

**City of Escanaba  
PLANNING COMMISSION – OFFICIAL PROCEEDINGS  
November 10, 2022**

**MEETING CALLED TO ORDER**

A regular meeting of the Escanaba Planning Commission was held on Thursday, November 10, 2022 at 6:00 pm in Room C101 at City Hall, 410 Ludington Street, Escanaba, MI 49829.

**ROLL CALL**

<b>Name</b>	<b>Present</b>	<b>Absent</b>	<b>Name</b>	<b>Present</b>	<b>Absent</b>
Chair James Hellermann	X		Comm. Mark Hannemann	X	
Secretary Dominic Benetti	X		Comm. Roy Webber	X	
Comm. Nevin Naser	X		Comm. David Mason	X	

With 6 in attendance, a quorum of the Planning Commission was present.

**ALSO PRESENT**

<b>City Administration</b>	<b>Others</b>
Tyler Anthony, Planning & Zoning Administrator	Brian Reilly, President of DP Management, LLC.
Ronald Beauchamp, Council Liaison	Willard Carne Jr.
Heather Calouette, Administrative Assistant	Dax Richer, RG Design Company
James McNeil, City Assessor	Lauren Spoehr, Fire Station
	Diane Polowski
	Richard Lacosse

4 other unnamed individuals were present.

**MINUTES**

**A motion was made by Hannemann, seconded by Mason, to approve the October 13, 2022 minutes as submitted. MOTION PASSED unanimously.**

**AGENDA**

Commissioner Webber indicated that his last name was misspelled and that he would like it to be corrected in the future.

**A motion was made by Mason, seconded by Naser, to approve the agenda as submitted. MOTION PASSED unanimously.**

**CONFLICT OF INTEREST DECLARATIONS – None**

**PUBLIC COMMENT ON AGENDA ITEMS –**

Richard Lacosse approached the podium, indicating that he attended the meeting to get a bigger understanding and an explanation of rezoning and the map he received he in the mail. Chair Hellermann reminded Lacosse that discussion over the rezoning and map were to be addressed in the public hearing section, not in public comment. Lacosse acknowledged this, expressing that he only wanted to gain a better understanding on the rezoning. He then mentioned that there were some issues regarding property sale in the community he wanted to bring

attention to, but that he could wait until later if it were more appropriate. Hellermann agreed that it probably was conversation better suited for the public hearing, and thanked Lacosse for his comments.

## **PUBLIC HEARINGS**

### **1. Re-Zoning—Commercial District**

After discussion at the October 13, 2022 Planning Commission meeting, it was recommended that a specific group of properties be rezoned from F- Light Manufacturing to E- Commercial. The rezoning was proposed after the Commission reviewed the Master Plan's Future Land Use Map and current uses of parcels currently in zone F. After said review, the Commission determined that the proposed rezoning met both current and future land uses.

Therefore, in accordance with Zoning Ordinance Section 103.3, the Planning Commission held a Public Hearing on the proposed rezoning of properties in and adjacent to the North 30<sup>th</sup> Street corridor from F – Light Manufacturing District to E – Commercial District.

Zoning Administrator Anthony explained the primary components of zone E's regulations are as follows:

- Permitted uses by right include retail stores, restaurants, wholesale business, hotels, hospitals, automotive sales and repair, car washes, post offices, etc.
- Special land uses include public garages, repair shops, gasoline service stations and other motor fuel filling stations, multiple family dwellings with requirements, etc.
- Front setback: 0', except where the commercial use is on the same side of the street in a block zoned for both commercial and residential uses, side setback: 0', rear setback: 25'.
- Lot coverage- commercial use: 85 % and residential use: 50%.
- Height maximum 70'.
- No required off-street parking.

Chair Hellermann noted, for the benefit of Commissioners absent on October 13 and the public, that this rezoning began because one of the affected property owners contacted staff in hopes of having a marijuana dispensary, but that said use wasn't allowed in the current zone (F – Light Manufacturing). He continued, pointing out that the Commission then noticed a disparity between the current use of the properties addressed in this public hearing and the current zoning map, and agreed that action on the zoning map would be of more value to the community than addressing the problems of one specific property.

