

Mason County Planning & Zoning Department

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May 7, 2019

Minutes of the Mason County Planning Commission meeting held at 5300 W. US 10,
Ludington, May 7, 2019 at 7:00 p.m.

MEMBERS PRESENT: Janet Andersen, Tom Hooper, Frank Redmond, Mike Shaw,
Doug Robidoux, Dennis Dunlap, Jim Wincek

MEMBERS ABSENT: None

OTHERS PRESENT: Brady Selner, Cayla Christmas

The meeting was called to order at 7:00 p.m. by Chairman Jim Wincek.

Meeting Minutes: None

Additions, Deletions or Modifications to the agenda: Jim Wincek stated the first public
comment period would be for anything not relating to the two items under unfinished
business. Mr. Wincek stated a public comment period would be added under each item.

Conflict of Interest: None

Public Comment: None

Correspondence: Brady Selner stated he received 4 preservation of space applications
from the Mason County Clerk's office.

New Business: None

Unfinished Business: Jim Wincek spoke to the public and gave them an overview of the
Planning Commission's responsibilities and abilities.

Jim Wincek opened the floor for the unfinished business item regarding Seth Hopkins's
special land use request for a commercial disc golf course.

Jim Wincek stated he went to the site and stated there was no ex parte communication
with the applicants.

Brady Selner stated he received a letter of correspondence shortly before the meeting
from Mike and Cathy Quigley stating their opposition of the application.

Brady Selner stated he received a letter of correspondence from Mason County Road
Commission regarding a request to either pave approximately 30 feet of Hansen Road
or to put an access driveway off Dunbar Road. The Mason County Road Commission
stated they would not pave part of Hansen Road but they would approve an access

1 driveway off Dunbar Road.

2
3 Jim Wincek asked the applicant to address the issues presented by the Planning
4 Commission at the April 7th public hearing.

5
6 Seth Hopkins presented a power point addressing the Planning Commission's concerns
7 in lieu of a new site plan. The slides addressed the concerns as follows:

- 8 • **Property lines-** use existing logging markers and two-tracks along the northern
9 property line; use the neighbor's survey markers as well as logging markers
10 along the western property line; use an existing survey marker along the eastern
11 property line; use the roadside for the southern property line
- 12 • **Trespassing-** put up "no trespassing" signs and tell customers to not trespass
- 13 • **Basket locations-** draw in approximate locations on the site plan
- 14 • **Parking lot-** currently located on the site plan; "packed down" dirt in an area that
15 used to be used as a logging staging area with a gravel driveway; currently can
16 fit approximately 30 cars
- 17 • **Signage-** signs have been temporarily removed
- 18 • **Garbage receptacles-** 5 heavy plastic drums to be located throughout the
19 course; will also walk course daily to pick up litter
- 20 • **Porta-Johns-** 2 located near the entrance with a natural barrier created by the
21 pines
- 22 • **Congregation areas-** end of the parking area away from the road
- 23 • **Paved road improvements-** access from Dunbar Road and can obtain a
24 driveway permit from the Mason County Road Commission

25
26 Dennis Dunlap stated he was confused with the applicant's commitment to making
27 improvements to the parking area and that it needed to be addressed on the site plan.

28
29 Seth Hopkins stated he was anticipating 10 cars per day and there would be a gravel
30 driveway to the parking area.

31
32 Dennis Dunlap recalled the neighbors stated the customers were parking alongside the
33 road during a tournament in 2018. Mr. Dunlap stated there would need to be spaces for
34 at least 54 vehicles based on the parking standards outlined in the zoning ordinance.
35 Mr. Dunlap asked what the proposed hours of operation would be.

36
37 Seth Hopkins stated disc golf could not be compared to ball golf and should not be held
38 to the same standards as it was not as popular as ball golf. Mr. Hopkins stated he
39 "plans for additional parking as needed" and was planning to increase parking for at
40 least 60 cars.

41
42 Mike Shaw asked Seth Hopkins if he was going to level the parking area and pointed
43 out it was hilly and uneven. Mr. Hopkins compared it to parking on an uneven lawn and
44 added he would brine the area if there was ever a dust problem.

1 Mike Shaw asked Seth Hopkins specifically how the property lines would be marked.
2 Mr. Hopkins stated the lines were currently marked by two-tracks, logging markers, the
3 road, and Gooseneck Lake.

4
5 Mike Shaw asked Seth Hopkins if he would be willing to obtain a driveway permit for
6 Dunbar Road. Mr. Hopkins stated he would.

7
8 Tom Hooper stated he was concerned with the parking area as well. Mr. Hooper stated
9 the parking area needed to be clearly defined with gravel or another surface.

10
11 Seth Hopkins stated 70 cars on the site would happen 2 to 3 times per year, but he
12 could expect 10 cars on a regular basis.

13
14 Tom Hooper stated the site plan needed to show the parking area could fit the cars
15 even if they were only there a couple of times a year.

16
17 Seth Hopkins stated he would make room in the future if it was proven to be needed.

18
19 Doug Robidoux stated the Planning Commission spoke specifically about the surface
20 type options for the parking area, and it was not addressed on the site plan. Mr.
21 Robidoux stated the unresolved issue of existing on a hard surfaced road still existed.

22
23 Seth Hopkins apologized for not having a completed site plan and stated he wanted “to
24 see if it would be worth spending money on.”

25
26 Janet Andersen stated the disc golf course was a business that was going to grow from
27 its current popularity. Ms. Andersen explained the Planning Commission was concerned
28 with the parking area to protect neighbors.

29
30 Seth Hopkins stated the disc golf course would not grow bigger than 96 participants at a
31 time.

32
33 Frank Redmond stated even though the Road Commission would issue a driveway
34 permit, the problem of being located on an unpaved road still stood. Mr. Redmond also
35 expressed concern about hunting seasons.

36
37 Seth Hopkins stated he could close during hunting seasons. Mr. Hopkins proposed
38 opening in the beginning of April and closing during turkey season and running through
39 the end of September.

40
41 Jim Wincek stated the proposed “fix” to the issue of basket locations was not an
42 accurate portrayal of where the baskets existed currently. Mr. Wincek stated one basket
43 was placed in Gooseneck Lake. Mr. Wincek stated if the location of one basket was
44 wrong then he would be unable to trust the drawn locations of the other baskets.

45
46 Jim Wincek asked Seth Hopkins if his property touched Dunbar Road. Mr. Hopkins
47 stated it did not.

1 Jim Wincek stated the parking in its current condition had never been approved before
2 and that it was a hazard.

3
4 Dennis Dunlap stated the ordinance was full of direction for parking and did not see why
5 the applicant couldn't answer the requirements.

6
7 Seth Hopkins asked the Planning Commission for a vote to approve or disapprove of
8 the existing site plan with the information they had.

9
10 Jim Wincek opened the public comment period.

11
12 Cathy Quigley stated the issues would not be present if the applicant had gone before
13 the Planning Commission before starting. Ms. Quigley stated Google Maps directs
14 traffic to take Hansen Road and not Dunbar Road.

15
16 Mike Quigley asked if the approval of the site plan would mean any commercial
17 business would be allowed.

18
19 Brady Selner explained outdoor recreation was allowed as a special land use in the
20 Recreational Residential zoning district.

21
22 Brian and Shawn Lindenborn stated the applicant should have to follow the rules.

23
24 Ken Maurer stated he walked the disc golf course and hunts on the neighboring federal
25 land.

26
27 Marcia Maurer asked if being next to a disc golf course would affect her ability to have
28 chickens.

29
30 Sarah Suarez stated she did not have any issues with being right next to the disc golf
31 course.

32
33 Seth Hopkins asked if taking the property out of the LLC name and not charging money
34 to use the course would make it a course for private use.

35
36 Brady Selner stated he would need to look into that question to find an answer.

37
38 Jim Wincek closed the public comment period.

39
40 Doug Robidoux stated he could not vote to approve the site plan without meeting the
41 standard of being located on a paved road. Mr. Robidoux stated since it was a special
42 land use the Planning Commission could control the parking lot and hours of operation.

43
44 Tom Hooper agreed with Doug Robidoux and added he could vote on a completed site
45 plan.

46
47 Janet Andersen stated the standards required a hard surfaced road and the site plan

1 was not near completion.

2
3 Dennis Dunlap stated he was looking for commitment on a site plan and could not
4 approve the current proposed site plan.

5
6 Frank Redmond agreed with the other members of the Planning Commission.

7
8 Mike Shaw stated he was disappointed with the logging markers on the trees being the
9 only property markers.

10
11 Jim Wincek stated he could not look past the course not being on a paved road.

12
13 Doug Robidoux made a motion to deny application PZ18203. Second by Tom Hooper.
14 Motion carried, 7 yes 0 no.

15
16 Doug Robidoux requested Brady Selner obtain a legal opinion on the operation of the
17 disc golf course as a private use.

18
19 Jim Wincek opened the floor for the unfinished business item regarding Andy Thomas's
20 special land use request for an agribusiness – Micro-brewery.

21
22 Brady Selner stated he received a letter of correspondence from the members of the
23 Momentum Business Plan Competition supporting Andy Thomas's business.

24
25 Brady Selner stated he had an updated staff report with new findings of fact. A portion
26 of the staff report is below:

27
28 FINDINGS OF FACT:

- 29 1. Parcel 001-022-009-10 and 001-022-009-00 were combined in March, 2019.
- 30 2. The home and barn do not meet the side setbacks for the district (25-feet). At the time
31 of the original permit, the setbacks for the district were 50 feet. Additional research
32 regarding the nonconformity existing on the south property line was not requested.
- 33 3. A hop farm will be placed on the property.
- 34 4. There will be production of fruit, vegetables, sap, and other natural products on the
35 property.
- 36 5. Pole barn to the north to be used as storage.
- 37 6. The applicant is using the existing septic system on the property.
- 38 7. Employees would include the homeowner and potentially one non-resident additional
39 employee.
- 40 8. Business to move to a regular retail operation with onsite consumption in both sample
41 sizes and pints (two pint maximum).
- 42 9. Attached to the brewery, will be a fenced in area to serve approximately 25 people.
- 43 10. There will continue to be steam ventilation coming from the barn which will emit a faint
44 odor similar to a bakery or restaurant.
- 45 11. There will continue to be no outdoor storage, but there would be outdoor
46 seating/gathering areas.

12. New patio/seating area will require additional building department requirements and approval.
13. Under Application PZ19020, the Mason County Zoning Board of Appeals denied the variance for standard 17.03 (9)(b), the request for a 5 acre variance from the minimum parcel size requirement of 10 acres.
14. The ZBA reached consensus the applicant could meet the requirements of standard 17.03(9)(c) without a variance.
15. Based on legal advice from the County's corporate counsel, the ZBA did not consider the variance request for standard 17.03(9)(d).

Andy Thomas stated his state license needed to be renewed annually. Mr. Thomas stated he decided it would be in the brewery's best interest to start a farming operation to have a true agribusiness.

Doug Robidoux stated with the present special land use and present license with the Liquor Control Commission the applicant could still function on his existing home based business permit.

Brady Selner stated the proposed expansion constitutes a new use or a change of use.

Dennis Dunlap stated the site plan indicated parking for 5 spots.

Andy Thomas stated more parking could be added.

Dennis Dunlap asked if there would be sanitary facilities.

Andy Thomas stated porta-johns with handicap accessibility would be sufficient after speaking with the building inspector.

Jim Wincek opened the public comment period.

Kathy Dumas stated the applicant was conscientious of the neighborhood and had a friendly atmosphere.

Sean McDonald stated Andy Thomas was a great neighbor and offered to lease him 5 acres of his farm property if needed.

Rob Always stated he was a board member of Mason County Farm Bureau and they endorsed Andy Thomas's plan.

Evelyn Bergaila stated she would be concerned with lessening the 10 acre minimum requirement as weakening that standard would allow for commercial operations to operate on small parcels.

Scott Dumas was a neighboring hop farmer and endorsed Andy Thomas's plan.

Jim Wincek closed the public comment period.

1 Jim Wincek stated the main finding was the applicant's license and added local
2 ordinances are subordinate to the state. Mr. Wincek stated the Planning Commission
3 could hold the applicant to the standards of Section 17.03.

4
5 Frank Redmond stated the brewery was great but was concerned with the applicant not
6 meeting the 10 acre minimum.

7
8 Tom Hooper stated the applicant started his business before there was language for
9 agribusinesses. Mr. Hooper stated the Planning Commission would be putting a
10 hardship on an existing business.

11
12 Brady Selner clarified the application was for a new permit for a change of use.

