

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

Regular Meeting
Via Zoom Conferencing
April 22, 2021
6:30 P.M.

DRAFT COPY

CALL TO ORDER:

Chair Pfof called the regular meeting of the Park Township Planning Commission at 6:30 P.M., held via Zoom conferencing, Webinar # 84032625390, in compliance with the Open Meetings Act and per the State's Emergency Order limitation on in-person.

ATTENDANCE:

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

Staff: Greg Ransford, Planner, Dan Martin, Attorney

APPROVAL OF AGENDA:

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

Roll Call Vote:

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

Ayes 7, Nays 0. Motion carried.

APPROVAL OF MINUTES:

Garlinghouse noted two errors and Kleinjans referenced two edits.

Ervine moved, supported by Kleinjans, to approve the minutes of March 25, 2021 Regular Meeting as corrected.

Roll Call Vote:

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

Ayes 7, Nays 0. Motion carried.

NEW BUSINESS:

A. Election of Officers

Pfost said he has served ten years as Chair of the Planning Commission and thanked the Planning Commission for the opportunity. He stated it is time to step away and after a transition period he will retire from the Planning Commission. He asked for nominations for a new Chair, Vice Chair and Secretary to be effective May 1, 2021.

Ervine nominated Kleinjans as Chair. Garlinghouse nominated Ervine as Chair.

Eade nominated Garlinghouse for Secretary.

There was discussion about Ervine accepting the nomination as Chair and Kleinjans accepting nomination as Vice Chair.

Pfost said it was a joy serving with everyone on the Planning Commission. Despite occasional differences the Commissioners have always treated one another with respect. When chairing the meetings what is often difficult is keeping the mechanics moving forward and not losing momentum, including the input from citizens which is an important part of the process and ensuring transparency. Communication with staff is important. Political pressure has to be met with asserting independence as a body in the Township. Listening to Planner Ransford and Legal Counsel Martin and their contributions to the process is also crucial for success in the role of chairman. This interaction dynamic is crucial to open and honest communication.

Eade volunteered a new motion for all three offices.

Eade moved, supported by Koppenaar, to nominate Ervine as Chair, Kleinjans as Vice Chair, and Garlinghouse as Secretary effective May 1, 2021.

Roll Call Vote:

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

Ayes 7, Nays 0. Motion carried.

1. Brewer Farms Zoning Map Amendment (Rezoning) – 70-15-14-200-006

Ransford provided the description of this item. This is an application for a zoning map amendment from Joseph Helms and Jennifer Grant to rezone an approximately 20.5 acre property located at the southwest corner of Riley Street and 152nd Avenue, Parcel Number 70-15-14-200-006. The applicants seek to rezone this property from the Agricultural & Permanent Open Space District (AGR) to the Rural Estates Residence District (R-1).

The Park Township Master Plan and its Map, adopted on May 8, 2017 (last revised December 9, 2020), provide for the subject parcel to serve as Agriculture (AG), which is consistent with the AGR Zoning District identified within the related Zoning Plan of the Park Township Master Plan. The request seeks the R-1 Zoning District.

In the Staff Memo dated April 16, 2021, Lovelace noted that this property is in the Upland area, where the Township has the boundary for water service. This property is in that boundary. However, there is potentially a density conflict with the property to the east and the Master Plan intent to preserve the character of the open space and limited residential uses. The recommended density is one unit per two acres. The AG zoning district allows for two 10 acre parcels if this property were not rezoned.

Ransford pointed out that the Board of Trustees gives the final approval for this request. The Planning Commission submits a recommendation for approval.

Pfost noted that the Staff does not support change in zoning since it is not consistent with the Master Plan. When we review the Master Plan it might be appropriate to consider such uses as we go through the updating process. He asked Ransford for his analysis.

Ransford agreed with those conclusions. He said that a number of properties have come up for sale in the Upland area. The timing is optimum since we are just beginning the review of the Master Plan. Reservations suggesting rezoning are appropriate - there is not much distinction between this property and other properties that have come up for sale. His concern is that if one of them is approved the others will apply and to differentiate between them will be difficult if denial is preferred. The Planning Commission has looked at this area in regard to public utilities and the Township has begun discussions with property owners about future planning. There is a great interest in preserving this area. We aren't there yet – it is a year to a year and a half process.

Pfost noted the undeveloped areas in the Township are going to undergo great pressure with regard to rezoning. We should we look at the peripheral areas that are under pressure for development of single family dwellings and consider it for the Master Plan review.

Ervine asked if this request is too soon.

Pfost said because we are getting questions about utilities and requests about the open space areas we have a few issues to consider so this request may be premature.

Garlinghouse said it was important to establish a balance between the agricultural area and development. What is our available housing vacancy rate in the Township? Ransford said he will check into that.

