

PLANNING COMMISSION MEETING

FEBRUARY 5, 2020

Commissioners present: Derek Babcock (Chair), Mike Koshar, Donna Romanak, Joe Wooding, Georgette Peterson, Annie Davidson-Funke (Alternate)

Other attendees: Brian Knotek (Attorney), John O'Connell, Ken Dettloff, Ron Klein, Suzanne Klein, Christine Snyder, Steve Denenberg, Chris Passmore, Dan Higgs, Mike Gray, Maynard Kauffman, Tina Loomis, Cheryl Duncan, Judy Daniels, Carmine Pistolesi, Ted Swanson, Jude Samson, Scott Roberts

Meeting was called to order by Derek Babcock at 6:14 PM.

Pledge of Allegiance was recited.

Roll call was taken. All Commissioners were present.

Derek requested an addition to the agenda. Georgette made a motion, supported by Derek:

ADD 50680 28TH Ave, Ventures LLC to Agenda under Old Business

All in favor. Motion carried.

A motion was made by Mike, supported by Joe to:

To accept the minutes of the January 8, 2020 PC meeting as written

All in favor. Motion carried.

PUBLIC COMMENT

Christine Snyder said she lives on 681 and she finds Dragonfly to be exemplary neighbors and she hopes they can continue. She stated "We are very comfortable with it".

Steve Denenberg commented that when the PC considers the SUP for Dragonfly, they consider all rules and regulations set up by the State. He added that what he has heard anecdotally is that they chopped down trees, polluted the Black River and said that seeds showed up on his property. He said the PC should think about the message it sends to the growers.

Chris Passmore asked if the final Public Comment period was going to be post voting. The response was 'Yes'. He said he has witnessed comments by both neighbors and growers to distinguish themselves from Dragonfly. This has been going on for 12 months. He added that he lives there, he is downriver, and he feels they have been having trouble getting the information to the PC. His concern is the PC hasn't been completely informed and that they, as growers, should volunteer all the information. He asked if the Commission has had the opportunity to gather the information and stated there has been a group meeting on Sunday evenings and they have talked about this. He added that he can't talk about the future. He said "We have a right to do what we want on our own property. We do not have that right with wetlands".

Dan Higgs said "It's our responsibility to fit in with our neighbors. We know we can lose investment with non-compliance. You have a clear pattern of non-compliance from agencies".

Annie said she grew up in an AG area and there are good and bad farmers no matter what they are growing. There are farmers who take care of the land and those that don't. She asked, "Are they destroying wetland?"

Ron Klein showed a slide and commented that his intent until recently was to show the EGLE data and devastation. He said what he wanted to talk to the PC about was Economic Development and Development of Community and the strength to get by comes from core values. He said the tragedy this past year has been very hard; neighbors purchased property next to them because they wanted to attract tourism. They want the value to stay with us. He said the main

property there belongs to the Homesteading School; it's a big deal for organic development. He added these farmers are mainly stewards of the earth. He said we are fighting the system that is destroying small farms; adding that small dairies are going out of business. He said we have a unique set of farms in a small area based on core values; these are all people working together with core values. He added we need to heal the land and work together as farmers. This is Legacy land and I'm willing to put this land back together. He said when they excavated a pond, there was 23 feet of topsoil; over 100 years of topsoil.

Mike Gray said he has been involved in this township and "What irked me the past seven months was the arrogance and attitude of Ching when asked what he was going to do about waterways". He added that he made it into the aquifer. He said others in the industry are following the rules.

Maynard Kauffman said he was speaking on behalf of Michigan Land Trustees which promotes sustainable land use. He said he lives just South of Ron's place. He added the people to the North have not been neighborly.

Tina Loomis asked if there will be time to talk when 27035 CR 215 is being discussed. Derek responded in the affirmative.

Cheryl Duncan said that Ron cut his presentation short. She said she knows there's a lot of money there and Ching has 5 million-dollar backers. She added she has been coming to meetings for a year and Brian told her that you can't prove that something would bother us. She said she has been talking to Chris and Dan who are trying to follow the rules.

Judy Daniel said that as Cheryl commented, they were expecting more to be seen.

Suzanne Klein said they have given everything to the Township and there are copies on the back table.

