

**MINUTES  
PARK TOWNSHIP  
PLANNING COMMISSION**

Park Township Hall  
52 152<sup>nd</sup> Street  
Holland, MI 49418

Regular Meeting  
January 9, 2018  
6:30 P.M.

**~~DRAFT~~APPROVED COPY**

**CALL TO ORDER:**

Chair Pfof called to order the regular meeting of the Park Township Planning Commission at 6:30 P.M., held in the Township Hall at the Park Township Office.

**ATTENDANCE:**

Present: Jeff Pfof, Terry DeHaan, Dennis Eade, Rosemary Ervine, David Kleinjans, Tom VanderKolk

Absent: Denise Nestel

Staff: Ed de Vries, Community Development Director, Gregory Ransford, Staff Planner, Dan Martin, Legal Counsel

**APPROVAL OF AGENDA:**

Motion by VanderKolk , supported by Ervine, to approve the agenda as presented.

Voice Vote:

Ayes 6, Nays 0. Motion carried.

**APPROVAL OF MINUTES:**

Kleinjans noted two minor corrections on pages 7 and 8:

Motion by Eade, supported by Ervine, to approve the December 12, 2017 Regular Meeting Minutes as corrected.

Voice Vote:

Ayes 6, Nays 0. Motion carried.

**NEW BUSINESS**

**A. Doug Geerlings – Request to rezone Parcel #70-15-34-482-019 from R-3 and R-5 to C-1**

Ransford addressed the application for a zoning map amendment (rezoning) from Doug Geerlings to rezone property located 0 – 160th Avenue, parcel number 70-15-34-482-019 from the R-3 Low Density One Family Residence Zoning District (R-3) and the R-5 Low Density Multifamily Residence Zoning District (R-5) to the C-1 Neighborhood Business Zoning District (C-1). The property is located near the northwest corner of 160th Avenue and Ottogan Street at the County line and consists of approximately one third (1/3) of an acre in area. As you will note on the site plan, the property fronts on both 160th Avenue and Ottogan Street with almost equal land area between the R-3 and R-5 Zoning Districts. The parcel around which it abuts to the east and south is also subject to purchase by the applicant and is located at the northwest corner of the intersection within the C-1 Zoning District.

The application has been reviewed and found complete. A review of the request is included in the Staff Memo related to the Park Township Master Plan (PTMP) and the Park Township Zoning Ordinance (PTZO). It should be noted that the review of the PTMP includes the requested C-1 Zoning District, as well as the R-3 Zoning District since said district is the designation for the subject parcel within the Zoning Plan of the PTMP. Additionally, water is available but sewer is not.

Master Plan Considerations

*Future Land Use Map*

The Park Township Master Plan and its Map, adopted on May 8, 2017, provide for the subject parcel to serve as the Low Density Residential Classification (LDR), which is consistent with the R-3 Zoning District identified within the related Zoning Plan (page 74) of the PTMP. As noted above, approximately half of the subject property is currently located within the R-3 Zoning District.

As required by Section 38-129(3) of the PTZO, the Planning Commission must review four (4) criteria when considering an application to amend the Zoning Ordinance Map.

Martin reminded the Planning Commission that rezoning is a legislative act so its responsibility regarding this request is to make a recommendation only to forward to the Township Board for its decision.

**PUBLIC HEARING**

Pfost opened the Public Hearing at 7:36 P.M.

Leon Schaddelee said the Master Plan says this is residential property. This property was commercial when the Master Plan was written. There was a failed business on this property at one time. It was his opinion that it would be foolish to rezone this property not knowing what is to be put there. The property is outside his front windows and he would not want a storage building constructed in that location. A store would create traffic problems and any type of drive-in business will be a traffic hazard. He suggested not rezoning.

Marcia Davis lives next door to the parcel. The issue of rezoning has come up before regarding a gas station on this property. People in the neighborhood were against that. It's a dangerous corner because of the traffic. She has lived there since 2005 and has witnessed numerous accidents. There is still the foundation of the old gas station on the property which creates a hazard for traffic. She has personally witnessed accidents near this property which are alarming to any resident involved in experiencing what can happen on this abandoned property. She recommended to not rezone the property.

Wade Eldean said rezoning for boat storage on this property would be a disservice to the other boat storage businesses in the Township. This undermines existing marinas that provide the service.

Bill Holm lives next to the property. He wondered if the residents will be informed on what will be built if it is to be rezoned. Is there a process for discussion on what will be put there?

Pfost closed the Public Hearing at 6:46 P.M.

