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:  Terry DeHaan, Rosemary Ervine, Diana Garlinghouse, David Kleinjans, Denise Nestel, Jeff Pfost

Absent:  Dennis Eade

Staff:  Greg Ransford, Planner, Dan Martin, Legal Counsel, Emma Posillico, Zoning Administrator, Howard Fink, Township Manager

Chair Pfost requested a moment of silence in memory of the victims of September 11, 2001.

APPROVAL OF AGENDA:

Motion by Ervine, supported by Garlinghouse, to approve the agenda as submitted.

Voice Vote:

Ayes 6, Nays 0.  Motion carried.

APPROVAL OF MINUTES:

Kleinjans noted corrections on pages 2, 5 and 9.  Nestel asked for clarification on the motion cited on page 10.

Motion by Ervine, supported by Kleinjans, to approve the August 14, 2019 Regular Meeting Minutes as corrected.
Voice Vote:

Ayes 6, Nays 0. Motion carried.

Pfost moved Public Comment to the beginning of the agenda to hear a comment from a member of the audience.

Pfost opened Public Comment at 6:40 P.M.

Flambo, resident on North Division Avenue, reported the concern of several residents in his neighborhood regarding the paving project that is preventing them from parking near their homes.

Fink said Park Township is paving the area from Lakewood to Ottawa Beach Road which includes a bike path that needed resurfacing. Since the road required work it made sense to repair the path at the same time.

Flambo said the bike path was in good condition in his opinion. He observed that the sewer line that was installed doesn’t go near the bike path and there appears to be a problem laying the concrete. Residents who park near that area have had their cars towed. He asked why the Township decided on concrete for the work.

Fink said the cost of concrete was less or equal to the cost of asphalt. He added that the path was not new and needed to be resurfaced. He suggested a meeting tomorrow prior to the Township Board meeting if Flambo wished to address the concern at that meeting. He might have additional information in time of the meeting that he could share.

Flambo said the parking is a problem for nine residents in the immediate area. He uses a cane and has had to walk quite a distance to get to his house.

Fink said he would try to get in touch with the contractor. He explained this was not the appropriate forum for the paving issue since the Planning Commission does not oversee this kind of problem.

Pfost closed the Public Comment at 6:50 P.M.

Fink excused himself to meet with the resident.

Ransford introduced the agenda item for the amendments. With Manager Fink’s and Legal Counsel Martin’s assistance, Staff drafted the amendment language that was shared with the Planning Commission in the Staff Memo of September 4, 2019.
Ransford noted in the first amendment the agricultural language addresses one or more temporary signage in both districts not exceeding a collective area of 64 square feet and for individual signs no greater than 32 square feet. Commercial signage is the same as agricultural but with half the sign and dimensional provisions.

Pfost suggested review of each amendment individually. Upon consensus of any changes the Planning Commission will recommend the language to the Township Board for review and approval.

**A. Text Amendments**

1. i. Section 38-575(a)(5) and (b)(b) – Permitted signs in each zoning district (AG Agricultural and Permanent Open Space District)
2. ii. Section 38-575(c)(1) – Permitted signs in each zoning district (C Districts)
3. iii. Section 38-367 – Development requirements for PUDs with residential uses
4. iv. Section 38-368 – Dedicated open space requirements (PUDs)
5. v. Section 38-504 – Outdoor Ponds
6. vi. Section 38-505 – Earth change regulations and permits
7. vii. Section 38-184(8) – Use regulations
8. viii. Section 38-214(6) – Use regulations
9. ix. Section TBD – Firewood Sales
10. x. Section TBD – Garage Sales

The Planning Commission offered consensus on the following considerations:

1. Permitted Signs in Zoning Districts (Agricultural and Permanent Open Space)

Garlinghouse asked about the relevance of “grandfathering” in consideration of the first amendment language.

Pfost suggested Martin address the meaning of the term “grandfathering.”

Martin said “grandfathering” means nonconforming use that would be permitted to continue. He explained that what is important in this situation are temporary signs that are seasonal. They would not have grandfathered status by virtue of the fact they are temporary. If someone alleges they are nonconforming they would have to show they were doing this prior to the zoning ordinance taking effect, we would cite the owner with a municipal civil infraction citation, then they would have to submit an argument to Holland District Court. This refers to temporary signs only.

Martin explained the commercial signage has been amended with a new subsection limiting the size of the sign 50%. Fink had indicated a 64 square foot sign would be large. It is now reduced to 32 square feet for businesses.
Posillico said with regard to a concern about commercial signage the area of the sign was approved as part of the PUD. When they wanted to replace the sign they were told as long as it stayed within the old size they were allowed. She noted summer banner signs for seasonal ads are often displayed, especially along Ottawa Beach Road. Technically these are not allowed.

DeHaan asked if the Township is disrupting businesses that display banners.

Ransford said no. He added that it is up to the Planning Commission to determine what is appropriate.

Pfost said in the past the Right to Farm Act stated so long as you follow generally accepted agricultural management practices with respect to marketing roadside stands, including signs, the local sign ordinance was preempted by the Right to Farm Act. The GAAMPS were amended recently so that language regarding signs was deleted and it now specifically provides that the agricultural use must follow what the local community requires by ordinance giving the Township the ability to regulate signs for agricultural uses.

Kleinjans asked if structure is part of the sign.

Pfost said 4x8 square feet is traditional which seems large, however, this is not a topic for tonight’s discussion. We are to look at temporary signage only.

Posillico described the rule for the size of the sign.

Ransford said 32 square feet is common and is probably the right size for agricultural communities that are on roads with 55 mph speed limit so people can see signs.

2 – Permitted signs in each zoning district (Commercial)

Posillico said commercial signage under R-1 includes 50’ for temporary signs. If the intention is to allow that type of sign, could we reduce it to 25’. This size would work.

Kleinjans asked why there is a difference between the size of commercial signs and agricultural signs.

Martin said the larger sign seems more amplified on smaller lots. The Planning Commission could ask the Township Board if you want a more global approach.

Kleinjans had another question regarding content. Political signs can be larger?

Martin said it is content based. The Supreme Court has made it almost impossible regarding sign regulation and freedom of expression. The Court requires commercial speech to not
betreated more favorably than political speech. When it comes to political signage you can't require them to be smaller than commercial. Communities have to allow real estate signs.

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There is the question whether the sign is based on the size of the lot. It becomes complicated – that is why the language is there. Regulating content of signs is virtually impossible.

3 – Development requirements for PUDs with resident uses

Ransford said the drafted language excludes the area of a development that is intended for general circulation of traffic from the net buildable acreage. This will resolve this issue and achieve purpose of calculating density.

Pfost recalled part of the past discussion of PUDs was on three topics: 1. Parallel Plan, 2. Open space, and 3. Bonus Density. The private drive access vs. public roadway changes the calculation. The density should not be increased on that basis.

Nestel said her concern is when subtracting the total acreage to get net buildable acreage what is the result.

Ransford said it was 70’.

Martin recalled between 70’ and 72’. Following discussion about the formula and after negotiation it was 75’. What should be the developable net acreage? The question has been arriving at the correct formula. He explained the reason we use PUDs is that we don’t want historical subdivision. A lot of green space is privately owned and not buildable. Dedicated open space is more communal with limiting space for residences. You want to encourage common open space. Regarding bonus density, the difficulty is creating a formula that can be uniformly applied to a unique parcel.

Pfost suggested a break at 7:36 P.M.

Pfost reconvened the meeting at 7:40 P.M.

Martin said the idea is, going back to the PUD formula, to remove streets, alleys and drives that are internal to closing the loophole. The way it is drafted removes streets and drives.

Pfost asked if this is closing of the public road or private drive loophole, or do you want to do more. Staff was asked to address the question of roads.

Fink returned to the meeting at 7:42 P.M.

Martin asked if we can use this formula now - do you want to address odd shaped lots? Do you want to go back to the Parallel Plan?

Nestel said she did not want the language to be misinterpreted in the future.
DeHaan suggested make all public and private roads 66’. That sets a standard.

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Martin said we aren’t saying a private road has to be 66’ wide. He explained it treats developers equally for purposes of density. It does not give the developer a bonus for putting in a private road. What you are doing is telling the developer regarding permitted density on a net buildable acreage we will treat you same whether you put in a public or private road. Putting in a public road will cost more. There is incentive to build a private road which will be less expensive up front.

4 – Dedicated open space requirements (PUDs)

Martin said there is a separate section regarding dedicated open space which is not the same as open space.

Ransford asked if the Planning Commission wants a distinction made between dedicated open space and open space.

Nestel asked for the meaning of both terms.

Martin said open space areas aren’t necessarily non-residential uses. They are accessory to residential use.

Pfost explained dedicated open space is available for bonus density calculation.

Fink said when we calculated net buildable acreage we removed the plans for a community center. Did we remove the area around the community center? If we took out the clubhouse how can we account for it in the calculation.

Posillico said it refers to non-residential uses.

Ransford noted the list that includes dedicated open space in (Sec. 38-369) such as pools, tennis courts, ball fields and community buildings. He added that no more than 50% can be dedicated to these uses.

Martin suggested adding in Subsection 38-2367 2 d reference to “dedicated open space.”

Pfost advised looking at the entire PUD language and change the wording to “dedicated open space.”

The Planning Commission agreed.

Martin asked if Ransford should define dedicated open space.

Kleinjans asked about minimum lot size.

Fink said it is referred to in the zoning ordinance as minimum lot size. Fink said to clarify when talking about minimum lot size that we are excluding any exception.
It was suggested in Subsection 38-367 (1) remove “only” in first line.

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5 – Outdoor Ponds

Ransford said the suggestion was to remove the word “outdoor.” The Planning Commission will replace the Zoning Board of Appeals for official review of ponds. The alternative was to consider public hearings on ponds and remove references to storm water. It’s quite restrictive. It hasn’t been included in the language but it can be done.

Pfost says public hearings are a learning experience. We are caught between County and Township requirements. How do you ensure it’s a pond and not something else, as in a retention or detention pond.

Fink explained that if there is a change in the site plan because of a pond it returns to the Planning Commission. If there is a change in the elevation of the size of the pipe that is another matter entirely which is a County approval issue.

Pfost asked are we headed in the right direction with this language. He explained that currently requests for ponds go to the Zoning Board of Appeals.

All were in consensus on the pond language.

All were in consensus on:

6. Earth change regulations and permits

7 and 8 – Use Regulations

9. Firewood Sales

Martin said in the residential areas there should be no business that sells firewood. It becomes an issue in our area because we have a popular State park that allows use of firewood. The State of Michigan wants firewood sold that is sourced locally.

Fink noted the Township Board agrees because we are in a tourist area the State Park will allow small scale sales. When it becomes a commercial operation approval must be obtained through the Township.

When it becomes a business operation, unless the seller has approval, it becomes an issue. If it’s a residential property creating a commercial business there is a distinction. We need to deal with this situation if there is no proper approval.

Martin said infractions have been observed by the Township. This has been the reason this has come before the Planning Commission. There have been a couple of situations that have occurred in the Township and two people have been cited. The violation was a home occupation ordinance and the judge questioned this so the Township decided the ordinance should be clearer.
In A under Firewood Sales Kleinjans noted the second sentence is redundant.

Ransford will make the corrections. It was decided to state a face cord only.

10. Garage Sales

Fink said the Township Board requested language to cover this subject. We need to clarify definition of personal property. He noted a recorded title has to be given with regard to sales of cars, boats, and large vehicles. For Sale signs can't be posted on personal property for items. Should we restrict public to not less than every six months? There is benefit to state a time element. Are permits not to exceed four days in a six month period? Any activities would require a temporary zoning permit. All agreed to a three month period.

B. Discussion Items

1. Swimming Pool Wall Height, Structure Height

Posillico noted a copy of a letter that was shared with the Planning Commission on this topic. The ordinance says for waterfront lots a pool can't be above 30' above grade in rear yard and any fence has to be see-through for minimal blocking of views. The problem is residents build retaining walls around the pools and neighbors complain that these walls block the view of the lake. Does the Planning Commission agree with the 30” rule for finished grade?

Pfost said the concept is average grade. It gets confusing when the grade changes between the front yard and backyard. Could we add "existing grade" to the pool regulations? He suggested using average grade.

Posillico agreed and asked for the intent. Pfost said intent is restriction on installation of an above-ground pool.

Martin concurred from a legal standpoint you can change to existing grade.

2. Reciprocal Easements

Ransford wanted to know if he should draft this language on reciprocal easement regarding commercial areas. He noted that the Planning Commission can require it.

Martin agreed you can require reciprocal easements when there is adjoining property.

There was consensus for Ransford to draft the recommended language.

Pfost noted this is a good planning tool.

ANNOUNCEMENTS

The next meeting date is October 9, 2019.
ADJOURNMENT

Pfost moved, supported by Nestel, to adjourn the Regular Meeting at 9:16 P.M.

Voice Vote:

Ayes 6, Nays 0. Motion carried.

Respectfully submitted,

Judith R. Hemwall
Recording Secretary
September 13, 2019

Approved: October 9, 2019