

**MINUTES  
PARK TOWNSHIP  
PLANNING COMMISSION**

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

Regular Meeting  
July 11, 2017  
6:30 P.M.

**DRAFT COPY**

**CALL TO ORDER:**

Chair Pfost 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 Pfost, Eric DeBoer, Rosemary Ervine, David Kleinjans, Denise Nestel, Tom Vanderkolk

Absent: Dennis Eade (excused)

Staff: Howard Fink, Manager, Dan Martin, Legal Counsel, Gregory Ransford, Staff Planner

Absent: Ed de Vries, Community Planning Director (excused)

Pfost introduced the new Staff Planner, Greg Ransford.

**APPROVAL OF AGENDA:**

Pfost noted the Benjamin's Hope item has been postponed. After offering an opportunity for anyone in the audience who may have appeared to speak to the application, and finding no one he entertained a motion to approve the agenda with a notation that the Benjamin's Hope application has been postponed.

Motion by Kleinjans, supported by Ervine, to approve the agenda as amended.

Voice Vote:

Ayes 6, Nays 0. Motion carried.

**APPROVAL OF MINUTES:**

Kleinjans had three corrections to the minutes, one on page 2 and two on page 7.

Motion by Vanderkolk, supported by Kleinjans, to approve the June 20, 2017 Regular Meeting Minutes as corrected.

Voice Vote:

Ayes 6, Nays 0. Motion carried.

Chair Pfost said the original agenda item for the split parcel on South Shore Drive was withdrawn.

**NEW BUSINESS**

**A. James and Tami VanHarn – Special Use request for a Home Occupation at 2245 Auburn Avenue.**

Ransford introduced the item. The applicants wish to operate a home occupation for the purpose of retail sales of jewelry, art and other handmade items located at 2245 Auburn Avenue. This property is located within the R-4 Medium Density Single and Two-Family Residence District (R-4).

The applicants propose to continue to operate the home occupation within the enclosed front porch and on the attached exterior deck that is currently under construction. A home occupation is traditionally or customarily conducted *within* a dwelling. It appears that the exterior portion of the proposed use on the deck may not comply with the definition of a Home Occupation according to the Park Township Zoning Ordinance for a Home Occupation.

Several Findings and Observations must be clarified as follow:

1. Proposed Use- there are some inconsistencies describing use in the application
2. Hours of Operation – the hours are not specified
3. Parking – there was little detail in the application
4. Site Plan – some items are lacking in the application
5. Signage – Ransford noted that clarification is necessary for signage for home occupation
6. Screening – this is important for adjacent properties to the applicants' house

He noted that the Planning Commission must consider seven standards regarding a special use application for a home occupation. He listed these in his Staff Memo of June 28.

The applicants, Mr. and Mrs. Van Harn, addressed their request. They are long term property owners of the house and it will be a permanent year-round home beginning this year. They

have been operating the home occupation until a complaint was submitted to Park Township. They have since closed the operation. They ask if there is a way to re-open the operation. They do not have any set hours for being open. They will set up a small sign. The business is not a general store; rather it is a walkup gallery type of operation. They asked if there is a way to allow the flexibility for this operation to continue.

## **PUBLIC HEARING**

Pfost opened the Public Hearing at 6:48 P.M.

Jan Welch expressed concerns about the increase in traffic as a result of this business. Walkup traffic is one thing, which isn't a problem, but vehicular traffic is another problem. People cruise through the neighborhood which causes congestion. The impact on the neighborhood is a reality. She and her husband operate a business but they rent the space to conduct the operation. She does not support the special use home occupation in this neighborhood.

