

Bear Creek Township Planning Commission Meeting July 29, 2020

I. Called to order: 7:15 p.m.

II. Roll Call: Kendziorski, Urman, Coveyou, Brown, Olliffe, Mays, Haven

III. Others in Attendance: Tammy Doernenburg, Dennis Keiser, Jim Kargol, Dan Armstrong, Erik Brown, Joe Daly, Aaron Nordman, Dean Hicks, Laura Kowalke

IV. Pledge of Allegiance

V. Approval of Minutes

- a. Motion** by Mays to approve the minutes as presented from the Planning Commission Meeting and Public Hearing of June 24, 2020. 2nd by Haven. **Passed**

David Coveyou recused himself from the following case.

VI. Case PPUDF20-01 MKB Holdings, LLC, Planned Unit Development- Amendment to Final Plan and SITE PLAN REVIEW, 4472 US 131 Hwy, Section 30, Bear Creek Township

- a. Tammy Doernenburg gave a background to this case:**

i. Doernenburg noted that although this case has been on the agenda for some time, it was first heard last month. It is a PUD Amendment and Site Plan Review at 4472 US 131 Hwy. This parcel is on the west side of 131 and north of Gruler Rd. It has access from both 131 and Gruler Rd. The property has underlying zoning of B-2 and FF-1 and it has a PUD-1 overlay. The site is the current location of Walloon Village Marina. In 1998, the original PUD was established for this property. It was amended in 2007 and in 2012 it was administratively approved to have indoor storage and boat repair. In 2014, the PUD and Site Plan were amended to allow for limited outdoor display and storage. This past winter, Doernenburg sent a letter to the business owners because they have expanded the outdoor storage beyond what was approved. The owner opted to seek a change of site plan. The existing site plan prohibits outdoor storage south of the southerly building in the wintertime. The current proposal would amend the PUD to allow for additional outdoor storage in the wintertime. There are no proposed changes to the buildings or parking area. The grass area would be used for parking. The new site plans were received on July 20, 2020. These new plans show additional storage to the 50ft perimeter setback line in all seasons and winter storage between the southerly building and the powerlines. There are evergreen trees being proposed- an additional 5 trees along 131. There are 4 additional trees proposed along Gruler Rd. There are 6 additional trees proposed along the powerline easement, to screen from the west. The updated site plan shows these additional trees along the powerline easement, Gruler Rd entrance, and the highway. There are notations along the site plan that address the concerns of last month's meeting, including: shore stations will be stored to the west of the building, outdoor storage will be restricted south of the powerline in the winter, dust control will be applied twice annually, the Gruler Rd access will be used only in daylight hours, only paved areas will be plowed, proposed boat and storage will be on existing grass and gravel surfaces, no additional outdoor lighting is proposed, and in the outdoor display area, they are proposing to remove the boulders. Doernenburg noted that in the past, the business was restricted to three units in the outdoor display area. She suggests keeping that the same for ease of enforcement. A graphic was provide showing the line of sight and the areas that will remain bermed. The trees are to remain according to the notations on the site plan. Doernenburg noted that Dan Armstrong sent a letter which references 11 topics which were discussed at the last meeting. Some of these issues have been addressed on the updated site plan and some have not. One issue that has not been addressed on the site plan is the possibility of using white material to wrap the boats in the wintertime.

- b. The applicant addressed the Planning Commission regarding the parcel in question:**

- i. Aaron Nordman is with Performance Engineering and was presenting this case on behalf of Dean Hicks and Laura Kowalke. He noted that they used the comments and direction of the board as they integrated the previous site plan into the updated site plan. They provided a screening plan with an aerial image to show the impact of winter storage. This plan takes into account the sight from the houses and the attempt to screen to protect the neighbors from the view. They do not want to redo the site plan, just to amend the winter restriction from the southerly building down to the powerlines for boat and trailer storage only. The screening plan shows that this is a minimal impact on the neighbors.
- ii. Dean Hicks noted that the boulders are gone, but they added more coverage with trees to compensate for this fact. They are trying to screen as much as they can. Additionally, he noted that any shore stations or boating equipment will be stored behind the south building to the west.
- iii. Doernenburg noted that she reached out to the drain commissioner and Emmet County Road Commission. She hasn't received a report back from either yet, but both are looking at the property.

- c. Audience Comments:**

- i. Dan Armstrong noted that he made a list of items that he would like to see addressed per our discussion at the last meeting. He would like to see the following items specified: what will be stored at that location, that there will be no double/triple stacking of shore stations/boats/trailers, how the powerline boundary will be determined if the line is buried at a later date, that only white material be used to cover boats in the wintertime, and what will happen to the tree canopy if trees die and are cut down. He noted that missing from the current site plan is: "To be done under an amendment to the PUD-1 standards." It was printed on the old site plans but is not on the most recent plan. Also missing is: "Existing canopy trees in wooded area will remain and be preserved." He also noted that at the last meeting, a stop sign was suggested at the end of their drive going out to Gruler Rd.
 - ii. Jim Kargol explained that he has an issue with any further expansion of this storage area. He remarked that the marina has been using the launch at Jones Landing to do repairs for several years. He does not mind if they use the launch to launch boats, but does not feel that they should be tying up the launch for long periods of time to repair boats. Often times when Kargol is at the launch, there are people waiting to launch and the mechanics from this company are using the launch to test a boat. He suggested having a test tank up at their site, as other marinas do. Kargol fears that expanding their storage and allowing for more boats will also expand the traffic of repairs at Jones Landing
 - iii. Erik Brown noted that there is a travel trailer with an awning out on the northwest corner. This trailer has been there for a year. Is that part of the plan to have that there?
 - 1. Dean Hicks noted that it is not their trailer, but it may be from the other company back there. He will address the issue with the other company. It is not part of the site plan.
- d. Board Discussion and Questions:
- i. Jeff Haven asked why the conditions of the 2014 PUD were not met and followed. The business was out of compliance, which was why Doernenburg contacted them. Why wasn't it in compliance? Haven asked what assurances we can put in place to make sure they are in compliance and are held accountable.
 - 1. Hicks noted that he was not aware of the site plan at the time. When Doernenburg reached out to him, they moved the boats. He noted that they have done all of the screening and water retention that has been asked. They put in curb and gutter and moved the dumpsters. They have always tried to be good neighbors. He apologized about tying up the launch at Jones Landing and noted that it will not happen again.
 - 2. Doernenburg noted that some of the things that weren't on the site plan have been addressed as an enforcement issue. In regards to off-site activities, that would not be a zoning violation, that would be between the township and the owner.
 - ii. Haven noted that he does not want this to be a hardship on the neighbors.
 - 1. Doernenburg explained that trees were planted and additional trees were requested at the last meeting.
 - iii. Mitch Brown suggested going through the list prepared by Dan Armstrong. The first point was to specify what is to be stored at that location.
 - 1. Doernenburg confirmed that this is on the site plan. Hicks added that the shore stations will go behind the building.
 - iv. Brown noted that point number two is to specify that there will be no double or triple stacking of shore stations, boats, trailers, etc.
 - 1. Doernenburg noted that this can be addressed in the draft motion.
 - v. Brown noted that number three requested to specify how the powerline boundary will be maintained if the line is buried.
 - 1. Urman explained that the dimensions will still be on the site plan.
 - vi. Brown remarked that point number four is to use white wrap for the boats in the winter.
 - 1. Hicks noted that they have always used white.
 - 2. Doernenburg noted that you may not be able to require this... what if white isn't available?
 - 3. Urman noted that we can make white "preferred" rather than "required".
 - vii. Hicks wanted to clarify part of point number two. They have fireworks pontoons that they are planning to store behind the building on the west side. To alleviate the room, they are planning to stack them three high.
 - 1. Mays asked what the height of these is at three high.
 - 2. Hicks noted that they would be about 12ft, but the building is taller than that.
 - 3. Brown asked how tall a shore station is.
 - 4. Hicks clarified it is 12-15ft.
 - 5. Brown suggested a height limitation.

