

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

Regular Meeting

October 28, 2021
6:30 P.M.

DRAFT COPY

CALL TO ORDER:

Chair Ervine called the regular meeting of the Park Township Planning Commission at 6:30 P.M., held in the Park Township Hall conference room. The meeting was held on Zoom per Executive Order.

ATTENDANCE:

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

Staff: Howard Fink, Township Manager, Dan Martin, Attorney, Julie Lovelace, Zoning

APPROVAL OF AGENDA:

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

Voice Vote:

Ayes 7, Nays 0. Motion carried.

APPROVAL OF MINUTES:

Eade noted one correction on p. 6.

Kleinjans moved, supported by Eade, to approve the minutes of September 23, 2021 Regular Meeting as corrected.

Voice Vote:

Ayes 7, Nays 0. Motion carried.

PUBLIC COMMENT

Chair Ervine opened Public Comment at 6:35 P.M.

Laurie VantHof – was born and raised in Holland and spent has lived in the area for 20 years. She manages two short-term rentals and has heard the concerns of residents. She wanted to note her observations of property owners who do not run short-term rentals. 1) Large gatherings during the holidays and garage sales; 2) Noise from owner-occupied homes; 3) Cars parked on the street by owner-occupied properties; 4) Many of the short-term rentals are owned by residents, not out-of-state corporations; and 5) At road ends where there is access to the water. She noted that property rights are that of the owner whether it be a private home or a short-term rental. She encouraged Park Township to consider the rights of all property owners.

Elizabeth VandenBerg – she and her husband own two short-term rentals. They have strict guidelines with house rules. They rent to families and keep to a reasonable maximum number of renters. It is important for Park Township to have short-term rentals. She said she learned tourism in Ottawa County brought in \$247,550 million in 2019. The bulk of businesses are small businesses who profit from the short-term rentals. Shutting down short-term rentals would traumatize families who own them. Their rentals are their sole source of their income.

Scott VandenBerg – mentioned the renters he has hosted. Some are building homes in Park Township and rent their short-term rentals, business travelers are part of their renters, and recently he hosted a family celebrating a 99th birthday this past week. Having the short-term rentals is a benefit in these instances.

Robert Klok - The short-term rental near him usually has 8-10 people in the house. Occupancy is his greatest concern.

Linda Dykert – has two short-term rentals that she manages. She has never had a problem. She also owns a short-term rental on the Lakeshore. She is aware of issues, but there seem to be more issues with long term renters. Her short-term renters are rated on their stay. She checks on her renters and allows no parties or pets. She suggested the Township could limit the number of people per property. Perhaps the number of unrelated people could be limited, with limits on the number of cars, and disallowance of parties. It is a great income source for the Township.

Natalie Garvin – supports short-term rentals. She recommends placing parameters on these rentals. She has short-term rentals in the Township which allows her some income.

Sharlene Clark - she lives next to a short-term rental. In the last three years her community has seen a growth of 24% of the properties are short-term rentals. 100% of the owners do not live in the community and 60% live out-of- state. One is not a corporation. She grew up in Detroit so recognizes drug dealing which she has observed at the short-term rental and there are parties every weekend. People come and go all hours of the day and night. She has recordings of blaring music that is not worth hearing because of the obscenity in the lyrics. She has lost her dog because someone let it out of the yard. She found it several streets from where she lives. She has had to put a lock on her gate. When she is in her

home she locks her doors. Her children get cat calls from short-term renters when they visit. She feels like a prisoner in her home.

Bob Garlinghouse – lives in a neighborhood of 80 homes and cottages. 25 are short-term rentals and two thirds of them are managed off-site. The owners who take an active interest in the maintenance of these rentals do not present a problem. He asked for help to bring the troublesome rentals in line in his community.

Richs Burkholder – He has lived in Holland since 1978. About eight years ago his mother passed away in the house he lives in so he started a short-term rental to generate income and has learned a lot. He has tried to keep residents happy with regulation guidelines. He rents from May to September only and screens all inquiries. He looks for families as renters. He has a 5-7 day minimum which cuts down on people who want to party over a weekend. The rest of the year he rents it on a monthly basis. He is on-site between rentals and ensures that they are well cared for. He also has a guidebook stating hours, including quiet hours past 11:00 P.M. and a list of rules for renters.

Amy Avery – she is a short-term rental owner, and lives in the house. She rents from Memorial Day to the first week of October. She has an 11-page welcome letter with specific dos and don'ts. There are no parties, no hot tub, and no fire pit. She had one incident nine years ago because of problems with the fire pit. She suggested guidelines of what is allowed and not allowed to provide balance. She supports regulation.

