established during the process of approving amendments #1 and #2. Asks Daily what current hours of operations are.

Daily: It changes depending on the time of year. We won't have any outdoor uses (now) after 10 p.m.

Cram: The concern was having outdoor uses late at night. They weren't really concerned with indoor use.

Beard: I understand, but we're being asked to recommend approval of another liquor license. How late will the establishment be open on any given night?

Daily: We're open till 11 on the weekends. We don't have any outdoor uses after 10 p.m.

Beard: Do you ever propose to be open until 2 in the morning?

Daily: We haven't been but I'm also not going to limit ourselves to what we are able to do if we ever want to do that. I'm not saying that we are. We are not going to choose to, but I don't want to limit ourselves either.

Beard: Are there any other Class C's on the peninsula that are open till 2 am?

Cram: I don't know of any off the top of my head. During the discussion for amendment #2 we surveyed all of the other restaurant/taverns on the peninsula. None stay open late. However, this is a C-1 zoned commercial property. They were approved as a restaurant/tavern. Neither the board nor the planning commission had an issue at that time.

Hall: A question about existing condition #18: I need your help in understanding the process here. It says this SUP amendment shall expire one year after the final date of approval unless a land use permit has been issued for the change of use. I don't understand the land use permit (portion).

Cram: A land use permit for a change of use is required to formalize the commencement of the approved use, as no construction is involved in this amendment. The previous amendment required construction, necessitating a land use permit to track the start of the construction project. Section 8.1.2 states that a special use permit expires after one year, and to prevent ambiguity or potential legal issues about expiration, it's important to formalize when the use begins and expires. This helps avoid situations where a

project is approved but remains inactive for years, potentially conflicting with future zoning ordinance changes.

Hall: Is the normal process that a special use permit – when issued – also involves a land use permit?

Cram: The zoning ordinance specifies when a Special Use Permit (SUP) expires, whether or not construction is involved. To avoid confusion, especially after a past lawsuit questioning an SUP's expiration, it's recommended to always include this as a condition of approval. This ensures applicants are clearly informed about the one-year expiration timeline, as they may not always check the ordinance themselves.

Dloski: The zoning ordinance certainly allows us to put reasonable conditions to the extent authorized by law on these special land uses. I'm almost positive that the Municipal Zoning and Planning Act (sic) authorizes the township to revoke a condition of special land use if there's been a violation. I would like to put a condition on to the extent that should the applicant fail to comply with the SUP and additional conditions the Township Board may hold a hearing to revoke the SUP. It gives it a little more teeth than constantly parading in the Circuit Court.

Cram: Asks Dloski to repeat his proposed condition.

Dloski: Should the applicant fail to comply with the special land use permit and amendments, as well as the additional conditions the Township Board may hold a hearing to revoke the SUP. Notice and opportunity will first be given as part of due process. If our legal counsel says we can't do it before it gets to the board then they can eliminate it.

Cram: A motion for consideration is included in the packet. The application held a public hearing on October 10th, and the Planning Commission addressed concerns raised during that meeting and t. The Commission may take action tonight if satisfied that all conditions of Section 8.1.3 and the those heard this evening, conditions of approval have been met.

Dloski: I think we should send it to the board.

Motion to recommend approval to the Township Board with draft conditions of approval as discussed made by Beard, seconded by Hornberger.

Motion passed by consensus.

9. Reports and Updates:

a. Shoreline Regulations Amendment Draft

Cram: A draft will be shared at the December 3rd meeting, focusing on single and shared waterfront ownership policies. Public education sessions with guest speakers are being coordinated for late January in collaboration with newly elected Township Supervisor, Maura Sanders.

b. Agricultural Advisory Committee Appointments & First Meeting

Cram: Seven members and two alternates have been appointed. The first meeting is set for Monday, December 16th, at 7 p.m., though the regular schedule will be determined based on the members' farming schedules. The committee will establish bylaws and aims to progress on the signage conversation soon after formation.

Hall: How will the meeting dates be publicized?

Cram: The Agricultural Advisory Committee will operate like the Parks Committee, with pre-approved agendas, meetings broadcast on YouTube, and minutes and packets prepared. Notifications will be sent via email blasts and posted on the website.

Hall: Will the public be allowed to attend the meetings?

Cram: Absolutely. They will be open to the public and we will take public comment, as well.

Hall: Are those meetings subject to the Open Meetings Act?

Cram: Yes. The Agricultural Advisory Committee, appointed by the board, serves as an advisory group to provide feedback and policy direction. They won't draft language, their recommendations will be considered by the Planning Commission before any zoning ordinance amendments are drafted by staff.

10. Public Comments: An audience member commends the Planning Commission on their hard work.

11. Other Matters or Comments by Planning Commission Members

Hornberger: I've always been concerned about ensuring compliance when someone doesn't fulfill their responsibilities. Including clear language to address this was a good decision. While they're successful and doing a great job, issues like parking and noise needed to be addressed.

Cram: I'd like us to establish a standard list of conditions of approval for every Special Use Permit (SUP), including items like expiration dates. While each application will have unique conditions, having a consistent baseline is important. I also want to implement this for the Zoning Board of Appeals (ZBA) to ensure standard conditions apply to specific types of applications.

Beard: I'm uncomfortable with applications for licenses like distilling, winemaking, or brewing when those activities aren't actually performed, just to serve beverages without obtaining a Class C liquor license. While Class C licenses can be expensive, this workaround feels unintended and contrary to the expectations of the Liquor Control Commission. It appears to be a loophole that could be exploited until addressed.

Cram: I've discussed with Maura Sanders, our future supervisor, the need to engage the MLCC about loopholes and challenges townships face with outdated liquor license regulations. The goal is to explore modifying licenses to exclude manufacturing requirements, which could benefit local farmers who grow grapes but process them elsewhere, allowing them to store and sell the resulting wine wholesale. Our first step is building a relationship with the MLCC to educate them on these issues. We'll also review our zoning ordinance to address these uses and establish safeguards, as this situation poses a slippery slope.

Shanafelt: It would be helpful to consult our legal counsel to determine if we can legally structure an ordinance that restricts the use of an otherwise lawful strategy.

Cram: Our legal counsel is already reviewing this issue due to a related matter. It's likely Maura will bring it to the board for discussion as part of the strategic plan for priorities. This should be a priority for our community, as we face challenges with the abundance of alcohol-related activities and no quotas or capacity limits for small manufacturing licenses. There's significant work ahead.

Hornberger: Asks when the Planning Commission will be expected to deal with aforementioned grading and earth change issues.

Cram: States that staff is working on this specific situation, but the overall issue can be added to proposed zoning amendment discussion. Also, while Julie Alexander will continue to serve on the Planning Commission as the Board Representative, there will be a vacancy on the Planning Commission. Thanked Armen for his service. While his term has ended, there's an opportunity to apply for the open seat. The vacancy will be posted and any interested should apply.

12. Adjournment

Dloski moved to adjourn at 8:25 p.m. with a second by Shanafelt.

Motion passed by consensus.

