

**MINUTES
PARK TOWNSHIP
PLANNING COMMISSION**

Park Township Hall
52 152nd Street
Holland, MI 49424

Regular Meeting
(via Zoom remote conferencing)
June 10, 2020
6:37 P.M.

DRAFT COPY

CALL TO ORDER:

Chair Pfof called to order the regular meeting of the Park Township Planning Commission at 6:37 P.M., held via Zoom remote conferencing as permitted by Executive Order 2020-75.

ATTENDANCE:

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

Absent: Dennis Eade

Staff: Greg Ransford, Planner, Emma Posillico, Zoning Administrator, Dan Martin, Legal Counsel

Pfof reviewed the rules for the Zoom meeting process.

APPROVAL OF AGENDA:

Garlinghouse suggested moving Public Comment to the beginning of the agenda for the benefit of the two members of the audience who wish to speak to the Planning Commission.

Motion by Garlinghouse, supported by Kleinjans, to approve the agenda as amended.

Roll Call Vote:

DeHaan, aye; Ervine, aye; Garlinghouse, aye; Kleinjans, aye; Nestel, aye; Pfof, aye.

Ayes 6, Nays 0. Motion carried.

APPROVAL OF MINUTES:

Kleinjans noted two errors on page 5. DeHaan referenced two corrections on page 4.

Motion by Ervine, supported by DeHaan, to approve the May 11, 2020 Regular Meeting Minutes as corrected.

Roll Call Vote:

DeHaan, aye; Ervine, aye; Garlinghouse, aye; Kleinjans, aye; Nestel, aye; Pfof, aye.

Ayes 6, Nays 0. Motion carried.

PUBLIC COMMENT

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

Posillico introduced John Daniel, who wanted to address the Waukazoo Farmers' Market for which he and his wife, Karen, had applied to the Township for a peddler's license for Visser Farms to operate at the market..

Daniels said they had acquired three land parcels adjacent to their property in April of this year. Their intent is to maintain all the property as part of Waukazoo Woods. They opened a farmers' market this summer and asked their neighbors (the Itty Bitty Bar) for permission to allow customers to utilize the Itty Bitty's parking, near the Daniels' property.

Posillico explained why the Township issued a notice of violation letter to the Daniels, requiring that the three (3) vendors on the property be reduced to one (1) by June 11, 2020. She noted that she and Manager Fink originally advised the property owner that only one vendor could operate on the property under a peddler's license, but if they had more than one vendor, they would be considered a Farmers' Market. Further, Posillico explained that in order to operate a Farmers' Market with three (3) vendors, the Daniels would need to apply for a special use permit. The Township received a complaint that there are now multiple vendors supplying the market, which is not allowed by the terms of the peddler's permit. Only one vendor is allowed with this type of permit, which is Visser Farms.

Neil Daniel, son of John and Karen Daniel, supported the farm market and his parents' venture in providing fresh produce to Park Township residents. There has been positive feedback on Facebook.

Pfof closed Public Comment at 6:47 P.M.

Garlinghouse asked what can be done in this situation.

Ransford said the applicant will have to apply for a special use permit and submit a site plan to include a description of what is proposed which will include a parking plan for safety requirements. The application process is the same as a commercial use operation. The Township will then review the application and schedule a public hearing. The timeline is probably August for this process.

Garlinghouse asked if this can be expedited. This operation is just for the summer and there is not much time left if the Daniels have to wait for an August approval of their application

Martin said the Township could exercise its “prosecutorial discretion” in this case ,which means the Township has the authority to decide whether to issue any municipal civil infractions and how to pursue the matter, especially if the property owner is in the process of obtaining the necessary permit.

Posillico clarified that the original application stated only one vendor would be used (Visser Farms), which justified the issuance of a peddler’s license. That has now changed in that three (3) vendors are operating on the property.

Martin said the Township was advised there was more than vendor operating on the property, and that is why the Township sent the cease and desist letter. The Township Manager and Zoning Administrator had no choice because there were multiple vendors involved. Pending a new application, which has yet to be submitted, the Township can decide whether to issue a special use permit based on the ordinance standards, and determine not to take the matter to court at this time.

Nestel asked if a decision can be made at this meeting.

Martin said the Planning Commission can’t approve a special use request at the present meeting because it requires a public hearing and notice. The Planning Commission can make a special request, with consensus of the PC, to recommend to the Township Board to exercise prosecutorial discretion and not issue any municipal civil infraction citations or go to court while a special use permit application is pending and subject to the Planning Commission approval.

Martin said there are issues regarding the number and location of tables, vendors, parking arrangements, and safety precautions. The Planning Commission can impose conditions when you approve the special use permit.

Ervine asked if the license was initially approved with just one vendor.

Posillico confirmed that the license was approved for just one vendor, Visser Farms. Now the situation has changed with expansion to multiple vendors. However, she understands there were three vendors operating on the property from the beginning. The Township did not know

this. There were no complaints at that time. Since then, however, one complaint has been filed with the Township regarding several vendors using the site.

Martin said he had reviewed the complaint and the Manager confirmed to him that there were multiple vendors at the market.

DeHaan asked if this was public record.

Martin said all Township records are public records. Applications for peddlers' licenses, special use permits, and public complaint are all public records, subject to the disclosure requirements of the FOIA.

Kleinjans supported the idea of the market, but if we recommend prosecutorial discretion there should be limits to what is allowed.

DeHaan said we need a preliminary site plan that addresses issues before make a recommendation to the Township Board.

Kleinjans and Ervine concurred with establishing limits. Ervine added the requirement of a site plan should provide a complete understanding between the Township and the applicants.

Posillico said the original plan that was submitted showed one vendor as well as arrangements for other issues. She noted that it may be possible to modify that site plan to show the additional vendors, for the purposes of submitting a site plan for Township Board consideration (to consider prosecutorial discretion for the time being).

Pfost said there are two issues to consider: the violation of the peddler's license, and the subsequent need for the applicants to apply for a special use permit. He suggested the following plan – request the applicants move forward with a special use permit, try to come to closure in 30 days, and return the request to the Township for consideration of "prosecutorial discretion." It will relieve the staff of the enforcement problem and will allow the applicants to correct the vendor problem and continue with the market activities.

Nestel supported this as a compromise. This is a good fit for residents in the area. We want to try to accommodate such efforts.

Daniels said he would pursue the special use permit and hope the Township will enable them to allow three vendors to sell produce at the market in the meantime.

DeHaan said the applicant should make clear what the parking arrangement is for the market so the proposal meets the Township requirements for safety.

Daniels said he would clarify all the arrangements in the new application. He noted that the setback on the property is inside the fence for safety.

Kleinjans recommended the application name the three vendors.

Pfost asked Martin about the timeline.

Martin said he would mention this at the Township Board meeting on June 11. The Township Manager has some discretion regarding this situation. The original approval with one vendor will be important, but with this new information, and if the Planning Commission agrees, we can recommend the Township Board make the decision to exercise some discretion rather than escalate the matter to court.

Daniels asked if he should attend the Township Board meeting. He asked about the \$1200 special use fee. Martin said that wouldn't be excused. Daniels also asked about the escrow requirement.

Martin said the escrow fee was to cover the Township's costs, including planning and attorney fees involved in reviewing the matter, and stated the likelihood of incurring significant legal fees is remote. The Planning Commission could decide, given this is a seasonal activity, that the applicant won't have to pay special fees or have to meet the escrow requirement. He added that the special use goes with the land. The Planning Commission could limit the use to the summer activity.

Daniels said he would pursue the special use permit.

Garlinghouse asked about the time limit on special use. Could there be an amendment for another seasonal activity such as for sales of Christmas trees.

Martin said it could be done.

Daniels said it is a commercial property.

Ervine asked if the applicants' full plans should be stated in the application; for instance if seasonal use outside of the Farmers' Market is anticipated.