Denise Smyk – hopes development of Township regulations limit the amount of people allowed in short-term rentals. She is a teacher and has observed her community is losing families – the local school has declined in enrollment because of families leaving and not buying homes over problems associated with short-term rentals.

Ervine closed Public Comment at 7:05 P.M.

A. NEW BUSINESS

1. Camp Geneva Site Plan – 3995 Lakeshore Drive, Seeking pedestrian bridge

Camp Geneva is currently operating as a PUD which was established in 1997. It is a church camp permitted use by right in the Rural Estates Residence District (R-1) and the Lakeshore Residence District (R-2). The underlying zoning districts of Camp Geneva are R-2 and R-1, west and east sides of Lakeshore Drive. The Camp requests Board approval to dissolve the PUD and Planning Commission approval to amend the site plan by right with the addition of the bridge. If the Planning Commission approves the proposed bridge it would be conditioned upon Board approval of the PUD dissolution.

Lovelace provided additional information. The site plan review is supported by the Master Plan. The Planning Commission must approve dissolution of the PUD.

Martin said the Township Board approves the dissolution since it approved the original PUD. All buildings will be conforming except for one building which will be subject to rules for a nonconforming structure.

Kevin Vanderklok, Executive Director of Camp Geneva for eight years, and a member of the staff for 15 years, spoke to the request. It was the best approach to dissolve the PUD and seek approval to amend the site plan by right with the proposed bridge addition. They have two campuses, Geneva Shores and Geneva Pines. Staff and students cross the street several times during the day and have long considered a bridge would be the safest way to keep children off the road. There is a blind corner to the north which is a problem. Camp Geneva serves about 4000 children and 13,000 to 14,000 guests per year.

He noted it is a compromise to remove the nonconforming structure. The water main on the updated drawing was appropriately identified.

Garlinghouse asked why it was originally not property by right – why a PUD?

Martin explained that there were multiple primary structures on the property thus the requirement was a PUD. Use by right is now allowed in R-1 and R-2 zoning districts.

Garlinghouse asked about the blind corner. She agreed it is treacherous. Can you move the bridge further north to get away from that corner?

Vanderklok said it is an exit only drive – the train is to the north. He also has to abide by the ADA (American Disabilities Act) requirements. It would be significantly longer if we moved it to the north. The dune goes up at that point – the cost and materials would be higher. We are trying to be cost-efficient.

Ervine asked if the Planning Commission was comfortable with the application and conditions for motion recommended.

Kleinjans asked if a number should be included for separation for brick walls.

Lovelace said the Township Engineer has recommended a two-foot separation.

Ed Zwyghuizen, Architect for the Geneva project, spoke to this question. He said Prein and Newhof asked about this since the distance of the bridge is an important consideration. He is trying to keep the length of the span to a minimum. And he is trying to be efficient regarding the abutments. Safety with the bike path is the ultimate consideration. The Road Commission has approved the plan.

Kleinjans asked how much room is there for the bike path.

Zwyghuizen said the adjoining bike path will be planned for two feet. The Township Engineer was comfortable with this measurement.

Martin asked about moving the bike path – will it merge with Lakeshore?

Zwyghuizen said it will not – the selected location is in the best spot.

Martin said the Planning Commission could condition approval by the Park Township Engineer so it could be relocated, if necessary.

DeHaan asked if the abutment is so narrow would it be necessary if a safety feature should be added.

Zwyghuizen said the railing could come to the south end. The railing would serve as a guide only for bikers using the path.

Ervine asked about the Letter of Credit:

Fink said if it is needed in this case, and probably will be because of the bike path, he asked the Planning Commission to condition the amount to include public improvements. The amount will be set by Prein and Newhof, the Engineering Firm.

Staff recommends the motion to approve the site plan should include:

1. Site Plan Review Application dated 9/10/21 by CL Construction
2. Title Sheet 10/14/21 by Gen 1 Architectural Group
3. Pedestrian Overpass Plans, Bridge Elevations, Wall Sections, Camp Geneva Master Plan by Gen 1 Architectural Group
4. Maintenance Agreement by CL Construction
5. OCRC Review by Ottawa County Road Commission
6. Soil Erosion Permit by Ottawa County Water Resources Commission

Conditions should include the following:

1. The path replacement section must be shown on the plan as 3" thickness
2. Shifting the bike path east or west for greater separation distance from the pier
3. The refuse container on the east campus shall be adequately screened by privacy fencing
4. A letter of credit shall be submitted to the Township covering the estimated cost of the improvements associated with the project

Garlinghouse asked if the Planning Commission can request the Township to ask the Road Commission to install a sign.

Martin said the Township Board could request the Road Commission to conduct a speed study regarding traffic flow. There is a possibility the speed limit would change, but this is not applicable to what the Planning Commission is deciding during this meeting. This would be under the authority of the Township Board.

Martin reminded the Planning Commission it has the authority to approve the site plan but the Township Board must approve the PUD dissolution.

Kleinjans moved, supported by Eade, to approve the site plan, contingent upon the Township Board's approval of the dissolution of the PUD.

Kleinjans asked if the drawing date needed to be updated.

Lovelace said the date is 10/14 – she will amend the date for the site plan.

The motion is to include approval of all conditions, and the Letter of Credit amount to be determined by the Township Engineer.

Voice Vote:

Ayes 7, Nays 0. Motion carried.

2. Short Term Rentals

a. Problems and Process Exercise – Howard Fink and Rosemary Ervine

Fink asked: What is it we are trying to solve?

Ervine reminded the Planning Commission this is a process.

Planning Commission members were asked to write questions for Fink to address.

Problems that need to be solved:

Conflict between residential and rental properties
Resident concerns
Number of people allowed in rentals
Solve legal issues
Strike a balance between residents and owners of short-term rentals
Occupant screening
Abuses of opportunities to stay in neighborhood
Positive tourist environment
Rising home prices
Respect long term growth
Limit quantity of people renting
Eliminate stays less than 1 week – max. of 4 week stay
24 hour help for neighbors
Retain residential life values

Process:

How are short-term rentals regulated
Goals of Township
Legal situation
Ordinance
Moving forward
Data outcome
Legal implications
Identify path forward

Gain understanding of wider issue of short-term rentals

Ervine said the Master Plan must be kept in mind during the process.

b. Legal Parameters – Dan Martin

i. Short-Term Regulations

Martin reminded the Planning Commission that the Township does not currently allow short-term rentals. We also don't specifically prohibit them. We have regulations for Bed and Breakfast operations, but not for short-term rentals. We have definitions for hotels and motels which are commercial operations. Tourist homes are permitted as home occupations. Other residential zoning districts don't allow hotels and motels. Some allow B&B operation as a special use.

He reviewed a recent Michigan Supreme Court decision regarding a lady in Spring Lake who rented her home as a short-term rental beginning in 2013. She asked the Township if she could do this and the Township said it was not prohibited. The neighbors complained, and later in 2017 Spring Lake passed a new ordinance to regulate short-term rentals. The issue came up if she had lawful nonconforming status since she operated the rentals before the ordinance's adoption. The Lower Court and the Michigan Supreme Court ruled she did not have nonconforming status because it wasn't lawful based on the definition of motel and hotel commercial lodging. In Park Township's R-3 zoning district, if it isn't a specified use, it isn't permitted. The way the Township's ordinance is written is if it's not permitted it isn't allowed.

At the present time, both the State House and Senate have identical bills. At the present time the State Supreme Court has not done anything. What passed the House last night is still pending legislation. It defines short-term rentals for not more than 30 days. It also defines common ownership. The legislation, if passed, would amend the Zoning Enabling Act regarding regulation of land use. It would make short-term rentals a residential use of property permitted in all residential zones. The rentals would have to be allowed in all zones and would not be a commercial use of property. It has the effect of not prohibiting short-term rentals in the community. You would have to apply zoning provisions to address noise, traffic and any conditions creating a nuisance. The number of occupants was removed. So, the Township could state zoning rules for the number of occupants. You may inspect regarding health and safety, collect taxes, etc. It would allow the Township to limit the number of units under common ownership, no fewer than two. You could limit the number of rentals, not less than 30% of the existing number of short-term rental units. Currently the Township has 2000 residential units. The language says 30% have to be allowed for short term rentals. The Township could limit the number to no more than 30%.

Fink said we are looking at what could be allowed if the legislation were to pass. If it passes it will take away the authority of Township discretion regarding the regulation of short-term rentals.

Pfost asked if we have any sense if this will move forward.

Martin said Senator Victory advised there are the votes for passage.

