

WEST TRAVERSE TOWNSHIP  
REGULAR PLANNING COMMISSION  
WEDNESDAY, MAY 10, 2023

Chairperson Mooradian called the meeting to order at 7:03 p.m.

Roll Call: Green, Osetek, Uutinen, Moore, Wallin, Mooradian

Absent: Hollerith

Visitors: Naomi Singer, Laurelynne Harris, James & Marci Spencer, Ed Murphey, Carolyn Sandford, Garon Gopigian, Kristi Hollingsworth, David Berryman, Lisa Morris, Annie Mooradian, Gary Rentrop, Martha Dyksterhouse, Gail Kozlowski, Ed Bezilla

The Pledge of Allegiance was recited by all.

Approve Agenda as presented or with additions: **Wallin makes a motion to approve the agenda with Unfinished Business following New Business. Uutinen seconds the motion. All yes.**

Public Comments:

Approval of April 12, 2023 Regular Meeting Minutes: Mooradian states there is one typo. **Uutinen makes a motion to approve with correction. Green seconds the motion. All yes.**

New Business:

- a. Mooradian opens the Public Hearing at 7:08PM for Case #03-2023: to consider a request to amend the approved Special Use Permit for Pond Hill Farm to allow for an increase in the number of permitted attendees from 300 to 999 and for the construction of an additional parking area at 5699 South Lake Shore Drive, Harbor Springs, MI 49740. The property is more particularly described as tax parcel #24-16-12-33-100-001. As duly advertised in the Petoskey News Review and The Harbor Light and notices sent to adjacent property owners within the required 300 feet, Ken Lane, Zoning Administrator, introduces the case. Spencer and the Commissioners discuss the proposed changes. Spencer shows on the visual how the drainage on the farm works. "Everything flows from the northeast corner to the west and connects to the Five Mile Creek drainage. Some of the things we have realized over the years of operation are that relocating the parking area into the field and then making the snow removal go from north to south will allow people to walk on higher ground that isn't wet. The reason for relocating the parking is multifold. Certainly, the Conservation Easement area should never have been used as a parking area according to the Easement Document. I think it makes more sense for us to park in the field because it allows ADA compliant access to the property. It means people won't be walking through the low ground. We used that parking for the first-time last fall to test it out to see what would happen during the fall peak weekends and we never got more than a third full. It is more than adequate, improves safety for pedestrians and allows better flow for ingress and egress. We have drawn a pedestrian pathway that is

Proposed: May 10, 2023

Approved: June 14, 2023

ADA compliant, up a trail in the very front of the parking lot. During the three years we have gone through the approval process we feel we have made strides, improving the farm and how it functions for all our events. As members of the Community and a business on the Tunnel of Trees, we are pleased with the results you see today.” Berryman states “we are not anticipating doing anything different than we have in the past. Some are concerned that Pond Hill will become another Bliss Fest. PH does not charge for the music events like Bliss Fest and does not intend to. Lane brings it back to the subject at hand. “We are talking about a permit of 999 people and if we use 3 people per vehicle, we would go to 333 cars or 4 people per vehicle we have 250 cars. On fall weekends we know what these parking lots will look like if people are allowed to come off the Tunnel of Trees.” Getting cars off the field so they are not readily noticeable to traffic on M-119 has value. But with all of that being said, whether our gate is chained shut all of October and our business is closed or open, the service we provide is actually getting cars off of M-119, giving people a place to stretch their legs. We are not talking about parking in July but specifically about weekends in October. Again, whether this is granted to increase this number from 299 to 999, we are going to have the traffic on M-119. The traffic that we have on peak weekends in October is something that is of concern to all of us. I think in a way we are fortunate to live in a place that people want to come up here and drive up I-75 to go through the Tunnel of Trees, but it’s also the same on M-22 and lots of scenic highways in Northern Michigan. Typically, on a Sunday afternoon we aren’t going to see peak traffic because I-75 is backed up. So, the request to go from 299 to 999 is for those fall weekends. I think we have proven that we can handle the traffic that comes at us and do it in a way that isn’t causing problems. I think this is a major improvement to everything because of drainage, visibility, ADA access and ingress to the facility. I am pleased with this plan and curious to hear how we can do it better.”

Lisa Morris who is at 7997 S. Lake Shore Dr. feels anything we can do to provide more family friendly venues in this area is to our benefit and she is in support of that.

Martha Dyksterhouse states “I don’t have anything against any of the events, activities, the applicant or the individual. The number of acres involved is questioned. Mooradian states “it is not all in this amendment. There is a 40-acre north parcel that’s in a different township that is not part of the approval of last year. The western portion of this parcel, which is approximately 70 or 80 acres, has some Conservancy restrictions on it and so the subject of the amendment is on the eastern half if we can split it.” Dyksterhouse states “but some of the uses will be on Conservation Easement.” Mooradian states “The trail system and some of the other things are allowed on the Easement property but we’re not amending those, just looking at the eastern portion.” Dyksterhouse asks “did I hear you say that the Planning Committee has the ability to approve it?” Lane clarifies the PC makes a recommendation to the Board. The Board is the one who ultimately approves or denies Special Use Permits.” Mooradian states “but the ZO allows for us to decide on the frequency of events.” Dyksterhouse states “I did talk to Lane about how the 300 number is applied and he said the 300 number is for the given event, not the other activities taking place.” Lane states “the language in the SUP agreement says they are limited to 300 attendees per event.” Lane read the exact language from the agreement.” Dyksterhouse states she is confused about the language from the agreement and whether or not the

people at the farm for anything other than the special events are included in the total allowed on the property. Mooradian explains the Code is different because you have the agritourism which is part of the Special Use and when you want to have events, those would be addressed in the event layer. They are woven together. Dyksterhouse states “so the 300 number is for the commercial events facility approval, but people not associated with the event could be on the site at the same time?” Mooradian continued to clarify. “Last year when Pond Hill presented their plan, they could have their farm market during the day, but they told Commissioners the plan would be to close the farm during events. This is not part of the discussion now. That was presented to us for the approval we gave last year. Mooradian confirmed with Spencer that when there are special events, the rest of the farm is closed to visitors. Dyksterhouse continues to try and establish the time period of the 300 people. Mooradian states “I think it’s 300 people at any given time.” Dyksterhouse says she is confused about the grey areas. She has three major points she would like clarified. 1. How many attendants are required and what is their function? In her opinion both PH and the Township are responsible for enforcement. 2. Safety on M-119 with the traffic as heavy as it may become, will present challenges. Her big concern is the Heritage Highway is not intended for destination travel and for commercial event traffic. The commercial event and agritourism aspects are what give her pause. 3. Dyksterhouse asks if this is the first property that has both SUPs in West Traverse Township. Mooradian states “yes this is the only one at this time.” Dyksterhouse states “I am a person that looks into the future, and I am worried about how this property grows and I’ve got this sense that the property already grew without the right permits. Now it must fit somewhere and must operate legitimately as a business with the proper permits. SUPs are very important. The numbers are a big concern. I am opposed to the increase and the impact in the community. Mooradian reminds everyone that the SUP runs with the land, regardless of the owner. We amended the ZO in 2020 to include agritourism and commercial events because of inquiries and the sudden growth in this industry. It is correct that Pond Hill kind of crept from what was a little farm market to become an agritourism commercial events center. The Township needed to have something in the ZO to regulate agritourism and commercial events or operations like this would not have been allowed. We worked as diligently as we could as a Planning Commission and with the support of the Township Board to create something that works for the whole community.”

Naomi Singer, a property owner and member of the Heritage Highway, gave a short history of Heritage Highways in Michigan. Singer doesn’t have a problem with PH but with the increasing number of attendees at the events. The Heritage Highway members are concerned with safety and security. PH can address safety and security on their property but they can’t address it for the surrounding area. They see what happens during their events but don’t see what happens along the roadways with increased traffic. Second, we have talked about what happens with traffic on a scenic route and the purpose of the scenic route is not intended for large commercial uses. Third, there is environmental damage from noise, lighting, garbage and sanitation that can’t be controlled for large crowds at one site with no infrastructure to support those crowds. M-119 is a designated Scenic Highway and as such, has not been improved to code because of the designation. Unfortunately for the Spencer’s, while a good location for a farm, it is

not a good location for a commercial enterprise that is going to host 1000 people at one time during the day. M-119 has to meet the criteria of The Scenic Heritage Route Act 69. M-119 is endowed with aesthetic, ecological, environmental, and cultural amenities that people come from all over to appreciate. The route is intended for traveling rather than a route to any destination. Local governments such as townships and counties have the responsibility by law to protect the integrity of the Heritage Road and not allow a creep, if you will, from commercial venues that would start small and expand.

Gary Rentrop, President of the ECLSA lives at 6007 W. Lake Shore Drive stated they support PH but take issue with expansion from 300 to 1000 people for events. There has been no demonstrated need for 1000. Rentrop notes that PH stated they don't anticipate any changes from what they are doing now, and what we know the maximum parking area was half full, where is the need to increase to 1000? He did speculate the value the increased capacity might have on a potential sale. Certainly, an increase in capacity would be an enticement to some in the entertainment industry. The other item is noise. Noise is not just about decibels, it's about annoyance. I would point out, the Zoning Ordinance, shall specify the specific land use and activities for approval." Rentrop references Whitman vs. Gelien Township Michigan Court of Appeals Case 2010. I would suggest some of the things you are proposing are really not permitted in the Ordinance. Rentrop encouraged the PC to tailor the conditions, specifying what is going to take place and the demand that is going to be placed on the property.

Gail Kozlowski, Birchwood resident, said she had talked to Lane about decibel rules and learned there were none. Kozlowski suggested that there should be some decibel rules and regulations. She questioned if the hours of operation are governed by the activity being done and if hours are controlled by statute or Township regulations for this kind of development and what are those hours? Mooradian responded that the event code governs. The normal hours would be 10:00AM to 10:00PM, and last year PH requested they be allowed to go to 11:00PM. That was granted on a one-year trial basis. That will be addressed in the Planning Commissioner discussion.

Garon Gopigian is a new member of the Heritage Highway Committee and holds no opinion for or against the proposed increase but is trying to understand what is being asked and why. He requested clarification on the SUP following the land. Mooradian offered clarification, stating, "the conditions are part of the permit approval and not just the written contract, but they are actually filed on the title at the county, so they run with the land."

Ed Bezilla a resident of Birchwood said there is some noise disturbance that does occur from Pond Hill.

Mooradian closed the Public Hearing at 8:20PM. Mooradian reads aloud questions that Commissioner Hollerith submitted in his absence. The Planning Commission began its deliberation.

Mooradian states “there are still ingress and egress issues. The PC is concerned with the public safety of the community. You have a facility that can be used by the public but the community needs to be balanced. The Farm is located on the Heritage Highway and as a Scenic Highway, there are limitations placed on the businesses and homes along the route. MDOT recommendations are very clear and can’t be ignored. The Planning Commission would be remiss if we did ignore those recommendations. MDOT says you should shut down the curve and build it at the west location and if you don’t shut the curve down that should become your emergency access and your secondary access.”

Green states, “the letter from the Conservancy is not authorization for use of the Easement for parking or access drives. If you were approved for the 999, when I look at the parking you have 450 parking spaces, that would theoretically support 1400 or 1500 people. For Fall Festival you have acknowledged you could go over 1000 people. My concern is if you had a Special Use Permit approved for 999, how are you going to monitor that? How are you going to control that?” Mooradian states “they actually have parking for 510 spaces purposed, which would be 2000 people.” Green states “if you look at the 450 new plus the total, that’s a lot of people you could accommodate.” Spencer agrees all those things are true but asks what they are supposed to do. Spencer asks how they are supposed to handle the busy weekends in October? Spencer states “what we have done is continue to try to improve our parking, our flow, our ability to serve the people.”

Green comments about the noise complaints that have been referenced but says he doesn’t recall them coming to the Board. Moore states he did a site visit and that it looks great and is more accommodating. He feels the ADA compliance is improved and questions why the County has not approved it? Moore was concerned that the driveway and entrances, while under contract to be improved, have not been worked on. Berryman said potholes had been filled that day. It is still the only ingress and egress. Moore says “while noise and traffic are valid discussion points, he would prefer to focus on the MDOT recommendations and the Conservation Easement. When we approved the SUP last time, the whole basis was that the Conservancy didn’t allow use of that western drive. The letter allowed use of the Easement for one year only and then other arrangements would need to be made to address the parking and the driveways. The SUP approval did not address the number of spots, just where it was. The Planning Commission granted approval for 300 people with one point of ingress and egress. Here we are a year later and nothing has been done to address the driveways and the MDOT recommendations but you want us to increase your attendees to 999? If the PC had been comfortable with that number, we would have granted it last year when you were requesting it. We can’t increase the number of attendees because the MDOT recommendations for the driveways can’t be met. That we are even trying to get past this without changes being made, seems insurmountable to me at this time.” Mooradian states “I believe in our meeting last year that when we did grant the deviation, that is exactly how we were able to come to this, because it was capped at 300 people. Parking was part of that decision, but it wasn’t the driving factor. The factor is how much load can that one ingress/egress take. Pond Hill believes it can handle the load based on their observations last fall. We are looking at the MDOT requirements. If the volume wasn’t an issue, MDOT wouldn’t recommend they move it. Moore, you are correct. Those are two big hurdles. Until these two items are solved, how do you go forward?” Mooradian asks the applicant, “in the impact statement, you say there is no change from 300-999, but how