Joel Welch was concerned about setting a precedent and asked for consistency in the Planning Commission's deliberations about home occupation. The applicant is requesting a special use permit because this home occupation is not allowed according to the Township ordinance. It is called a storefront if items are sold. Regarding signage, signs have been used in this home occupation. And, it is apparent that there is no economic need for the home occupation. Is it in the best interest of the community to change the zoning for these applicants? Should we open the door in a residential neighborhood which has been residential for 40 years? He noted in reference to the language in Section 3 in General Restrictions, Special Use Permit, he asked about the ill-defined wording "predominantly handmade." This opens a door to the assertion the items are handmade. He questioned the applicants' statement there is "no detrimental effect." He expressed concern about traffic and parking problems. He also noted the applicants have placed pavers over a common area that apparently is to be used for additional parking. Regarding zoning issues, he recalled an applicant some years ago who was given a permit for a mother-in-law apartment to be added to her home. Upon inspection it was discovered the alleged apartment addition had been converted to a beauty salon. Circumstances do change.

George Washburn questioned the purpose of special use. Is this type of permit attached to the person or the property? If it is attached to the property he has an issue. What is allowed to be sold?

Carole Washburn observed if the request is limited to the person rather than the property, and the items to be sold are specifically listed she has no problem. She has shopped for items on the porch of this home and it was a pleasant experience. She shared the Welch concern regarding increased traffic problems, however, she didn't see the home occupation contributing to a serious traffic situation in the neighborhood. She understood the concern about setting a precedent but didn't think that was an important consideration. It seems to be a reasonable request.

Ann and Mark Roth are neighbors of the applicants. They said they do not have a problem with the special use request. They agreed there is a traffic problem in the community but doesn't consider the Van Harn operation as a potential problem.

Mark Roth supports entrepreneurial spirit. If something like this is not allowed, where is the evolution and creativity in the community. He asked if this special use permit applies to lemonade stands. It was opinion that if such a home occupation does not offend anyone it should be allowed.

Martin clarified that all home occupations require permission. Typically the Township does not enforce ordinance on activities like lemonade stands unless there is a complaint. The home occupation is a zoning ordinance - lemonade stands do not fit the definition of a home occupation.

The James Van Harn added that he just wants his wife to enjoy her hobby and have some fun. He admits by definition the operation is a storefront. He agreed it is not economic driven. They are sensitive to the needs and ambiance of the neighborhood.

Pfost closed the Public Hearing at 7:12 P.M.

## **DELIBERATION**

Pfost referred to the Master Plan description of the North Beach area which faces unique challenges with the presence of Ottawa Beach Park and other attractions. All of the associated activities influence the lives of the residents, as well as visitors to the area, and their quality of life should be considered.

Ervin asked for the definition of a home occupation.

Martin gave the definition:

**“An occupation that is traditionally or customarily conducted within a dwelling by the residents of the dwelling, which use is incidental and secondary to the use of the dwelling as a home, and which does not alter the residential character of the property.”**

The Park Township ordinance allows home occupation by right if certain requirements are met, which this situation does not. He noted if the business was done within the home they may not need to apply for a special use permit. Looking at the ordinance it does allow some special use if the standards are met. Special use goes with the property, not the person. The Planning Commission could impose conditions related to protection of the character of the neighborhood and when sales are allowed.

Martin also pointed out that whether the Planning Commission approves or denies the home occupation it has nothing to do with entrepreneurship.

Ervine asked about sales on the porch, rather than on the deck.

Martin said once sales are transferred to the outside the dwelling it's a different situation. Selling from a porch to walkup traffic requires a special use permit. This is documented in Subsection 2 of the ordinance.

DeBoer asked about sales inside the garage.

Martin said if sales are inside the garage it's an accessory use. He noted the applicants have a detached garage.

DeBoer asked if it is use by right inside the garage or porch.

Martin said if the items for sale are displayed on the property for walkup traffic it requires special use consideration for a permit.

Nestel asked Martin about signage use. Martin said he wouldn't make this a condition. It should be a typical sign similar to the size of political signs that are permitted within the district.

Pfost asked about conditions.

Martin said the Planning Commission can approve sales on a seasonal basis as a condition and signs could only be displayed during that time period.

Nestel asked if this request should be granted and someone else in the neighborhood wants to sell items, will this set a precedent.

Martin said it would.

Nestel asked about the distinction between a home occupation and a hobby.

Martin said since this situation involves a hobby it doesn't alter the appearance of the neighborhood.

Nestel asked about the exterior deck. According to the history of this home, there had been a former setback requirement on the deck. Was it compliant?

Van Harn said there was no setback requirement on the permit.

Martin said the ordinance states that a deck may be located in the building setback if is not more than 30" above grade.

Ervine asked if the deck was added with this home occupation in mind.

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Van Harn said it was not. She added regarding signage that she had two signs on the property - the driveway and the deck.

Ervine asked about the time spent on sales in a week's period of time and an estimate of hours of operation.

Van Harn said she sold her items primarily on weekends. Her goal was to sell when she saw traffic in the neighborhood. She is flexible about hours and signage.

Kleinjans said he had mixed feelings about the special use request. The problem is it goes with the property. Do we want to approve a permit and set a precedent? He has no clear vision about limits about what would follow in the neighborhood with others wanting to do the same thing.

Vanderkolk said it helps to make this a unique area. It would be important to set certain conditions regarding limiting sales with a percentage, signage and what items are sold.

Martin said regarding setting a precedent. Although this is a residential neighborhood it does have a general store down the road. Whether the Planning Commission approves or denies the special use permit it must have a substantive finding and/or conclusion about a residential neighborhood that has some commercial operations in it.

DeBoer said his concern is setting a precedent.

Kleinjans said there are two concerns: selling on the deck is a problem, and selling inside the home would be a home occupation. Where is the limit?

Martin said within the dwelling sales can be permitted. Outside the home is where the sales are not permitted according to home occupation rules.

DeBoer asked at what point does it become a right.

Ransford pointed out in Section 38-506, 2 b – it states what qualifies as use by right. If there are customers involved are you leaving the “by right rule.”

Pfost observed we seem to be concerned about people coming into the neighborhood for the sale of items.

Ransford explained there are a number of considerations: increase in vehicular traffic, number of customers, and parking.

Van Harn asked if a “sunset” rule could be applied regarding the special use not continuing with the property.

Nestel said the issue is we are opening the right of every house having the right to set up something like this.

DeBoer suggested a condition that only items that are made inside the house could be sold.

Pfost said the Planning Commission should allow the applicants to determine what they want. We are not to act in a negotiation mode.

Martin spoke to allowing a “sunset” clause on a special use. The courts have ruled that the only time you can apply a “sunset” on a special use is where the use itself by its very nature, is a transient use. Traffic, for example, is a concern which the Planning Commission cannot permit by right, however, it can meet the standard and won’t have an adverse effect and therefore allow it. We then say the Van Harns are allowed to have the special use, but others aren’t allowed. It’s the use of the property not the person.

Ervin said it jeopardizes the rule by setting a precedent.

Howard Fink, Township Manager, observed this situation doesn’t fit in any box. Should there be a separate ordinance? His sense is the concern if we should have 20-30 of these special use requests occur in this area.

Nestel asked about the condition suggested by DeBoer.

Martin said, in this case, customers are coming into the home to buy items – this is no longer by right. Selling the items at home makes this a special use.

Vanderkolk agreed by right it is not allowed.

Pfost reviewed the Home Occupation Standards for 38-506 (3):

- a. ***The nature of the home occupation, including whether it is of a type that has traditionally and historically been carried on as a home occupation;***

This is a traditional home occupation but is not a traditional business.

- b. ***The nature of the surrounding neighborhood;***

It wouldn’t be there but for the neighborhood.

- c. ***The effect of the home occupation on the surrounding neighborhood;***

The effect is on the residents and impact of increased traffic.

The Planning Commission discussed the difficulties of controlling traffic problems.

A condition could be made to prevent parking on the property. Martin noted enforcement of this kind of condition would be difficult.

**d. *The environmental effects of the home occupation;***

Not applicable.

**e. *Whether customers conduct business on the premises;***

Customers would conduct business on the premises.

**f. *Potential traffic congestion as a result of the home occupation; and,***

Traffic congestion is a potential concern.

**g. *Provision for parking for traffic or clientele that may result from the operation of the home occupation (for those home occupations where customers or clientele are permitted on the premises).***

Consider no parking condition.

Site Plan Standards pursuant to 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.***

Kleinjans asked if such a business grows and expands beyond what is allowed, what the next step for the Township ordinance is.

Ransford suggested that the Planning Commission does not have to make a decision on this application this evening. Since there are concerns the Planning Commission may request the applicants to return with a recommendation for remedying the concerns.

Ervine asked for more concrete definitions from the applicants.

Martin said conditions can be placed on this application, however, any decisions must be very clear about standards, statement of findings, and any conclusions on either approval or denial.

Nestel asked about customers – is it a deal breaker?

Martin said it is one of those things whether it is permitted by right or not. We haven't said no customers can come to the premises. It's something to consider but it's not an absolute prohibition. There is a comfort level that is in question here.

Pfost spoke to the applicants. The Planning Commission process is bound by ordinance, case law and interpretation. The public's input interacting with the applicant changes the form of deliberation. We can give you the opportunity to postpone action. This gives you the opportunity to refine the application for consideration in August. There will be no Public Hearing since one was held this evening.

Fink said the staff could offer some assistance regarding consideration on hours of operation, parking, signage, etc. if the applicants want this kind of help from the Township. More structure is necessary to help the Planning Commission in its deliberation of this application.

Van Harn agreed with the postponement.

Pfost said the Planning Commission has to consider a balance between good ideas and the zoning ordinance requirements.

Vanderkolk moved, and Ervine supported, to postpone this application request.

Voice Vote:

Ayes 6, Nays 0. Motion carried.

**B. Brent Hoitenga OBO, BRJ, LLC – Rezone parcel #70-15-12-300-010 from R-4 to R-5**

Ransford introduced this application request for a zoning map amendment to rezone property located at 0 Butternut Drive, Parcel number #70-15-12-300-010 from the R-4 Medium Density Single and Two-Family Residence Zoning District (R-4) to the R-5 Low Density Multifamily Residence Zoning District (R-5). The property is located at the northwest corner of Butternut Drive and 148<sup>th</sup> Avenue and is approximately 1.15 acres in area.

He noted that the Park Township Master Plan and its Map, adopted on May 8, 2017, provide for the subject parcel to serve as the High Density Residential Classification (HDR), which is consistent with the requested R-5 Zoning District identified within the related Zoning Plan (page 75) of the PTMP. According to the Zoning Plan, the HDR Classification supports both the R-4 and R-5 Zoning Districts noted above. The subject property is currently located within the R-4 Zoning District. Given the major street and public utilities, the subject parcel may be consistent with some of the public utilities provisions of the Master Plan. However, the subject property is part of the Uplands subarea within the Park Township Master Plan. While public water is located within Butternut Drive at the subject property and extends to the north boundary of the township, public sanitary sewer does not extend more than approximately one-half (1/2) of a mile to the northwest. As a result, public utilities are somewhat limited to the general area of the subject parcel, which can reduce development impacts on open space and agricultural areas.

It is also noted that it appears the request may be consistent with the transportation provisions of the Master Plan.

Also, relevant to the Master Plan, he pointed out that it makes the correlation between the Master Plan and the zoning plan. The Zoning Plan is very specific between R-4 being in the north area where this property is located, and R-5 which is closer to the lake. It is unique because it's restrictive about development.

When a map amendment request is submitted for review, the Planning Commission must consider all possible uses that could occur in the related zoning district, if approved.

He reminded the Planning Commission that it must review four criteria (Section 38-129(3)) when considering an application to amend the Zoning Ordinance Map.

Brent Hoitenga, member of the group that owns the property, spoke to his application. He said he purchased the property in 2001. At the time there was no water or sewer. Originally three homes were proposed in the area and septic systems were installed but now there is water and sewer available across the street. However, the assessments are \$28,000. He asked when the Master Plan was changed. He was told it was recently changed. He asked this in light of his observation that the Holland area needs additional apartment housing. If the area were rezoned he could build between 8 and 10 units.

He thought he could put 11 units on the parcel if apartments are approved under the duplex rule. He said, based on the acreage, this is doable. Financially it could be done if the Master Plan allows only 8 units on the property. One driveway to Butternut instead of two makes sense in the proposal. To get water and sewer across the street is another \$20,000 so the plan is to help finance this is to get 8, 9, or 10 units on the property.

## **PUBLIC HEARING**

Pfost opened the Public Hearing at 8:15 P.M.

Suzanne Zimmerman, represented her mother who lives on the property near this proposed site. She does not support the rezoning proposal. The principal concern is multi-family units since the adjoining properties are single family homes. To the north of this property are also single family homes. She pointed out that the Master Plan, on page 52, states further development should be sensitive to natural features and be compatible with other properties. The area is not compatible to multi-family housing. The applicant concedes the property is too small to allow this development in addition to buildings on the proposed plan. There will be a negative effect on the surrounding community which are lower density.

She asked for retention of the low density provided by R-4 zoning. The Master Plan asserts it is important to keep the agricultural concept of the Uplands area. The quality, integrity, and open

area character of the community will be impacted with extra traffic, higher density and noise that result with multi-family apartment dwellings.

Pfost closed the Public Hearing at 8:24 P.M.

Pfost asked if the Planning Commission recommends the zoning change.

Martin said the Township Board is the recommending body for zoning change.

DeBoer said the Master Plan for that area is planned for residential. He asked Ransford about the R-4 plan wording in the Master Plan.

Pfost pointed out the Butternut corridor was a place for R-4 development. The Master Plan states this clearly.

DeBoer read from page 75 in the Master Plan the restrictions for R-4 zoning. He concluded the Master Plan states it is so – he sees no option for making any change from R-4 to R-5.

Kleinjans observed that the assessment was not that significant a cost according to his figures of \$23,800 up to \$36,800.

Pfost suggested a review of the standards for Section 38-129(3) – Rezoning Criteria:

- a. ***Whether there is consistency with the goals, policies and future land use map of the Master Plan, including any subarea or corridor studies. If conditions have changed significantly since the Master Plan was adopted, then consistency with recent development trends in the area shall also be considered.***

The Master Plan was adopted early this year and there is no inconsistency in the development plan. Therefore, rezoning is inconsistent with the Master Plan.

- b. ***Whether there is compatibility of the site's physical, geological, hydrological and other environmental features with the host of uses permitted in the proposed zoning district.***

All agreed these are not factors.

- c. ***Whether there is evidence that if the current zoning remains enforced, the restriction may preclude the use of the property for any purpose to which it is reasonably adapted.***

It could be used in an R-4.

- d. Whether there is compatibility of all the potential uses allowed in the proposed zoning district with the surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic safety impacts, aesthetics, infrastructure, utilities, potential influence on property values, and the general health, safety and welfare of the Township.**

There is concern as expressed by the members of the Planning Commission.

Hoitenga said the master deed shows this parcel compatible with R-5 in the future. He asked why does the Planning Commission say its R-4. It shows the future land use is R-5.

DeBoer says the future land use for that area is R-4. The area off James Street was to remain R-5. This is according to the future zoning map.

Ransford said it is fair to say the distinction is clear in the Master Plan. Even though both areas are listed as high density residential, there is a distinction between what is R-4 and what is R-5.

DeBoer moved, supported by Kleinjans, to recommend denial of the application request for an amendment change because the proposal does not meet standard a and c and particularly because the property can be used as zoned and the request is inconsistent with the Master Plan. This is supported by the four standards.

Roll Call Vote:

DeBoer, aye; Kleinjans, aye; Nestel, aye; Pfof, aye; Ervine, aye; Vanderkolk, aye.

Ayes 6, Nays 0. Motion carried to deny request.

**C. Camp Geneva – Site plan review for a change of use for property at 16945 Quincy St.**

Ransford provided an overview of this application. This is a site plan review application from Kevin Vanderklok on behalf of Geneva Camp and Retreat Center to convert an existing single-family dwelling and related accessory building into a Church Camp use located at 16956 Quincy Street, Parcel number #70-15-09-200-033. The applicant seeks to utilize the existing structures for parking, storage of camp vehicles and housing of camp counselors. The only proposed improvement is to establish a walking path. The property is located immediately east of the existing property and is within the R-1 Rural Estate Zoning District (R-1).

There are several Findings and Observations the Planning Commission should consider:

1. Hours of Operation – this was not noted
2. Parking – surface material specificity needed
3. Driveway Apron and Internal Access Site – size and access are not provided
4. Walking Path – material used is not noted
5. Township Fire Chief Review is necessary
6. Township Engineer Review is necessary
7. Screening – no landscaping details are provided

Bill Mills and Kevin Vanderklok, representatives for Camp Geneva, provided the background for the request. The property became available so they can use the property consistent with camp purposes. The proposal will accommodate the property without destruction of trees. It is a beautiful piece of property so intend to use it as is without much change. They want to be compatible with the ordinance requirements of Township.

They noted that Camp Geneva is open 24 hours a day so it is a 24/7 operation.

Nestel is comfortable this is a known quantity – looking at information. Can we just say conditional upon receiving additional information.

Pfost communicated with the Fire Chief. The Fire Chief met with the Geneva principals and understood the concern that the flag lot is so narrow a path that fire vehicles access was a concern. It's a 1000' extension and the Fire Chief was concerned about extension of the fire hose. The use of the property is compatible and raised no concerns. The only contingency is the review by the Fire Chief.

Camp Geneva has less than 10 vehicles. The walking path will be wood chips since they will be kept as a nature path. There are lights on the house and storage shed. Screening is the treed lot which afford natural screening.

They volunteered to submit a written statement on these responses to Ransford's recommendation.

Ransford said it would provide a record with a summary of the details. So long as the applicant meets the standards there should be no concerns regarding site improvements.

Nestel noted if there is further development lighting requirements should be met.

Ransford asked if the applicant provides the necessary additional information necessary for the final plan review, the Fire Chief's review, and if there are no additional improvements, no further information is necessary.

DeBoer moved, supported by Vanderkolk, to approve the request with the condition the additional requested information be provided to the Staff Planner for verification of compliance with the Zoning Ordinance within a period of two weeks.

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Pfost suggested adding the condition that the standards have been met.

Voice Vote:

Ayes, 6; Nays 0. Motion carried.

**PUBLIC COMMENT**

Pfost opened Public Comment at 8:55 P.M.

Joel Welch said his neighborhood has a serious traffic problem. He recalled a personal experience with signage and parking problems. He said his truck has his business graphic signs on it and was told by the Township some time ago he had to keep it in the garage unless he was driving it.

Pfost closed Public Comment at 9:01 P.M.

**ANNOUNCEMENTS**

Fink gave the status of the NHP overlay committee deliberations for the Macatawa area. He reported the committee is moving forward. It completed the first stakeholder interview. The next interview will be in a week. The next committee meeting will be at Maatman Center. The process is going well, all parties are represented, and the facilitator is respected by all the stakeholders. It has been a successful team effort.

The next meeting is August 8.

The Planning Commission thanked Ransford for his memoranda on the agenda items. They were very informative and helpful in their deliberation.

**ADJOURNMENT**

DeBoer moved, supported by Nestel, to adjourn the meeting at 9:10 P.M.

Voice Vote:

Ayes 6, Nays 0. Motion carried.

Respectfully submitted,

Judith Hemwall  
Recording Secretary  
July 13, 2017

APPROVED: