

Bear Creek Township Planning Commission Meeting September 28, 2022

I. Called to order: 6:30p.m.

II. Roll Call: Brown, Haven, Cyphert, Radatovich, Gunderson, Mays

a. Absent: Kargol

b. Staff in Attendance: Hillary Taylor

III. Pledge of Allegiance

IV. Approval of Minutes

Motion by Haven to approve the minutes of the August 31, 2022 meeting. 2nd by Cyphert.

Passed

V. Case PPUDP22-02 Coseo Properties, Inc, PLANNED UNIT DEVELOPMENT- RESIDENTIAL OVERLAY, 2287 Anderson Rd and 2404 US 131 Hwy

Applicant requested postponement of this case

VI. Case PSPR22-008 Walloon Lake Country Club, SIT PLAN REVIEW-AMENDMENT to SUP, 711 E Bear River Rd, Bear Creek Township

Hillary Taylor gave a background on this case:

Taylor shared that this is a site plan review amendment to an existing special use permit, located at 711 E Bear River Rd. This property is located right on the county line. The applicant is proposing two additional pickleball courts, in addition to the two that were there before. The property is zoned FF-1 and is approximately 5.61 acres. Zoning to the north, east and west is also FF-1 and to the south is Charlevoix County. The property is accessed off Howard Rd. The proposal is for two additional pickleball courts as well as outdoor seating. The proposed pickleball courts meet the setbacks and each court will be approximately 40x60ft. The applicant is not proposing any additional parking. The pickleball courts were approved as a special land use in 2021 and could also be interpreted as outdoor recreation. The driveway is proposed to be gravel and parking is proposed on the grass. The plan is sealed by a landscape architect. A single-family dwelling and accessory building also exist on the site. The site is served by onsite septic and well. Snow management was not shown on the plan and is not necessary, as this is a seasonal use. No outdoor lighting is identified.

The applicant addressed the case:

Harry Dixon is the general manager of Walloon Lake Country Club. He shared that there is no lighting at these courts (current or proposed). In 2021, they installed two pickleball courts and they have been very popular, which is why they are applying for more.

Radatovich asked the hours of operation. Dixon explained that the hours would be consistent with the country club. They do not start before 8am. Mays asked if there is someone to oversee the courts. Dixon explained that this will be under the oversight of the tennis pro.

Brown asked about screening and noise concerns from the neighbors. Dixon noted that they have not had any issues with the neighbors.

Public Comment:

Barb Daniel asked if the courts would be available for public use. Dixon remarked that these would be for use by country club members only.

Additional Board Discussion and Questions:

Cyphert asked about screening between the courts and the property line. Maureen Parker, the landscape architect, explained that there is a shrub line that runs through there. During the first amendment in 2021, she noted that they agreed if there were problems with the neighbors that they would add evergreen screening. However, no one has said anything.

Mays asked about removing spruce. Parker clarified that there is one evergreen next to the building that needs to be removed. Everything else will stay in place.

Brown asked if all neighbors within the 300ft radius were notified. Taylor confirmed and shared the one comment from a neighbor that was in the planning packet.

Mays asked why there are two site plans. Parker explained that one plan shows the proposed housing that is up in the woods. The country club wants to build seasonal employee housing (which they already have approval for).

Gunderson asked if the existing pole building will be used for check in. Dixon clarified that it is used for storage. Someone from the pro shop will be at the courts with a clipboard to check in the members.

Cyphert asked if there have been any concerns about this use. Keiser clarified that he has not heard any complaints. This was raised from administrative review to a full planning case in order that neighbors have an opportunity to comment.

Mays asked if the existing two-story house belongs to the country club. Dixon confirmed that it is and it is used to house some employees.

Motion by Haven to approve Case #PSPR22-008, Harry Dixon for a Special Use Permit and Site Plan Review amendment for a pickle ball court expansion as a part of the country club use, on property located at 591 1 Howard Road, Section 32, Bear Creek Township, tax parcel 01-19- 32-300-017, as shown on the site plan dated August 22, 2022 because the standards of Articles 8, 19, 20, 21, and 22 have been met based on the facts presented in this case and on condition that any exterior lighting and signage be reviewed by the Zoning Administrator, and further to waive the requirement for a sealed drainage plan. 2nd by Cyphert.

