

PENINSULA TOWNSHIP

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PENINSULA TOWNSHIP PLANNING COMMISSION MINUTES

November 20, 2023, 7:00 p.m.

Corrected on 12-19-23 by Beth Chan

1. **Call to Order**: 7:00 p.m. by Shipman

2. **Pledge**

3. **Roll Call**: Present: Shanafelt, Hall, Beard, Dloski, Hornberger, Shipman; Absent: Alexander;
Also present: Jenn Cram, Director of Planning and Zoning, Kyle O’Meara, Fahey Schultz
Burzych & Rhodes, and Beth Chan, Recording Secretary

4. **Approve Agenda**:

Shipman: asked to add item business item 8b, officer positions for the planning
commission

**Moved by Shanafelt to add business item 8b, officer addition, to the agenda, seconded
by Hall approved by consensus**

**Moved by Hornberger to approve the agenda as amended, seconded by Hall
approved by consensus**

5. **Brief Citizen Comments (For Non-Agenda Items Only)**: None

6. **Conflict of Interest**: None

7. **Consent Agenda**:

a. Approval of Meeting Minutes: Planning Commission Regular Meeting October 16,
2023

Cram: correction to add the following comments to the discussion of Peninsula Shores
SUP #123, Amendment #4, by Alexander to the October 16, 2023 meeting minutes:
*appreciates the desire to move the lot lines back on the ones along Shoreline Drive-and
wondered if an SUP was needed to do that, if the homes could be moved back without
amending the lot lines. Also, homes of similar sizes are all grouped together. This change
would have smaller homes next to some of the largest, it does not flow well. Also, you
would be increasing the density of homes within the subdivision, and anytime that
happens it is not an improvement.*

Moved by Hornberger to approve the correction of the meeting minutes and the consent agenda as amended, seconded by Hall

approved by consensus

8. Business:

a. Special Use Permit (SUP)-Peninsula Shores Planned Unit Development (PUD) #123 Amendment #4-Continued discussion with Draft Findings of Fact and Conditions for Consideration and Possible Action (Waters Edge Drive and Shoreline Court)

Cram: summarized memo from the packet dated November 13, 2023, regarding Peninsula Shores PUD, SUP #123, Amendment #4-continued discussion. The applicant submitted additional information, which is in the packet under Exhibit D. The planner and legal counsel have not had sufficient time to review and analyze this information; the findings of fact were already drafted when this information was received. The packet also contains information from the original approval. Discussed process and timeline for additional information to be submitted for a complex SUP application. Staff, legal counsel, and the applicant agreed that no action be taken this evening due to the amount of information that is to be reviewed. Any additional information from the applicant should be received by Monday, December 4th for review to allow time to amend the findings of fact and conditions as needed, which would be available on Monday, December 11th. Requested this to be the normal timeframe, two weeks before the meeting in which it would be heard.

Discussion of the timeline for the submittal of additional information.

Cram: legal counsel from both sides are willing to answer questions to move this forward.

Hall: reads Section E9, on page six of the bylaws which states that action items are to be submitted two weeks or more before the meeting. This is an example of a situation with a voluminous amount of material and administration discretion could be a formal amendment to the bylaws in the future.

Further discussion of the timeline

Cram: discussed timeline and date with the applicant.

Beard: Asked to see in the revisions what is edited when the findings of fact are revised, to follow reasoning and logic.

Cram: will use track changes.

Beard: there are regular references to a fifty-five-lot scenario, should the planning commission consider that or the forty-one lots that were approved?

Discussion of the number of lots, what might have been achieved versus what was approved.

Cram: will discuss with legal counsel

O'Meara: there are some concerns and will continue reviewing and vetting of the submitted material.

Shipman: with reference to submitted information from the applicant, Exhibit D, part four: Vineyard Ridge is ten percent open space, it is a different standard. This is a comparison of apples and oranges with Peninsula Shores.

Cram: The site and the zoning are different; this is not a shoreline development. Regarding Seven Hills Development, the capacity had different factors for the C-1 Zoning, including sewage disposal and parking for a restaurant/tavern. Another memo will be presented at the December planning commission meeting and amendments to the findings of fact.

Shipman: the key to this discussion is from a legal perspective, comparing the beginning and last approved.

Shanafelt: there is no going back as they have built houses already.

Shipman: what happened during the original approval (PUD) resulted in tremendous public engagement. It is hard to go back to the start.

Kyle O'Grady, 901 South Garfield, Suite 202, Traverse City: introduced Todd Millar, Parker Harvey Law Firm.