Carmine Pistolesi said he represents a single Class C license on this property; He said most of the comments have been accurate and offered his sincerest apologies. He said what happened was a systemic top down approach that we are speaking about. He said that a lot of that management was against his position and as of 1 or 2 weeks now, there has been a dramatic shift in AG practices and management. He said the only thing we can do is to align with the Klein's and Kaufman's. He said certain things happened on my behalf and he added that he foresees being able to remedy everything that has been done.

Ted Swanson said "It's about what's written in these ordinances. You have to go by what you write; you have to go by this".

NEW BUSINESS

SUP Renewal Review for 24685 CR 681

Brian Knotek clarified that he has never represented to this board that they couldn't prove something but on speculation on zoning; he said it must be based on fact.

Brian asked Carmine who owns the property and the response was "Me and my wife". Brian asked if Dragonfly owned any by deed and the answer was "No. There was an agreement but not by deed". Brian asked if he would consider Dragonfly ownership of the property and Carmine replied "No". Brian commented that Carmine has 1500 plants and Dragonfly applied for more. He stated the Site Plan was approved by the PC. He asked Carmine if he followed the phases and where is he in the Phases. Carmine responded between 1 and 2. Brian asked if he is aware of the complaints and Carmine replied "Yes". Brian asked he is aware of the violations and Carmine responded saying EGLE specific was trees removed within wetlands. Driving back and forth with heavy equipment lifted the vegetation on more than 5 acres and a permit was needed. He said they are working with 2 separate environmental firms and all has been submitted to EGLE. Derek asked if EGLE has responded back and that one of the engineers said it looks like it hasn't been submitted. Carmine said to his knowledge, it has been submitted. Brian asked if generators are being operated. Carmine replied that they have been used and they have permanent electricity with a backup generator that hasn't been hooked up yet.

Brian said some of the structures are too close to property lines to which Carmine responded they have passed out remedy work. Carmine added they are bringing in more trees saying the first ones died; they are doing monthly Calcium and Chloride spraying for dust control and they are moving one structure about 8 ½ feet. Mike asked if any other agencies are involved and Carmine replied "MRA". Derek asked if there have been any citations and Carmine responded in the negative. Derek asked about the biggest concern and Carmine said the intricacies between co-location. Brian asked Ron Klein if there have been any other complaints of EGLE and the response was "No". Brian inquired about other agencies and Ron said the Road and Drain Commissions and the DEQ. He told Carmine that they were not contacted as he was asked to do before he went beyond Phase 1. He added the erosion between Phase 1 and 2 wasn't studied. Brian told Carmine that on 2/20/19 he was given a 60-day permit to increase the drive to admit 2 vehicles and he was supposed to contact them for a traffic generation study and this has not been done. Brian asked if they have a commercial driveway permit and Carmine said "No". Brian asked him if he was aware that he needs one and he said "Yes". Brian asked if there has been any penalty imposed for the drive or from the Drain Commission; the response was "No". Jude Samson stated he is from Austin, Texas and is with Dragonfly. He said he is not financially involved but was asked by Dragonfly to come here. He said he has friends who have invested in the farm and in that capacity, he has replaced Ching. Scott Roberts said he is from Royal Oak and is an attorney from Dragonfly. He said Ching will be offsite and in sales. He said "You can make us follow through and you can make conditions". Brian commented that the PC is only making recommendations to the Township Board.

Regarding the Zoning Ordinance Criteria, Derek said he and Mike went out to the farm 2 weeks ago and the South line survey was not completed at that time. He said he saw trees that were cut down. He said there was snow on the ground then and Mike went back out the beginning of this week. Derek noted that he has spent hours of time talking to neighbors. Derek and Mike submitted the Special Use Permit Renewal Review to the Commission.

Mike asked when we got the most current Site Plan and Derek responded that we must go by the Site Plan that was approved last year. Derek reported this is the only farm in Arlington Township that has co-location or 2 growers on the property. He said the State ruling for co-location is gray at best and this was one at the infancy of this. He said mistakes happen and we can fix these mistakes. He said I live and work here. He said John was contacted numerous times and was lied to numerous times. John said that he has been trying to solve this problem for months. He said Carmine has always been straight with him but with Ching, he would have to threaten to pull his SUP. He added Jude is here now and we can have a fresh start. He said his hope is it will be renewed with conditions. Derek told Carmine that he is not innocent, and he stuck his head in the sand. He said "you are guilty and you are the property owner".

Georgette made a motion which was supported by Mike

Recommend to the Board to not allow co-location on farms in the Township

This was withdrawn and a second motion was made by Georgette and supported by Mike

Recommend to the Board to not allow co-location on marijuana farms in the Township.