Jen Grant and Joe Helms spoke to their application. Grant said their intention is to purchase the Brewer property for residential use. They have reviewed the Master Plan and are mindful regarding maintaining the rural look and feel of the area. They want rezoning to R-1 in order to split the property into five lots. It would be five residential lots, 2 ½ acres to 4 to 5 acres for the larger parcels. The driveways would exit onto Riley and 152nd. They will want to retain as much of the natural tree landscape as possible. The adjacent properties

are residential – no farming would be impacted. The property is not being used for farming at the present time.

Bruce Anspaugh, owner of Brewer Farms, spoke to the request. His wife, Amy, currently owns the property. They support the request to change the zoning. To clarify, they are not currently farming this property. In their opinion it is a good use of the land and it would be harmonious with the area.

Grant said she has had preliminary meetings with Nederveld for drawing plans. They would be submitting the specifics to the Planning Commission once they are given approval. They have talked with a builder regarding the development.

PUBLIC HEARING

Pfost opened the Public Hearing at 7:25 P.M. He asked participants to limit comments to three minutes. Ransford served as timekeeper.

Joan Bauman lives on 152nd Avenue which would be impacted by this proposal. Her concern is rezoning the area in question. Timberline Acres and the school are located at this corner with Riley Street and it is already congested with traffic. Moving the zoning to residential is a concern for everyone. She is concerned that this request will change the look and feel of the area, and there will be no more open space in the community.

Grant said she lives in Timberline. Because the plan is to add a maximum of five homes this would not impact the traffic problem. There is a row of trees at that corner they want to preserve.

Ransford noted that the owner says he is no longer farming, but plans change. The first step for the Township is to look the soil. With the proposal we see now, that is conditional rezoning. The Township analysis would be different. Because the law says the offer has to come from the homeowner...you would have to reapply. If plans are changed midstream due process is violated. What is proposed is feasible but we have to start with the application process.

Anspaugh said he isn't able to farm the property. He hasn't done it for four to five years. It's not sustainable.

Pfost closed the Public Hearing at 7:38 P.M.

Kleinjans asked Anspaugh why the property is not farmed at the present time.

Anspaugh said it has to do with the location. It is on an island – ten acres by itself. He farmed it for ten years then someone else farmed it and couldn't make it. From a production standpoint the difficulty is getting farming equipment to the site. He hasn't had the soil tested for five years. The berries are overrun by weeds.

Kleinjans asked about the property to the north.

Anspaugh said that property is currently used as farm property.

Garlinghouse said the property abuts the residential area.

Pfost said the Township hasn't had good luck with conditional rezoning in the past. He asked the applicants that, given the fact there could be a different approach, did they want to proceed with the application or place it on hold. There could then be an application for conditional rezoning if they chose to reconsider.

Grant said one property is a PUD, and the other property has homes on it. She asked what would be the implication on their ability to return with another application.

Pfost said from a procedural standpoint, the Planning Commission would recommend against conditional rezoning. The Board of Trustees could make a different decision. If the decision was to reapply under a conditional rezoning application, they would work with Planner Ransford.

Pfost asked Ransford if this could be done in time for the May meeting.

Ransford said he thought it could be prepared in two weeks' time.

DeHaan observed that if a PUD were developed in this area it would have more parcels such as three units per acre. He is favorable to the request but has difficulty with the constraints of the Master Plan.

Garlinghouse said we would have to change the underlying use from AG if it should be a PUD.

Ransford confirmed that would be the case.

Kleinjans said if it were rezoned to R-1, the current zoning would allow ten 10 lots.

Ransford said it would be less because of the necessary infrastructure of a private right-of-way and driveways with a plat.

Pfost reiterated the concern about higher density with public safety issues and impact of traffic.

Koppenaar said he lives in Timberline and is familiar with the property in question. To the south there has been land division. Pulling out the blueberries on this property would involve clear cutting and he is concerned about the number of trees that would have to be removed. He supports preserving the AG land.

Ervine asked Ransford how the determination is made that the property is not farmable.

Ransford replied that soil testing is one way. The County did a soil survey in 1976-78 to see what was farmable so the Township has identifiers. The survey was detailed on the

types of crops. We could ask the landowner to show us confirmation based on what he said. The burden is on the applicant. The Township can confirm with a soil expert.

Ervine agreed that four or five homes is better than a PUD, however, she supported adherence to the Master Plan.

Eade said the Planning Commission needs to explore what the Township wants to do and not open ourselves up to a domino effect with approving this application. He appreciates the intent to preserve the character of the property. He would rather consider such an application once the Master Plan is revised.

Kleinjans said that once the agricultural land is gone it's gone. If it's not farmable then that's a different story. The applicants say they will build five lots but 10 parcels could be built there later. We should have evidence regarding the ability to farm this property to assist the Planning Commission's decision-making process.

DeHaan said all the property east and south of this parcel is zoned R-1 except for the west parcels. Next to that area is Benjamin's Hope which is R-1. This small parcel is the only property that is open AG in this area. We need to think about the feasibility of a 20 acre parcel in the middle of the R-1 area. What do we want to do with the land north of James Street?

Pfost said there will be a move to develop to the north. The migration is inevitable, therefore we need to be mindful of how we want to determine the land use for this area.

Pfost asked the applicants for a decision going forward.

Grant said with the possibility of ten divisions there would be road requirements which they don't want to do. Five is what they want to build on the property. They are not asking for more. Except for the driveways they would intend to try to maintain the line of trees along Riley Street.

Pfost asked if the applicant can ask for conditional rezoning for five parcels and nothing more. Part of the concern is that if we granted rezoning what you show is not a condition of that rezoning. Once we grant rezoning we have no power to change it. If the Planning

Commission votes for conditional rezoning could a developer come in and go through the PUD process?

Ransford said that was possible. He said the conditions are up to the applicants. The applicants have to propose a use that is permitted in the district requested. They have to lay out the number of lots that would lock it in. They will commit to the site plan they decide.

Pfost said we have a problem parcel here and the Township Legal Counsel advises we must be careful about spot rezoning. When we start to do this on individual parcels it gets problematic.

Grant said they want the Planning Commission to move forward with a vote.

DeHaan noted their sales contract has a 4/27/21 completion date on it. That would have to be extended.

Garlinghouse said once we say it is “XYZ” it’s forever. It doesn’t matter what the applicants’ intentions are, the Planning Commission has to protect the parcel of land for the future.

Grant asked Ransford if they would have to begin another approval process if they made changes about roadways, etc. on the property. To build 10 lots with a road down the middle would they have to go through a separate process?

Ransford said if ten lots don’t fit the property it would have to be rezoned to a greater density. If you were to plat the property you go through a process and have to apply for rezoning for smaller lots.

Kleinjans moved, supported by Koppenaar, to recommend adoption of the request for rezoning to R-1.

DeHaan noted that if the property is approved as R-1 it gives the seller a new piece of land that has more value than today. If the current contract fails, an additional R-1 development could occur and we would have no authority.

Ransford pointed out that the motion should include recommendation for adoption by the Township Board.

Legal Counsel, Dan Martin, said any proposed rezoning will require the Township Board to take action, which if that is the Planning Commission’s recommendation, the Board meeting will be in May after the purchase agreement date. That’s an issue the applicant will need to address.

Kleinjans modified, supported by Koppenaar, the motion to include recommending action by the Township Board for approval.

Roll Call Vote:

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

Ayes 0, Nays 7. Motion denied.

Ransford asked the Planning Commission if this is denial of the request.

Kleinjans asked if the motion should be to disapprove the request.

Martin advised a new motion recommending the Township Board deny the application for the following reasons: failing to pass the motion to approve the rezoning request isn’t taking formal action to deny; it’s better to have a motion to deny and state the reasons for the

denial, so that the Board knows why the Planning Commission is recommending the denial. The decision is ultimately the Township Board's to make.

Kleinjans moved, supported by Koppenaar, to not approve the rezoning of this parcel to R-1 for the following reasons: 1) the request is not consistent with the Park Township Master Plan; 2) the request is inconsistent with the AG zoning district criteria; and 3) the request is not compatible with the density requirements of the AG zoning district.

Roll Call Vote:

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

Ayes 7, Nays 0. Motion carried.

B. NHPs

Ransford said this is the result of working with both of the communities in focus groups. He has been in touch with an architect to interpret the building height definition language to make sure the intent of the Planning Commission is what we want.

1. Lake Court Overlay Language

The neighborhood has concerns regarding height and area regulations (front and rear yard setbacks) and is waiting for the results of the Planning Commission effort to redefine the definitions.

2. Edgewood Overlay Language

The neighborhood also has concerns regarding height in addition to area regulations (front, side and rear yard setbacks) and is waiting for the results of the Planning Commission effort to redefine the definitions. They have specific concerns regarding reconstruction of pre-existing principal buildings and a desire to prevent height from exceeding 45 feet.

Pfof said these NHP communities presented problems areas with regard to several nonconforming issues. This has allowed more flexibility for the residents in these communities.

Garlinghouse asked for clarification on height. Is 45' accurate for building height? She disagreed with this and asked that we revisit this point to be sure it is what the residents want.

Ransford said it is accurate for the average height, although the maximum requirement is 35' throughout the Township.

Ervine requested clarification on this point.

Kleinjans said he had a problem with rear yard setbacks. There could be a problem with those outside of the overlay district who abut properties inside the overlay district.

Eade doesn't see it as a major concern because there is no room in these fully developed communities.

Ransford will check into height and setback issues prior to the public hearing on both communities.

Kleinjans suggested there is a difference between "apply" and "control" in the language and thought there should be consistency in the word usage.

Pfost said a graphic might be helpful in considering the variances in these overlays.

Eade said Ransford could look at the last five years of the ZBA variance requests for these setbacks.

Pfost advised to look at the consistency of what the Township has approved.

Pfost asked Legal Counsel if all issues have been covered.

Martin said this approach is acceptable.

Pfost requested a motion for direction to the Staff.

Eade moved, supported by Garlinghouse, to request Staff to contact the Lake Court and Edgewood neighborhoods regarding clarification of the height and setback requirements for the next meeting for public hearing.

Ransford said he could not guarantee a report will be ready by May since it takes time communicating with the neighborhoods. It might have to be scheduled for the June agenda.

Ervine agreed it is important to take the necessary time to obtain the right information.

Roll Call Vote:

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

Ayes 7, Nays 0. Motion carried.

OLD BUSINESS

A. Short Term Rentals – Process Update

Pfost said the Township Board approved the hiring of a contractor to assist the Planning Commission in the short term rental assessment project. The contractor will accumulate data for presentation to the Planning Commission and Township Board, and will provide five

hours of consulting time to the Planning Commission. The contractor is Jeff Goodman from Granicus Consulting. Pfof advised the Planning Commission to be conservative in using the consultant's five hours.

Ransford will be the point person with Jeff Goodman. When we are ready for his assistance to do more Ransford will decide what he can do. This will require a special meeting so we know what we have available to us for resources, data, and questions that need to be asked.

Ransford noted that the Township Board authorized additional information should be provided and made available to the Planning Commission in order to best maximize time with Jeff Goodman.

DeHaan suggested we have a strategic plan for this.

Pfof agreed we must have some structure to the process. The Township Board may want to have a joint meeting with the Planning Commission. Should the Planning Commission schedule a special meeting to discuss short term rentals in May for goalsetting?

DeHaan said the next step is to get data from Granicus. He guessed this will be a long process.

As background, Martin said 1974 was when the Township first adopted the zoning ordinance. There may or may not have been resort rentals at that time. If anyone had a nonconforming use of rentals they would have had to declare that was the case.

Pfof asked if the Township knew there were short term rentals or was it considered to be hands off.

Martin said the Township only enforces when there are complaints. He wants to leave open the option for the argument that there is a nonconforming use situation, that the Township has not permitted short term rentals and therefore any existing short term rental situation is not a lawful nonconforming use. The Township can choose to enforce the ordinance. If the Township has been wrong in making a mistake in enforcing or not enforcing the ordinance doesn't preclude it by enforcing in the future. The Court would balance the equities. He doesn't see the Court saying they can continue to be used as short term rentals.

Garlinghouse asked Martin if residents can sue the Township for not upholding the current zoning ordinance.

Martin said they could, but it's not likely that they'd win. Martin said that private parties could potentially sue their neighbors for a nuisance, as violations of the Township zoning ordinance would be considered a nuisance by the courts.

Ervine asked if the Planning Commission wants two important meetings planned for May. She said we need to revisit the Strategic Plan so this and the short term rentals issue should not be considered in the same meeting.

DeHaan said May is too soon for the short term rentals discussion. This is a long term process. In his opinion, Strategic Planning is the most important.

Ervine suggested the Planning Commission review our goals first which is part of the strategic planning process. This will give us a road map for where we want to go. Will we be able to meet in person?

Martin said the County has declared a state of emergency until May 25. You may hold a meeting electronically via a platform like Zoom. The Michigan Department of Health & Human Services recently amended its order on gathering limits to exclude meetings of public bodies so you can meet in person if you choose. If you want to Zoom you can, if you want to meet in person and Zoom you can; you have a lot of discretion for the meeting in May. If the local state of emergency expires, they you would have to meet in person.

Following discussion, the Planning Commission agreed to meet in person at the Township on Mary 19, 2021 from 1 -3 P.M. to review and update the Strategic Plan.

PUBLIC COMMENT

Pfost opened Public Comment at 9:56 P.M.

There was no comment.

Pfost closed Public Comment at 9:56 P.M.

ANNOUNCEMENTS

Kleinjans thanked Pfost for his service. All Commissioners concurred.

1. Strategic Plan meeting on May 19, 1-3 P.M.
- 2.
3. The next meeting will be May 27, 2021

ADJOURNMENT

DeHaan moved, seconded by Koppenaar, to adjourn the meeting at 10:00 P.M.

Voice Vote:

Ayes 7, Nays 0. Motion carried.

Respectfully submitted,

Judith Hemwall
Recording Secretary
April 26, 2021

Approved: