

BENZIE COUNTY PLANNING COMMISSION
JUNE 4, 2008
MINUTES

Site visit: Planning Commissioners Tanner, Graves, Moorman, Ralston, Ross; Zoning Administrator Seger, Planning Director Neiger, and Alison Michalak, Platte Township Clerk, Marcia Davis, Platte Township Trustee and three interested citizens toured part of the property and the subject processing area. Timothy Young described the processing that was done.

MEMBERS PRESENT: Tanner, Ross, Moorman, Ralston, Pitcher, Graves

MEMBERS EXCUSED: Roberts, Damm

STAFF PRESENT: Craig Seger, Zoning Administrator, Dave Neiger, County Planning Director, Chris Flynn, Recording Secretary and Dick Figura, County Zoning Attorney

OTHERS PRESENT: Tim Young, Applicant; Clarence Davis, Platte Township Supervisor; Alison Michalak, Platte Township Clerk; and Jason Lavender, Tom Mountz, Maureen Jeannot, Art Jeannot, Rabor Talsma, Barbara Mcblide, Chris Stapleton, David Basey, Paula Basey, Bryce Dreeszen, Gary Gielczyk, Jason Horton, Dennis Haugen, Andy Case, Leonard Case, Sharron May, Mary Carroll, Beth LaValley, Jeanne Strothman, Robb Bollenberg, Paul Solem, Marcia Favis, Jeffie Lynch-Jones, Peggy Case, Jeanne Peters, Pete LaValley, Richard Cooper, Robert Schutt, Kathleen Young, Mary Hoyt, Sharon Bourne, Shawn Straley, Donald Coe, JoAnna Pepe, Colin Bohash, Jason Ihme, Bob Shudd, several other citizens

I. CALL THE MEETING TO ORDER Chairman Graves called the meeting to order at 7:00 p.m.

II. APPROVAL OF THE AGENDA Motion by Moorman, seconded by Ross to approve the agenda as submitted. Ayes: All Nays: None Excused: Roberts, Damm. Motion Carried.

III. PUBLIC HEARING MASLUP 08-02 FOOD FOR THOUGHT

A. OPEN THE PUBLIC HEARING, WELCOME Chairman Graves opened the public hearing at 7:01 and welcomed the applicant and guests.

B. INTRODUCTION OF THE PLANNING COMMISSION AND CALL FOR CONFLICT Chairman Graves thanked Platte Township for letting us be here. Each Commissioner introduced themselves and stated no conflict.

C. STAFF REPORT Seger read his written staff report from May 9, 2008 reviewing his findings of fact, ordinance standards, and including his statement that the application was compliant with the zoning ordinance requirements with the exception of the Building Dept. permit review and approval of the well and septic from the Benzie-Leelanau Health Department. He reviewed his Staff Report – Addendum 1 reporting that the Building Department had provided a memo outlining additional requirements to comply with State Building Code and that the Benzie-Leelanau Health Department had approved the well and septic for the current usage. He added that it appears that Food for Thought was in compliance with PA 381 of 1998 and reported the number of communications received in the Zoning Department on this issue.

D. INVITATION TO APPLICANT TO PRESENT HIS REQUEST AND ANY FURTHER COMMENTS Timothy Young presented a power point presentation showing his property and processing facility. He described his location, his gardens where and what ingredients he grew, harvested and bought from other farmers. He explained his concept of environmentally friendly business practices. He explained that 90% of his production is contract production, ie for Cherry

Republic, Cherry Hut, Benjamin Twigg, and other brands. He explained that they also service local farmers who want jams from their fruit. He explains that he is aware that many don't understand the definition of a farm and so are unsure of what they are supposed to approve. He explained that the local food movement is moving towards the small scale farm that is feeding a local area and states local processing is a big part of that. He states they only buy product from local farmers.