Martin said this is a two-fold process: we want to know how they plan to use the property aside from the seasonal farmers' market. We need to see the plans for long term special use for the property.

Garlinghouse moved, supported by Kleinjans, to recommend to the Township Board "prosecutorial discretion" not to issue a municipal infraction regarding the short term farmers' market activity on the property pending the completion of the special use permit application. This is on the condition the applicant revise the peddler's license until the special use application is approved. Additionally, the applicant is to submit, within 30 days, a completed special use application to the Township for review and consideration.

Ervine requested the applicant submit to the Township Board an updated version of intent for the special use.

Roll Call Vote:

DeHaan, aye; Ervine, aye; Garlinghouse, aye; Kleinjans, aye; Nestel, aye; Pfof, aye.

Ayes 6, Nays 0. Motion carried.

OLD BUSINESS

A. Master Plan – Public/Open Space Classification

A draft of the Master Plan Map removing the Public/Open Space Classification (POSC) and designating the related 47 parcels to various classifications was distributed to members of the Planning Commission for review.

Ransford explained that the zoning ordinance regulates land use in the Township. The Planning Commission has looked at the public/open space properties on the Master Plan map for the Township. What has happened is there is no guidance in the Master Plan regarding these properties and how they should be designated. There are 47 properties, some privately held. Most of the recommended changes to the map are self-explanatory and are appropriately identified.

He noted the Ottawa Beach Road area is designated Low Density Residential but the Planning Commission may wish to consider some commercial. The second item is Lot 47 which is a large property owned by the West Ottawa School District. It could be used for industrial purposes so we need to look at this.

As a result of the removal of the Public/Open Space Classification, revisions are necessary to the Park Township Master Plan text. The revisions for approval are: 1) proposed classifications, 2) removal of “CHP” and “Community Heritage Preservation” from the text, 3) removal of “CHP – Community Heritage Preservation” from the Master Plan Map Legend, and 4) Corrections to the multiple classifications and of the Macatawa “Lake” Residential classification in the Master Plan Map Legend.

Garlinghouse asked about 25b, the Nelson Property.

Ransford explained it should be classified as NHP. This is an administrative correction in designation.

Kleinjans asked about Riley Trails. Should this area be considered Agricultural rather than Rural Estate?

Pfost said this area is a Super Fund site. What do you do with contaminated property since it is a former landfill site?

Garlinghouse said she wants to see more barriers to selling public land.

Pfost said we have no control over State property like Ottawa Beach Park. If the State sold it and we don't have a designated use for it in the Master Plan we would be at the mercy of a developer and what he would want to do with the property. It is the concept we must consider that our open spaces might change use; our purpose should be to protect the land.

Martin concurred. He noted that Park 12 properties are different. The County can't sell these properties because of past litigation.

Ransford said the public trust document will be inserted in the Master Plan to cover the designation as written regarding these properties.

Kleinjans asked what the zoning of Park 12 properties equate to.

Ransford said it is designated R4.

Pfost clarified the Master Plan will reference land use not zoning.

Kleinjans asked about Parcel 47.

DeHaan said the case could be made for commercial or industrial use.

All agreed the designation for Parcel 47 should be High Density Residential.

Martin said an exclusionary designation could be a risk if challenged by a developer.

Ransford said it should at least be in the Master Plan to reduce the risk of exclusionary zoning.

Pfost said an industrial facility in this residential area would not be a good approach.

He asked the Planning Commission for a straw poll on this issue. Should we agree to Multi-Family, High Density?

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

Ayes 6, Nays 0.

Ransford said that is how it is designated in the proposed Master Plan Map.

Garlinghouse pointed out that the Pump House is Park 12 property and part of Ottawa County. She thought the reference number #30 is incorrect. The Coast Guard building is Federal property which is correctly designated #30.

Ransford will correct that reference.

Pfost clarified that Lot 8 is not Agricultural because it is contaminated property.

