

**MINUTES
PARK TOWNSHIP
PLANNING COMMISSION**

Park Township Hall
52 152nd Street
Holland, MI 49418

Regular Meeting
December 12, 2018
6:30 P.M.

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:

Members Present: Terry DeHaan, Dennis Eade, Rosemary Ervine, Diana Garlinghouse, David Kleinjans, Denise Nestel, Jeff Pfof

Staff Present: Emma Posillico, Acting Zoning Administrator; Dan Martin, Legal Counsel; Howard Fink, Manager

Chair Pfof welcomed Emma Posillico, acting Zoning Administrator, while Meghann Reynolds is on leave. Greg Ransford is on vacation so she is attending the meeting as Associate Planner.

APPROVAL OF AGENDA:

It was suggested to move Public Comment ahead of the business portion of the agenda.

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

Voice Vote:

Ayes 7, Nays 0. Motion carried.

APPROVAL OF MINUTES:

Several corrections were noted by Garlinghouse, Kleinjans, and Nestel on pages 2, 7, 8 and 9.

Fink requested a correction in the minutes on page 3 regarding his absence from the meeting during the discussion about the Reserve proposal. He recused himself and left the meeting for the discussion period but returned for the remainder of the meeting.

Motion by Ervine, supported by DeHaan, to approve the November 14, 2018 Regular Meeting Minutes as amended.

Voice Vote:

Ayes 7, Nays 0. Motion carried.

Chair Pfost opened Public Comment at 6:39 P.M.

Ted Vogel said he didn't know the Reserve PUD project was on the November Planning Commission meeting agenda. He expressed concern about the apparent speed of this project, if a final proposal is submitted for review by the Planning Commission in January. He questioned why he didn't get a public notice prior to the November meeting. He stated that he lives across the bay from the proposed development. He asked the Planning Commission to consider the impact of this proposed project with regard to the trees, density, and traffic. One consideration he has that he believes has not yet been considered by the Planning Commission is the potential problems of density, safety, and traffic on the lake and bay. He has property 600' from the center of the lake. He experienced the impact of the last PUD in that area last year for the Villas PUD, which he reminded the Planning Commission was developed by the same developer. Mr. Vogel stated the developer now proposes 800' of lake frontage for the Reserve PUD, but hasn't explained what will be done with the property on the bay, including the number of docks or boat slips. Mr. Vogel stated the residents do not want more density on this narrow part of the lake. He asked how many boat slips will there be in the Reserve PUD? Mr. Vogel believes there will be 86 units all the way back to Division Street. Mr. Vogel stated this is a small bay, so no more than 20 boat slips would be realistic. Mr. Vogel encouraged the Planning Commission to not turn this small bay into Big Bay that is all marinas. Mr. Vogel stated this property has a lot of open area and the condos should be built there, not in the old oak forest and wetlands. He expressed concern that the footprint shows all this existing forest and wetlands will be gone with just a perimeter of trees. He expressed concern about preserving the big trees on the property. It is his opinion that many concerns have not yet been addressed by the Planning Commission.

Jeff Meyer is President of Bay Woodlands Association, located to the west of the Reserve PUD across the bay. He raised concerns about the character of the north end of the bay. As he looks at the development to the north he has reservations about the potential increased boating activity. He stated this is a popular spot for kayaking and more leisurely recreation. He asked whether there be a limitation on the number of boats permitted in this proposed development? He suggested that no more than 20 slips should be recommended.

Lisa Cook is also a resident of the community and a member of the Bay Woodlands Association and has serious concerns about the Reserve project. She stated the waterway is her principal concern, as it is a quiet and respectful part of the lake which would be negatively impacted by a marina. She noted that parents teach their children how to water ski in this area and there is yoga on paddle boards on Sunday mornings too. She stated all of this would be lost in her opinion. She asked the Planning Commission to consider the special lifestyle of the area.

Pfost closed Public Comment at 6:55 P.M.

Pfost said the public notice for the Reserve PUD has not been published yet for the formal application, because there is no public hearing before the preliminary plan, only the final plan of a PUD.

Fink added that the PUD application was submitted today. He said the Township will review the application then a notice of public hearing will be mailed out for those living within 300' of the property for the final plan.

Martin said the statutory requirement is that notice of the public hearing on the final PUD must be sent to owners and residents who live within 300' of the boundaries of the PUD property. He stated that the legal notice is also published in the paper and posted online. Residents outside of this 300' area can access the notice on the Township's website or in the Sentinel. This satisfies the legal requirement. He noted there is a 15 day notice requirement to publish in the newspaper in advance of the meeting.

Fink anticipated the applicant and Ransford (Township Planner) are planning for a January 2019 presentation to the Planning Commission.

New Business

A – Park Township Board of Trustees Strategic Planning Meeting – Presentation from Commissioner Nestel

Nestel reported the Township Board charged her to return to the Planning Commission with information regarding strategy and goals concerning land use. The Board wants to hold a joint meeting with the Planning Commission and Zoning Board of Appeals to discuss responsibilities in order to forward the Board's objectives. Two topics are urgent: the NHP areas and upcoming ordinance changes. The Board would like to have more information regarding revisions for ordinances and what those changes are. The Board anticipates government land use decisions, particularly regarding affordable housing. The Board asked the Planning Commission to identify what problems may exist in the ordinances in addition to any changes that are pertinent to land use.

Pfost said he and Jerry Hunsberger, Township Supervisor, and Howard Fink, Manager, had a meeting regarding training and planning components. He asked Nestel if the Master Plan is in question regarding land use.

Nestel said they are trying to anticipate short term rentals and other issues, such as affordable housing. Concerns are only for variances in the Master Plan.

Kleinjans asked if there are requirements for a certain amount of this type of housing should be affordable.

Nestel said yes and that will be discussed at a later date.

DeHaan asked if the Board wants to expedite a plan on the NHP areas and what is the timeline. He noted the active agenda the Planning Commission has for the immediate future.

Nestel said the Board wants to accelerate a plan for the NHP areas.

Pfost said the Planning Commission will continue to work with the agenda item in the future and meet our responsibilities including the requests of the Township Board. He noted NHP discussions should include input from the owners of properties in those areas, but many of them are gone for the winter months.

Pfost asked the Planning Commission to share their concerns about the tree ordinance.

Nestel said the idea of a tree ordinance won't be easy. The Planning Commission discussed this in general terms last month but we need to target some issues specifically.

Eade confirmed a Senate bill has been introduced to prohibit a municipality from infringing on property owners' rights to remove trees from their property.

Nestel said there is pushback on this Senate bill with a strong lobby.

DeHaan said it should be the rule that it is my property and I can do what I want to do. We need to figure out how to identify the preservation areas and determine some control.

Ervine said it will be difficult to monitor the tree preservation. We have concerns about new development and maintaining the tree canopy that is already in several areas of the Township.

DeHaan asked if this can be controlled in a PUD.

Nestel said it can be controlled.

Kleinjans suggested that the Township should exercise some control over tree removal in new development of subdivisions.

Garlinghouse said we should include in our vision statement support for tree preservation.

Pfost concurred the members of the Planning Commission are receptive to the Township Board's request and will move forward as soon as possible.

B - Public Hearings

i. Zoning Ordinance Text Amendments

- 1) Section 38-490 – Accessory Uses, Poultry Language**
- 2) Section 38-514 – Condominium Project Approval**

Posillico noted that Ransford reviewed the Planning Commission's recommendations for changes in Accessory Uses and Poultry Language and made the necessary corrections, which are represented in the new draft. She noted that suggested modifications for the Condominium Project language have also been made.

The Planning Commission agreed to review the proposed text amendments as separate issues, beginning with Section 38-490.

PUBLIC COMMENT

Pfost opened Public Comment at 7:25 P.M.

Jan Koster asked about the amendments regarding poultry. She suggested that the amendments include a grandfather clause for those residents who already have poultry.

Pfost closed Public Comment at 7:27 P.M.

Pfost reminded the Planning Commission that a recommendation will go to the Township Board on this language.

Pfost asked Martin if those residents who already have poultry are covered by this amendment.

Martin said residents who have poultry would be allowed to continue to keep their poultry as a nonconforming use if their keeping of poultry was already legally established prior to the adoption of any ordinance that prohibited or regulated poultry. He stated if it were established after or contrary to the ordinance it would be an illegal use. He noted nonconforming use is the same as grandfathered use.

Fink noted in this case there would be less of a grandfathered situation in a practical sense. The previous ordinance stated that a property owner who had poultry had to obtain a permit through the Township Zoning Office. If that did not happen the Township wouldn't penalize the resident, however, the resident would have to comply with the ordinance moving forward.

Martin added if someone had kept poultry before 1974 when the zoning ordinance was originally adopted, it would be considered a nonconforming use.

Nestel moved, supported by Eade, to recommend approval of Section 38-490 to the Park Township Board of Trustees.

Voice Vote:

Ayes 7, Nays 0. Motion approved.

Regarding the proposed changes to Section 38-514, Condominium Project Approval, Nestel expressed serious concerns. She stated that in this case, we have ordinances we would put in place to help the developer. She stated that this situation was brought forward for the convenience of a specific developer. She questioned if the Planner can accommodate a developer for a site condo situation or state that a proposed development is ugly.

Kleinjans said he understood the Township is protecting its interests with this proposed site condo language, not seeking to help any particular developer.

Garlinghouse said she didn't think we are proposing the site condo ordinance to aid the developer.

Nestel disagreed and has reservations to make a recommendation to the Township Board for something that was promoted for a specific project. She stated it's not good policy to create ordinances that are already in place. She asked whether the ordinance was needed.

Martin provided background for this situation. He reminded the Planning Commission that a developer presented a site condo plan that met the zoning ordinance requirements regarding proposed setbacks, road frontage, density, and unit/lot sizes. Martin stated that there is nothing in the zoning ordinance that says he couldn't do that proposed site condo development and move forward to obtain building permits, without any review or oversight by the Planning Commission. He said the Township can't legally force a developer to use the PUD process for site condos as the ordinance is written. Martin noted that a developer who wants to create a subdivision that complies with the zoning ordinance is not required to use the PUD process, but the Planning Commission still reviews the plat of the subdivision as part of the subdivision platting process, and therefore has some review, input, and control. Martin stated that this site condo ordinance creates a process for a site plan review by the Planning Commission consistent with the subdivision ordinance, even if the developer does not want to or need to do

a PUD. He recommends there be a provision that would not apply to a site condo approved by the Township as a PUD, as the Planning Commission and Board would be reviewing the site plan for the PUD. This site condo ordinance would require a separation distance of 80' between the center of one and the center of another condo unit. If we had a provision that exempted PUDs from requirements of the site condos to encourage site condos to use PUDs to get that benefit that would close this loophole. Our ordinance allows homes to be built on a lot or a parcel. A site condo unit is not a lot but it has a tax parcel ID, and is therefore a parcel.

Pfost asked if there is no PUD exclusion in the proposed ordinance language.

Martin said we could add that provision for those who want to build site condos. This particular situation is an outlier, in that the developer did not want to do a PUD. The developer could build the proposed development without applying for a PUD and without any Planning Commission review or oversight, so we are adopting the ordinance to address such an outlier.

Pfost asked if it was necessary to hold another public hearing on exclusionary language.

Martin said it would not be required, but it would be advisable to hold a public hearing on that portion and then recommend the ordinance change to the Township Board.

Nestel asked if the Township has a subdivision law and could it be included.

Martin said the Township does have a land division/subdivision ordinance, and explained the platting process for subdivision. The site condo was developed to circumvent the platting process. There are two points - the first is the ownership issue (whether the individual properties will be sold as a land division/subdivision lot, or as a condo/site condo unit), and the second is the land use regulation or zoning issue (whether it meets the lot size, road frontage, and setbacks). The purpose of the proposed site condo ordinance language is to regulate site condos, including those that will generally meet the zoning ordinance requirements; because the Attorney General has issued an opinion that site condos are not land divisions or subdivisions, the subdivision ordinance doesn't regulate site condos, we don't have anything regulating site condos. Historically, site condos have gone to PUDs so we have had control, but if someone meets the requirement of the zoning ordinance and doesn't need a PUD we lose that oversight and control. The purpose of the proposed site condo language is to have control over site plan review with site condos and treat them similarly to subdivisions.

He continued by explaining that site condos and subdivisions are different in the transfer of ownership of property. If a land division meets the zoning ordinance requirements, it does not need Planning Commission approval. A subdivision has to have preliminary and final plat review, but an actual land division doesn't. It's the same with the site condo. If a proposed site condo meets the zoning ordinance requirements, the Planning Commission won't review it, without an ordinance like the proposed site condo ordinance. This specific project met our zoning ordinance requirements, so there was not need to apply for a PUD. The developer did

not want a platted subdivision, but rather a site condo; since it was not a platted subdivision or a PUD, the Planning Commission wouldn't review it as an agenda item.

Garlinghouse observed we are protecting ourselves for the future.

Martin noted adding an exemption for site condos approved as a PUD makes our intent very clear. It encourages site condos to go through the PUD process.

Ervine moved, supported by Kleinjans, to recommend review of this amendment by the Planner and include the PUD language for a revised amendment and public hearing in January.

Roll Call Vote:

Garlinghouse, aye; Kleinjans, aye; Pfost, aye; DeHaan, aye; Eade, aye, Nestel, aye.

Ayes 7, Nays 0. Motion approved.

c. Point West I PUD Plan:

Fink introduced a letter from Nederveld regarding the Hillside Units of the Point West I PUD in Macatawa Park. The letter requests to reduce the parking provided in the said area, which can be a minor PUD amendment that the Zoning Administrator administratively approves. Fink said the staff concurs this is a minor request, and asked the Planning Commission to review if this is a minor or major amendment.

Posillico said the request was received from Nederveld regarding the Point West PUD. Within the Hillside G area what was approved in 2011 was an 11 unit multi-family structure, providing 2 parking spaces per unit. Since then plans have been submitted to build on that property and to reduce the number of residential units from 11 to 4 (2 duplexes). This would be 2 spaces per unit totaling 8 parking spaces, which is a reduction in parking for that area. The total parking ratio for the PUD as a whole will not be reduced though, because the boat slip area maintains 80 parking spaces that were approved in 2011. The overall density of the dwelling units in the PUD will be reduced. They anticipate no more than 26 dwelling units, rather than the 40 originally approved. With the reduction in units in the Hillside area, the parking ratio for the entire PUD will be 4 spaces per unit now. Staff has reviewed the request and believes it is a minor amendment.

DeHaan asked if there is a change in building units.

Martin said the reduction in size of the building units would fit the definition of minor amendments in a PUD. The ordinance said the internal rearrangement of parking that does not affect the number of parking spaces is also a minor amendment to a PUD. This request alters the overall number of spaces, but does not alter the overall parking ratio of spaces to units

within the development. Because the density of the dwelling units is decreased so is the parking. They are reducing the overall number of parking spaces in the Hillside area.

Pfost said when we discussed this at the time of the original PUD approval, the concern was the total density of units in this PUD. When we approved the plan the developer said the maximum density was too dense. The concept of density is that there were too many people planned for this development. Will this change in parking arrangement affect the density?

Garlinghouse says it's an improvement regarding the density.

Kleinjans agreed but asked if the developer can return in the future for permission to add more units and more parking.

Martin said this locks the developer in. If the developer wants to increase the density from this minor amendment, it would be considered a major amendment to the PUD and the developer would have to return to the Planning Commission.

The Planning Commission members agreed to support it as a minor amendment.

Ervin moved, supported by Kleinjans, to approve the minor amendment for the Point West I PUD.

Voice Vote:

Ayes 7, Nays 0.

B. ii. Chapter 18 – Land Divisions and Subdivisions Text Amendment

- 1) Section 18-19 – Definitions
- 2) Section 18-61(2) – Preliminary plat, procedures
- 3) Section 18-62 – Final plats
- 4) Section 18-83(4) – Streets and roads, stub streets
- 5) Section 18-84 – Intersections
- 6) Section 18-85 – Pedestrian ways
- 7) Section 18-86 – Easements
- 8) Section 18-87 – Blocks
- 9) Section 18-88 – Lots
- 10) Section 18-89 – Planting strips and reserve strips
- 11) Section 18-90 – Public sites and open spaces
- 12) Section 18-91 – Large scale developments
- 13) Section 18-116(10)b – Required improvements, Sidewalks and crosswalks
- 14) Section 18-116(13) – Required improvements, Street trees

- 15) **Section 18-188 – Guarantee of completion of improvements required by the Township**
- 16) **Section 18-150 – Procedures**

Posillico noted that the requested minor changes were made (most were grammatical and format corrections) and these amendments are now ready for Planning Commission approval.

PUBLIC COMMENT

Chair Pfof opened Public Comment at 8:00 P.M.

There was no comment.

Chair Pfof closed Public Comment at 8:00 P.M.

Kleinjans noted in #13 the term “crosswalk walkway.” He suggested “walkway” be deleted.

He also pointed out in #14 it states both the Zoning Administrator and the Planning Commission should recommend the waiver. All agreed it should be the Planning Commission only.

Kleinjans moved, supported by Ervine, to recommend approval of these amendments with the suggested corrections to the Park Township Board of Trustees.

DeHaan noted in #10 the term “reserve strips.” He asked for a definition.

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Martin explained it's similar to what can be referred to as a “spite strip” or “devil's strip”. If you have property you might sell off a piece of your property but keep one foot adjacent to the road frontage so no one has access to the road. The developer will maintain one foot along the roadway and require each lot to get an easement so they can access the road. The proposed language changes the requirement for a strip of property to be owned by the Township, to being owned by the County Road Commission, so they have the ability to extend the road in the future. Simply put, it is a piece of property separating the owner from the roadway.

Voice Vote:

Ayes 7, Nays 0. Motion carried.

C. Proposed 2019 Meeting Dates for Planning Commission

Eade moved, supported by Garlinghouse, to adopt the 2019 Meeting Dates Calendar.

Voice Vote:

Ayes 7, Nays 0. Motion approved.

Old Business

A – Holland Charter Township Master Plan Amendment

Posillico said this has no impact on Park Township – no correspondence or action is necessary according to Ransford.

ANNOUNCEMENTS

The next meeting date is January 9, 2019.

ADJOURNMENT

Kleinjans moved, supported by Ervine, to adjourn the Regular Meeting at 8:27 P.M.

Voice Vote:

Ayes 7, Nays 0. Motion carried.

Respectfully submitted,

Judith R. Hemwall
Recording Secretary
December 14, 2018

Approved: January 9, 2019