Martin said this would be part of the Zoning Enabling Act if it passes. There is another bill co-sponsored by Sen. Victory to license short-term rentals. Local units of government can regulate these rentals with regard to safety and welfare, but not zoning that would prohibit them. You could regulate but not prohibit. The Township would limit the number to comply with the ordinance. If you have five short term rentals you would have to reduce ownership to two or three depending on the Township's ordinance. Martin said it is not clear how this is going to be drafted in the House.

ii. Homeowners Associations

Homeowners' associations can be enforced with newly developed associations. This may be too late for some associations that are established. This is a private property issue, not a Township issue.

iii. Taxes and User Fees

There is no authority for a Township to assess a tax on short term rentals. Only the County can do this. However, the Township could assess a regulation fee. It must serve a regulatory purpose not a revenue purpose. The fee has to be proportionate to the cost of service.

iv. Fair Housing Law

You can't discriminate based on the Housing Act.

v. Pending Legislation

In summary, the legislation is currently in the House waiting on the final writeup. Senator Victory is co-sponsoring legislation that supports regulation for short-term rentals.

Pfost asked how far can we go in a regulatory process.

Martin said maybe the Planning Commission could pause on making any decisions. Do you want to adopt an ordinance that may not be supported by State law?

Howard noted that this pending legislation in the House has altered our presentation. We will focus on the data, but there is no question that the conversation on short term rentals is challenging because the legislation is up in the air.

c. Data Analysis of Park Township Short-Term Rentals – Howard Fink

Howard Fink introduced the on-screen presentation of spreadsheets prepared by Granicus. Granicus is the company the Township contracted with to analyze the status of short-term rentals in Park Township. The data is in real time. At the present time the Township has about 211 short-term rental units. With the onset of summer this number will increase.

We have compiled the data and considered aligning the Township position on short-term rentals with consideration of the Master Plan. The Township will schedule public surveys and community meetings for feedback.

Data: In 2018 there were 183 units in the Township. The data suggests there was a 20% -23% increase from late 2019 to 2020 during the Pandemic. The numbers have remained flat. Note that this is data that is on the system. The Township knows there are units that are not advertised and not in the system.

Price: \$200-\$300 range per room rate. Prices increase in the summer months. The trend is toward the \$500 range for summer.

Minimum night stay: 3 nights. Data shows prevalence to 3 night minimum. In areas closer to the Lake, 1 and 2 night stays are lower.

Price and Stay: 3 night stay is the highest in price and amount of stay.

Geographic Distribution: Data was built into spread sheet to see the various neighborhoods to identify what is happening in those neighborhoods. The majority are located in Macatawa Park, along Lake Michigan, Chippewa, and Ottawa Beach.

Clusters are long Lake Macatawa and Lake Michigan, James Street, Hollywood area, Lake View area, West Michigan parks and Chippewa, Macatawa Park, and Lakewood (Algonquin and Iroquois areas)

Sleep Capacity: Many short-term rentals advertise capacity for 12 or more. This affects access and parking problems. Most homes are 3 or 4 bedrooms so capacity of the number of people is very high for the number of bedrooms. Macatawa Park and West Michigan area are predominant in this sleep capacity overload.

Short Term Rental Density: Macatawa Park, Lakewood and Ottawa Beach have the highest percentages of short-term rentals vs. number of parcels.

Short-Term Rental Absentee Landlords: Overall 33% of the short-term rentals have absentee landlords. Macatawa Park (59%) and Lakewood (88%) are the two highest for absentee landlords (outside State of Michigan).

d. Facilitated Discussion on Short-Term Rentals – Jeff Goodman of Granicus

Jeff Goodman, representing Granicus, introduced himself via Zoom. His focus has been on short-term rentals and enforcement systems for a number of years. Granicus is a software company. He targets his research geared to understanding community options and support of local governments. It is a complicated issue. Goal statements should present options. He wants to be used as a resource for the Planning Commission. He observed Park Township is not alone in dealing with this issue in the community. He expressed appreciation for the civility of the residents during public comment. He asked members for questions that he could address.

Pfost sees three classes of interest: the owner/operator or investor, the corporation that owns property that is a short-term rental, and the person who lives in a residential area where short-term rentals are changing the neighborhood. We don't have a process now to address any of these.

Pfost said the police have limited resources, so there is the concept of enforcement for nuisance complaints.

Kleinjans said we can only hope for more reasonable short-term rental legislation from the State. Kleinjans suggested discussion about density, regulation, and costs.

DeHaan asked what do we want to do with regulation and how involved do we want to get.

Ervine asked if there is any information we didn't receive. Do we want to follow up on high density neighborhoods? Can we clarify the issue and ask Goodman to help us with it?

Fink said Granicus has the advisory tools regarding enforcement.

Garlinghouse asked what do we want the neighborhoods to look like in 20-30 years down the road.

Kleinjans asked for the percentage of occupation.

Goodman said this number is difficult to obtain – he has the ability to do some estimations, but only for those on the online platforms. Homestead exemptions can be helpful – most homeowners take tax fraud seriously.

Pfost suggested looking at longer term planning in considering the Master Plan and strike a balance. Enrollment in schools in the Township is decreasing. So what is the impact?

Garlinghouse would like to see what residents pay into the area for services. Short-term rentals do not utilize Township services.

Goodman suggested the Planning Commission consider broader values and goals with regard to the community. How does the short-term rental issue fit into Township goals? A lot of choices will have to be made – it must hang together to center thought and measure data in light of what you want the Township's future to be. How does it affect housing and schools?

Ervine asked if there is any other data that the Planning Commission wants.

Koppelaar said we need to address the current situation. Unless we change, the data won't help us.

Martin said with regard to NOT regulating/enforcing the short-term rental situation: a Court may order us to enforce the ordinance if the owners force the issue. If the argument is regulatory taking, these homes don't have to be rented to get a reasonable return.

Eade said he is happy we are dealing with the issue now. In his opinion, 300 is a manageable number for short-term rentals. The Master Plan has to be updated as the Township matures. We have to be realistic – world is changing around us – welcomes opportunity to change process. It should fit the MP down the road.

Where do we go? What do you want on the agenda going forward?

Eade said he was interested in pinpointing the major nuisances and how other communities have managed them effectively so we can come up with a game plan.

Garlinghouse was concerned about the future of Park Township and the change that has skyrocketed in our neighborhoods. She asked about revenue brought in to the Township.

Fink said he has asked the Chamber of Commerce for data on the revenue generated in our area.

Koppenaar said we should address the current situation where we are now.

DeHaan asked what are we trying to drive with regard to the Township's long-term vision. Is it tourism? We need to look at this from a regional standpoint, just not from the point of view of the Township. What are our opportunities, challenges, and issues that we will run into with regulation, if the State doesn't determine these with passage of a bill. This bill will put the State in charge if it passes. Do we desire local control over short-term rentals? Should we outline a framework?

Pfost asked what a self-regulation framework would look like. In his opinion, it is possible.

Goodman asked: What does it mean to be a good host? We can say we will favor those who respect rules and good operational standards. Who are those not getting complaints and how do they operate? You don't want to invalidate other operations.

Kleinjans asked for the next meeting he would like to look at the Master Plan to see if there is help for this issue. Second, should we allow zero short-term rentals in the Township. We need to look at controlling density. If we allow them, we must think about regulation and how we enforce them.

Goodman reminded the Planning Commission they will have to look at a budget for enforcement.

Ervine asked what else can we do?

Martin said the Michigan Township Association can put pressure on State representatives.

PUBLIC COMMENT

Chair Ervine opened the Public Comment at 9:42 P.M.

Chris Schoenberg – owns a short-term rental but supports regulation at the local level. He had one in Arizona and the City of Phoenix requires the owner to apply for a certificate and license. It is very regulated. His neighbors call him if there is any problem. He has a manager on site for his short-term rental here.

Mary Nusbaum – thanked the Planning Commission for respecting the wishes of the residents. As an example of long-distance ownership, the owners of the short-term rental in her neighborhood live six hours away.

Sharlene Clark – The Township should look at usage by the owner and guests. Can the Township regulate how many beds are allowed in a bedroom?

Scott Vandenberg – asked if regulations will solve the noise and parking problems with short-term rentals. It really comes down to the owner's responsibility.

Rich Burkholder – asked if monthly rents be allowed. Regulating occupancy numbers would be helpful.

Ervine closed Public Comment at 9:52 P.M.

ANNOUNCEMENTS

1. The next Planning Commission meeting date is November 23, 2021.

Pfost asked about research in other areas that regulate behavior and have guidelines.

Fink said he has that information.

Ervine suggested the Planning Commission look at models – such as the designation for a super host.

ADJOURNMENT

DeHaan moved, seconded by Pfost, to adjourn the meeting at 9:55 P.M.

Voice Vote:

Ayes 7, Nays 0. Motion carried.

Respectfully submitted,

Judith Hemwall
Recording Secretary
October 31, 2021

Approved: