

A REGULAR MEETING OF THE LEELANAU COUNTY PLANNING COMMISSION WAS HELD ON TUESDAY, MAY 25, 2021, AT THE LEELANAU COUNTY GOVERNMENT CENTER.

Proceedings of the meeting were recorded and are not the official record of the meeting. The formally approved written copy of the minutes will be the official record of the meeting.

Meeting was called to order at 5:32 p.m. by Chairman Yoder who led the Pledge of Allegiance. The Meeting was held at the Leelanau County Government Center, 8527 E. Government Center Dr., Suttons Bay, MI and via ZOOM.

ROLL CALL

Members Present: T. Nixon (Suttons Bay Twp.), K. Todd (Leelanau Twp.)
(via ZOOM) N. Griswold (Elmwood Twp.)

Members Present: S. Yoder, G. Carlson, M. Black, M. Lautner
(At Government Center)

Members Absent: R. Miller, C. Noonan

Members Absent: D. Hubbell, A. Trumbull
(prior notice)

Staff Present: T. Galla, Director, G. Myer, Senior Planner
(At Government Center)

Public Present: None
(At Government Center)

Public Present: None.
(via ZOOM)

CONSIDERATION OF AGENDA

Galla added “Support Letter for Grant” as “Item C” under “New Business.”

Motion by Lautner, seconded by Black, to accept the agenda as amended. Motion carried 7-0.

CONFLICT OF INTEREST

Griswold mentioned that he had previously consulted with the owners of Snowbird Inn back in 2013, regarding site plans, but has not been involved with them since then. The commission agreed that this would not constitute a conflict of interest.

PUBLIC COMMENT

The phone number for public comment was announced. No public comment.

STAFF COMMENTS

Galla mentioned the Capital Improvement Program (CIP) and stated that Parks and Recreation may now have something to add. The County Board hasn't started their budget review yet, so this will not be an issue.

CONSIDERATION OF APRIL 27, 2021 MEETING MINUTES

Motion by Black, seconded by Lautner, to accept the minutes as presented. Motion carried 7-0.

NEW BUSINESS

PC03-21-08 Conditional Rezoning (Psenka/Snowbird Inn), Leland Township.

Galla reviewed the conditional rezoning request submitted on May 12, 2021 from Leland Township. This review is for The Snowbird Inn, which consists of approximately 18.4 acres and is located on M-22, just north of N. Birch Landing Dr. and directly south of N. Birdsong Rd. This parcel is currently zoned Agricultural Residential (A/R) Low Density as is most of the surrounding property. Galla noted that they did receive the site plan with the request, but that was not being reviewed, as stated in the staff report. Good Harbor Vineyard located south of the subject property opened in 1980 and sells wine and hard ciders.

Galla continued, explaining that back in 2013, the County Planning Commission reviewed text amendments to the Leland Township Zoning Ordinance. One of the proposed amendments modified Section 18.25 Wineries. The prior Section 18.25 allowed wineries as a Use Permitted by Right in the Agricultural Conservation (A/C) District and the Agricultural Residential (A/R) District with a minimum lot area of ten (10) acres required. The 2013 amendment removed wineries from the A/R District. Galla mentioned that the township minutes show the history of when Psenka went before the township board and was interested in doing something on his property having to do with cideries. It looked like at some point he was going to submit an application to amend the zoning ordinance, but that did not happen. According to the township minutes, Psenka was to pay an application fee of \$1500.00 to amend the zoning ordinance March of 2019, and then another motion was made in September of 2019 to set up an escrow account in the amount of \$1500.00. Galla said it is not clear if those fees were paid twice or exactly what they were for. At the February 2021 Township Planning Commission meeting, Chris Grobbel, presented the application on behalf of Psenka, the applicant. The township held their public hearing April 7, 2021 at which time, several members of the public voiced their concerns.

Galla gave a brief definition of rezoning, which means you are actually reclassifying a property from one district to another district. Under the Michigan Zoning Enabling Act (MZEA), Act 110 of 2006: 125.3405 there is language for conditions to rezoning and it states that the development of the land is done as a condition to a rezoning of the land. Galla continued, saying that it is legal in Michigan to have conditional rezoning. The owner of the land voluntarily offers, in writing, conditions to the rezoning of the land or an amendment to a zoning map. The conditions must be proposed by the applicant, not the local unit of government.