- a. Haven noted that this would be a fair standard, as we have height limitations on other things, such as mulch piles.
 - 6. Urman does not want to see 15ft stacking in the boat area.
 - a. Mays noted that the stacking could be allowed only behind the building.
- viii. Brown addressed point number five regarding maintenance of the tree canopy.
 - 1. Mays asked if they would have to replace dead trees to keep it a canopy.
 - 2. Urman noted that we can't request them to replace the trees in the wooded areas.
 - 3. Mays remarked that we should just ask that they maintain the trees they put in.
 - 4. Doernenburg clarified that the wooded area is to remain in a natural state. If trees die, they do not have to replace dead trees in the woods.
- ix. Brown noted that in regards to point number 10, which addressed the display area, he feels three boats is a good amount and is enforceable.
- x. Brown asked about the stop sign going out to Gruler Rd.
 - 1. Doernenburg explained that there is a pedestrian walk which addresses the safety concern.
- xi. Urman asked about adding trees east of the south driveway.
 - 1. Mays noted that there are five trees shown in that area.
- xii. Olliffe would like to see the drive curve to protect the line of sight to the neighbors. If the road turned they could put in some trees and it would protect the sight line.
- xiii. Mays agreed with Kargol about the inappropriate use of Jones Landing.
 - 1. Urman noted that if individuals have complaints, they can call Denny Keiser.
 - a. Keiser noted that he has talked to mechanics about this issue in the past.
 - b. Urman asked Hicks to address his team about this issue. Hicks confirmed that he would.
- xiv. Urman agreed to limit the display area to three boats.
- e. **Motion** by Mays to approve Case# PUDF20-01, MKB Holding LLC, Final Planned Unit Development-1 amendment at 4772 US 131 S, tax parcel 01-19-30-400-038, Section 30, Bear Creek Township. Approval is based on the facts presented in the case and the use is a Special Use in the B-1 zoning district. The approval includes all conditions and stipulations as approved in 2014 for the outdoor display of new boats on trailers and all other site conditions and stipulations and shown on the Amendment No. 2 to the PUD-1 Master Plan dated 6/24/14 except that additional outdoor storage is permitted as shown on the updated Walloon Village Marina PUD Site Plan received July 20, 2020 and the Screening Plan received July 20, 2020. Existing screening, as required in the 2014 approval, is required to be retained in addition to the proposed additional screening. All outdoor storage to be ground-level storage only. Storage behind the building can be stored at a maximum of 15ft. Preferably white covered material to be used on boats. Applicant agreed to 6 additional trees on the southeasterly Gruler Rd entrance (same size caliber trees, to be maintained). Lastly, a maximum of three boats for the display area. 2nd by Brown.
 - i. Roll Call: Mays, Haven, Urman, Olliffe, Kendziorski, Brown
 - 1. Yes- Mays, Haven, Urman, Kendziorski, Brown
 - 2. No- Olliffe

Passed

David Coveyou returned to the meeting.

VII. Case PSPR20-002, David Firman, Site Plan Review- Amendment, Contractor's Use, 3529 Howard Rd, Section 20, Bear Creek Township

- a. Applicant requested case be postponed.

VIII. Case PSUP20-011 Joseph Daly, SPECIAL USE PERMIT, Accessory Building as a Main Use, 770& 782 Lears Rd, Section 7

- a. Tammy Doernenburg gave a background to this case:
 - i. Doernenburg explained that there are two addresses for this case because there are two dwellings. It is located west of Howard Rd and north of Lears Rd. There is an existing accessory building, and the proposal is to split off the existing house and garage. There is a permitted place for a house on the third parcel as well. The accessory building would be left by itself in this split, which is why the applicant is requesting a special use permit. The property is zoned R-1, with industrial on the north end. The accessory building is proposed to be used for a residential purpose. The setbacks have been met. The accessory building is 864 sq. ft. The height standards have been met and it is mostly screened. The driveways are existing and the easements are included. The proposal is to allow the residential accessory building to remain by itself on the parcel. The applicant will still own the properties, as the parcel is in trust. The applicant is not planning to sell, but is planning for the future in the event that he ever has to sell.
 - ii. Mays asked what the main use would be on the parcel with the accessory building.

