

PENINSULA TOWNSHIP

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PENINSULA TOWNSHIP PLANNING COMMISSION MEETING MINUTES

VIA ZOOM FORMAT

March 15, 2021

Corrected by Beth Chan on 4/20/2021

1. Call to Order: 7:00 p.m. by Shipman

2. Pledge

3. Roll Call:

Present via Zoom: Hornberger, Hall, Dloski, Oosterhouse, Shipman, Wunsch; Absent: Couture; Also present: Mielnik, Deeren, Attorney Meihn, Bill Danly

Shipman: The meeting is being conducted virtually because of COVID-19 and all of the members of the planning commission reside in Peninsula Township and the members will state where they are currently.

Roll Call: Dloski, Charleston, South Carolina; Hall, 2610 Twin Eagles Drive; Hornberger, 6730 Mission Ridge; Oosterhouse, 12011 Center Road; Shipman, 14735 Shipman Road; Wunsch, 200 Seventh Street.

4. Review for Conflict of Interest:

There is a conflict of interest for Todd Oosterhouse for Business Item b. Bonobo SUP #118 Amendment-Introduction.

5. Brief Public Comments: None

6. Additions to Agenda/Approval:

Moved by Hornberger to approve agenda as presented, seconded by Hall

Roll Call:

pass unan

7. Consent Agenda:

a. Approval of Meeting Minutes: Planning Commission Meeting, February 22, 2021

Hornberger: Correction to the last public comment on page four to read amount of land and the header to read 2021.

Moved by Wunsch to accept consent agenda, as amended, seconded by Hornberger

Roll Call:

pass unan

8. Reports:

a. Zoning Board of Appeals (Couture)

Deeren: Two cases were tabled from the last meeting and will be heard tomorrow night along with an additional case.

Dloski: Voiced concern about the ZBA petitions asking for relief to properties that have violated the zoning ordinance and then asking that the violations be rectified. Then they come back and ask for variances; this needs to be looked at.

9. **Business Items:**

a. Bella Vue PUD/SUP #137-Update

Mielnik: No new information has been received.

b. Bonobo SUP #118 Amendment-Introduction

Moved by Wunsch to remove Todd Oosterhouse from the planning commission meeting for business item b., Bonobo SUP #118 Amendment-Introduction, seconded by Hornberger

Roll Call: pass unan

Discussion of conflict of interest and the protocol for the removal of a member from the meeting.

Mielnik: Tonight is an introduction; the winery has a SUP for the property. No formal application has been provided.

Doug Mansfield, Mansfield Land Use Consultants, 830 Cottageview Drive, Ste. 21

Traverse City, MI 49684, representing Bonobo Winery: The winery-chateau ordinance allows for associated uses and structures. Reviews amendment plan in the packet. The applicant is seeking approval for the following accessory uses. First, a twenty-by-twenty shed roof-covered work area attached to the existing building adjacent to the lower-level wine processing entrance area (south end of the building). Secondly, a forty-by-sixty covered storage and work area on a concrete slab, located just west of the existing building adjacent to the lower-level wine processing entrance area, this structure would be built into the existing slope, with additional enclosed storage under the west end of the structure. Thirdly, an existing sixteen-by-twenty-four pergola is located on the lawn west of the existing tasting room patio. When the sixteen-by-twenty-four pergola was built, the SUP should have been amended. There will be a stormwater review by the township engineer.

Mielnik: What are the uses for the forty-by-sixty covered storage and the twenty-by-twenty shed roof?

Mansfield: They are storage and processing work areas.

Dloski: Will there be public use?

Mansfield: No

Shipman: The pergola is for customers.

Mielnik: Do these buildings have sides?

Mansfield: The forty-by-sixty covered storage is post with no walls and the twenty-by-sixty will be concrete walls with an overhead door.

Dloski: The pergola was built without an approved SUP?

Mansfield: We are now exposing it to a SUP to bring it into conformity.

Mielnik: There was no permit issued for the pergola?

Shipman: This is a violation?

Deeren: It was a violation of not obtaining a land use/getting an amendment. Deeren has been waiting since 2019 to bring this into compliance. The town board had a special COVID allowance that allowed pergolas and that allowance expired in December 2020. What is the setback for the pergola off Nelson Road? Do these take away from lot coverage? What will be in the storage area?

Mansfield: Things will be stored there during harvest.

Dloski: Is this impacted by the litigation?

Mielnik: Attorney Greg Meihn is aware of the application.

Shipman: For the forty-by-sixty covered storage, where does the height of the roof sit in relation to the existing building?