Galla continued, saying when Grobbel presented Psenka's request on February 3, 2021, to the Leland Township Planning Commission, he stated the applicant's original application was for a cidery and that he was advised to re-apply for a condition of rezoning. On March 3, 2021, Grobbel presented Psenka's request again, addressing issues of concern that were raised at the February 3, 2021 meeting. A public hearing was set for April 7, 2021. This is an unusual request that staff has received and is somewhat

similar to a conditional rezoning in another township in Leelanau County a few years ago where the property was not being rezoned to a new district. As part of the preparation for completing this staff report, staff reached out to Corporate Counsel, as well as two planners in the state. Input and suggestions received were in agreement with staff's assessment of the request and were taken into consideration in the writing of this staff report.

Galla pointed out the following issues with the proposed application:

- The application is incomplete. The application from Mr. Psenka does not list the current zoning district OR the proposed zoning district for conditional rezoning.
- The Notice for the Public Hearing did not state what district the parcel is being requested to be rezoned to. The notice stated: "Joseph Psenka, d/b/a/ The Snowbird Inn, respectfully requests a conditional rezoning of his property to allow for a Cidery, in conformance with Zoning Ordinance Article 18.25. The property is located in the AR: Low Density Agricultural – Residential District." A conditional rezoning proposes changing the zoning district to a new district, and the applicant offers conditions. The township cannot offer or suggest conditions, and the township is not required to accept the conditions that have been offered as part of the application. The request for conditional rezoning has to be for a rezoning to a new district.
- The applicant has not requested rezoning the property to a new district, thus there is no 'conditional rezoning'. While there may be concerns that conditional rezoning is 'spot zoning', the use is limited to what has been requested by the applicant and the conditions offered and accepted which are then set forth in a recorded agreement between the parties.
- The application is asking for approval of a use which is allowed in the A/C district, but is not permitted in the current A/R district. In essence, what they are doing is either asking for a use variance or a creation of a special use currently prohibited in the AR District. Staff suggests they don't do either one of these because it would set a precedent for future requests.
- There is no reason to request that the use be 'in perpetuity' as stated in the application. Since zoning runs with the land, if the conditional rezoning is approved and the applicant meets the timelines established by the township, the use can continue.

Due to recurring technical issues with the live Zoom, Galla quickly summarized the remaining portion of the staff report saying staff does not think the township followed proper procedures, and suggests they take this back to their township attorney for review. The proper way to do this would be to back up a little and make sure they have a full application to conditional rezoning, make sure the applicant is offering conditions they can consider, not something that takes away the township's authority. And then proceed with the public hearing again.

Todd questioned what the reason was for the amendment back in 2013 and will those concerns be impacted by this proposed change. She commended staff and suggested the three options given to the township for consideration (Page 13) should include a public hearing. Galla stated that would automatically be required if they chose one of those options. Todd suggested that townships include the rationale for their decisions when making amendments. This makes it easier to track the history.

Nixon commended staff on an exemplary job and stated that it appears they are attempting to use conditional rezoning for a new use. Through his experience in Suttons Bay Township, he was led to believe what staff has clearly pointed out. Conditional rezoning is for rezoning, not for a use. Nixon

said is seems like they got very tied up in their discussions without a clear understanding. Staff has made this point clear enough to them, and they should be able to go back and start this process over again following proper procedures.

Carlson agrees with the comments made and the staff report. The township should go back and follow proper procedures, with a proper application for rezoning rather than re-use. Lautner agreed, the township needs to go through the proper steps and get this rezoned.

Black said if and when it goes to public hearing, any negativity needs to be explained. So often good projects get held up by public comment.

Yoder stated he concurs with staff findings and thought they did an exemplary job

Motion by Nixon, seconded by Lautner, to forward staff report, minutes and all comments to Leland Township Planning Commission. Motion carried 7-0.

