

**MINUTES
PARK TOWNSHIP
PLANNING COMMISSION**

Park Township Hall
52 152nd Street
Holland, MI 49418

Special Meeting
September 28, 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, Linda Dykert, Dennis Eade, Denise Nestel, Tom Vanderkolk

Absent: Eric DeBoer

Staff: Ed de Vries, Zoning Administrator, Janis Johnson, Staff Planner, Dan Martin, Legal Counsel

APPROVAL OF AGENDA:

Motion by Arendshorst, supported by Eade, to approve the agenda.

Voice Vote: Ayes 6, Nays 0. Motion carried.

APPROVAL OF MINUTES:

Motion by Eade, supported by Nestel, to approve the minutes of September 20, 2016 as presented.

Voice Vote: Ayes 6, Nays 0. Motion carried.

DISCUSSION/ACTION ITEMS:

A. Proposed PUD Ordinance

Pfof advised the Planning Commission that a six month extension on the PUD moratorium has been granted by the Township Board so we want to get it right. It is important to let the

Township Board know where we are in the process and to proceed with any revisions as quickly as possible. We can come up with some ideas that would be considered by the Township Board and noted we need to continue discussion of the density bonus issue.

Johnson said she would continue with her calculations for density bonuses where they would best apply if desired.

Following up with the regular meeting discussion of September 20, Johnson reviewed the open space section of the proposed PUD ordinance.

de Vries asked if there is uncertainty regarding whether golf courses should be considered open space or an amenity.

Pfost noted that this topic is complicated given we have a pending request for an amendment to a project. He asked if this presents any conflict in the Planning Commission's deliberations.

Vanderkolk suggested we can deal with that given our current zoning ordinance.

Nestel asked if there is any mixed use allowed.

Johnson noted the formula used on page 4. It addresses mixed uses.

Nestel asked if the intent is to limit community buildings and indoor recreational facilities.

Johnson said those are subtracted as non-residential uses, but there are gray areas such as a health club.

Nestel said her concern was how much land we allow for these considerations.

Johnson said you could define what is considered open space. Language can be added to help draw a line between what is residential and non-residential.

Nestel asked if tennis courts are considered open space.

Johnson said technically no. She said the Planning Commission can qualify what open spaces might include.

Martin responded to a question by Nestel, and clarified that the rule of statutory interpretation she referred to provides that the inclusion of some specific items is interpreted to mean the exclusion of others. If the Township Ordinance were to state specifically, for example, that the open space could be used for playgrounds, parks, tennis courts, but it didn't specifically include a skate park, then the skate park wouldn't be included as being permitted. Martin advised that is why ordinances will sometimes state "including but not limited to" and suggested that could be done here as part of the language to cover these items. Martin said you may have more discretion in coming up with specific language.

Nestel asked if Johnson could draft language with specific examples. Everyone concurred with this suggestion.

Regarding density, Johnson said she could provide examples for each of the categories.

Nestel asked if 20% for open space use is taken out of the language, if applicable.

Dykert said we have done this before in a PUD with no bonus for developers.

Johnson asked if the Planning Commission wanted more calculations on other categories.

Johnson said have in other ordinances in the past had minimum sizes for open space but that would vary by district depending on the density.

Martin noted that the issue has arisen before with regard to open space which is not contiguous. Should the property of the PUD be contiguous and should the open space be contiguous? It doesn't have to be, but the Planning Commission should decide.

Johnson pointed out that we have standards for open space. She also said we ~~need~~ have included guidelines for contiguous and noncontiguous space.

Pfost referred to the zoning map of the Township. He anticipates the question of density and density calculation using the existing zoning and future land use map considering future development. He cited a possible example. How do you use density calculations and how restrictive do we want to be? What does density calculation mean to our overall future development? We should be very deliberate as to what density means. In his opinion the use of the parallel plan is not clear and not needed if we make the density plan clear.

The Planning Commission discussed varied approaches to the language that Johnson could use in applying the Township's future vision for the PUD ordinance.

Martin said there is the issue that some property may be zoned agricultural that is Master Planned low density residential. In the past the Township did not want to rezone the property to R3 or R2 and then do a PUD, but rather allowed the PUD to be based on the density as set forth in the Master Plan.

Pfost said he doesn't hear a lot of controversy in the sharing of ideas in this discussion. What we recommend should not circumvent our vision. In considering the development process he asked if perhaps we should consider a lot size minimum rather than density.

Arendshorst said most of the Township residents like the rural concept of their communities which isn't attractive to developers.

de Vries asked what should be allowed regarding clustering. If utilities are available then why not allow development of this nature. A denser use could be off the roadway to preserve the open space concept yet reduce the need to extend utilities over a larger area.

Johnson said buffer space along the roadway could be a requirement then the development would be located in a hidden or screened landscaped area.

Dykert asked about negotiating power in the Master Plan to protect open space in future development.

Arendshorst asked if Johnson could craft that language into the PUD ordinance.

Johnson mentioned cultural shifts in the character of communities which resulted in more desire for new urbanist-type developments as compared to large secluded lots, and suggested those might be important considerations for the future.

Johnson continued on page 7 with the review of standards for dedicated open space in a PUD.

With regard to non-contiguous open space, It was agreed to delete the word “observation” in (8) b, page 8, a preferred option.

Pfost recommended continuing the discussion at the October meeting so the rest of the agenda items could be addressed.

B. Ordinance Amendments for Special Use

Pfost reminded the Planning Commission that there are two applications pending with regard to special use applications.

de Vries said both applications have to do with storage buildings. To allow the special use it has to be mentioned in the Township ordinances according to a Michigan Court of Appeals ruling in 2010. Currently we do not have specific language in our ordinance regarding storage buildings. One application mentions storage and business.

Johnson said she has written a summary of the regulations for special land uses within the Zoning Enabling Act along with an audit of the Park Township zoning ordinances. In the process, she noted the Township ordinance isn't clear regarding the reviewing body for a special use, and also isn't clear about holding a public hearing for a special use. She said the law should be specific. She offered copies of the summary to the Planning Commission to review prior to the October meeting.

de Vries mentioned the marijuana dispensary issue that can complicate the special use consideration.

With regard to the marijuana issue, Martin said, in his opinion, the Township does not have to allow dispensaries. Federal law regarding marijuana says it is a controlled substance and doesn't allow medicinal use. Interstate commerce and its prohibitions toward marijuana give the government the legal power to legislate over State law.

Pfost emphasized the need for careful planning regarding storage units. How do we prevent a storage unit changing from initial approval for storage to it becoming a marijuana dispensary in special use. Let's make it clear what our intent is regarding special uses.

Arendshorst asked if it appears we are creating a special use for an applicant.

Martin said according to a Court of Appeals case that if you are going to have special land uses, applying a vague “catch-all” use doesn’t work. It’s as if you rezoned the property for uses that were not permitted in that district. We have allowed this use in this district in the past. Now the Michigan Court of Appeals says this won’t be allowed unless it is included in the list of special land uses. This application has made us aware of a problem with the ordinance and it is our goal to make the necessary change to be in compliance.

Pfost suggested the Planning Commission study the special use language and bring it back for discussion for the October meeting.

Johnson referenced page 10 regarding nonconforming uses. She asked if this would be handled by the Zoning Board of Appeals and asked if the Township attorney could review the sections.

C. Master Plan

Airport: The Planning Commission will look at this proposal at the October meeting.

Infrastructure Plan: The Planning Commission will look at this proposal at the October meeting.

NHP: Per request by the Planning Commission at the September 20 regular meeting, de Vries reviewed the maps showing vacant lots in this area. He had earlier e-mailed Planning Commission members copies of the six areas with vacant lots.

Maple Beach – 0 vacant lots.

Edgewood – 4 vacant lots with R2 zoning.

Eagle Crest – 12 vacant lots (the association owns one large parcel) with R2 zoning.

Idlewood Beach – 7 vacant lots with R2 zoning.

West Michigan Park – 22 vacant lots (County owns most of the vacant property in area) R4 zoning.

Macatawa Park – 14 vacant lots R4, C2 and PUD.

Nestel referred to a memo that she sent to Chair Pfost regarding the nonconforming neighborhoods in the NHP district. She shared copies with the Planning Commission and asked if the Planning Commission can consider each of the NHP areas separately and recommend a specific density for Macatawa Park. Martin and Johnson could recommend language that would avoid problems with exclusionary zoning.

Martin is not worried about a regulatory taking as a result of the Master Plan since it’s not a zoning document, and noted that the regulatory takings challenge would come against the Zoning Ordinance that is adopted based on the Master Plan. Macatawa Park is different from the other areas because of the inability to split some of the properties. Some could be

developed in the future at 3 units per acre, however, not all of Macatawa Park can apply to the same density of 3 units per acre.

Nestel asked Martin if he had any problem with separating out the Macatawa Park area.

Martin suggested the Planning Commission could break out the NHP area with the exception of Macatawa Park with regard to new land division.

It was also suggested to delete the word “notwithstanding” in the suggested new wording for the NHP section on page 54 of the Master Plan draft.

Pfost asked Martin and Johnson to draft some language regarding the NHP area with a recommendation for consideration at the next meeting. Pfost said we will also move the other items to the October meeting.

de Vries said he would have the infrastructure map available for next meeting and reminded the Planning Commission there will be two plat applications with public hearings in October.

PUBLIC COMMENT

Dan Mitchell suggested instead of drafting new language for Macatawa Park to return to the LDR (low density) classification. He is impressed with the proposed PUD ordinance changes. He asked about roadways. Perhaps there could be a minimum standard for roads in a PUD. He questioned why the Planning Commission wants to move away from parallel plan standards. In his opinion, the parallel plan forces discipline in whether the builder can lawfully carry through with what he plans. He congratulated the Planning Commission on approaching the end toward the final draft of the Master Plan.

ANNOUNCEMENTS

The next meeting will be October 25¹⁸, 2016.

ADJOURNMENT

Nestel moved, supported by Vanderkolk, to adjourn the meeting at 9:12 P.M.

Voice Vote:

Ayes 6, Nays 0. Motion carried.

Respectfully submitted,

Judith Hemwall
Recording Secretary
September 30, 2016

Approved October 18, 2016

Comment from Denise Nestel referred to in the meeting of September 28, 2016

Jan said she needed to know if our goal was to - to “preserve” the existing “nonconforming” neighborhoods that were platted before zoning OR to identify the appropriate density for future development in the NHPs.

The Master Plan states that we seek to accomplish both goals. To date, the vote has split along these lines.

- 1) Most of us believe that we can only successfully accomplish both goals if we concurrently address the mandate to mitigate nonconforming areas. We believe that arbitrarily imposing a uniform density on all NHP’s **before** taking the time to analyze each NHP will only perpetuate and deepen the issue of what to do with nonconforming uses.
- 2) Others want to address the density of a single NHP (Mac Park) **right now** and are content to ignore the mandate to reduce nonconforming uses.

Given the combined expertise and experience of Jan and Dan, can they recommend language allowing us to get around this impasse? By way of example only, is it possible for the Master Plan to state that each of the NHP’s need to be considered separately AND that Mac Park has already been considered and recommend a specific density only for Mac Park?

If so, could we do this without impairing our ability to subsequently address the nonconforming issue and without creating new problems with exclusionary zoning or takings etc.?

Just a thought...