

**MINUTES
PARK TOWNSHIP
PLANNING COMMISSION**
Holland, MI 49424

Regular Meeting
Via Zoom Conferencing
February 25, 2021
6:30 P.M.

CALL TO ORDER:

Chair Pfof called the regular meeting of the Park Township Planning Commission at 6:30 P.M., held electronically via Zoom conferencing meeting Identification Number Webinar ID: 840 6231 0220, in compliance with the Open Meetings Act and per Emergency Order.

ATTENDANCE:

Present: Jeff Pfof, Terry DeHaan, Dennis Eade, Rosemary Ervine, Diana Garlinghouse, David Kleinjans, David Koppenaal,

Staff: Greg Ransford, Planner, Skip Keeter, Township Clerk, Dan Martin, Attorney

Swearing in of Members:

Chair Pfof invited Skip Keeter, Township Clerk, to swear in the members of the Planning Commission for their new terms.

Each member must complete the Record of Oath with a signature and return to the Township.

APPROVAL OF AGENDA:

Ervine moved, supported by Kleinjans, to approve the agenda as submitted.

Voice Vote: Ayes 7, Nays 0. Motion carried.

APPROVAL OF MINUTES:

Kleinjans had two corrections noted on pages 3 and 5. Ransford will correct the numbers on page 3.

Garlinghouse pointed out an error in tree diameter on page 3 and a usage error on page 8.

Kleinjans moved, supported by Eade, to approve the minutes of January 13, 2021 Regular Meeting as corrected.

Voice Vote: Ayes 7, Nays 0. Motion carried.

Pfost requested that the microphones for all members remain open for the meeting. He also noted there will be no public hearing for any of the agenda items.

Discussion of Election of Officers

Pfost said the Planning Commission will hold election of officers when the venue is changed to an in-person meeting.

NEW BUSINESS ITEMS:

1. Short Term Rentals – Discussion

Ransford explained that the Park Township Zoning Ordinance does not identify short-term rental use within its residential zoning districts, thus the use is a prohibited use by default in all residential zoning districts. Given the recent discussion regarding concerns about short-term rentals, the Planning Commission should discuss whether it wants to create regulations or continue without restrictions.

Ransford said the Macatawa Park Association has considered self-imposed regulations on short-term rentals. Township advised them to look at deed restrictions. An attorney for Macatawa Park Association offered an opinion that the Supreme Court ruled the definition of short-term rentals is congruent with the definition of a motel. A motel use is not a permitted use in residential area according to the Township Zoning Ordinance. Therefore, it has become evident that the Township has a conflict if short-term rentals will be allowed to continue. The Planning Commission and Board of Trustees are faced with considering this as a formal issue. It will be a policy decision from the Planning Commission to recommend whether the Board should change the ordinance regarding short-term rentals. If the Township does not change the ordinance, then short-term rentals are deemed illegal.

Martin clarified the situation. In all residential zoning districts, the Township identifies and lists all of the permitted uses. Park Township does not include in any of the residential zoning districts the permitted use of property for short-term rentals, motels or hotels. The Township will have to amend the zoning ordinance if we want to allow them as a use in residential zoning districts.

Pfost asked Commission members if they want to take on the task with a recommendation to forward to the Township Board. If we do not want to change the allowable use, then short-term rentals will be illegal and not permitted in residential zoning districts. Taking it forward, do we develop modifications regarding a different structure regulating short-term rentals? We would make a finding then submit a recommendation to the Township Board to review.

Martin confirmed this is the appropriate path to follow regarding the short-term rental issue.

Ervine asked Martin what takes precedence in an association if it should make a decision.

Martin said if the Township does nothing, then short-term rentals would not be permitted in residential zoning districts, even if an association would allow it. If the Township should amend the ordinance and allow short-term rentals in residential zoning districts, then the association would still have the authority to decide whether to modify its bylaws accordingly to allow or prohibit short term rentals within the association of property owners.

Garlinghouse asked why do we have to revisit this.

Martin said only if you want to permit the short-term rentals in residential zoning districts. You would then have to amend the ordinance to specifically allow them in residential districts, and decide whether and if so how you want to regulate them.

Eade said he didn't want to take up the issue – let's leave it the way it is. He called for the question.

DeHaan asked Martin if the State has a definition for short-term rentals – is it seven days or less?

Martin said the State Legislature has not to his knowledge adopted any language at this time regarding the duration of short-term rentals. The Township would have to define this and regulate it because, currently, there is no Township ordinance with that definition. Time periods have only been a point of discussion, but no formal ordinance has been adopted.

DeHaan said we have no information except for a report that there are almost 300 rentals in the Township according to a survey done by a company hired by the Township. We need to know where they are located and the magnitude of the use before we can go forward.

Kleinjans asked Martin, since we haven't been enforcing the regulation, will there be a problem if we begin enforcement.

Martin said he believed that there would be no problem with future enforcement of the current ordinance, and that there is no grandfathered nonconforming use merely because the Township has not previously enforced the existing ordinance. The ordinance has been in effect since 1974. To have lawful, nonconforming status, someone would have had to been engaged in short-term rental of their property in a residential zoning district prior to that time, and never abandoned it. If the Township chooses to enforce the existing zoning ordinance, then all owners of short-term rentals will have to cease operation at some point – the Township could provide a grace period and advise property owners of when enforcement actions will begin. If they do not cease operations of short-term rentals in residential zoning districts when the Township begins enforcement of the ordinance, then a municipal civil infraction citation would be issued that will request the court to shut them down if they continue the illegal use from this time forward. We have a document showing us where the short-term rentals are occurring. We could send these

owners a letter saying the Township doesn't permit this type of use. The Township could decide when to begin enforcing the existing restriction.

Kleinjans felt this is not a right – he doesn't see the need for short-term rentals.

Koppenaar said it is an infraction because it's not allowed. There is a lot of work ahead in dealing with this, but he agrees to proceed with it not being allowed and address complaints as they arise.

Ervine agreed with DeHaan and requested more information for more in-depth discussion. There are several questions she has, e.g., what do the community associations recommend.

Pfost said this is complicated. We don't have all the information, and we do not want to make decisions without community input, such as the owners of the short-term rentals. We also need to hear from those who service our area. Do we want to formalize the approach and have the public address it and request Staff to solicit information?

Pfost noted the Township doesn't regulate ownership, only the use of the property. We need to do our due diligence and have a work session for more discussion with interest groups.

Eade moved, supported by DeHaan, to ask Staff to obtain more information about enforcement or alteration of the ordinance, including community input.

DeHaan asked Martin what the ordinance allows.

Martin said hotels and motels are permitted in commercial districts only. The Michigan Supreme Court decided a case out of Spring Lake involving short-term rentals, that the Spring Lake ordinance was similar to Park Township's ordinance, and it turned on the definition of hotels and motels.

DeHaan asked how short-term rentals are operating under any ordinance.

Martin said that is the point - there is no ordinance in effect now that allows them in residential zoning districts. The ordinance does not address short-term rentals at all – it doesn't say they are prohibited, but it doesn't say that they are permitted. Because the residential zoning districts all say that property within the respective residential district can be used only for the following specific uses, and then does not include short-term rentals, hotels or motels, they are not specifically permitted. So, if the Township wants to permit short-term rentals it has to be specifically addressed in an ordinance. And, there would have to be a public hearing to amend the zoning ordinance.

Pfost clarified: we would have to develop an ordinance for short-term rental use in residential areas.

Garlinghouse said the major problem with the short-term rentals is weekend and 2-3 day use with multiple families living in one rental unit. She asked Martin if the State has language defining short-term use vs. long term use.

Martin said he would try to get that information, but noted that as he stated earlier, to his knowledge the State has not defined short-term versus long term rentals.

Eade said we should come up with reasonable conclusions on information or we are doing the Township Board a disservice.

