

ISABELLA COUNTY  
PLANNING COMMISSION

November 12, 2020

An Electronic Meeting of the Isabella County Planning Commission was held on November 12, 2020 via Zoom on the above date.

**MEMBERS PRESENT:** Tim O'Neil, Kelly Bean, Jim Horton, Bob Campbell, Ann Silker, Nathan Rogers, Phillip Vogel

**MEMBERS ABSENT:** Jerry Neyer

**SUPPORT STAFF PRESENT:** Timothy A. Nieporte, Community Development Director  
Ray Johnson, Planner/Zoning Administrator  
Kim Kennedy, Recording Secretary

The meeting was called to order by Mr. Bean at 7:00 pm.

The Pledge of Allegiance was recited by the commission.

**ROLL CALL**

Mr. Bean requested the Recording Secretary perform the roll call.

Commissioner Bean – Present, Vernon Township – Isabella County MI  
Commissioner O'Neil – Present, Mt. Pleasant – Isabella County MI  
Commissioner Campbell – Present, Broomfield Township – Isabella County MI  
Commissioner Rogers – Present, Vernon Township – Isabella County MI  
Commissioner Vogel – Present, Denver Township – Rosebush MI  
Commissioner Silker – Present, Gilmore Township – Isabella County MI  
Commissioner Horton – Present, Union Township – Isabella County MI

**APPROVAL OF AGENDA**

Mr. Bean requested that the amended agenda be approved as presented.

A motion was made by Mr. Horton supported by Mr. Vogel to approve the agenda.

Mr. Bean called for a roll call vote.

Commission Horton – Yes  
Commissioner Bean – Yes  
Commissioner Silker – Yes  
Commissioner O'Neil – Yes

Commissioner Campbell – Yes

Commissioner Rogers – Yes

Commissioner Vogel – Yes

No: None

Motion carried

## **PREVIOUS MINUTES**

Minutes of the October 8, 2020 electronic meeting were circulated to the commission prior to the meeting for their review.

A motion was made by Mr. O’Neil supported by Mr. Rogers to approve the minutes.

Mr. Bean called for a roll call

Commission O’Neil – Yes

Commissioner Campbell – Yes

Commissioner Rogers – Yes

Commissioner Vogel – Yes

Commissioner Silker – Yes

Commissioner Bean – Yes

Commissioner Horton – Yes

No: None

Motion carried

## **LIAISON REPORTS**

Zoning Board of Appeals – Mr. Vogel reported that two variances were heard last month and they both passed.

Parks & Recreation – None.

Board of Commissioners – Mr. Horton reported that the Board of Commissioners has been quite in terms of the Jail construction. He also stated that all Commissioners were re-elected with the exception of Chairman Green who did not run.

## **TOWNSHIP CONCERNS**

Mr. Bean announced that Township Concerns are being moved to the Public Comment section of the meeting.

## **PUBLIC COMMENT**

Mr. Nieporte reported that Jackie Curtis, Denver Township Trustee called staff to let the Commission know that all is good in Denver Township. Mr. Nieporte also reported that it's Ms. Curtis' Birthday today and he wanted to wish her a Happy Birthday.

Mr. Mitchell Piper spoke and asked if there would be general public comment during the public hearing on the agenda.

Mr. Bean stated that yes there would be a public comment period during the public hearing.

The Host, Ray Johnson indicated that no other public on the call raised their hand to speak.

**Special Use Permit #20-08** Rural Production and Processing Facility (storage shed construction)  
Andy and Katie Hershberger – Rolland Township

Mr. Nieporte reported that the permit application submitted is for a Rural Production and Processing Facility for small shed construction in the AG-3 District. Mr. Nieporte reviewed the history of violations on the property. Mr. Nieporte stated that as of the date of the staff report Mr. Hershberger has complied with the ordinance and there are no known violations on the property.

Mr. Nieporte reviewed Mr. Hershberger's previous request to conditionally rezone the property. He stated that the application tonight is to resume a commercial operation for small storage shed construction.

Mr. Nieporte requested the site plan be displayed. Mr. Nieporte stated that the notes on the site plan in red were made by staff. He indicated there was a greenhouse inadvertently omitted from the site plan and that additional screening was added, as agreed upon by the applicant.

Mr. Nieporte stated that the application detailed comments on Section 12.03 and contained details for complying with 12.05 KK of the ordinance. He stated that staff had two areas of clarification requested to the applicant.

Mr. Nieporte stated that the applicant had provided in the application that "all active and substantial" activities would be conducted within a building. Mr. Nieporte stated that Section 12.05 KK requires all activities including storage be conducted within the completely enclosed building. He stated that staff received a written comment from the applicant that indicated "All activities will be conducted in an enclosed building."

Mr. Nieporte indicated the second area was in regards to the building size. He stated that the narrative of the application indicated a 36 x 36 ft building addition and the site plan showed a 32 x 32 ft building. Mr. Nieporte reported the applicant clarified the building addition is 32 x 32 ft.

Mr. Nieporte stated that the application included a waste disposal plan for the Planning Commission's approval. He stated that the applicant indicated all waste would be burned in an incinerator or used to heat the applicant's home.

Mr. Nieporte reported the application is complete and appears to meet all requirements of the ordinance. He stated that if an approval is going to be made, staff would recommend a few stipulations.

Mr. Nieporte read the following stipulations.

1. The applicant shall provide a copy of the driveway permit or approval on the existing driveway from the Isabella County Road Commission for this use.
2. The applicant shall maintain existing screening shown on the site plan labeled as trees. Additional screening shall be installed and maintained as a staggered, double row of evergreen trees beginning at the driveway and running north 50 ft. The screening shall be outside of the right of way and the trees shall be a minimum of three (3) feet in height, placed ten (10) ft on center.
3. The applicant shall comply with all requirements of section 12.05 kk. Rural production and processing facilities.
4. The applicant's waste disposal plan, as described in the application, is approved by the planning commission.

Mr. Nieporte reported that staff had received signatures this morning which were all in favor of the request and signatures later in the day which were in opposition to the request.

Mr. Bean invited the applicant or a representative to speak.

Mr. Tom Weiss, attorney for the applicant stated that Mr. Nieporte had adequately discussed what is being proposed. He indicated the buildings would not be residential structures, sheds and chicken coops (and the like) only.

Mr. Weiss indicated that sheds would be transported by a trailer and pickup truck so road usage is minimal. He also stated that there would be no employees outside of the family. He also stated that while there have been reports of this request being tied to the conditional rezoning request by Mr. Hershberger's son, Eli, they are not related.

Mr. Weiss indicated that Andy Hershberger is sitting to his left and is prepared to answer any questions directly if there are any.

Mr. Bean opened the Public Hearing opened at 7:22 p.m. asking for the public to press \*9 if they would like to comment.

The Host indicated there was a raised hand and asked for that caller to un-mute themself.

Mr. Mitchell Piper, attorney for Kim and Irvin Preston spoke and urged the members to deny this permit. He stated his clients don't begrudge them for trying to make a living. He indicated that the applicants are trying to create an industrial zone which does not align with the zoning ordinance or the master plan. He stated the board should be considered this request in conjunction with Eli Hershberger's application.

Mr. Piper stated that Section 12.03 A requires that the use be consistent with the master plan. He

stated that the master plan seeks to preserve agricultural land. Mr. Piper also stated that the plan cautioned creating industrial uses just for the sake of employment and that they should be in the proper zoning district. Mr. Piper also stated that there are at least 30 signatures which urge the Commission to deny the request.

Mr. Weiss asked if he could respond.

The Host indicated that no other hands were raised.

Public Hearing closed at 7:30 p.m.

Mr. Bean allowed for a response from Mr. Weiss.

Mr. Weiss stated that the ordinance was clear that this use is not Light Industrial and reiterated that these are small buildings.

Mr. Bean called for a motion and a second.

Discussion occurred about a motion and about finding of fact.

A motion was made by Mr. Horton to approve Special Use Permit 20-08 (SUP#20-08) as submitted by Andy and Katie Hershberger to establish a Rural Production and Processing Facility in the Agricultural Buffer (AG-3) district and shall further be conditioned upon the following:

1. The applicant shall provide a copy of the driveway permit or approval on the existing driveway from the Isabella County Road Commission for this use.
2. The applicant shall maintain existing screening shown on the site plan labeled as trees. Additional screening shall be installed and maintained as a staggered, double row of evergreen trees beginning at the driveway and running north 50 ft. The screening shall be outside of the right of way and the trees shall be a minimum of three (3) feet in height, placed ten (10) ft on center.
3. The applicant shall comply with all requirements of Section 12.05 KK. Rural Production and Processing Facilities.
4. The applicant's waste disposal plan, as described in the application, is approved by the planning commission.

Mr. Vogel seconded the motion

Mr. Horton read the definition of Rural Production and Processing and determined the proposed use is Rural Production and Processing.

Mr. Horton asked about farm and non-farm dwelling.

Mr. Nieporte clarified the applicant is living on the property and that this is a farm dwelling.

Mr. Horton stated that he disagreed with the statement that this use is inconsistent with the Master Plan.

Mr. Nieporte also stated that one of the goals of the Master Plan was to allow these farm entities to do other work outside of farming allowing for this type of activity.

Mr. Horton thanked Mr. Nieporte for the clarification. He commented on Section 12.03 A. and stated that it is consistent with the master plan.

Mr. Bean agreed because it is an allowable use in the district.

Brief discussion of the members on reviewing Section 12.03 and the applicant's answers to Section 12.03.

Mr. Horton reviewed the applicant's answer to Section 12.03 B and stated that because the applicant would be using hand tools and are meeting their setbacks the impact is minimal.

Mr. Bean agreed.

Mr. Horton read Section 12.03 C and the applicant's answer to this section and recognized the issues the neighbors may have with the use; however, stated again the use is consistent with the master plan.

Mr. Nieporte added that the structure proposed to be built is a pole, agricultural style building which is characteristic of other buildings in the agricultural districts.

Mr. Horton read Section 12.03 D and stated there would be no issue with traffic since they are using a pickup and trailer to haul buildings out. He also stated that burning would not be excessive and that they are meeting these criteria.

Mr. Rogers asked about fines for burning of construction debris, especially treated material.

Mr. Weiss discussed treated lumber use with Mr. Hershberger. Mr. Weiss stated that plywood is the subfloor and 4 x 4 skids are used which are made of treated lumber. He stated the rest was not treated. He also indicated that scrap wood would be used to fuel their stoves and hot water.

Mr. Nieporte stated that part of the waste disposal plan was to burn the material in the house. He advised the members that there could be an additional stipulation which would require that the treated lumber be disposed of properly and not burned.

Mr. Weiss stated that was not objectionable to Mr. Hershberger.

The Commission discussed burning of treated materials and open burning.

Mr. Horton read Section 12.03 E and noted that bathrooms are located at the applicant's home and saw no issues with this section and the applicant's answer.

Mr. Rogers asked if there would be customers coming to the site.

Mr. Nieporte reviewed Section 12.05 KK and noted this is not a retail location. He indicated there may be a customer which comes to the property to pick up a contracted item, however there is plenty of additional parking. He reiterated this is not a retail activity.

Mr. Weiss indicated that Mr. Hershberger only sells to a single distributor.

Mr. Horton read Section 12.03 F and noted that the special use allows for hours of operation from 7:00 a.m. to 7:00 p.m. and there is no issue here.

The Commission discussed procedure for amending a motion.

Mr. Rogers made a motion to amend Mr. Horton's existing motion to add the following condition.

5. No burning of treated lumber as part of the waste disposal plan shall take place and the applicant shall provide for offsite disposal of such materials.

Mr. Horton seconded the motion.

Mr. Bean called for a roll call vote on the amendment to the motion.

Commissioner Horton – Yes

Commissioner Silker – Yes

Commissioner Vogel – Yes

Commissioner Rogers – Yes

Commissioner O'Neil – Yes

Commissioner Campbell – Yes

Commissioner Bean – Yes

No: None

Motion Carries

Mr. Horton discussed the issue of coming for a permit after the fact being concerning.

Mrs. Silker asked about differing addresses and if Mr. Hershberger is going to be running this operation.

Mr. Weiss clarified the New York address is their former location and they currently live on S. Wyman Rd.

Mr. Bean called for additional discussion. Hearing none, Mr. Bean called for a roll call vote on the amended motion.

Commissioner Silker – Yes  
Commissioner Bean – Yes  
Commissioner Rogers – Yes  
Commissioner Vogel – Yes  
Commissioner Horton – Yes  
Commissioner O’Neil – Yes  
Commissioner Campbell – No

Motion Carries

#### **PA116 FARMLAND AGREEMENT – FREMONT TOWNSHIP**

Mr. Nieporte indicated that a farmland agreement was sent to staff from Fremont Township. He indicated that the application was in Section 28 for 13.5 acres. He stated the application appeared to be complete except for the number of years in the contract and staff would note that in their letter back to the Township Clerk. He stated that the Township zones this property for AG-2 and staff was unable to find the future land use designation. He lastly stated there was several other lands around this one which were in the PA116 program.

Mr. Nieporte stated that staff would forward a letter back to the Township Clerk concerning the Planning Commission’s consensus and will note the missing number of years.

#### **PUBLIC COMMENT**

The Chair called for public comment.

The Host indicated that there was no public on the call at this time.

**STAFF COMMENTS** – None, other than to wish Ms. Jackie Curtis an Happy Birthday once more.

#### **PLANNING COMMISSIONER’S COMMENTS**

Mr. Horton wished everyone well and reminded everyone to wear their mask, keep your distance and wash your hands.

General discussion about the finding of fact during meetings.

#### **ADJOURNMENT**

A motion was made by Mr. Horton to adjourn the meeting, seconded by Mr. O’Neil at 8:05 p.m.

Mr Bean called for a roll call.

Commissioner Bean – Yes  
Commissioner O’Neil – Yes

Commissioner Campbell – Yes

Commissioner Rogers – Yes

Commissioner Vogel – Yes

Commissioner Silker – Yes (by visual indication due to audio issues)

Commissioner Horton – Yes

Motion carried

Ann Silker  
Ann Silker, Secretary