can that be?" Spencer states "we are talking about October weekends. We have this traffic coming down M-119 and pulling off and we are seeing 250-300 cars at a time. So essentially, we are already doing this number of people and proving we can." Mooradian agrees with Green and his comment "about concentrating on the attendees for the Fall Festival and applying for the Large Gathering Permit. Green states "I commend Pond Hill for wanting to do the right thing and get the right permits. They are trying to address the situation but it's already happening. They are applying for permits after the fact. So, they are correct. There isn't going to be a change because its already happening. 999 people are showing up for the Fall Festival but the Township Board is telling them they don't have the right permit for that, so they need to come to the PC for that approval. So, the question is do you need a Large Gathering Permit or do you need to go to a new SUP for 999." Spencer asks "so let's assume that we have a 999 cap during weekends in October, how would you like us to go about turning them around at the gate; which way should we tell them to go? Maybe somebody can answer that question." Mooradian states "it's called an Outdoor Gathering Permit. That's the answer." Lane states "to amend the parking lot, we need to amend the SUP." Lane states, "the way I read the previous approval; it is tied to the Site Plan that was approved. That was the condition of the approval of the Site Plan from June '22." So, if you change the Site Plan, you are changing the conditions that require approval from the Planning Commission." Lane states "if the parking area was approved, that doesn't mean they are automatically granted the ability to get the Outdoor Gathering Permit. It still does not address the ingress/egress and all of the other things that need to be looked at." Green states "I suggest that Pond Hill needs to rethink which is the route they want to pursue, the SUP or the Large Gathering Permit." Berryman states "regardless we want to pursue that, the enhancement requires some sort of action from the Commissioners. You would have to make some recommendation." Green states "you don't have an answer if you have 1000 people or more." Mooradian asks "why didn't we see this in January, if you were using it last year? Why are we having the discussion in May, when you had a letter from Lane, our Enforcement Officer, in November. He gave you a deadline for April to resolve these issues." Berryman states "it was given to us in a list by Lane. I have seven or eight items that we did address during that time period. None of them had anything to do with parking. We knew we are not to be parking on the Conservation Easement." Mooradian said what was approved was the existing parking. The parking that has been created has not been approved. So, basically you are asking us for forgiveness, not permission. I am not personally comfortable approving the 440 spaces, because that is an enforcement issue for us. These are legal questions." Lane states "he will check with the Township attorney and get some advice on how to proceed. If he says it can be approved administratively or a permit after the fact, I would definitely do that." Spencer indicates they are not using the lot now, only for October.

Mooradian states that more information is needed before approving. The Commissioners decide to postpone the case and direct Lane to give the applicant a worklist to be completed by the July 12th PC meeting. This includes a letter from the Conservancy, regarding egress and subject to the Township attorney's opinion, an emergency action plan (necessary if over 300) and MDOT's recommendation for ingress and egress.

**Uutinen makes a motion to postpone until July 12<sup>th</sup>, 2023, Case #03-2023: to consider a request to amend the approved Special Use Permit as submitted by David Berryman for Pond Hill Farm at 5699 South Lake Shore Drive, Harbor Springs, MI 49740. Tax parcel #24-16-12-33-100-001. For the applicant to provide further information regarding his application. Green seconds the motion. Roll call: Wallin-yes, Green-yes, Osetek-yes, Hollerith-absent, Uutinen-yes, Moore-yes, Mooradian-yes**

Unfinished Business – Work list items will be discussed at the next meeting.

Other

- a. Zoning Administrator Report
- b. Township Board Representative Report –
- c. Correspondence –

Planning Commissioner Comments (open discussion) -

Public Comments:

Next Meeting: Planning Commission Regular Meeting, June 14, 2023, 7:00 PM

Adjournment: **Wallin makes a motion to adjourn. Green seconds the motion.**

Respectfully Submitted by:

Dawson Moore, Secretary

Transcribed by:  
Paige Fisher