

**MINUTES
PARK TOWNSHIP
PLANNING COMMISSION**

Park Township Hall
52 152nd Street
Holland, MI 49418

Regular Meeting
August 16, 2016
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, Nicki Arendshorst, Eric DeBoer, Linda Dykert, Dennis Eade, Denise Nestel

Absent: Tom Vanderkolk

Staff: Bill Cousins, Interim Township Manager, Ed de Vries, Zoning Administrator, Janis Johnson, Staff Planner

Pfof introduced the new Interim Township Manager, Bill Cousins, and welcomed him to his first meeting of the Planning Commission.

Cousins said he will serve as Interim Manger until the end of the year and the hiring process for a new manager is complete. He is retired from his professional career in local government but is looking forward to be of service to the Township. He is currently chair of the Grand Haven Planning Commission.

He noted that the airport was not included in the draft Master Plan, and asked the Commission to consider including in the Master Plan a provision for the airport. This will assist the airport staff in applying for grant funds to improve the runway, hangar space and navigation systems. He will provide the necessary information to de Vries.

Nestel asked why the airport is not mentioned in the Master Plan.

Cousins said he did not know but suggested a plan be included so grant applications can move forward. Cousins then left the meeting.

APPROVAL OF AGENDA:

Dykert moved, supported by Nestel, to approve the agenda as submitted.

Dykert asked why the Master Plan is not on the agenda.

Pfost explained the Township Board referred the Master Plan back to the Planning Commission at its meeting on August 11, 2016. The airport plan is a new issue and other language needs to be addressed. In addition the agenda for tonight is full, with one application for a Special Use, and the PUD ordinance, which is under a deadline. The Board did not indicate specific direction at this point so the Plan was not included on tonight's agenda. The Board did indicate it wants to move forward with the PUD ordinance revision.

Dykert disagreed with the intent to not include the Master Plan on the agenda.

Nestel understood the Township Board's directive was to move forward with the Master Plan.

Pfost said the new proposed language recommended by the Planning Commission was not approved by the Township Board. It was not accepted as presented. There are conflicting issues as to a specific direction for the Planning Commission at this point.

Dykert withdrew her motion to approve the agenda.

DeBoer moved, supported by Eade, to approve the agenda as submitted.

Voice Vote:

Ayes 4, Nays 2. Motion carried. Arendshorst and Dykert voted against.

APPROVAL OF MINUTES:

Eade moved, supported by Nestel, to approve the minutes of the July 19, 2016 Regular Meeting as submitted.

Voice Vote:

Ayes 6, Nays 0. Motion carried.

A. Dirkse Special Use Application

This application from Dirkse Capital Management, LLC, is for nine "executive storage buildings" under a condominium ownership on 1.479 acres of vacant land on Ottawa Beach Road just east of 152nd Avenue. The land is zoned C-1 Neighborhood Business District.

Storage buildings are not listed as a permitted use under Section 28-423. Section 38-423(29) does allow for “Other similar retail business or service establishments when authorized by the Planning Commission as a special use.” Five standards are listed for Planning Commission consideration.

De Vries noted the Planning Commission approved a similar use on March 17, 2015 for a property on S.160th Avenue.

A staff review found the site plan lacked some information. Moreover, the Staff Planner noted a 2010 Michigan Court of Appeals decision which ruled that in order to authorize a special use the proposed use must be listed in the ordinance (Whitman v. Galien Township, June 2010). Because the use is not listed, if challenged, any approval by the Planning Commission may be found to not meet the requirements of the Michigan Zoning Enabling Act and be nullified.

Recommended action by Legal Counsel and the Staff Planner would be to postpone action on this application and pursue a change to the ordinance regarding special uses.

PUBLIC HEARING

Pfost opened the public hearing at 6:47 P.M.

Tom Postma, representing the applicant, spoke to the application. As proposed, nine commercial storage units will be available. It is planned as a mixed use property with some of the units to be leased. He shared a picture of what an individual unit will look like.

Nestel asked if these units will be for storage.

Postma said they will be for sale as office or storage units. It will be mixed use business condominiums.

Denny Meyer, a resident in the community, said he sent a letter to the Township regarding his concerns. In his opinion, a lot of these small businesses come and go. As a result there is no assurance for what will follow. He doesn't think this proposal fits with the neighborhood. He added this mixed use plan is not in the Master Plan.

Dean Whittaker, a former member of the Committee for the Future, spoke on behalf of that committee. This area for the application was considered for different use by the committee. He referred to page 64 in the Master Plan which references a village center in this location. The Committee for the Future did not envision a storage unit for this property. The committee considered the area as a possible gateway to the Township with a village-like setting. He is thinking of the long term plan and the best interests of the Township.

Tom Postma said there is a tree buffer zone of 256' between the neighbors and the proposed area for his development. He doesn't see it as intrusive to the neighborhood.

Denny Meyer said there is not much of a buffer zone between his property and the proposed development. There is about 30' to the fence and this property is on the other side to the east. The proposal is 25' from this fence. He doesn't have a 256' buffer zone.

Pfost closed the public hearing at 6:56 P.M.

Pfost noted the staff recommends postponement of action until the ordinance is revised to include special use language.

DeBoer asked if this proposal wouldn't fit more properly under a commercial PUD.

Johnson said under the PUD ordinance as proposed any use permitted in the Zoning Ordinance may be permitted in a PUD. Storage is not currently allowed anywhere in the Zoning Ordinance.

Johnson said mixed uses could be allowed as a special land use without going through the PUD process, if a mixed use development is specifically permitted as a special land use. Commercial use PUDs would require some open space.

Nestel agreed with DeBoer that this is really a PUD question. Could any business move into this area under mixed use?

Pfost noted we are running short of C1 property in the Township. Storage is a need as commercial use. However, we are talking about Park Central as the gateway so is this a good use of that area.

DeBoer asked what the next step is for this application.

Pfost said the staff recommendation is postponement of action until new ordinance language is adopted to cover the special use. Because of the location we need to do due diligence regarding the requested use.

De Vries said we may have to look at what the Court ruling says and what we may allow. We have some uses in this location by right so we have to look at that.

DeBoer moved, supported by Nestel, to postpone action on this application and direct staff to work on the ordinance change.

Pfost added that he would like to request staff to bring the Park Central description to the meeting in September to include in the discussion. The vision for that area is an important consideration when considering this application.

Voice Vote:

Ayes 6, Nays 0. Motion carried.

Johnson asked for suggestions for consideration of the ordinance change. What do you suggest for special use?

DeBoer said if we change special uses we should discuss the specifics of what we want to recommend.

Dykert asked Planner Johnson to submit recommendations.

Pfost observed a possible stumbling block in differentiating between the terms for storage and a storage condo. We should make this very clear in the revised ordinance. Language should be specific to storage *only* and storage that supports other commercial uses. Limitations and practices should be carefully defined. Perhaps the PUD process is the best for this.

B. Proposed PUD Ordinance

Pfost said the current draft has retained the elements that the subcommittee heard from the Planning Commission. Planner Johnson then provided language for adoption of a new ordinance. We will send the Township Board recommendations for language in a new PUD ordinance to replace the existing PUD ordinance. The options for the Township Board are: 1) accept our recommendation, 2) accept the draft with changes, or 3) eliminate the PUD ordinance without a replacement (eliminate the use of PUDs for development projects in the Township).

The format for Planning Commission discussion at this point: Johnson will review the proposed language and the justifications for the new language, the Planning Commission will provide suggestions, and a new draft will be prepared. A public hearing will be conducted after the PC approves the final language..

The PUD subcommittee requested Johnson provide an overview and background to the PUD process. She presented the background information and then proceeded to review the informational packet on PUD ordinances:

Local Government Regulation of PUDS

Procedures 1-9:

Planning Commission comments –

Nestel asked if we state in the PUD ordinance it can be a rezoning, does that mean it becomes the procedure for approval.

DeBoer asked if rezoning is subject to a referendum. Pfost said it is subject to a referendum.

Nestel said we have two mechanisms to follow - rezoning or PUD. She asked for clarification on public hearings that must be held.

Johnson said if we rezone as a PUD, we have to have only one public hearing at the board level. The Planning Commission isn't required to have an additional public hearing, but may choose to do so.

Dykert asked if the Planning Commission is considered the responsible "legislative body."

Pfost said it is the Township Board, not the Planning Commission. We have to make a decision on whether we want that.

Dykert asked what the advantage of rezoning is.

Johnson said one advantage of rezoning is writing up an ordinance which **governs procedures.** ~~It~~ becomes an amendment that lists conditions.

Pfost said we have three options: 1), Staff presents to PC, PC prepares recommendation for the Board, the Board makes the final approval (current administrative process) 2) Staff could make the final approval. Neither staff nor the subcommittee recommend this choice. and 3) the PC make PUD final approvals. The subcommittee suggested keeping it the way we are doing it now (option #1 above)

There was a question from several of the PC members regarding the appeal process to the final PUD decision as it may pertain to the three administrative options.

Johnson explained the reasoning underlying appeal of a PUD to the Zoning Board of Appeals. In Park Township this does not occur. In order to appeal a decision regarding a PUD to the Zoning Board of Appeals, the Zoning Enabling Act requires that such an appeal may be made only if the Zoning Ordinance specifically permits the appeal. If the Zoning Ordinance does not specifically permit the appeal, Johnson presumes that any appeal of a PUD decision would go to the Circuit Court. The Park Township Zoning Ordinance does not permit an appeal of a decision regarding a PUD to the Zoning Board of Appeals.

Proposed Park Township PUD Ordinance

Regulations 1-11:

Nestel asked what is considered an amendment vs. a condition.

De Vries said in one particular PUD it was defined in specific language but not in all of them.

Pfost agreed the PUD background information was a good foundation for discussion on the proposed PUD ordinance principles and may be used as we bring this topic and proposed PUD language to the Board so they may make an informed decision regarding our final recommendation on this topic.

The Planning Commission thanked Johnson for her work on the PUD draft.

Johnson then reviewed the copy of the proposed PUD ordinance.

De Vries suggested strong parameters be included if the Planning Commission is given final approval (ref. #1 on page 2 under **3-364 Authorization and permitted uses.**)

- The Planning Commission agreed to a general consensus that we keep the administration of the PUD as is.

Johnson recommended ~~five (5)~~ two (2) acres in lot size under **3-365 Qualifying Conditions.**

Nestel said as long as we define “contiguous” she agrees with (1) **Minimum PUD area size** (page 2).

De Vries said the PUD should state that it be two contiguous acres.

The Planning Commission agreed that contiguous be defined as two contiguous acres.

Nestel recommended specific definition of “transfer of ownership” regarding (2) on page 3 under **Completion of PUD as approved.** She offered to share language on this.

The Planning Commission agreed on clarification of “transfer of ownership” and agreed to check the State law on this term in regard to condominium ownership.

Nestel asked if we need to define “general provisions” as referenced in **3-366 Development requirements for all uses** on page 3. Planner Johnson stated that the Park Township Zoning Ordinance uses the term “supplemental regulations”, and that term would be used in place of “general provisions.”

Nestel asked about the use of the word “shall” for criteria list 1-9 on page 3. In legalese the word “shall” implies that it is mandatory.

Johnson said “shall” is traditionally used to avoid arbitrary and capricious intent.

Johnson said these criteria represent the standard of measurement. They are the discretionary standards of approval.

Johnson suggested the Planning Commission review the rest of the document for the next meeting's discussion.

Pfost said there is concern that the PUD can be used to increase the density of an area. We need to address this intention in the language and make it clear. The density discussion and calculation of open space bonuses is an interesting concept to provide the beneficial use of idle land and capture it in a way that doesn't increase what would otherwise be allowed. If we aren't going to do a parallel plan let's eliminate the use of it and the confusion it causes.

He pointed out that land use is also in the table on page 5. Do we want the zoning ordinance included? There is an option we need to consider.

It was noted to correct the reference in the table on page 5 to 1 unit per 2.9 acres for the MLR category.

The Planning Commission agreed to continue its review in September with Section **3-367**.

C. Discussion on Other Ordinance Amendments

De Vries said he has discovered a problem with waterfront setbacks dealing with the property difference between the 100 year flood plain and the ordinary high water mark. These have different regulations. Seawalls are built to the 100 year elevation plain. This language was not included.

An application has been submitted where the seawall is at the 100 year elevation mark, but the land drops off behind it and comes up again, and because the current ordinance doesn't measure seawalls we are looking at little or no building envelope. The house is 10' from the 100 year flood elevation, but all the land is above the ordinary high water level. We could use area above the ordinary high water mark, and include it within the setback. We may have to revise the ordinance.

Nestel asked where the point you measure from is. Will there be a need for a modification.

De Vries said we will have to modify the ordinance. It is an issue that has to be addressed. If he comes up with some language perhaps the PUD ordinance and this change could be tied together.

PUBLIC COMMENT

Dean Whittaker referenced the lack of an infrastructure section in the proposed Master Plan. He suggested an addendum after meeting with the Board of Public Works regarding land use for infrastructure and utilities in the Township.

De Vries said a map was developed but it is not in the Master Plan. This is an oversight.

Whittaker asked if there is a plan for proposed future expansion of utilities.

He also asked about connectivity for fiber optic data transmission lines which should be included as part of the Township infrastructure in the Master Plan. Seniors can stay in their homes longer and have medical interface with broadband connectivity. He noted that the average age will be 60 in 2025 in Park Township. An important consideration is that demographics drive trend lines. The size of the family in Park Township is shrinking to two persons, and 35% of the population will be working from home in five years so this is another consideration for the importance of planning for connectivity. The current cost for broadband is \$80 per month for one gigabyte. He pointed out that in three years the City of Holland will have a broadband fiber optic cable system in place.

This topic includes concerns raised that public utilities for supplying fiber optic data transmission connections may compete with commercial data service providers.

ANNOUNCEMENTS:

Arendshorst reported on the Township Board meeting. Board members reviewed her recommended paragraph on density for the Master Plan as a mediating point. There will be other items such as airport language and connectivity as possible addition to the Plan.

Johnson will draft an amendment for the airport addition.

De Vries said the airport item can be incorporated into the Master Plan. We will have to come up with an overlay for the airport. At some point we will have to address zoning for this.

Nestel asked if we have maps on the infrastructure.

De Vries said we have maps.

Pfost said he asked the Township Board about the language for the Macatawa NHP. The Board wants protection for this area. For the record, the area includes: Macatawa Park, West Michigan Park (boardwalk area), Eagle Crest Park, Idlewood, Edgewood Beach and Maple Beach. Pfost said the Township Board directive is to include this description. Legal Counsel will confirm this.

De Vries said there is a potential proposal for a subdivision off Timberline Acres. He hasn't seen the application yet.

The next Planning Commission meeting will be September 20, 2016.

ADJOURNMENT

DeBoer moved, and Eade supported, to adjourn the meeting at 8:56 P.M.

Voice vote:

Ayes 6, Nays 0. Motion carried.

Respectfully submitted,

Judith Hemwall
Recording Secretary
August 18, 2016

Approved: September 20, 2016