Ryan Ysseldyke of Holland Engineering spoke for the applicant. The applicant is present to address the intended use. The property is L-shaped. This parcel would be difficult to build for residential use. Realistically this property must be combined with another piece to be buildable. The history of this property is that it has been a gas station and, as a result, has contamination concerns. For residential use it would have to be cleaned up substantially. The commercial use would be a better use because it can be capped to avoid contamination. There is a high water table. Septic would have to be installed for residential use. His client wants to rezone from residential to commercial. Storage for boats or recreational vehicles is the goal at this point. It would be low impact use. It is an awkward intersection so this use would not involve much traffic.

DeHaan asked for an explanation regarding the recreational storage units. Would units be stored in the open or inside?

Ysseldyke said the units would be closed and there would be overhead doors for high profile recreational vehicles.

Ervine asked if they are individual units.

Ysseldyke said they are designed to be individual spaces with divided walls.

DeHaan asked what controls on what would be stored would be in place.

Ysseldyke said that could be handled as a part of the site plan approval process if the Planning Commission wanted this kind of control as a condition. The owner would police this with the renters.

DeHaan asked Martin if this stipulation could be controlled.

Martin said once the property is rezoned to commercial any C-1 use would be permitted. The only way to introduce control is through the conditional rezoning request. Certain conditions, restrictions and/or limitations could be made under conditional rezoning. The owner could voluntarily offer conditions, although the Planning Commission cannot require this.

Kleinjans asked about the contamination problem. If there was a commercial business that needed septic would they be allowed to have it.

Ysseldyke said it could be installed but it would make it more cost-prohibitive.

Kleinjans asked what kind of cleanup would have to be done for a storage area.

Ysseldyke said they have done studies on the contaminants that are on the property, but there is no specific proposal prepared to submit to the State regarding cleanup at this date. Any material disturbed by construction would have to undergo special handling.

Board Discussion:

Kleinjans said if we don't rezone we have a useless C-1 parcel. It doesn't fit with the Master Plan and it has contamination and no sewer. If we determine the property is commercial it opens it up to anything. What is the best solution?

Ransford clarified that the adjacent parcel is commercial. The applicant is requesting to combine the two parcels.

DeHaan asked if this lot is buildable.

Ransford said the lot is buildable but the challenge is setbacks.

de Vries said it's a nonconforming lot. Part of the problem is with the dual zoning. Under the ordinance contiguous non-conforming lots of common ownership must be merged. We could have three zones in this case. It's problematic.

Pfost asked Martin for an explanation of the problems of this property, particularly with regard to the potential contamination problem as it concerns the welfare of the community.

Martin explained that the Planning Commission does not regulate the environmental aspects of the property; the Planning Commission regulates land use. Contamination is outside the Planning Commission's control. The Township should not have any liability regarding damages as a result of environmental contamination unless it is considered grossly negligent. The potential liability regarding land use would be in a potential taking. If the property is kept zoned as residential and it can't be used for residential purposes due to the contamination, but could be used for commercial purposes such as a parking lot, there may be a regulatory taking and it not be an environmental problem. So in that scenario, if you keep it residential

the Township could be on the hook for a regulatory taking. At this point we don't know what the environmental restrictions are going to be.

Pfost said the Planning Commission needs to know more about the contamination.

Martin said it may be appropriate for the Planning Commission to request more information about the environmental impact from contamination on this property. It would be acceptable to postpone any further consideration of this request until the applicant provides this information.

VanderKolk asked if the Planning Commission did not approve this request without this additional information, since we have no way of knowing how usable the property is, would we incur any liability for what may occur at a later date?

Martin said the applicant could reapply within one year. The applicant could not sue the Township for a regulatory taking until he applied to the Zoning Board of Appeals first for a use variance. If the Zoning Board of Appeals allowed a use variance the property would not be rezoned commercial, but could allow commercial use.

VanderKolk asked Martin for confirmation that there could be no regulatory taking until all variance options would be considered.

Martin confirmed that was so. The Township Board and the Planning Commission have the authority to rezone the property according to what is deemed reasonable and necessary and the court would look at any challenge to determine whether the property owner could get a reasonable return based on the legitimate investment-backed expectations for that property. But before the court would hear the regulatory takings case, the property owner would have to exhaust his administrative remedies by filing for a use variance.

Doug Geerlings spoke to his application. He understood from the Planning Commission's discussion that more information is necessary on the environmental contamination. That being said, how much further should he proceed not knowing if it can be rezoned?

Pfost asked Martin if the Planning Commission should request a remedial plan or change the zoning.

Martin said the Planning Commission can do either. You can look at the unique nature of this property and notwithstanding the unknown environmental status of the property, if you rezone to commercial, there are two considerations: 1) the list of uses would be open to the applicant, and 2) restrictions imposed by the environmental regulatory agencies are not under your control. The property is more likely to be permitted for commercial use compared to residential use. So, the environmental agencies will more likely permit commercial use rather than residential use. If you rezone before the environmental circumstances are known a regulatory taking is not likely.

Geerlings said this property has been there for a long time. He agreed it is not a great intersection for building a house and there are environmental concerns. C-1 zoning is what he is looking at and what can benefit the neighborhood. There are few options for recreational storage in this area. He could see a conditional agreement with the Township.

Pfost asked the applicant if he would agree to postpone the proposal to explore other options.

Martin said any conditions would have to be voluntarily offered in writing by the applicant.

Ransford said there is more to be considered aside from the applicant agreeing to conditions. A site plan has to be developed.

Kleinjans noted it's clearly not a good residential lot, it is probably better suited to a commercial lot. Would it be an option to refer it to the Zoning Board of Appeals?

Martin said the Zoning Board of Appeals can impose reasonable conditions on a use variance.

DeHaan asked how the applicant is helping the community. The surrounding neighborhood is residential – anything commercial is not compatible with the residents who live there.

Pfost asked Geerlings if he wants to postpone his request to consider opportunities. He suggested the applicant discuss procedures with staff on what to do from this point.

Eade said the Zoning Board of Appeals can place certain restrictions on the proposal. Then the Planning Commission can consider the proper land use of the property.

Kleinjans asked which direction should the Planning Commission go with this request.

de Vries asked Martin if a use variance was granted by the Zoning Board of Appeals, would there have to be approval of special use for the storage request.

Martin said the Zoning Board of Appeals can make that a condition. The site plan would have to come back to the Planning Commission.

de Vries said the site plan doesn't require a public hearing.

Pfost confirmed that public input would be part of the Zoning Board of Appeals consideration.

Martin said the applicant needs to decide whether he wants rezoning or a use variance. He has the choice to go to the Zoning Board of Appeals.

VanderKolk asked if the Planning Commission denies the request can the applicant return in a year.

Martin confirmed that was so.

Pfost asked for a motion to suspend. He asked Geerlings if he agreed.

Geerlings agreed to a suspension for his request.

Eade moved, supported by Kleinjans, to suspend the request.

Martin said if the Zoning Board of Appeals grants a use variance, the Planning Commission could deny or suspend the rezoning request pending the outcome of what happens. The applicant could also choose to withdraw the request.

Geerlings said he is open to conditional rezoning for future consideration.

Voice Vote:

Ayes 6, Nays 0. Motion approved to suspend.

Pfost thanked Ransford for his Staff Memo on the first agenda item. It was very helpful in understanding the parameters of the application request.

Pfost thanked the audience for their considerate and concise input during the Public Hearing.

**B. Eldean Shipyard – Amendment to previously approved site plan**

Wade Eldean showed the Planning Commission a drawing of the proposed amendment to the site plan. He explained the change is a small bump out section of 95 square feet to the west of the former Piper Restaurant which will allow better views of the lake for future guests.

Ransford introduced this item. He noted the Planning Commission was sent a Site Plan application from Eldean Shipyard to amend their previously approved site plan to the Piper building condominiums located at 2225 South Shore Drive, Parcel number 70-15-33-480-023, which is located within the C-2 Resort Service Zoning District. The applicant seeks to construct a 120-square foot deck along with a 95-square foot room expansion, both on the third floor. Neither proposed addition results in an increase in the existing building footprint.

While a site plan is typically reviewed in accordance with the relevant requirements of the Park Township Zoning Ordinance (PTZO), we understand the submitted site plan was previously accepted for past applications. Given this and in an effort to simplify the process, coupled with the minimal amount of proposed improvements, we did not perform our comprehensive review in accordance with the PTZO. Staff agreed with this approach. However, in the instance the Planning Commission desires a more extensive review, this can be provided.

Property History:

*2015 Site Plan Approval*

The applicant received approval in November of 2015 to convert the existing restaurant space into three (3) residential condominium units. As a result of that conversion, exterior improvements were also constructed. Coupled with site plan approval from the Planning Commission, the Park Township Zoning Board of Appeals (PTZBA) granted variances to accommodate the request.

*2016 Site Plan Approval*

The most recent site plan amendment was approved in December of 2016 which authorized the relocation of stairs, and the construction of a larger deck on the north side of the building. Further, the approval authorized an increase in the area of the deck up to 500 square feet on the west side of the building.

Required Site Plan Standards

Pursuant to Section 38-103 – Standards of the PTZO, the following standards shall be considered by the Planning Commission during site plan review. Given that the Planning Commission performed this review exercise for the property based on similar site plan materials in 2016 and albeit the site plan is slightly different, we have not provided our comments to assist with your deliberations since we were not present for the 2016 review.

Section 38-103

- (1) The adequacy of streets, alleys, parking areas, loading zones, sidewalks, drainage, water and sewer lines, and traffic control for the proposed use, building, or structure; and
- (2) The adequacy of protection afforded lands and the surrounding neighborhood from adverse impact.

Required Variance:

In addition to site plan approval by the Planning Commission, the applicant will need to receive a variance for the front yard setback from the Township Zoning Board of Appeals.

Conditions:

Section 38-105 – Conditions of the Park Township zoning ordinance provides the Planning Commission with the authority to impose conditions and restrictions that are necessary to achieve the intent and purpose of the PTZO as well as the standards provided therein.

VanderKolk moved, DeHaan supported, to approve the amendment request to the site plan.

Kleinjans asked Eldean if the bump out represents a room extension.

Eldean said it was.

Voice Vote:

Ayes, 6; Nays 0. Motion approved.

**Ordinance Amendments:**

**Special Use –**

de Vries brought the Planning Commission up-to-date on special use proposed changes:

- 1 - There is a single family residence ordinance that needed some language changes with regard to a couple of requests for building a flat roof house.
- 2 - Another necessary change was in regard to properties with a rear yard body of water. That language has been changed.

3 – Living quarters in a C-1 commercial unit is another consideration for possible change.

4 - The other ordinance is Section 283 where the language is confusing regarding standards to consider. These are allowable exceptions to setbacks that should be definitively listed. These include chimneys, bay windows, etc. He added consideration of the “character of the surrounding neighborhood.”

Ransford mentioned other special use ordinance language that the Planning Commission asked him to review.

Pfost suggested, if we have consensus, that de Vries bring the changes to the Planning Commission for consideration and a vote.

de Vries asked the Planning Commission for their position on the commercial living piece.

Pfost asked the Commissioners if everyone agreed on the revised language to use a commercial property for living space in an upstairs location. All were in consensus with considering that change.

Pfost asked if we can bundle these changes and have the flexibility to have one hearing if possible.

Martin said it can be done. The Township can notice a bundle or group of changes to the zoning ordinance for a public hearing.

## **ANNOUNCEMENTS**

The next meeting is February 14, 2018.

de Vries said there are two items for the February agenda. They include a site plan and parking spaces for the marina on Ottawa Beach Road. The other is Lolo’s regarding the indoor dining area.

## **PUBLIC COMMENT**

Pfost opened Public Comment at 7:57 P.M.

Marcia Davis appreciated the discussion regarding the first agenda item. She emphasized the importance of conditional zoning – it’s important to residents.

Leon Schadelee questioned why the Township said there is no room to build a house on that property. He recalled the State did a survey on the contamination of the site years ago. When he moved to his present home years ago there was a curve in the road. If it could be moved it would make it an easier intersection.

Wade Eldean noted the approach to common sense solutions is welcome given the background of proposals in Park Township. He appreciates the openness of discussion.

Pfost closed Public Comment at 8:02 P.M.

### **Update on NHP Overlay for Macatawa Area**

Pfost noted that a lot of time was spent with the Macatawa area residents. The supervisor and the manager have listened to neighbors and some solutions have been proposed. The committee is at the point of asking where it wants to go next. The Master Plan identified six residential areas in the NHP category, Macatawa being one. Shall we consider an overlay district for Ottawa Beach? We need to meet our commitment as stated in our Master Plan.

Pfost asked if it would be okay with the Planning Commission for Fink and Ransford to give a presentation on the NHP.

Ransford said there is a presentation that has been done for the Macatawa NHP. However, there were specific details that won't apply to the other areas.

Martin said the committee can go forward in the other areas. Macatawa wants R-3 zoning with no protection for an overlay. The Planning Commission can recommend overlays in the other 5 areas and maybe Macatawa resident will change their minds.

### **ADJOURNMENT**

Ervine moved, supported by Kleinjans, to adjourn the meeting at 8:20 P.M.

#### Voice Vote:

Ayes 6, Nays 0. Motion carried.

Respectfully submitted,

Judith Hemwall  
Recording Secretary  
January 11, 2018

APPROVED: February 13, 2018