Todd Millar, Parker Harvey Law Firm: understands the desire and need to wade through the information presented. Has reviewed the planning commission meeting minutes, has a list of questions including substantial improvement and how did we get from thirty-six to forty-one units.

b. Election of Officers/change

Shipman: stepping down from the chair position due to a planned travel absence in January and February; happy to continue in a different role. Consider Hall for the chair.

Hornberger: Shipman could be vice-chair.

O'Meara: section seventeen discusses election of officers, does not address vacating an office, bylaws do not address this issue. The chair and vice chair could vacate the positions and appoint a chair and vice chair or they could swap positions. Nothing prohibits switching positions.

Shanafelt moves to have Shipman switch roles with Hall, with Shipman as vice-chair and Hall as chair of the planning commission effective at the conclusion of this planning commission meeting, seconded by Beard.

Roll call: Beard-yes, Shipman-yes, Hornberger-yes, Dloski-yes, Hall-yes, and Shanafelt-yes
passed

9. Reports and Updates:

a. Discussion on the Intent and Purpose of Shoreline Regulations

Cram: asked the planning commission on October 16, 2023, to consider the intent and purpose of shoreline regulations; looked at existing intent and purpose. This evening the planning commission will look at how Peninsula Township deals with jurisdiction over land and not the water. How much land is needed for docks and hoists and other things

in the water? Suggested that photos and measurements should be taken. Suggested a study group. Looking for a spring deadline before docks and hoists are installed.

Hall: reviewed the three levels of jurisdiction categories for shoreline regulation. First is the Federal government, the Army Corp of Engineers concerned with navigable waters including the east and west bays. They do not have staff for permits for seasonal docks and do so when it is related to navigability. Second is the State of Michigan which owns the bottomlands, as you step off the shore. The state does not allow permanent structures, but instead, seasonal docks are generally permitted. Who is in charge of seasonal docks? The third is Peninsula Township which has authority over the size, location, and density of docks on the shoreline, derived from the township's jurisdiction on the land above the ordinary high water mark. Docks are in connection with the land/shoreline. Issues are dock location and size and shared water frontage.

Cram: the township receives phone calls from residents who are concerned about neighbors placing docks in ~~from~~ front of their property. This interferes with utilizing the shoreline. Also, shared shoreline needs, parking space and storage space, this is an issue with the shoreline and how it relates to the water. Summarized the township's shoreline regulations with the issuing of Land Use Permits and the change in the FEMA base flood elevation maps. Presented information on the effects of the new FEMA floodplain map (April 2023) and how it intersects with zoning and land use.

Discussion of the formation of a study group, recruiting members to serve starting in January and possible outside agencies to assist.

10. Public Comments:

Mark Nadolski, 10 McKinley Road: does the township monitor the number of shore stations that each subdivision uses? It has been an ongoing battle, is the township involved?

Cram: staff resources are unavailable for thorough shore station ordinance enforcement in subdivisions. The township ordinance enforcement officer has not made a count for subdivisions and individual owners. Believes there are many violations out there.

Nadolski: is the township aware of the numbers each subdivision has?

Cram: we are aware if they were approved by a PUD/SUP; but enforced only by complaints.

Nadolski: have lived here since 1973, if the township can't control its shoreline what is the solution?

Shanafelt: this has to do with resource availability, funding, and personnel. There is a lack of capability to control this.

Nadolski: suggested hiring

Shanafelt: this involves money, which involves budget.

Nadolski: who polices this now?

Cram: the zoning administrator and ordinance enforcement officer via the zoning ordinance, gives authority to the township enforcement officer

Nadolski: people buy into a subdivision; they want to put a shore station in; there is not enough control by the subdivisions to enforce by-laws. The township needs to sit down with the HOA presidents for control.

Cram: some HOA presidents are more involved than others.

John Dolton, 10862 Eagles Landing Drive: to clarify, in Eagles Landing, our SUP specifies in both phases, the precise number of shore stations in the bylaws of the HOA. The township was responsive to the complaints from the HOA. A clear ordinance needs to be created so we have something that can be enforced. Encouraged the planning commission to adopt components, some are more time sensitive. Shoreline is very valuable; people pay for it; and it needs to be fair to all owners. These are big issues, the number of shore stations and where they can be placed, along with docks.

Cram: for inland lakes, property owners own the bottomlands, but for the great lakes the state owns the bottomlands.

Hall: a permanent structure cannot be placed on the Great Lakes.

11. Other Matters or Comments by Planning Commission Members:

Shipman: Julie Alexander sent some correspondence to be included in the packet; comments for the November record.

Cram: will share comments with the applicant and will put them in the packet for the next meeting.

Shipman: forward it to the members. Asks for attendance for December's planning commission meeting.

12. Adjournment: 8:17 p.m.

Moved by Dloski to adjourn, seconded by Hall approved by consensus