Training Topics for fall session/Referral to Education Committee

Galla said she reached out to Mary Reilly, from MSU Extension, about presenting and she is willing to just charge mileage from Manistee and back, which would be around \$90.00. Based on last months discussion, she sent Reilly the two proposed topics. Reilly said they partnered with the University of Michigan to create a sample zoning ordinance for solar energy. They have been working on it for almost and year and it will be done this summer. This would be great resource and they would like to get it out to as many local units of government as possible. The other topic is Generally Accepted Agricultural Management Practices (GAAMPS), and Reilly said they do have some programming for it. Usually when you look at GAAMPS you also need to look at the Michigan Right to Farm Act as well. Galla concluded by saying members needed to decide on how the session will be held. Do they want both topics covered in one session? They could spend 30 minutes on a topic with a break in between.

Discussion ensued.

Members agree that only paying for the mileage was a good deal, and they would like both topics covered. Carlson questioned if 30 minutes on a topic was enough time for follow up questions. Galla said they could collect the follow up questions and answers to post them on the website or send out in an email. Nixon said that they've had two-hour sessions before and he would hope that would be enough time for questions and answers.

SUPPORT LETTER FOR GRANT

Galla stated that Homestretch was purchasing property on Marek Rd. to put in rental units and they would like a letter of support from the County Planning Commission to include with their application for grant funds. The letter is needed by June 1st, so if members are in agreement, Galla will draft a general letter, listing the data from their target market analysis. Lautner questioned who owned the property. Galla said it was in the Land Bank. Todd asked if they were committing themselves to decide zoning or planning issues. Galla said it was already zoned and that they would not be committing any funds.

Nixon stated he would be voting on this topic at his township and was advised to abstain from voting.

Griswold asked about restrictions on the property. Can they show support and also show that they want long-term year-round housing? Carlson said for clarification, they are supporting the notion of this

project going forward, obviously everything hasn't been hammered out yet.

Motion by Black, seconded by Carlson, to give Homestretch a letter of support. Motion carried 6-0. Nixon abstained.

REPORTS

Education Committee

Nothing to report.

Housing Action Committee

Lautner mentioned a 40-acre parcel in Solon Township that was going to be rezoned for a commercial business, but there was a referendum, and voters said no. This parcel will now be turned into housing. Also, there are up to 300 homes being proposed off of Lautner Rd.

Parks & Recreation Committee

Lautner said they were granted a gift from the county to help clean up the disc golf course at Myles Kimmerly and the Pat Hobbins walking trail, which are impassable in some areas. They will hire a company to widen trails and chip all of the downed trees. This money is a gift back for not spending all of their money over the years. Lautner concluded by saying that they will still be stocking Veronica Valley park with fish even though the fish day has been cancelled. Also, the Poor Farm Barn across from the Myles Kimmerly park was awarded "barn of the year!"

Reports from LCPC members of attendance at township/village meetings, or other meetings/trainings.

Lautner stated that last month at the Solon Township Board Meeting it was announcement that a large development off Lautner Rd. was going in. Yoder added that it was 80-acres, and is currently in front of the board to approve for the density.

COMMUNICATIONS

Galla stated that Long Lake Township was updating their plan and when it is opened up for public comment, they will be able to review it and send comments back to them.

Lautner commented that a public hearing was being held tonight in Long Lake Township for housing that is going in on the corner of Cedar Run Rd. and Tilton Rd. These are homes that could work for people who work in Leelanau County.

PUBLIC COMMENT

The phone number for public comment was announced. No public comment.

No public comments received.

STAFF COMMENTS

Galla mentioned the upcoming tire collection and Household Hazardous Waste & Electronic Collection (HHW) in June at the Glen Lake School. Also, she sent out some information on a new proposed bill

that will take away a municipalities right to regulate short term rentals. They will no longer be considered commercial and be allowed in all residential districts.

Galla asked what these large developments, that were mentioned, are doing for sewer. Yoder said the one in Cedar was a Part 41. The 80-acre piece is in a rural farm field, but he doesn't know all the details. Lautner thinks it might adjoin another larger piece, so probably individual septic systems.

Discussion ensued on Part 41.

COMMISSIONER & CHAIRPERSON COMMENTS

Black stated he is waiting to hear what Elmwood Township is going to do about STR's.

ADJOURN

Meeting adjourned at 6:33 p.m.