Mansfield: Refers to the elevations on the last page of the application. The finished floor of the work area will be at the basement elevation, thirteen feet below the finished floor of the winery. The peak of the roof is a little bit above the finished floor of the winery.

Shipman: The neighbors' view will be impacted.

Mielnik: The interior ceiling is nine feet in the work area. What activities will take place inside that area?

Mansfield: There will be materials, barrels, and vats moving in and out of the basement area.

Dloski: Is this part of the production facilities?

Mansfield: Yes

Shipman: What are the next steps?

Mielnik: This is an amendment, but these are straightforward projects. It is complicated by the existing structure. The next step is a public hearing.

Moved by Dloski to schedule a public hearing for Bonobo SUP #118 Amendment for April, with township attorney clarification of the pergola, seconded by Hornberger.

No action

Roll Call:

pass unan

Discussion

Hall: What question would be the opinion address?

Dloski: If the pergola is illegal, an opinion is needed from Attorney Meihn.

Shipman: Suggests a site visit.

~~**Moved by Dloski to schedule a public hearing for Bonobo SUP #118 Amendment for April, with clarification of the pergola, seconded by Hornberger.**~~

~~**Roll Call:**~~

~~pass unan~~

Dloski: There is a motion to schedule the public hearing on an illegally constructed pergola.

Meihn: Christina is aware of the pergola and it has been discussed as to why a permit was not requested as required. There are two ways a governmental entity can handle a situation like this. The first is the pergola is removed before approval (there is usually a requirement for approval and build) or it is allowed to be there and evaluated. If not approved, it is removed; if approved, it stays. The issue says to go ahead and save the permit fee and ask for forgiveness. The purpose of the land use permit is to make property successful and to ensure what is built conforms to zoning and business. Also, to address a safety problem. It is not desired to set a precedent, but if physically moved off the property, it would be moved back if approved.

Hall: In this instance, Mansfield used the word confusing, was it difficult to discern if a permit was needed?

Meihn: The definition of confusing should be left to the board.

Hall: It seems we want to have a disincentive to develop the property without complying with the process for a permit. The first scenario is to remove the item before considering approval. If removal is not required, and consider the SUP, one would not want approval simply because it is there. Can fees be imposed without following the process, if considered and approved?

Meihn: Sometimes (broadly) it is perceived that the right to farm act and the construction act prohibits and bars the township and cities from requiring a permit for agricultural use. While that is true in agricultural property, it does not deal with land-use permits. The fine would be three times the cost of the permit to give the process incentive. An acceptable third way to deal with this issue is to make the applicant pay fines and fees.

Meilnik: This was brought to attention eighteen months ago. The mechanism is an amendment to a SUP. It was brought to Todd Oosterhouse's attention and there has been an ongoing conversation to bring this into a SUP, as he had expressed doing other projects.

Meihn: COVID-19 slowed the process.

Shipman: During COVID-19, what were the township allowances, did the town board make exceptions to structures?

Mielnik: The township allowed temporary tents.

Dloski: Did Bonobo continue to use the pergola when told that it is illegal?

Deeren: Yes.

Dloski: Asks to withdraw the motion.

Shipman: It was voted on.

Shipman: No fine was paid for the violation?

Wunsch: If you were not covered by a SUP then you would be required to pay the \$375.00 fine. Displeased that it has been happening outside the SUP process for eighteen months.

Meihn: Being mindful of the prohibition of wineries and restaurants due to COVID-19, the timeframe is not the same. Summarized the three options: go forward and make the pergola part of the SUP process, have the pergola removed, or considered, provided the land use permit is completed and the fine is paid.

Shipman: Would you recommend we vote on this?

Meihn: If the land use permit is completed and fines and fees are paid as a requirement then yes, or accept it in its present form through the motion that was made.

Dloski: The issues would be aired at the public hearing.

Shipman: Comfortable with a public hearing but a fine should be administered.

Dloski: Does the planning commission have the authority to ~~access~~ assess a fine?

Discussion of payment of the fine.

Shipman: This is administrative and the planning commission should not be involved in the fine process.

Deeren: There is a need for the applicant to pay the fees and fines, but need direction from the planning commission.

Meihn: The planning commission cannot order the applicant to pay, the amendment to the SUP was not followed. A motion has been made and it is scheduled for a hearing, need to see what happens before the next hearing.

Moved by Hornberger to unrecuse Todd Oosterhouse from the meeting, seconded by Wunsch

Roll call: pass unan

c. Master Plan Update/Steering Committee/Participate Old Mission

i. Non-motorized transportation discussion

Mielnik: Refers to the memo in the packet for the background. The master plan was adopted in 2011. A steering committee was formed in 2019. Survey results were published in November of 2019. An online engagement tool was implemented in January of this year. The planning commission is responsible for pulling the master plan together. The steering committee will be formally designated as a sub-committee with a chair. For non-motorized transportation, about eighty percent of the residents would like more attention paid to this topic. There is an overlap with non-motorized transportation and safety issues. The master plan has to include a transportation element. Dave Murphy, Peninsula Township Parks Committee, and Bill Danly, President of Cherry Capital Cycling Club are speaking on non-motorized transportation this evening.

Dave Murphy: Briefly discusses the use of non-motorized transportation including walkers, joggers, and cyclists, and the traffic and safety issues involved. Discussion with TART has been ongoing for fifteen years, they will assist, but they want the municipality to take the lead. In the steering committee, there has been discussion of speeding traffic in the neighborhoods. Bill Danly brought attention to a letter from a professor at MSU who has had near misses while cycling on Old Mission Peninsula and brought these safety issues to light. Briefly, discussed the possibilities for East Shore

road safety. While it is important to look at a true non-motorized plan, quicker solutions can be considered.

Bill Danly: President of the Cherry Capital Cycling Club. Received an e-mail from an MSU professor that described a situation where they were passed in a dangerous manner while vacationing in Traverse City. This traffic safety issue has to be considered and driven by the township. Most of the traffic is in the southern half of the peninsula and it is good to think about spending money where the problems are. A traffic plan should be created and there is a need to look at putting on paper where you want to be in ten to twenty years. A long-term plan should consider a non-motorized trail, but it will be expensive. There are short-term fixes such as the Heritage Route which is a state-wide program. There is a need to consider where the non-motorized riders want to be, such as the flat roads. Lower speed limits and better signage educate drivers that they are in a tourist area. House bill 4014 is in consideration that will take safety hazards into account in setting speed limits. Finally, speed can be addressed with narrow roads.

Discussion of funding/grants available for trails, and how to gather public input.

Mielnik: *Participate Old Mission* has gathered many comments on non-motorized trails.

Shipman: To be effective, it needs to be citizen-led. Safety issues with cyclists have increased in the last few years. What are the steps moving forward?

Murphy: There is a need to have the township government engage with TART. A subcommittee could form with representation from the planning commission and a few other members.

Bill Danly: There is a need to put a local group together. The township needs to be inclusive with how the trails will be used, how they will tie people together, and how to engage the public. Putting it on paper is beneficial.

Dave Murphy: No trail work has been done.

Shipman: More discussion should occur at the master plan committee level to formulate the next step.

Mielnik: The next meeting is on April 5th at 6 p.m. The outline of the master plan will be discussed.

Shipman: Need to formalize a subcommittee and chair.

Discussion of a committee, appointing a chair from a member of the planning commission and moving forward.

Shipman: Agrees to chair the master plan committee.

d. SUP Process Description

Mielnik: The draft has not changed; the process is described in a flowchart with the steps in the SUP process contained in the packet.

Oosterhouse: Brings up the amendment process, and where that could go back to staff, pertaining to farms. The process can be time-sensitive and it took a longer amount of time.

Mielnik: Language does not presently exist.

Discussion of changing the process in the zoning ordinance that could allow administrators to make minor/small changes in the amendment process.

e. Viewshed Map Review

Mielnik: A year ago, the map was presented in the concept of a PDR change. The solar ordinance was passed and referenced the viewshed map. The changes are technical changes that include the parcels more clearly due to the GIS system. A copy of the map is found in the packet.

Discussion of map review and steps forward.

Moved by Wunsch to recommend approval of the updated Scenic Viewshed Map and send to the town board for approval, seconded by Dloski.

Roll call:

pass unan

f. Zoning Ordinance Update

Mielnik: Refers to the packet which describes the twenty-one outstanding issues considered for review. Asks the planning commission to review the draft.

10. Public Comments:

Nancy R. Heller, 3091 Blue Water Road, Traverse City: Commented that she was given a choice to be included or not be included in the viewshed map; Heller asked to not be included on the viewshed map. The assessed value went up on that property, went into the assessor and asked why, and was told the property was in the viewshed.

11. Other Matters by Planning Commission Members: None

12. Adjournment:

Moved by Hornberger to adjourn, seconded by Wunsch

Roll call:

pass unan

Adjournment at 9:15 p.m.