Roll Call: Haven, Gunderson, Cyphert, Mays, Brown, Radatovich
 Yes: Haven, Gunderson, Cyphert, Mays, Brown, Radatovich
 Absent: Kargol

Passed

**VII. Case PSUP22-021 Barb Daniel (Friendship Centers of Emmet County), PRELIMINARY & FINAL
 PLANNED UNIT DEVELOPMENT-1 & SITE PLAN REVIEW- Amendment- Outdoor Vendor, 1322 Anderson Rd,
 Bear Creek Township**

Hillary Taylor gave a background on this case:

Taylor shared that this case is a preliminary and final PUD and site plan review amendment for property located at 1322 Anderson Rd to allow the use of outdoor vendors. The property is zoned R-2 with a PUD overlay. The property is 4.73 acres and the entire PUD is 33.5 acres, which includes the Friendship Center and some housing/multi-family uses. Uses to the north, south, and west are multi-family and uses to the east are single family. All are zoned R-2 or RM (multi-family). The applicant is applying to amend the PUD to allow for outdoor vendors. The proposal is to allow for outdoor vendors for a seasonal farmers market on Saturdays in the summer and fall months. There are no new buildings proposed and the access is proposed using the existing drive to Anderson Rd. The Friendship Center is closed during the proposed hours of operation. There are 44 parking spaces proposed and the tented area will be along the front. The parking area and driveway are paved. There is no change to the existing sealed drainage plan. The applicant has a port-a-john and handwashing station onsite during the event. There is no access to the building. Snow management is not shown on the plan, but this is a seasonal use for the summer and fall months. There are some directional signs for parking.

Radatovich asked about the definition of outdoor vendor in the zoning ordinance. How broad is this? What else can be sold? Taylor explained that it can be limited as a condition of approval. Brown asked if food trucks would be excluded? Taylor noted that it is considered an outdoor vendor, so food trucks would not be excluded. Radatovich noted that we could always limit it to a set number of 10x10 tents.

Brown asked if it can be set to be only open certain days. In addition, is there anything in the ordinance that addresses port-a-potties? Taylor explained that the hours of operation can be limited in the motion, and port-a-potties are a health code issue. Radatovich asked if we have anything in writing from the health department approving this.

Brown noted that this has been operating this summer, and there have been several signs out in violation of the ordinance. How will this be addressed? Taylor explained that this will have to follow the sign ordinance and will be enforced in the same way. The Planning Commission could also stipulate some sign limitations.

Haven asked how a citizen unaffiliated with the Friendship Center can asked for zoning changes on a property they do not own- is this legal? Taylor explained that the Friendship Center's executive director signed the application. Barb Daniel explained that the market was located on the corner of Emmet, but Gruler's sold the property. When they were looking for a new place for the market, the Friendship Center welcomed them. She applied rather than the Friendship Center in order that the Friendship Center wouldn't have to pay for the application or go through the trouble. She didn't realize that they needed a special use permit.

The applicant addressed the case:

Barb Daniel explained that this farmer's market is for produce and crafts. They go by cottage laws in the state of Michigan. They asked the fire chief about food trucks, and he told them that they would need to be permitted. Daniel explained that they are not going to have a food truck rally, as there is not enough parking. They have port-a-potties and wipes available for sanitary reasons, and a market manager that can keep an eye on what is being sold. She has contacted several people about a health permit, but cannot get ahold of anyone. They do have an application through the state of Michigan and they are a non-profit. The market opens from the last weekend of May to the middle of October. Their hours of operation are from 9:30am-2pm, unless they have straggling customers.

Mays asked if they are affiliated with the farmers market downtown? Does that market have a port-a-potty? Radatovich noted that the farmers market downtown does not have a port-a-potty because they are right next to the public bathrooms. Patricia Sears (market vendor) clarified that they are not associated with the market downtown. That one is owned by the Chamber of Commerce.