Roll Call Vote:

DeHaan, aye; Eade, aye; Ervine, aye; Garlinghouse, aye; Kleinjans, aye; Koppenaar, aye; Pfof, aye.

Ayes 7, Nays 0. Motion carried.

For the record, the Township received three letters from residents about the negative impact of short-term rentals on their neighborhoods.

2. Definition of Building Height – Draft

Ransford gave an overview. Revision to the definition of building height in the Park Township Zoning Ordinance has been recommended as a result of the neighborhood heritage preservation efforts over the past few years, and because of challenges with interpretation of the current definition by the Zoning Administrator throughout the Township. Two options are presented for review by the Planning Commission: 1) Redefine building height utilizing no more than *four* points located at the center and most opposite corners of each elevation, or 2) Redefine building height utilizing *three* points located at the center and most opposite corners of each elevation. The challenge is people use different points on ground or bring in more ground to change the calculation. The

intent of the ordinance should be the natural grade from which you build. Once the text language has been approved and prior to the mandatory public hearing werecommend an architect review the language to minimize any unintended interpretation. The intent is to alleviate any unforeseen issues.

Pfof explained the above average grade is the traditional view of looking at this. Should we designate Staff to draft wording for an ordinance change? Also, shall the Township hire an architect to review the proposed language to see if it can be enforced?

Ervine agreed to taking it forward and follow Ransford's recommendation to involve an architect to look at the language.

Garlinghouse asked Ransford for his suggestion on the two options.

Ransford said he prefers the first version. He said he would share both versions with the architect.

DeHaan asked how "existing grade" is defined.

Ransford said existing grade is based on the 2018 contours Ottawa County published.

DeHaan asked if contours change.

Ransford said in theory it is the natural grade. The 2018 contour report is the best we have to set the basis of the draft language.

Kleinjans asked if someone can raise the ground on a property if there is a high water table problem. Ransford said this might be a case for a variance request from the Zoning Board of Appeals.

Kleinjans moved, supported by Ervine, to submit the two proposed versions for determining building height to an architect and request a report to be forwarded to the Planning Commission for review. Submission of a graphic perspective is recommended.

Roll Call Vote:

DeHaan, aye; Eade, aye; Ervine, aye; Garlinghouse, aye; Kleinjans, aye; Koppenaar, aye; Pfof, aye.

Ayes 7, Nays 0. Motion carried.

3. Home Occupations

Ransford provided background on this agenda item. The Township has recently reviewed Section 38-506 Home Occupations of the Park Township Zoning Ordinance at the request of the Bureau of Alcohol, Tobacco, Firearms and Explosives which has inquired if the ordinance allows firearms dealer licenses. State law requires face-to-face transfer of weapons to verify identity, therefore, discussion is requested whether the ordinance is too restrictive regarding Home Occupations because Section 38-506 generally prohibits on-site customers.

Pfof asked if we want to amend the ordinance on the recommendation of Staff.

Kleinjans asked if we need to take COVID restrictions under consideration since they won't be applicable in the future. And how do we enforce the number of people at any given time? Are we creating more problems than are necessary?

DeHaan thought this was very restrictive and requested examples of specific situations.

Ransford said he can prepare a report with examples.

Pfof said we could look at amendments, update accordingly, and get input from the community that would be affected.

Kleinjans moved, supported by DeHaan, to request Staff to prepare a report with specific examples of on-site customer situations for Home Occupation. This will be presented at the March meeting of the Planning Commission.

Roll Call Vote

DeHaan, aye; Eade, aye; Ervine, aye; Garlinghouse, aye; Kleinjans, aye; Koppenaal, aye; Pfof, aye.

Ayes 7, Nays 0. Motion carried.

4. Assessment of Public Utilities – north of James Street within the Agricultural and Permanent Open Space Zoning District/Master Plan

Ransford reviewed this item. A couple of properties have come up for sale in the area north of James Street which have generated questions regarding utilities. He anticipated that with regard to the Planning Commission's review of the Master Plan, decisions regarding public utilities will impact future development in the Township. Historically, the Planning Commission has discouraged expansion of public water and public sanitary sewer north of James Street, although the infrastructure exists on the north side of the Township. Should public utilities be restricted or permitted in the Agricultural Zoning District north of James Street? There are public utilities north of James Street but we need clear policy if this should continue and if there is a desire to create utilities in this area.

Pfof said that with regard to the Master Plan one of goals is the character of the northern area of the Township. You can run into heavy clay soils not amenable to septic systems. However, in his experience, most of the areas in this part of the Township are granular. If you have low density and granular soil those are amenable to home septic field systems, not necessarily public sewer systems. Balancing rural character and development it has been the goal of the Township to keep areas north of James generally rural. We don't want to solicit development inappropriately or wait for development interest. Do we want to take this on as public policy? This could be a topic for the Master Planning process and for public input when we update the Master Plan. Or do we look at these utilities now? Is James Street the line of demarcation?

Ervine suggested we consider the subject as part of the Master Plan process instead of looking at it in isolation.

Members of the Planning Commission supported this approach.

DeHaan asked about the PUD of Timberline West, west of 152nd Street – will that be provided with sewer and water in its development?

Martin said he believed that neither Timber Ridge nor Benjamin's Hope has utilities.

Pfof said Benjamin's Hope has a water main but not sewer. As a practical matter we aren't opposed to utilities north of James Street – there are already utilities there.

Koppenaal left the meeting at 8:15 P.M. because of technical problems.

Ransford said he has explained to developers that although Macatawa Legends has utilities, there are no plans for further development of utilities. He explains to interested developers that this is based on the Master Plan and the developers understand.

Pfost said we like the rural character north of James and there is no cry from the community for developments in this area. Is this an accessible approach when we review the Master Plan in the future?

Koppenaar returned to the meeting at 8:23 P.M.

All concurred no motion was necessary.

PUBLIC COMMENT

Pfost opened Public Comment at 8:25 P.M.

Mary Nusbaum of the Chippewa Neighborhood said she submitted a letter regarding the short-term rentals. She would appreciate the Planning Commission's review of this problem.

Pfost closed Public Comment at 8:30 P.M.

ANNOUNCEMENTS

1. Master Plan Comprehensive Review Update

Ransford said he is reviewing the current language. He hopes to have review results for the March meeting and schedule of workshops for the future. There has been a delay because of the limitations to meet face to face. There won't be a complete overhaul of the

Master Plan – just some revisions and strengthening of sections that are already in the Master Plan.

Pfost said this won't be a difficult review. Public involvement will be important for feedback. He asked the Planning Commission to consider the process which will be different from five years ago. Staff will be our guide as we walk through the review to help us fine tune the Master Plan while we keep the public engaged. He wants to assure DeHaan he will be working as our liaison with the Township Board on the Planning Commission's progress.

2. NHP Update

Ransford said we are close - two neighborhoods remain to be finalized: Lake Court and Edgewood. Their revised language is in their hands but they have been slow to respond. He is checking with them every few weeks and hopes to hear soon regarding the final product based on the focus groups. It's a matter of waiting for a response.

DeHaan, as liaison with Township Board, said he hopes to hear from the remaining NHPs soon.

On another issue, Eade asked about the gate on the pier on Lake Michigan. Has there been any discussion at the Township Board on behalf of the fishermen? For clarification, this is in regard to lifting the gate for fishermen.

DeHaan said the Township doesn't want to get involved in the liability of moving the gate, or who will monitor it, whether it will be permanent, etc., since it is an inter-governmental effort, it's still in limbo. Fink is still working on this to see what our options are. There is a balance regarding safety and the fishermen who want access.

3. The next meeting will be March 25, 2021

ADJOURNMENT

Kleinjans moved, seconded by Ervine, to adjourn the meeting at 8:45 P.M.

Respectfully submitted,

Judith Hemwall
Recording Secretary
March 2, 2021

Approved: March 25, 2021