### ***Hellermann Opened the Public Hearing***

Diane Polowski approached the podium, questioning the purpose of the rezoning and indicated that her property was already zoned as commercial. Hellermann reiterated the intent of the rezoning and underscored that the industrial designation of the current zone did not fit with the area's development pattern neither up to this point nor in the future. Polowski then stated that she and her husband occupy a home with attached apartments, and that the City had already changed her property to commercial. Both Hellermann and staff expressed confusion over these conditions. She continued, informing the Commission of the multiple changes and movements her current home went through before reaching its current location and use. She expressed strong concerns that the rezoning would affect her taxes, and in response Hellermann invited Jim McNeil, the City Assessor, to answer her questions.

Jim McNeil approached the podium. McNeil stated that his office had been getting multiple calls related to the same tax concerns. He prefaced his response by describing it as a two-part answer. Firstly, that the rezoning would actually benefit property owners, as most parcels will increase in property value. Lastly, due to Michigan's Proposal A, a property's taxable value is capped and does not increase in response to property value increases.

Polowski expressed understanding and thanked McNeil for the information.

Lacosse once again approached the podium. He began by noting that the City had entertained the idea of selling property at 3000 3<sup>rd</sup> Avenue South a couple months ago. Lacosse then recalled hearing that a deed restriction was discovered to be on the property, and said restriction barred this particular property from being used for anything other than what was designated. He continued, indicating that a point of view had emerged among some that the City has numerous properties which generate no revenue of any kind, and that sale of these properties was seen as a very sensible way to utilize city resources to generate revenue. Lacosse then pointed out a group of residential properties on South 32<sup>nd</sup> Street which have been listed for sale by the City for many years. He expressed that the City is asking too much for the lots, as they all require significant sitework to fill them up to or above street level. Without such fill, he believes these sites are completely unbuildable. Lacosse explained that an estimate he obtained from a contractor to fill the lots are the same price as it would be to buy the lots. He asked that his concerns be brought to City Council's attention.

Hellermann interjected, reminding Lacosse that he had run out his comment time, and that the Commission is not connected to City funds or assets in any meaningful way. Lacosse acknowledged these points and expressed understanding for the commissioners' positions due to his own past service on the commission.

### ***Hellermann Closed the Public Hearing***

After further discussion from the Planning Commission, it was determined that the proposed rezoning is in line with the Master Plan.

**A motion was made by Webber, seconded by Benetti to recommend to City Council the rezoning of specific properties as presented before the Commission to E – Commercial District.**

**A roll call vote was taken with the following results:**

**Yes- Hellermann, Benetti, Webber, Hannemann, Naser, Mason**

**No- N/A**

**MOTION PASSED 6-0**

### **1. Special Land Use Review- 201 North Lincoln Road- The Fire Station**

In Accordance with Zoning Ordinance Section 205, the Planning Commission held a Public Hearing on the application for a Special Land Use Permit as filed by Fire Station LLC for a recreational marihuana provisioning center/ retail establishment to be located at 201 North Lincoln Road.

Zoning Administrator Anthony gave a brief overview noting that renovation/remodel of 4150 s.f. "Hudson's Classic Grill" into a mercantile/retail facility for the sale of recreational marihuana & cannabis products as regulated by the State of Michigan Department of Licensing and Regulatory Affairs (LARA) and Marihuana Regulatory Agency (MRA). The scope of the project includes interior commercial layout, new HVAC systems as necessary and updated exterior façade. Anthony presented the Planning Commission with the staff report.

### ***Hellermann Opened the Public Hearing***

Dax Richer explained that he works for RG Design Company, and that he did the drawings for The Fire Station. Richer noted that he was available to answer any questions.

Lauren Spoehr indicated that she was attending the meeting on behalf of the Fire Station and would also be available to answer questions.

Brian Reilly approached the podium. Reilly explained that the mall had anticipated restrictions and setbacks that were not actually provided for in the final ordinance, including that the City would not allow a marihuana establishment to be located within 200' of a church. Reilly noted that he submitted a letter at the previous Planning Commission meeting. He stated that the mall is not trying to oppose marihuana dispensaries at this particular location, but that Dial's chief concern is that Hobby Lobby could close this location over the company leadership's moral objections to marihuana. Reilly then elaborated on Dial's history in Escanaba and how much work his company has done to bolster the local economy among other markets in the area. He is hoping that the Fire Station and the mall can find a middle ground, but at this current time he will need to oppose the idea of the Fire Station because of their tenant, Hobby Lobby. Commissioner Hannemann pressed Reilly on what specific results he may be expecting in a conditional approval, to which he indicated that more time may be beneficial for all parties involved. Commissioner Mason questioned Reilly on rumors and comments that Dial may construct physical barriers to prevent vehicular access to The Fire Station's property from across their parking lot. Reilly stated that they no longer had an access easement, whether one existed previously or not, between the properties, and that Dial regards such action as a last resort. Mason asked Reilly if Hobby Lobby would be appeased by a barricade, and Reilly indicated that they hadn't discussed this with the company yet.

Chair James Hellermann read a letter that Hobby Lobby emailed to Mayor Mark Ammel, City Administrator Patrick Jordan, and Planning & Zoning Administrator Tyler Anthony (see Exhibit A). After reading the letter, Hellermann asked Anthony about a page of text which had been provided to the Commission at the beginning of the meeting. Anthony explained that Brian Reilly stopped by City Hall earlier in the evening to discuss his concerns, noting that he would like to clear the air and explained that there are no restrictions or buffers around churches as Reilly had indicated during that meeting. It was found that Reilly had referenced a webpage on Michigan marihuana zoning law from the website of Grow America Builders, a national architectural design-build firm specializing in the cannabis industry. (<https://growamericabuilders.com/cannabis-dispensary-michigan>). The zoning ordinances referenced belong to another community in Michigan and do not apply to the state overall. Hellermann indicated that the City of Escanaba needs to follow their own zoning ordinance, and that the Commission would take the provided information under consideration as an example of another community's approach to marihuana zoning.

### ***Hellermann Closed the Public Hearing***

Commissioner Mason expressed frustration with the way that marihuana establishments have begun to locate themselves. He continued, offering his opinion that he cannot approve of the whole matter in good conscience. Hellermann offered his opinion that a bar serving alcohol would likely not face the same amount of resistance if one were before the Commission that evening instead of a marihuana establishment, but that they had no authority either way in terms of moral conflicts or conscientious matters.

Hannemann and Naser questioned the parking shown on the site plan drawing. In said drawing, The Fire Station indicated that there were 10 on-site parking sites with 30+ parking sites on adjacent property. Hannemann and Naser continued pressing this point, questioning whether the 30+ adjacent parking sites were in the mall's parking lot, and whether this situation may create an issue. Richer explained that they did their diligence and are following the City of Escanaba zoning ordinance, and that the mall's management had likely kept an agreement regarding site access across the parking lot. Anthony indicated that staff had found no real estate connection between the properties, and that The Fire Station's lot likely predated the mall's property, and that Richer was correct in believing that the City of Escanaba does not have any parking requirements. Hannemann and Richer discussed that the building is existing as well as the parking, and that the previous restaurant had apparently encountered no issues with these points before. Richer noted that he had repeatedly heard statements during the meeting referring to marihuana as a bad business but felt it necessary to clarify its standing as something else. He continued, pointing out the successes of the industry in Michigan with few to no consequences, and that the perception of it being an undesirable type of business is unfounded. Hellermann reassured Richer that the

Commission does not maintain any such views, and that they do not intend any such discrimination.

Reilly indicated that the property line has been marked between The Fire Station and the mall, to which Hannemann responded by noting that the property only has 5 parking spots. Hannemann and Naser again pressed the parking issue, stressing that the provided parking spaces noted on The Fire Station's drawings was an incorrect number. Anthony noted again, for all parties' information, that discussion on parking requirements was a moot point. Richer again stressed that he felt this business was drawing undue criticism because it was a marijuana establishment, to which Chair Hellermann replied that the restaurant owner had negotiated the same parking and access problems that faced The Fire Station and reassured Richer that the Commission had no intentions of discrimination due to the business's nature. Spoehr indicated that the Fire Station wants to be a good neighbor and that they are willing to work with whoever is necessary for access or any other issues.