Brown asked if the road commission has weighed in, as this would be an additional use of the property. Keiser did not think the road commission would weigh in. Daniel noted that all donations go to the Friendship Center. Sears noted that the Friendship Center needs this money, as they are making cuts. Gunderson asked if we are limiting the number of vendors. Daniel noted that there would be 14 vendors.

Cyphert asked about the proposed 14 parking spaces. He is concerned that there will not be enough parking. Taylor clarified that there are 44 parking spaces available to the south and the vendors will go along the front of the building. The ordinance does not have a parking standard for outdoor vendors. Brown noted that we could limit the number of vendors and location in the motion. Cyphert is concerned about traffic and signage along Anderson. He asked about the legality of the case, as we have an applicant applying for use at someone else's business. Taylor explained that she did not notify the road commission. The Friendship Center's executive director did sign the application, so if there was a legal issue, both the property owner and applicant would be notified. Brown noted that ultimately, the Friendship Center would be responsible.

Public Comment:

Keiser does not have any concerns with the use, but thinks that the vendor areas should be designated on the plan. It could be color coded with tent vendors, trailers, and parking. This designation on the plan should also show the footage.

Additional Board Discussion and Questions:

Mays asked if this would open up outdoor vendors on any PUD. Radatovich asked about tented vendors we have approved in the past. She wanted to make sure that we are being fair and consistent in our requirements. Taylor shared the definition of outdoor vendor from the zoning ordinance. Keiser asked if the Planning Commission would rather have a number of vendors, or an area. Brown noted that the Planning Commission could allow up to 14 vendors in a designated area.

Noel Prokopio is a neighbor in the area and was curious as to the location.

Motion by Mays to approve Case #PSUP22-021, Barb Daniels for the Friendship Center for an amendment to the Preliminary and Final Planned Unit Development & Site Plan to allow outdoor vendors to be located at 1322 Anderson Road, Section 7, of Bear Creek Township, tax identification number 01-19-07-150-025, as shown on the site plan dated received August 30, 2022 because the standards of Articles 17, 20, 21, and 22 have been met based on the facts presented in this case, the use is consistent with uses in the vicinity, and on condition that the outdoor vendors only be allowed on Saturdays from the last weekend of May to the last weekend of October, that the vendors only be allowed within the designated locations on the site plan, that the setbacks be maintained, that the market would not be open when the Friendship Center is open, that the hours of operation be from 8am-4pm (this includes set up and clean up), to allow up to 14 vendors total (with or without a tent, within the designated areas), to receive a site plan designating the location of tents, trailers and parking, and that no more than 2 food trucks be allowed (in addition to the 14 vendors) (and that they be in the vendor area, not the parking area). 2nd by Haven.

Brown noted that signage is an enforcement issue, so it will not need to be added to the motion.

Roll Call: Gunderson, Mays, Brown, Radatovich, Haven

Yes: Gunderson, Mays, Brown, Radatovich, Haven

No: Cyphert

Absent: Kargol

Passed

VIII. Caser PREZN22-03 Mazin Samona (RBS & SUN LLC), REZONE- R-2 General Residential to B-2 General Business, 1265 & 1313 Anderson Rd, Bear Creek Township

Hillary Taylor gave a background on this case:

Taylor shared that this proposal is a rezoning request for 1265 and 1313 Anderson Rd, to be rezoned from R-2 to B-2. The parcels are triangular and sit between the highway and Anderson Rd. The two properties are 0.39 acre and 0.90 acre. The properties across the street to the west are governed by a PUD. The Emmet County Master Plan Future Land Use Map shows the properties as commercial and R-2 is considered a commercial zoning district within the master plan. The current use of the property is residential. A notice was sent to the City of Petoskey due to the proximity to the city boundary. The Fire Chief has reviewed the proposal and has some concerns, including the parking lot size, turning radius for fire truck access, and safety of the amount of traffic this could generate.

Radatovich asked if there are some commercial R-2 uses? It sounds as if the current zoning, R-2, is consistent with the master plan. Taylor confirmed that the current R-2 zoning is consistent with the master plan. She read the numerous commercial uses allowable within R-2.

Mays asked if the two properties are owned by the same person. Keiser confirmed that they are under the same ownership.