13
14 Janet Andersen stated the license from the State of Michigan for a tasting room "was a
15 game changer." Ms. Andersen stated the Planning Commission could not stop the
16 tasting room, and the applicant could not use his license without 10 acres. Ms.
17 Andersen stated the Planning Commission could not deny the ability to have a tasting
18 room without taking away his ability to continue his current business.

19
20 Dennis Dunlap agreed with Janet Andersen and added the state took away the
21 Planning Commission's ability to regulate the tasting room as a special land use which
22 created a special circumstance. Mr. Dunlap supported the application.

23
24 Mike Shaw stated the Planning Commission had to enforce the ordinance as written.

25
26 Doug Robidoux stated the ordinance specified a 10 acre minimum and the new
27 information obtained created extenuating circumstances. Mr. Robidoux felt the request
28 for the variance should go in front of the Zoning Board of Appeals with the new
29 information.

30
31 Brady Selner stated the applicant had a microbrewer's license on a home-based
32 business with a tasting room attached to it. Mr. Selner recommended the Planning
33 Commission refer to legal counsel.

34
35 Jim Wincek stated he was prepared to deny the application based on not meeting the
36 10 acre minimum standard and addressed the reasoning for the 10 acre minimum. Mr.
37 Wincek stated a number is arbitrary until it is approved and becomes a law. Mr. Wincek
38 stated the 10 acre minimum could be waived and regulations on the business could be
39 implemented.

40
41 Janet Andersen stated the legal opinion said what could and could not be done by the
42 Planning Commission. Ms. Andersen stated the Planning Commission did not have the
43 right to take the ability to have a microbrewery away from the applicant.

44
45 Doug Robidoux made a motion to send the applicant back to the Zoning Board of
46 Appeals with the new information from the attorney. Second by Mike Shaw. A roll call
47 vote was requested.

Janet Andersen – No Dennis Dunlap – No Tom Hooper – No
Frank Redmond – No Doug Robidoux – Yes Mike Shaw – Yes
Jim Wincek – No

Motion failed, 2 yes 5 no.

Janet Andersen made a motion to waive Section 17.03 paragraph 9(b). Second by Tom Hooper. A roll call vote was requested.

Janet Andersen – Yes Dennis Dunlap – Yes Tom Hooper – Yes
Frank Redmond – Yes Doug Robidoux – No Mike Shaw – No
Jim Wincek – Yes

Motion carried, 5 yes 2 no.

The Planning Commission concluded all standards of Section 16.05 were met as indicated in the staff analysis prepared by the Zoning Director.

Jim Wincek read through the standards of Section 17.03, Agribusiness Uses.

- 1) The maximum portion of any building used for agribusiness sales shall be five-hundred (500) square feet.** The total building square footage is 646 square feet. Meets standard, 7 yes 0 no.
- 2) All buildings shall have a front setback of at least fifty (50) feet from the edge of the proposed road right-of-way.** The brewery is set back 180' from the front lot line. Meets standard, 7 yes 0 no.
- 3) At least eighty (80) percent of all sales shall be farm products capable of being grown in Mason County.** Crops needed to brew beer are capable of being grown in Mason County. Meets standard, 7 yes 0 no.
- 4) Adequate trash receptacles shall be provided and shall be completely obscured from view by a screen fence or wall.** Meets standard, 7 yes 0 no.
- 5) There shall be no more than two (2) freestanding or ground signs, neither sign to exceed sixteen (16) square feet of sign area.** Existing sign is only 6 square feet with no additional signs proposed at this time. Meets standard, 7 yes 0 no.
- 6) Agribusiness uses shall have frontage on a public road.** The micro-brewery is located directly off of South Stiles Road. Meets standard, 7 yes 0 no.
- 7) All ingress and egress to the site shall comply with the applicable regulations of the County Road Commission or the Michigan Department of Transportation.** Meets standard, 7 yes 0 no.
- 8) A minimum of five (5) off-street parking spaces shall be provided and shall be laid out in such a way that they can be safely and conveniently used by**

1 the customers. The Planning Commission shall determine the number of
2 additional parking spaces necessary based on each individual use and the
3 anticipated traffic that will be generated. The site would need to provide
4 parking for eighteen (18) cars. Meets standard, 7 yes 0 no.