1. Doernenburg clarified that there would be no house on the property. She cannot administratively approve for an accessory building to be left without a house.
- iii. Mays asked if the split has already been done.
 1. Doernenburg clarified that there are three parcels, and two residences.
 2. Mays clarified that the house that is sitting there would be placed on parcel three. Parcel one will be vacant with the exception of the accessory building. Parcel two is where the main house and other garage are located.
- iv. Coveyou asked if the access to parcel one and two are the same drive.
 1. Daly noted that they use the same drive from Lears Rd. The new driveway will go west to his house. They have an easement down to Howard Rd. He discovered that his mother never had legal access to her property because the tribe owns the first 40ft of her driveway.
- v. Coveyou asked why you couldn't keep the stand-alone pole barn with parcel two.
 1. Doernenburg explained that it was not split this way because then there would be two detached accessory buildings on that parcel. They are not planning to sell the parcels out of the family, but the owner wants to be set up for the future if this ever would happen.
- vi. Coveyou asked if there is wording in the zoning ordinance which states a garage cannot be in front of the house.
 1. Doernenburg noted that the house can be in front or behind the garage, as long as it meets the setbacks.
- b. The applicant addressed the Planning Commission regarding the parcel in question:
 - i. Joe Daly noted that they are having this separated because his son is buying parcel two. He would like his sister to be able to continue to access the pole barn on parcel one. They are hoping to keep this in the family forever, but in the event that this ever changes hands, they would like to be able to continue to access the pole barn and their property.
 - ii. Coveyou asked Daly to explain the easement and the issue with the tribe.
 1. Daly noted that this only came to light when we went to get a small mortgage on the house. They realized that his mother's driveway (off Lears Rd) is partially owned by the tribe. They have never had legal access to the property. The Daly family owns down to the powerline, but from the powerline to Lears Rd is owned by the tribe. It is about 40ft.
 - iii. Coveyou asked about accessing the back portion of the parcel. Where would the access be?
 1. Daly noted that they have a 50ft easement from Howard Rd.
 - iv. Mays noted that years ago, the driveway for this parcel came from Howard.
 1. Daly explained that this was a bad place to have a driveway, and when the tribe asked his mother to move her driveway to Lears, she agreed. However, she did not realize that the tribe owned the first 40ft of her driveway.
- c. Audience Comments: None
- d. Board Direction and Questions:
 - i. Coveyou explained that normally, he does not like to see a standalone garage, but in this situation, the building is already there, and he is okay with it.
 1. Brown noted that this case will not set a precedence.
- e. **Motion** by Haven to approve Case# PSUP20-011, Joseph Daly for Kay D Daly Life Estate for a Special Use Permit for a Customary Accessory Building without a main use on property located at 770& 782 Lears Rd, Section 7 of Bear Creek Township on current tax parcel number 24-01-19-07-400-038, as shown on the survey dated June 23, 2020 because the standards of Section 26.16.1 of the Zoning Ordinance have been met based on the facts presented in this case 1) there is adequate room on the property for a main use in the future, 2) the building is consistent with other buildings in the vicinity, as it is existing, 3) the structure is mostly screened from public locations by vegetation and topography, 4) the proposed use is residential storage and use, and on condition that the building be used for personal use, and an affidavit of use be filed with the Register of Deeds. 2nd by Mays.
 - i. Roll Call: Haven, Urman, Olliffe, Kendziorski, Coveyou, Brown, Mays
 1. Yes- Haven, Urman, Olliffe, Kendziorski, Coveyou, Brown, Mays

Passed

IX. Public Comment

- a. Keiser asked the Planning Commission to take the Parks and Recreation survey. He also reported to the Planning Commission that he met with a surveyor about getting a survey for the potential road behind McDonalds and the other businesses on 31. The surveyor will be getting us a quote on Friday. He suggested we run this potential access road all the way to Pickerel Lake Rd. The first part will be a conceptual drawing. If this went further, the board would approve a more detailed survey. He also noted that we could possibly look at the old Festerling property at the corner of M-119 and US-31 for a roundabout. Lastly, he told the Planning Commission that Krist

gas station is planning to purchase the Beer property on the corner of Division and Mitchell. If they re-develop this corner, Keiser would like to see it cleaned up (box and powerline, possibly more space for the intersection).

- b. Mays noted that they looked at a potential access road years ago.
 - i. Doernenburg noted that at that point, it was just a drawing on a map.
- c. Doernenburg showed a video of the drainage at Culver's.
 - i. Keiser noted that the drainage from the property behind Culver's and ProBuild is running down and through there. The water is going down to the highway.
- d. Coveyou asked if the feasibility study will address the water drainage.
 - i. Keiser noted that it will be addressed in engineering.
- e. Kargol remarked about the boat launch at Jones Landing.
 - i. Coveyou asked if the township could restrict commercial activity there.
 - ii. Keiser noted that we do not have an enforcement officer to do that, however, it was not the intention of the township to have commercial activity there.
 - iii. Brown noted that this is also an economic issue. As the business gets busier, they may be forced to get a tank.

X. Other Business

- a. Enforcement Report

XI. Next Meeting: August 26, 2020

XII. Adjournment: 8:33 p.m.

Respectfully Submitted,

Emma Kendziorski

Emma Kendziorski, Bear Creek Township Clerk

Jeff Haven, Recording Secretary