E. OPEN PUBLIC INPUT Chairman Graves reviewed public input procedure and opened public input at 7:36 p.m.

1. PROPOSERS DONALD COE, Michigan Commission of Agriculture, representing the farm community of the NW sector of Michigan. Explains that the Commission sets policy for the Michigan Dept. of Agriculture. Points out the number of farms in Michigan with agriculture growing 220 different crops and that across the state processing is considered a proper activity on a farm. He states that farm and farm operations are licensed through the state and the owner/operator has to take an oath for food safety and to preserve agriculture, regulation of food environment, etc. He reports that he has reviewed the permits of Mr. Young and it appears to him that this is a farm activity. He states that Act 381 contains a review and hearing process to ensure that practices comply with regulations. He encourages the Planning Commission to approve the land use application that promotes economic diversification. BOB SHUDD lives on Aral Road, and states that if you don't know that Food For Thought is there you wouldn't think it was anything but a residence. He states the Youngs are good neighbors, they hire people and haven't had any problems that he is aware of and he couldn't ask for a better business to be next door to. MARY HOYT comments on the overall economy and sustainability of farms. She feels it is important to keep these small farms in business. She hopes that those opposed think about the other uses that might happen to the land – such as subdivisions. SHARRON MAY comments that economic models show that industrial development doesn't work in rural communities and keeping businesses like Food For Thought here should be a consideration. She listed some of the boards Tim Young is on and states we want to attract more people like them. ART JEANNOT comments the Planning Commission has the ability to allow this until the zoning rules catch up with what is allowed. DENNIS HAUGEN reports that he visited Food for Thought and states it is a low profile facility, and the barn next door is more obtrusive. He requests that the Planning Commission allow the special use permit. KATHY YOUNG, speaking for their daughter who is happy that she can see her Dad so much. BRYCE Dresszen of the Traverse City Chamber of Commerce, states he encourages clients to act more like Food for Thought. He encourages the Commission to approve the application. MARY CAROLL, Executive Director of Benzie County Chamber, comments that Food for Thought has been a member and they are honored to have Tim Young in the Chamber. ROB WALLER states the Young's have been a good neighbor. He thinks they are great stewards of the land, they have great food and he hopes the Planning Commission approves the permit. JASON HORTON engineer for the project states they are here to meet the requirements of the County. He reminds Planning Commission that this application does meet the zoning ordinance requirements. DENNIS McKEY thinks there is a real need for businesses like Food for Thought that only deals with organic food, to serve the smaller businesses.

2. OPPOSERS CLARENCE DAVIS, Platte Twp. Supervisor, representing the Township Board, objects to any expansion. He read an outline of the Board's position. He read the township assessor's written letter on how the property is assessed. GARY GIELSHICK states they are nice people, with their gardening, organic products, and the jobs created are good, but the issue is 90% of the product comes from off the farm, making it light manufacturing not farming. And manufacturing should not be in a rural area it should be closer to the towns with infrastructure and better roads. He comments that the Planning Commission needs to remember that the zoning doesn't say you can have light manufacturing so long as it's organic and he is concerned that more manufacturing will want to come into Platte Twp. if Food for Thought is

allowed to continue as light manufacturing instead of going back to a home occupation. PETE LAVALLEY doesn't believe the issue is what they're doing but where they're doing it. He read an additional letter outlining the objections to Food for Thought and outlining conditions that should be required to ensure that no other type of industrial use could be allowed on the property.

3. GENERAL STATEMENTS AND QUESTIONS: COLIN BOHASH asks how many employees are there, how many full time? RON BOLLENGAR asks how many shifts are running? RICHARD COOPER asks are we approving any light manufacturing if Food for Thought leaves? He has serious reservations for granting a light industrial use in a residential area. SHARRON MAY wants clarification on what rural preservation is. DON COE states within the Dept of Agriculture, food processing is considered agriculture NOT industrial. Bob Mahalik heard at the site visit that Timothy Young considers himself a packager not a processor. A processor needs more environmental protection. GARY GIELCZYK asks what does the Rural Preservation district allow? MARCIA DAVIS asks how long does the right to review go on? Who has the right to ask for it? TOM MOUNTZ states he sent a letter but asks if he will be able to comment later in the meeting. GRAVES – once public input is closed no. There is rebuttal scheduled and you can speak then.

4. REBUTTAL

a. Proponents TIM YOUNG responds that their full time equivalent is about 10. Colin Bohash asks if part time work is sustainable, how many hours is part time? Tim Young explains that they run a single shift, and there are approximately 145 production days per year although there are some employees onsite at other times doing other things. Responding to the packaging vs processing question, they don't usually start with raw product, they purchase their product locally ready to process into their jams, jellies and salsa. There was considerable discussion on what processing is. Food for Thought does cook their products. Tim Young states they have NOT ignored zoning, they have had meetings with zoning, and while there may have been misunderstandings, the intent was to comply with zoning. Discussion on when he started business, discussion on meetings with zoning officials. They have approximately 900 sq. ft. of production area and the rest is office space. Truck traffic has been reduced from 2005 when they obtained offsite storage which decreased the amount, but now that they are growing it's a little more. They keep very detailed records of truck trips. It has always been the intention for the place to look like a residence. He explained that the drawings show possible future new structures, – they don't know if they will ever want to construct them, they are just part of the dream. They are expanding more offsite. As far as a future sale becoming a more intrusive use, they understand that it wouldn't fit there, and they believe zoning wouldn't let it happen. That property is his future, he can't just pick up and move to some industrial park. If he needs more farmland he will be looking to buy it. If there is a decision that he has to move his business, he will go, looking for a place where he can have a farm. MARY HOYT asks Craig Seger to define Rural Preservation.

b. Opponents GARY GIELSHICK states most of the letters of support came from outside Platte Township. TOM MOUNTZ comments that a lot of people here tonight are not Platte Township residents. He states this is about preserving this neighborhood. Nuisance or not he feels that with the number of employees and vehicle trips it is a substantial business. He states he wrote a detailed letter. He wants to preserve this fine rural area. PETE LAVALLEY states there is a steady stream of trucks all day long. There is a question on whether this is an agriculture or light manufacturing relative to zoning. He feels the slide show just shows how the business has and is expanding. It's gone from a residence to home occupation to light manufacturing. What scares the local residences is that they don't know where this is going and what's going to happen. That's why they want the 2 stipulations about no growth and sell only as a residence. CHRIS STAPLETON thought a special use permit was just for the use or the person. She asks, is this an agriculture use and is it appropriate? MARY HOYT states that when Craig Seger explains what rural preservation he should also define Planned Unit Development and what

impact a P.U.D. has. She thinks that those opposing don't understand what Rural Preservation is opposed to permanent open space. CLARENCE DAVIS reiterates that they don't have a problem with Tim Young at his present situation, but if he sells, the new owner might not want the type of use there is on the property but want something more intense and that's why they are asking that if it sells, it has to be as a residential use only. RICHARD COOPER reiterates what Clarence says. He states he has no problem with Tim and Kathy Young but think they have outgrown the situation, and if he ever sells out it should be as a residence or what the zoning is at the time. Mr. Cohash supports what Cooper said.

5. CORRESPONDENCE Seger reports the Zoning Department received 44 letters of support and 7 in opposition. Comments that packet handed out by Food for Thought includes his agriculture licenses and states that Timothy Young was asked to provide these documents to show he is up to date with state and federal regulations. He read letters from A. Case – Cherry Hut, E. Grimes-Benzie County Central Schools Board of Education, in support, from Pete LaValley in opposition, Jason & Bonnie Ihme in support, Matt Burbek, MSU Product Center for Agriculture in support, Tom Mountz in opposition, Benzie Food Pantry in support and Jim McInnis's (President, CEO Crystal Mountain) phone note in support, as indicative of the other comments made. All correspondence is attached to the file and made a part of this record.

F. CLOSE PUBLIC INPUT Chairman Graves closed public input at 9:13 pm

Chairman Graves recessed the meeting for a short break at 9:13 p.m.
Chairman Graves called the meeting back to order a 9:22 p.m.

G. COMMISSION DELIBERATION Chairman Graves asks Dick Figura Esq. for comment and options. Attorney Figura comments on the RP-20 district stating that Light Manufacturing is allowed in the district. There might not be any, but it is allowed as a special land use. He states on the question of whether there is anything in the ordinance on food processing, he doesn't see anything specific. But it is not prohibited. Agriculture is allowed as a primary use, and many other uses as a special land use. He read off the uses allowed by the Zoning Ordinance. He states a special land use is allowed upon meeting the conditions established in the ordinance. The Michigan Zoning legislation provides, a request for a special land use shall be approved if it meets the standards of approval (and gave a couple of examples). He comments that there is a question on whether or not it is an agriculture or industrial use and does not believe it would be agriculture as a primary use, but the best fit with the Zoning Ordinance is under light manufacturing and that is already allowed. He comments that if approval is granted there can be conditions. Approval would not mean that any type of light industrial will be allowed, only what is on this application and the motion can clearly state this. If the property is ever sold, the new owner could continue the existing use only or he would have to come to the Planning Commission for a different Special Land Use Permit. There was discussion on Act 381 and what a nuisance would be, and the appeal process. There was considerable discussion on the Right to Farm Act, which limits zoning authority to regulate farming activities, so long as a farm is operating under generally accepted agriculture practices. Tanner and Moorman feel this project is an agriculture use, subject to the RTFA. Attorney Figura commented on a Court of Appeals the last month that found that size of the parcel could not be used to determine if the use was agriculture or not. Practices and standards must be met but there isn't a size limitation. He said the Planning Commission has three choices which are to deny, approve or approve w/conditions and there must be findings of fact that the decision is made on. PETE LAVALLEY asks if there is in fact in limitation on size before you can have light manufacturing? Graves responds that the application before us has the size defined. We can require any future expansion be subject to the Special Land Use process. There was more discussion on if the Right To Farm Act gives immunity from zoning? Gary Gielczyk asks if the Zoning Ordinance follows the Master Plan, because the Master

Plan doesn't say anything about RP Zoning. Does it say RP zoning in the master plan? There was discussion on the terminology of the two documents. Pitcher asks Pete LaValley if it is correct that there is no residence on the parcel? Tim Young responds that is correct, the residence is on the other parcel. There was more discussion on the definitions of agriculture in the Zoning Ordinance. There was more discussion on the definitions and Tanner states that combining all the definitions his conclusion is that this is agriculture and exempt. Moorman and Ralston agree. Attorney Figura states his opinion that it is more manufacturing than agriculture. Seger comments that the application is for manufacturing, not for an agriculture use. There was more discussion on the history of the business and how it was or was not permitted. Seger states that in the past there may have been misunderstandings but his research has shown that it is now a Special Land Use and needs to be permitted that way. There was discussion on the differences in home occupation and special use, and what the former zoning administrator's opinion might have been. Seger states right now it is a nonconforming as a home occupation. There was more discussion on size and how it relates to different uses, and the special land use process. Attorney Figura comments that if someone disagrees with Craig Seger or the Commission's decision, they have every right to appeal to the Zoning Board of Appeals. There was more discussion on the interpretation of the use. It was suggested that the question could be forwarded to the ZBA for an interpretation. There was more discussion on whether all the approvals had been received. Seger states they have. Gary Gielczyk comments that the Master Plan doesn't say anything about more uses than residential or agriculture being allowed in Platte Township and the Master Plan and Ordinance should match. Tanner comments that some people think agriculture and open space are the same thing. They are not the same. There was more discussion on what the differences are between agriculture and light manufacturing. Pitcher asks if we approve the application as a light manufacturing use do we not have to specify what the use is? Attorney Figura responds that you would approve the application for a food processing use, and then later if a new owner wants to do something else that use would have to be decided after an application for a change of use based on the criteria for the new use. **Motion** by Tanner seconded by Moorman for the Planning Commission to seek a interpretation from the ZBA if this use is a an agriculture primary use or a manufacturing use, and whether or not a special land use is needed. There was discussion that if the ZBA finds that it is an appropriate agriculture use Mr. Young could just continue. There was more discussion on the traffic issue, and the fear that more growth will take place. Graves comments that this could be approved as a food processing business and we could specify no future expansion. Then if the applicant wanted to expand he would have to come back before the Planning Commission. He adds that if the interpretation is that it is farming, Act 381 applies and none of the conditions would be applicable. Pitcher agrees with the Township and suggests abiding by the Township's wishes. Tanner comments that this is a prime example of allowing a business to thrive, but when it becomes successful, put all sorts of conditions on it. He states if it is found to be agriculture it would operate under the GAMPS. Graves would like to do what the Attorney suggests. Graves comments if this motion passes we are done for tonight, the process stops until the ZBA has ruled. Pitcher comments that depending on the ZBA ruling it could come back here or the business would go on as it is. Seger asks if the motion fails do we pick up and move on? Graves responds, yes. Donald Coe states he would like the commission to consider that both the State Of Michigan and Federal Departments have issued licenses to Food For Thought as a processor and the Planning Commission shouldn't ignore the agencies in charge of this use who have classified this as agriculture.

Roll Call: Ralston: Yes Ross: No Tanner: Yes Pitcher: No Moorman: Yes
Graves: No **Tie vote motion fails.**

H. DECISION **Motion** by Pitcher seconded by Moorman To approve MASLUP 08-02 for a food processing facility with the condition that no further expansion beyond the current building size of 4230 sq. ft. take place without approval of the Planning Commission.

There was more discussion on employees, shifts and traffic issues. Tanner doesn't have a problem with the number of employees, but does have a problem with requiring Food for Thought to come back for any expansion.

Ralston called the question. All in favor of calling the question: Ayes: All Nays: None Excused: Roberts, Damm **Motion Carried.**

Roll Call Vote on the Motion:

Moorman: Yes **Ralston:** Yes **Tanner:** Yes **Pitcher:** Yes **Ross:** Yes
Graves: Yes

Motion Carried. The application is approved with 1 condition.

Figura suggested that the Commissioners identify the findings of fact and conclusions they found in making their decision. The Findings and Conclusions are: The finds of fact in the Staff Report submitted by Craig Seger, That Food for Thought's operations are considered "processing" as defined by PA 138 of 1998, That Food for Thought's processing operations are allowed on the property as a Special Land Use pursuant to Section 14.4.D and Section 16.25 of the Benzie County Zoning Ordinance, That farm processing such as those engaged in by Food for Thought are important to the community,

Don Tanner commented that they are also important to many of the issues raised here tonight, such as open space.

That farm processing such as that engaged in by Food for thought are in the best interests and the health, safety and welfare of the community and the use appears to have met the criteria laid out in the Zoning Ordinance for the RP-20 zoning district and its subsections and appears to be a complete application.

Dave Neiger asks if they want to say on the site plan, something about growth areas.

Motion by Ross seconded by Ralston to accept the findings of fact as discussed. Ayes: All Nays: None Excused: Roberts, Damm **Motion Carried**

Tanner commented that Craig Seger had another bullet in there about the building department and asks if he meant complying with it as a condition? Seger responds the requirements are on file in the building dept., and in the zoning dept., and the intent is that the applicant's compliance is part of the approval. There was discussion on the Building Department memo.

Motion by Tanner seconded by Pitcher to amend the motion to include that compliance with the building dept. memo be met. There was discussion on staff report and addendum. Ayes: All Nays: None Excused: Roberts, Damm **Motion Carried**

Site plan:

There was considerable discussion on the site plan, and how to approve it without approving the structures that were indicated as possible future additions in the use discussion. Tanner asks if we can approve the site plan with future expansion in mind? Clarence Davis states that it was the Township intent to limit expansion to what exists right now. There was more discussion on the existing size of the structure. It was determined that the building is 4,230 sq. ft.

Motion by Tanner seconded by Ralston to approve the submitted site plan with the omission of the 30' x 30' future addition and 40' x 80' pole barn and if there are future additions planned the

applicant will have to come back to the planning commission for approval. Ayes: All Nays: None Excused: Roberts, Damm. **Motion Carried.**

I. CLOSE PUBLIC HEARING Chairman Graves closed the Public Hearing at 10:46 a.m.

IV. APPROVAL OF THE MINUTES OF THE DEC. 13, 2007, JAN 2, 2008, JAN 10, 2008, FEB. 6, 2008, MAR 13, 2008, APRIL 2, 2008

Motion by Graves seconded by Moorman to approve minutes as presented.

Ayes: Ross, Moorman, Ralston, Pitcher, Graves Nays: Tanner Excused: Roberts, Damm

Motion Carried.

V. PUBLIC INPUT General Discussion

VI. ADJOURN Chairman Graves adjourned the meeting at 11:00 p.m. The next meeting will be June, 12, 2008 at the Benzie County Government Center.

Respectfully Submitted:

Kathy Ralston, Secretary

Christi Flynn, Recording Secretary