Webber summarized that the proposed use and building seemed attractive, but that access issues could amount to putting "a round peg in a square hole". With prompting from Hannemann, Spoehr described how business would be conducted on site, how customers would be processed and progress through the building, and which way they enter and exit. Hannemann and Naser expressed some relief at realizing that business would not be conducted strictly from personal vehicles the same way as it is done at the Lume marijuana dispensary elsewhere in the City.

It was explained to the Fire Station's attention that The Fire Station's property technically only has an egress. The only way to enter the property is by driving through the mall's parking lot, which may present a civil issue between the mall and the Fire Station. Site egress is accomplished via a driveway opening onto North Lincoln Road, and any changes to that driveway would ultimately be decided by MDOT. Chair Hellermann stressed that the State would be extremely resistant to changing the nature of that access.

**A motion was made by Hellermann, seconded by Hannemann to conditionally approve the site plan for a provisioning center/retail marijuana establishment located at 201 North Lincoln Road. The sole condition being that a legal easement must be secured between the applicant and a neighboring property regarding vehicular access to the site.**

**A roll call vote was taken with the following results:**

**Yes- Hellermann, Benetti, Webber, Hannemann, Naser**

**No- Mason**

**MOTION PASSED 5-1**

#### **NEW BUSINESS-**

##### **1. Discussion: Lists of Allowed/ Permitted Uses in Zones E- Commercial and F- Light Manufacturing**

Zoning Administrator Anthony explained that upon reviewing Chapter 10 & 13 of the Zoning Ordinance (E-Commercial District and F-Light Manufacturing District respectively), it was determined that some uses which are allowed by right or Special Land Use Permit in one chapter are not listed in the relevant section in the other.

Anthony explained that the discrepancies could present a potential problem for properties in the future. As businesses which were permitted in the former zone will become a nonconforming use. Movie theaters, retail building materials sale yards, and medical clinic separate from hospitals could be affected. Nonconforming properties are protected; however, the zoning ordinance restricts against the expansion of nonconformity, making additions or alterations of affected businesses impossible without the Planning Commissions review. Anthony explained that there are essentially two options available; either amendments can be made to the ordinance, or individual properties can be dealt with on a case-by-case basis.

After brief discussion, the Planning Commission agreed that amendment to the ordinance would be the most acceptable solution. The Commission then expressed that they would like Anthony to work on concise language for both Commercial and Light Manufacturing.

**A motion was made by Mason, seconded by Webber to have Anthony draft amended language for allowed/permitted uses in Chapter 10 (E-Commercial District) and Chapter 13 (F-Light Manufacturing) and present said language to the Planning Commission on separate, successive future meeting dates.**

**2. Project Updates**

- A.) Delta County Planning Commission: Hannemann explained that the Planning Commission discussed appealing the County's zoning ordinance. Nine townships would like to have the County continue to provide zoning administration and enforcement, and regardless of County zoning, they will still be required to maintain a Planning Commission and a master plan. The Delta County Planning Commission will soon have two vacant seats upon the resignation of Christine Williams and Randy Scott. Hannemann noted that he was encouraged to apply to the County Planning Commission.
- B.) Zoning Board of Appeals: The ZBA met on October 4, 2022 for training and election of officers. The next ZBA meeting is scheduled for January 3, 2023, and training is the only action currently on the agenda.
- C.) Zoning/ Land Use Permits: The Planning Commission reviewed the submitted year-to-date reports of permit activity and other zoning processes.

**3. Training Updates**


A list of upcoming training opportunities was highlighted.

**GENERAL PUBLIC COMMENT** – None

**COMMISSION/STAFF COMMENTS** – None

**ADJOURNMENT**

The meeting adjourned at 7:22 pm.

  
James Hellermann, Chair  
Escanaba Planning Commission

  
Tyler Anthony, Planning & Zoning Administrator  
City of Escanaba

Minutes approved at the \_\_\_\_\_ 12/0/2022 \_\_\_\_\_ meeting. HC

# HOBBY LOBBY

## Real Estate

November 8, 2022

SENT VIA EMAIL ONLY: mammel@escanaba.org; pjordan@escanaba.org;  
tanthony@escanaba.org

Hon. Mark Ammel  
Mayor, City of Escanaba  
410 Ludington Street  
Escanaba, MI 49829

WITH A COPY TO:

Mr. Patrick Jordan  
City Manager, City of Escanaba  
410 Ludington Street  
Escanaba, MI 49829

Mr. Tyler Anthony  
Planning & Zoning Administrator  
Escanaba Planning Commission  
410 Ludington Street  
Escanaba, MI 49829

Re: Special Land Use Review- 201 North Lincoln Road  
The Fire Station LLC- Marihuana Retail Establishment

Dear Mayor Ammel,

Hobby Lobby Stores, Inc. ("Hobby Lobby") is currently operating Store #856 in the Delta Plaza Mall located at 2400 1<sup>st</sup> Avenue North, Escanaba, Michigan under that certain Lease Agreement dated July 26, 2018, as amended by that certain Addendum to Lease dated October 1, 2018, and as further amended by that certain Second Addendum to Lease dated April 27, 2022 (collectively the "Lease") between Dial Escanaba Outlots, LP (as "Landlord") and Hobby Lobby. On October 28, 2022, Hobby Lobby received notice from the City that the Planning & Zoning Department is considering a special land use to allow for the operation of a marijuana dispensary at the Mall. After review of the proposal and Hobby Lobby's Lease, notice is hereby given that Hobby Lobby objects to the proposed special land use. In support thereof, Hobby Lobby offers the following:

In 1970, David and Barbara Green took out a \$600.00 loan to begin making miniature picture frames out of their home. Two years later, Mr. and Mrs. Green opened their first 300 square foot store craft store in Oklahoma City and Hobby Lobby was born. Over the last 50 years, Hobby

Hobby Lobby has grown to the largest privately-owned arts-and-crafts retailer in the world, operating over 1,000 stores, with over 45,000 employees, in forty-eight states. In 2009, Hobby Lobby was one of the first retailers to establish a nationwide minimum hourly wage well above the federal minimum wage and has since raised its minimum wage twelve times over the last thirteen years. On January 1, 2022, Hobby Lobby raised its minimum full-time hourly wage to \$18.50. Due to its growth, economic strength, recognized brand name and principled operation, Hobby Lobby has become one of the most sought-after tenants.

In 2019, the City of Escanaba and its citizens became a part of Hobby Lobby's story as we opened our 856<sup>th</sup> location. Since opening, it has been Hobby Lobby's privilege to serve the Escanaba community. However, the proposed marijuana use in the Mall threatens that continued relationship.

Hobby Lobby's Lease prohibits the operation of a "head shop, electronic cigarette shop, or a store selling marijuana" within the shopping center. This is a standard prohibition in Hobby Lobby's leases and in almost all national big-box retailers' leases. The reason for this prohibition is to ensure that Hobby Lobby and other national retailers operate in first-class centers with other quality retailers that drive traffic to each other. When a landlord (or a city) allows a second or third-class operator into a center, the overall quality of the tenants starts to decline as national operators relocate to stronger markets. If the quality of the tenants falls too far, Hobby Lobby will have to consider relocating to one of those stronger markets.

Currently, the owners of the Delta Plaza Mall are investing into improving the Mall and the overall quality of the tenants by bringing in national operators like Starbucks and Marshall's to the center. Those investments help to ensure Hobby Lobby's continued success in the market. However, it will become harder to bring (or retain) national retailers should the City allow for the proposed special land use. It is simply not the type of center in which Hobby Lobby desires to operate.

Hobby Lobby respectfully requests that the Planning and Zoning Department deny the proposed special land use.

Sincerely,



Randy Childers  
Senior VP of Real Estate