All in favor. Motion carried.

Brian explained the 4 options the Commission had:

1. Recommend as originally approved
2. Recommend approval subject to conditions
3. Recommend suspension until certain things are taken care of
4. Recommend denying renewal

Donna asked if EGLE gave a timeline and the response was 6 weeks. Mike said they broke EGLE laws. Brian said on paper they have violated State law and it is not the Township function to remedy State law. He said the State has given

them an opportunity to fix it. He added by Carmine's account they need a commercial driveway and to remedy EGLE violations.

Joe asked if we deny would they put the property back and the response was they have to please EGLE.

Donna said she is thinking to recommend Suspension. Mike asked if there is a suspension, will their license be dead, and Joe asked when they have to renew with the State. Brian asked if we have everything we need to make this decision. Ken said one of the questions is how long will it take. Donna noted there are 3 areas of concern; soil erosion, driveway and neighbors. Mike said his current thought was tabling it. Derek said if we table this we put everything else on hold and we've done a lot. Mike said there could be more information out there. Derek said go with what's best for the Township. Mike said we could have a special meeting just on this subject. Joe made a motion, supported by Donna to:

Recommend to the Township Board suspension until conditions are met with the addition of all neighbors are satisfied.

Discussion took place. Georgette said we can't say all neighbors are satisfied because that is too broad. Joe retracted that motion and made another motion that was supported by Mike to:

Recommend to the Township Board suspension until conditions are met with the addition of neighbors within 1500 feet are satisfied.

Joe voted yes; all others voted no. Motion failed.

A motion was made by Mike with no support to **Recommend to the Township Board to deny renewal.**

A motion was made by Georgette, supported by Mike:

To table this matter

Discussion ensued with Derek asking what other information is needed; Georgette responded that it should be tabled because we cannot come to an agreement at this time. Georgette then withdrew this motion.

A motion was made by Donna, supported by Mike

Recommend suspension of this SUP to the Board until the following criteria are met:

Those noted by EGLE investigation / A commercial driveway permit is obtained

A dust control plan is in place / Planting of trees and vegetation to accommodate the Site Plan

Correcting the building in the set back / The hours of operation between sunrise and 10:00 PM

Adequate onsite utilities with a generator for back-up purposes only / Noise control Plan

Creation of a parking lot for employees / An approval letter from Ken Detloff for the site plan

All members in support. Motion carried.

Also under new business: A motion was made by Mike, supported by Donna that:

A date of March 4, 2020 @ 6:00 PM was set for Public Hearing for re-zoning of property located at 53930 28th Ave.

John asked if the owner needs to be present and Derek said "No".

All in favor. Motion carried.

OLD BUSINESS

Re: 27035 CR 215 Tina Loomis noted that it has been moved farther back and asked the engineer and attorney if it will be greenhouses. The response was the 1st Phase will be 5 greenhouses. Then there are some proposed outdoor grows.

She asked if anybody will be living there and the answer was "Yes". She asked if they would get to meet them and was told they would. Derek told Tina that he has worked on her behalf for this property because she is the only neighbor here. Tina asked how many employees and the response was 8 full time. Mike asked if this will increase during harvest and the answer was that it will. Derek asked how many licenses they have, and the response was one Class C. Mike Gray said they have 6, but it was determined that Mr. Gray thought they were talking about a different property. It was noted that Ken has to review the new site plan and that we need a second public hearing. Mike made a motion, supported by Donna to:

Table this matter to March 4, 2020 at the Planning Commission Meeting

All in favor. Motion carried.

Review of Ken's Memo for 24958 CR 215 (Harvest). Ken stated this is just for information purposes

Re: 50680 28th Ave. (Ventures LLC) Derek commented that we approved this and they stacked 9 licenses. Ken said he can make this change administratively. A motion was made by Donna, supported by Mike to:

Recommend approval to the Board with hours of operation from Sunrise to 10:00 PM and after review of Ken's report.

All in favor. Motion carried.

PUBLIC COMMENT

Judy Daniels told the Commission that we set a precedent. Ron Klein said people aren't taking the ordinances seriously; the ordinances should have been enforced and we have intelligent and conformed citizens.

Mike stated that whenever a complaint is filed that he wants to see it immediately. He wants the Planning Commission and the Board to see it immediately. Georgette agreed with him.

Meeting adjourned at 9:01 PM

Respectfully submitted,

Georgette Peterson