The applicant addressed the case:

Mitchell Harvey is present from the engineering firm. They are seeking a rezoning of these parcels for two reasons: the rezoned B-2 uses are consistent with the surrounding area, and for consistency with the master plan. He noted that there are several big stores within the area: Hobby Lobby, Big Lots, Walmart, Home Depot, and Huntington Bank directly to the south. The B-2 uses are consistent with the area, and the R-2 uses are not consistent within the commercial uses. This site is designated as commercial in the master plan.

Mays asked if the applicant had a use in mind. Harvey noted that the R-2 zoning is restrictive and they are looking to get a rezoning before coming up with a site plan.

Brown noted that the size of the parcel is difficult. What kind of parking lot would be present? How could fire trucks gain access? Would the access be off the highway? The configuration and size of lot makes this piece difficult to develop. Harvey noted that it falls on the engineer to design the site in a way that works for the applicant, Fire Marshall, and township. This can be a tight site, but they can accomplish the turn radius when working with MDOT and the road commission.

Brown asked if they are planning to use the highway for access? Harvey noted that they submitted a preliminary plan to MDOT. Rob Zora noted that MDOT wanted the applicant to get the zoning worked out first. Brown asked if the applicant has worked with the road commission about access off Anderson. Harvey confirmed he has not. Mays noted that the height difference within the parcel will make it difficult to build.

Radatovich noted that the zoning ordinance has sectioned off different levels of intensity when it comes to commercial uses. R-2 zoning is a less intense business use. B-2 would be more intense. We have differentiation in zoning for pieces like this. Brown agreed that only R-2 commercial uses are appropriate for this site.

Cyphert asked if both parcels were considered when this was first looked at. This is a very busy corridor, and he thinks there would be traffic issues. Brown noted that it was originally looked at for retail. Radatovich agrees that it is certainly a commercial area, but that it should be used for a less intense commercial use. Mays agrees that R-2 zoning gives plenty of commercial choices. Brown noted that the Planning Commission would be hesitant to rezone without a compelling reason.

Harvey explained that the piece has sat there untouched with the current R-2 zoning. There is commercial in all surrounding uses. B-2 would open it up to more consistent uses. Radatovich noted that all surrounding uses are consistent within the R-2 zoning (offices, financial institutions, etc). The zoning is not the reason this piece has been undeveloped. If this piece were flat and larger, it would probably be an office already. The parcel has stayed vacant not because of the zoning, but because of the site itself.

Rob Zora noted that the wider end would be used for the building. They could fit a 5,000-6,000 sq ft building there and still meet the setbacks. Mays suggested that the applicant could work out an arrangement for access through Huntington. Cyphert noted that the setbacks start with the right of way. We would need to see where the right of way is located.

Public Comment: None

Additional Board Discussion and Questions:

Haven feels it would be consistent to rezone the property to B-2. It is not a buildable site, but it would make the zoning consistent with that strip. Radatovich feels it more consistent to keep this property R-2, because the rest of that area is R-2 for both uses and zoning. Cyphert noted the zoning ordinance standards. We are not considering a site plan today.

Motion by Radatovich to recommend denial of PREZN22-03, Samona Mazin for RBS & Sun, LLC, rezoning at 1265 and 1313 Anderson Rd., Section 7, Bear Creek Township from R-2 General Residential to B-2 General Business, tax parcels 24-01-19-07-150-002 and 24-01-19-07-150-006 because the standards of the Zoning Ordinance for a rezoning have not been met including: the uses permitted within the proposed zoning district are too intense based on the limited access. 2nd by Mays.

Roll Call: Cyphert, Mays, Brown, Radatovich, Haven, Gunderson

Yes: Cyphert, Mays, Brown, Radatovich, Gunderson

No: Haven

Absent: Kargol

Passed

IX. Public Comments: None

X. Other Business:

Site Plan(s) approved administratively

Taylor noted that there were none.

XI. Next Meeting: October 26, 2022

XII. Adjournment: 8:08p.m.

Respectfully Submitted,

Emma Radatovich

Emma Radatovich, Bear Creek Township Clerk

Jim Kargol, Recording Secretary