5 **9) Wineries, micro-breweries or micro-distilleries may be allowed as an**
6 **agribusiness use subject to the requirements above and as follows:**

7 a. **All required licenses and approvals shall be obtained from the**
8 **appropriate state and federal agencies.** The applicant obtained a state
9 license. Meets standard, 7 yes 0 no.

10 b. **A minimum parcel size of ten (10) acres shall be required.** Standard
11 waived.

12 c. **At least two (2) acres of the parcel on which any of the foregoing**
13 **facilities are located or, alternatively, at least two (2) acres that are**
14 **owned or operated by the owner or operator of the winery, micro-**
15 **brewery, or micro-distillery must be in active production of a fruit,**
16 **grain, vegetable or other principal ingredient of the beverage to be**
17 **produced.** At least two (2) acres will be farmed. Meets standard, 7 yes 0
18 no.

19 d. **The on premise consumption of alcoholic beverages shall be limited**
20 **to tasting room quantities. The facility shall not function as a bar.** Not
21 applicable.

22 e. **Retail sales subordinate or related to the operation or production of**
23 **the beverage produced may be allowed, such as boxes/packageing**
24 **containing wines, beer or liquors, glassware for serving alcoholic**
25 **beverages, wine and bottle openers, clothing, and coffee cups. The**
26 **retail sales area shall be no more than twenty five (25) percent of the**
27 **floor area devoted to the winery, micro-brewery or micro-distillery,**
28 **but in no case shall it occupy more than two thousand (2,000) square**
29 **feet of floor area.** A very small portion of the current brewery is used for
30 retail sales subordinate to the related operation or production of the beer.
31 Meets standard, 7 yes 0 no.

32 f. **Adjunct food services, consisting of snacks, sandwiches, luncheons,**
33 **or pre-arranged dinners provided on the premises in connection with**
34 **the operation of wineries, micro-breweries and micro-distilleries may**
35 **be provided.** Light snacks may be provided. Meets standard, 7 yes 0 no.

36 g. **Parking, buildings, and processing areas shall be set back a**
37 **minimum of fifty (50) feet from all property lines. Screening,**
38 **consisting of an earth berm, evergreen screen, or an obscuring wall**
39 **or fence, shall be provided on those sides abutting or adjacent to a**

1 **residential use. The Planning Commission may waive the screening**
2 **requirement in specific cases where cause can be shown that no**
3 **good purpose would be served by the screening requirement. Not**
4 **applicable.**

5
6 A motion was made by Tom Hooper to tentatively approve the agribusiness special land
7 use based on compliance with the applicable standards of Section 16.05 and Section
8 17.03, and upon the condition that County legal counsel prepare a formal resolution of
9 final approval for consideration at the Commission's next meeting. Second by Frank
10 Redmond. A roll call vote was requested.

11
12 Janet Andersen-Yes Dennis Dunlap-Yes Tom Hooper-Yes Frank
13 Redmond-Yes Doug Robidoux-No Mike Shaw-No Jim Wincek-
14 Yes

15
16 Motion carried, 5 yes 2 no.

17
18 Zoning Directors Report: Brady Selner stated the next meeting would be May 21st for a
19 special land use request. Mr. Selner stated he was working with Williams and Works to
20 finalize a date for the town hall meeting for the master plan update. Mr. Selner stated he
21 was working with Williams and Works to find educational opportunities for solar power.

22
23 Brady Selner stated he drove by the three wind turbines which he had received
24 complaints on being discolored and found one was cleaned, one was in the process of
25 being cleaned, and one was not yet cleaned. Mr. Selner explained Consumers Energy
26 had changed companies for their open air grease, and the new company's grease had
27 leaked out.

28
29 Zoning Board of Appeals: None

30
31 Jim Wincek opened public comment.

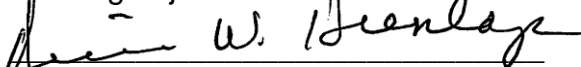
32
33 There was no public comment.

34
35 Evelyn Bergaila stated a special land use was a conditional approval which gave the
36 applicant and Planning Commissioners an opportunity to respond to concerns.

37
38 Danny Hoffman stated she saw the struggle the Planning Commission worked through
39 with the two applications of the evening.

40
41 Michelle Thomas thanked the Planning Commission for their work.

42
43 Meeting adjourned at 10:10 PM

44 

45 Dennis Dunlap, Secretary

46 Mason County Planning Commission
47