Pfost asked Martin if there is a designation regarding contaminated property for future reference.

Martin said there is reference to what is the appropriate reuse of property based on the property situation. There is no “catch-all” designation for property that may have been contaminated.

Ransford asked if we want more commercial property along Ottawa Beach Road. It is currently designated Low Density Residential.

Ransford said we could advance this to the Township Board now or wait a month and send it with the Ottawa Beach NHP Master Plan effort as one package.

Pfost suggested the Planning Commission pause this for now and move forward to consider the Ottawa Beach overlay district. Once we make that decision we can come back and see if we want to bundle these together.

1. Ottawa Beach NHP Overlay –

Pfost asked if a group meeting of the Ottawa Beach NHP residents should be planned this summer so a decision can be advanced to the Township Board. Given the unusual situation this summer with COVID-19 considerations, should this be a special meeting out of concern for the residents in this community.

Ervine suggested an outdoor venue.

Martin noted the Executive Order allows for 50 people indoors and 250 outdoors.

Nestel said she agreed with the call for a special meeting. Pfost will work with the Township to determine a venue and date, to be announced.

Nestel moved, supported by Garlinghouse, to advance the finalization of the Master Plan map and include the text revisions as recommended by Staff and the Planning Commission.

Roll Call Vote:

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

Ayes 6, Nays 0. Motion carried.

2. Tree Preservation Chapter -

Pfost said the Planning Commission has to hold a public hearing for this. We will plan this for the July meeting,

Nestel moved, supported by Ervine, to plan a notice for a public hearing on the Tree Preservation Plan for the July Planning Commission meeting.

Roll Call Vote:

DeHaan, aye; Ervine, aye; Garlinghouse, aye; Kleinjans, aye; Nestel, aye; Pfof, aye.

Ayes 6, Nays 0. Motion carried.

3. 2019 Annual Report

Garlinghouse moved, supported by Ervine, to approve the 2019 Annual Report.

Roll Call Vote:

DeHaan, aye; Ervine, aye; Garlinghouse, aye; Kleinjans, aye; Nestel, aye; Pfof, aye.

Ayes 6, Nays 0. Motion carried.

4. Election of Officers

Pfof said a member of the Township Board has suggested the Planning Commission consider development of a strategic plan for the Planning Commission for the future. Perhaps a working session is indicated for beginning work on this project. He and Vice Chair Ervine have discussed possible agenda items for the work session. The topics could include definition of roles, priorities, improving communication, issues that might affect the Planning Commission in the future, training, and how can we be more efficient. This could be done in an open meeting forum. Given this new development should election of officers be delayed? He noted that the Township Board has asked him to remain as Chair for another term but he may retire the office after a year.

Nestel asked if there is a reason for postponing the election. She supports the idea of a strategic plan.

Kleinjans asked if a strategic plan is necessary.

Pfof said the suggestion has been made. This is why he is sharing it with the Planning Commission now before we move forward with the election process.

Ervine said she thought a strategic plan would be helpful. It would be good to get everyone's perspective and strengthen our communication, look at major topics that may be of concern, and what we hope accomplish in the future. She suggested Martin should be involved in the work session too.

Pfof asked Dykens for a list of the Commissioner terms. He will circulate that to the Planning Commission. The Township Supervisor has asked that he remain as Chair during this crisis.

The Township Board has also reappointed Ervine and Eade whose terms expired at the end of May. He understands that Kleinjans and DeHaan are running for the Township Board and Nestel is retiring.

Nestel suggested postponement of the election of officers.

All agreed to maintain the status quo for now.

ANNOUNCEMENTS

The next Planning Commission meeting date is July 8, 2020.

ADJOURNMENT

Kleinjans moved, supported by Ervine, to adjourn the Regular Meeting at 8:55 P.M.

Voice Vote:

Ayes 6, Nays 0. Motion carried.

Respectfully submitted,

Judith R. Hemwall
Recording Secretary
June 12, 2020

Approved: