

# PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686

Ph: 231.223.7322 Fax: 231.223.7117

[www.peninsulatownship.com](http://www.peninsulatownship.com)

## PENINSULA TOWNSHIP PLANNING COMMISSION AGENDA

January 7, 2025

7:00 p.m.

1. **Call to Order**
2. **Pledge**
3. **Roll Call**
4. **Approve Agenda**
5. **Brief Citizen Comments (For Agenda Items Not Scheduled for Public Hearing)**
6. **Conflict of Interest**
7. **Consent Agenda**
  - a. Approval of Meeting Minutes: Planning Commission Regular Meeting, November 6, 2024
8. **Business**
  - a. DRAFT Intent and Purpose Statement for Shoreline Regulations
  - b. Discussion on Recommended Next Steps for Public Education for Shoreline Regulations
  - c. Discussion on Proposed Amendments to Section 8.1.3(1)(b) – Substantial Improvement
9. **Reports and Updates - Verbal**
  - a. Agricultural Advisory Committee First Meeting Recap (Beard)
10. **Public Comments**
11. **Other Matters or Comments by Planning Commission Members**
12. **Adjournment**

Peninsula Township has several portable hearing devices available for audience members. If you would like to use one, please ask the clerk.

# Minutes

# PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686

Ph: 231.223.7322 Fax: 231.223.7117

[www.peninsulatownship.com](http://www.peninsulatownship.com)

**PENINSULA TOWNSHIP  
PLANNING COMMISSION REGULAR MEETING MINUTES  
November 6th, 2024, 7:00 p.m.**

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

**2. Pledge**

**3. Roll Call**

**Present:** Alexander, Beard, Dloski, Hall, Hornberger, Shanafelt;

**Absent/Excused:** Shipman

**4. Approve Agenda**

Request by Cram to amend agenda item #5 to remove the parenthetical to allow for public comment on non-agenda items earlier in the meeting, rather than at the end.

**Motion to approve the agenda as amended by Hornberger, second by Beard.**

**Motion passed by consensus**

**5. Brief Citizen Comments:**

**Molly Stretten, 2822 Devils Dive Road: From the commenter's written statement, verbatim:** Since 2022, the property owner at 2700 Devils Dive Road has been having excavation soil dumped onto his property. This is a near daily occurrence with multiple soil deliveries taking place on a single day. On October 28, 2024, there were more than a dozen excavation trucks dumping soil on this parcel. The same number of trucks dumped soil the following day. On October 16, 2024, we had a conversation with Caryn Chachulski, Sanitarian of Grand Traverse County Health Department, and learned that the property owner has a permit and indicated on his application that he is "using his parcel for soil storage". In fact, the property owner has been accumulating soil and then using a large bulldozer to spread the soil up in elevation along our shared property line. We have been collecting both photos and videos demonstrating this activity. We have attempted to gain greater clarity from our neighbor as to his intentions, but our text messages have gone unanswered. We are left presuming that the property owner is increasing the natural grade to build an additional house or structure with water views that couldn't be obtained without a change in elevation. In a meeting with Jenn Cram on September 27, 2024, and again on October 24, 2024, Jenn indicated that although a grading permit is not required in Peninsula Township, as per Peninsula Township zoning ordinance section 3.2, Amendment #204, a new build cannot exceed 38' of the natural grade. In her view, it appeared that several acres worth of grading has already occurred when looking at an old topographical map. Our concern is that the natural grade is being changed considerably and rapidly. From about 20' beyond our property line on the west side, the elevation drops considerably. Our neighbor has recently begun building this area upward to lessen the grade of the slope. We are requesting that the township obtain a new topographical map or survey to compare the new change in elevation from the previous and serve as a baseline for any new construction on the property. Should our neighbor not intend on building a structure on his property, it doesn't preclude a future owner from building at an increased elevation. A measurement in the new elevation is needed now. On a separate note, we are equally concerned about the

quality and source of the soil being dumped on that parcel. Without adequate testing and certification there is not a way to assure that dangerous contaminants are not being imported with the soil into a residential and farming community. The health, safety, and quality of humans, ground water, and valuable farm products are of concern.

**From the commenter's delivered summary, verbatim:** I am here tonight to highlight portions of my letter that I sent to several of you on October 30th, which I'm learning wasn't received. We are requesting a review of the regrading and manipulation of the natural grade taking place at 2700 Devils Dive Road. Since 2022, the property owner at this parcel has been having excavation soil dumped onto his property. This is a near daily occurrence with multiple soil deliveries taking place on a single day. On October 28th there were more than a dozen excavation trucks dumping soil. The same number of trucks were dumping soil the following day. We've met with the Grand Traverse County Health Department and learned that although there is a permit the applicant indicated that he's using his parcel for soil storage. In fact, the property owner has been accumulating soil and then using a large bulldozer to spread the soil up in elevation along our shared property line. We've been collecting photos and videos which I've shared with some of you as well as members of the Township Board and our planner. I'm happy to send those again. At a meeting with Jenn on September 27th and again on October 24th we learned that although a grading permit is not permitted in Peninsula Township as per zoning ordinance Amendment 204 a new build cannot exceed 38 ft of the natural grade. We've made an attempt to find out what our neighbor has in store and those text messages have gone unanswered. We are left to conclude that he's creating a nice perch for a new build. We are requesting that the township obtain a new topographical map or survey to compare the new change in elevation from the previous and serve as a baseline for any new construction on the property should our neighbor not even intend on building; it doesn't preclude a future owner from building at an increased elevation. We feel that a new measurement really is needed now because again this is happening rapidly and has for the last couple of years that it's been escalated. Thank you very much.

**Cram:** Commissioners were asked if they had received the correspondence mentioned above and for some reason they had not. The planning office has received it and has that documentation, which it will ensure gets to the Commission. Staff is working through this issue. The current zoning ordinance does not require a permit to remove trees (if property is not on the shoreline) or for general grading. However, if more than an acre of disturbance occurs, or said disturbance is within 500 ft of the ordinary high water mark, a stormwater control permit is required. Though the property of concern does have a soil erosion and sedimentation control permit in place, staff will be working with the county and the property owner to get a better understanding of what is happening, and to ensure that it is meeting stormwater requirements.

**Hall:** Asks for clarification regarding the appropriateness of this issue being brought forth to the Planning Commission, as it appears outside its purview.

**Cram:** Agrees that it is potentially outside their purview, but also considers it helpful from an education standpoint. Other communities do require permits for grading, and it is possible to see this issue arise in the future, as it applies to building height.

**Hornberger:** Recalls that much discussion was had during discussions around amendment 204 (building height) over building up the land, as it impacts building height.

**Cram:** Agrees that the specification of 'average natural grade' at the time of build was selected for just that purpose. Property owners are required to provide a topographical survey to determine average natural grade, and later gradual fill could change that measurement. Another issue here is increased traffic due to the use of construction vehicles, as well as wear and tear of the road surfaces.

**Hall:** Under our existing ordinances the only time limitation is when plans are submitted for a structure and at that time we could say well no we're going to look at the natural grade as it existed at an earlier date than now but we just have to get that documentation. We would have to know to what the pre-existing

grade was. It seems to me that this is an enforcement issue and not properly before the Planning Commission.

**Cram:** What might be appropriate to come before the Planning Commission is a change to the zoning ordinance to address grading, which is why staff feels it is important for the commission to hear community happenings, as they may impact future amendments.

**Dloski:** Highlights the importance that the Township have a grade-change ordinance, if for no other purpose than to ensure adjoining property owners aren't being impacted. From personal experience, every community dealt with had such an ordinance. Plans are submitted to the township engineer, who approves or denies it, in order to prevent the flooding of neighboring properties.

**Hall:** Asks staff to consider the addition of such an ordinance to their to-do list.

**Cram:** States that discussion is already being made with (new township supervisor) Maura Sanders and other board members and it will be addressed at the strategic planning session in the new year. Suggests that the Planning Commission keep the issue on their radar.

**Hall:** Reminds the public that there are private remedies that can be sought in the face of such issues.

**6. Conflict of Interest: none**

**7. Consent Agenda: Motion to approve the consent agenda as amended (punctuation needed in October 10 minutes)**

**8. Business:**

- a. Special Use Permit (SUP) #35 -Seven Hills Development, Amendment #3 – Continued Discussion; 13795 Seven Hills Road, Traverse City, MI, 49686

**Jenn Cram, Director of Planning and Zoning, Peninsula Township:** Provides Planning Commission a summary of the history of the property as well as details on the request for amendment as outlined in the staff report section of the packet material.

- The Planning Commission first heard this request on August 21, 2024, when it was introduced. The public hearing was held on October 10th, and now continued discussion on November 6th. At the October 10th meeting the Planning Commission asked the applicants to develop a plan to address the non-compliance issues happening on the property including noise complaints, overflow parking along Seven Hills Road, and concerns with exceeding capacity that have been documented.
- The applicants, Troy Daily and Jordan Valdmanis, met with a small subcommittee of the Planning Commission (made up of Susie Shipman, Kevin Beard, and Jenn Cram) the previous week. Applicants brought a proposal to that subcommittee for feedback. The resulting proposal was included in the packet in front of the revised findings of facts and conditions.
- Reminds commission that Amendment #3 to special use permit (SUP) #35 is to add additional liquor licenses to the premises to allow for micro-brewing, small wine-making, as well as beer and wine tasting.
- With the approval of Amendment #2 it was noted that any changes in the liquor licenses or any other uses on the property would require an amendment to the special use permit. The applicants/ property owners for the Seven Hills development - are now going through that amendment process. At part of the process the Planning Commission must find that it meets all the conditions of approval of Section 8.1.3.
- There were concerns about the uses being disturbing because of noise complaints, safety issues from overflow parking on Seven Hills Road, as well as the on-site septic system capacity being exceeded.
- Revisions from the last meeting were noted in red so that the commission can see where changes were made based on the compliance plan that the applicants presented.

Offers to walk through the findings of fact page by page, or to answer questions that the commission may have. Notes that one of the applicants is present to answer questions as well.

**Dloski:** Asks if trees have been planted.

**Cram:** Confirms that they have, per an email received from Jordan Valdmanis. Notes that in addition to the additional buffer created by these trees, the applicant plans to install an operations manager during all music/events to ensure the volume stays appropriate by checking the noise level at the perimeter of the property. Asks the applicant to confirm that they will be checking in with neighbors.

**Troy Daily, 16169 Hill Rise Road:** Yes, we have talked to the neighbors before. Introducing ourselves, letting them know what we're doing, we will let them know if they hear anything they can address us and let us know. Then you asked about planting trees. We did plant those last week. We planted five. I don't know the technical term of what they are but there are five.

**Cram:** Suggest they might be spruce.

**Daily:** Spruces or arborvitae.

**Dloski:** How will you manage sound levels? What do you do - pull the plug out if they're too loud?

**Daily:** No, (we) just turn it down. We control all the volume, actually. We just set that up. When we have music, they plug in (to the house system) and we have our own control board that has volume controls. We can control their microphone and speaker volume because they hook up into our speakers. We just implemented that last week.

**Dloski:** What about when they're outside?

**Daily:** When they're outside it still hooks into our system. They'll also have their (own) speakers but we can control the volume on them.

**Cram:** It looks similar to this iPad. The sound board is right on it.

**Daily:** We just set that up last week. We're still learning how to use it. We don't have any music outside (due to weather/season) but we'll be able to get it all dialed in.

**Shanafelt:** How will the event manager determine what's an acceptable level of sound?

**Daily:** I think just based on the comfort level of the guests that are there? We don't have a measurable device or anything.

**Shanafelt:** The issue is not the guests there but the surrounding community. I appreciate your monitoring. Monitoring is great, but you've got to act. I didn't read anything (in the proposed plan) that determined excess noise. The noise ordinance requires the volume to be no louder than conversation at the border of the property. I'm imagining that the event manager would have to routinely be taking walks around the property to see if the music can be heard. How will that individual determine if it's too loud?

**Daily:** I think that's a great option. I think that could be added. Jenn, it looks like you're already writing that down. I'm more than happy to add that.

**Shanafelt:** I do like the idea of making sure the neighbors know how to get in contact with you.

**Daily:** Absolutely. We have done that.

**Shanafelt:** It's bigger than just immediate neighbors because people can hear way down in Bowers Harbor Park.

**Daily:** Hopefully we don't have that again.

**Hall:** As no one else has questions on excess noise control, let's move on to the issue of excess parking. You mentioned (in your plan) offering shuttle services. Assuming the end point is your location: where is the starting point? Where would vehicles be shuttled from?

**Daily:** Depends on where they're at. I'm the owner of a transportation company and we get people from their houses or in town or wherever they are. If there's an event or something like that there will be a central location.

**Dloski:** I've seen pictures on (Seven Hills) Road with cars parked up and down the shoulder of the road. Where would those cars park if they can't park there?

**Daily:** That's the whole idea of what this is addressing. We are going to eliminate that. If we do anticipate larger events. We've also addressed additional on-site signage and to help the County to add signage on the road as well. Those are the things that we've come up with (but we're) open to other ideas.

**Dloski:** Are you saying you do not have sufficient onsite parking to handle that number of vehicles? Why are they parking on the road right of way on both sides?

**Daily:** This was discussed a little bit at our last meeting, as well, and what we have seen with our isolated incidents is that if one person ends up parking on the road because they want to get out quicker or leave earlier then (that creates) the mentality "I'm going to also do it". We have seen that when we have ample parking on-site people still park on the road.

**Cram:** When the application came in for Amendment #2 the Planning Commission expressed concerns about the potential of parking on Seven Hills. I reached out to the Road Commission to see if 'no-parking' signs could be installed. They noted that they would only do that in cooperation with the Grand Traverse County Sheriff's Department. Since the Seven Hills Development has opened, our community police officers have also observed the cars parked on Seven Hills and are concerned about safety. I spoke to Officer France earlier this week about working with us and the Road Commission to get those 'no-parking' signs placed, after which our CPOs and/or the Sheriff's Department can issue parking tickets which we believe will deter people from parking on Seven Hills.

**Hornberger:** Why do you need a shuttle if you're going to have 70 or fewer people there, given that there are 55 dedicated parking spaces?

**Daily:** We just don't want there to be any opportunity for anybody to park on the road. It's just an option that we offered. Red Ginger did it just a few weeks ago and that's why we thought it was a good idea.

**Hornberger:** I can see it's a good idea if you're going to promise us that you are going to keep the number of people there at any one time at 70 or less.

**Daily:** That is the whole goal of this.

**Hornberger:** I don't want to hear "goal". I want to hear "promise".

**Hall:** It might be a question of how we enforce that. If the permit says there's a 70 person maximum then how is that enforced and what happens if it's violated?

**Cram:** It's my understanding that the fire chief and the building official could enforce the capacity. We also know that the Health Department is monitoring capacity to some degree because a flow meter was installed on the on-site septic system.

**Shanafelt:** I want to commend you for doing the shuttle service. I think that's been a solution for a long time on the peninsula.

**Daily:** Not only for the actual parking (issue) but also (for) safety.

**Shanafelt:** If you're at capacity and someone wants to enter, does that mean they must leave the premises entirely, or just wait outside? If parking is full, will overflow vehicles park on Seven Hills? Will there be a "No Parking" sign with warnings about ticketing? Given the potential for more than 70 people on-site exceeding septic capacity, how will you monitor and address overflow parking on Seven Hills? Will you take proactive steps to ensure those cars are moved?

**Daily:** Obviously that's a loaded question. I think it gets me into hypothetical things. To address that: I think the on-site manager that we have that's going to be also monitoring the music is letting people know that we are at capacity, we don't have any parking spots, (and to) please come visit us at another time. (Also,) don't park on Seven Hills. That's the ultimate goal. I also think that if they see people parking on Seven Hills to make sure (to say) "hey, you cannot park here. There's one sign on premises now. There will be signs on the road.

**Shanafelt:** Now we're getting into the gray area: who ultimately is responsible? For the sake of argument, I'm going to say you're responsible because you're having the event. If the event manager identifies there are four cars on the road how will they track down those people?

**Daily:** I think that comes to where we probably call the sheriff's department. I'm not sure where the authorization (is) there because if there are signs, I think they're going to come and ticket them. I don't know what the legality of us (enforcing that) is. That just gets into a very gray area for me.

**Cram:** With your speaker system, is there a way for the manager to announce, say, "we've observed four cars parked on Seven Hills, please move them or you will get a ticket".

**Daily:** We do have a microphone now, yes.

**Hall:** Could you explain what the event for Red Ginger was and how the shuttle service worked in connection with that event?

**Daily:** They had their employee appreciation party there for all their employees. We did catering and bar service. They wanted to have a safe way for (their staff) to get from Red Ginger in town to the event. They had an open bar and so it was more of a safety concern than (for) over-capacity. There was 68 people. There were four cars in the parking lot. We weren't even open. It was good to understand what the options if we have a ticketed event.

**Cram:** When we met with Troy and Jordan they shared that with us and we thought it would be helpful for you all to have an example of a successful way that they addressed parking and safety.

**Alexander:** I like the idea of reserved tickets. You could even post a sign on your door indicating a ticketed event is being held and others won't be admitted.

**Daily:** For the Red Ginger event we did get an A-frame (sign) that says "we have an event. we're not open."

**Hall:** Asks Cram to take Commission through this proposed amendment.

**Cram:** Under Section 8.1.3(1)(a) of the General Standards, the amendment must be designed, constructed, operated, and maintained in a way that aligns with the character of the area and does not alter its essence. This development is attractive and appreciated by the community, and the property is zoned C-1. The approved uses comply with C-1 zoning, and the amendments will remain compliant if they exclude manufacturing not permitted in the C-1 district, similar to how the small distilling liquor license was addressed. Under (b), the amendment must not be hazardous or disturbing to current or future uses in the vicinity and should substantially improve the property and community. The submitted plan aims to address noise complaints, and with sufficient conditions of approval, it should mitigate disturbances. The Planning Commission and staff are encouraged to ensure these conditions provide the necessary assurances. Additionally, adding the two requested liquor licenses could enhance the community, particularly by offering lower alcohol by volume options. Input from the commission is requested to establish how these amendments meet these criteria.

**Shanafelt:** Offers that the lower ABV offering is a substantial improvement, as is offering a shuttle service to avoid excess parking and traffic on the peninsula.

**Dloski:** Does not believe it's a substantial improvement to the nearest residents.

**Hall:** Suggests that some residents would likely appreciate the ability to walk/avoid drinking and driving.

**Dloski:** We're analyzing it based on the use itself but this standard goes outside of the use. It says the "immediate vicinity" so we have to look at what kind of benefit the immediate vicinity is receiving.

**Cram:** Since the property is zoned C-1 - Commercial, restaurant/taverns are permitted with a special use permit. While typically a Class C liquor license would be held, the applicant's creative solution of limiting manufacturing with lesser licenses ensures compliance with C-1 zoning. Their proposed plan addresses key issues like noise, parking, and traffic. Additionally, having local amenities like live music, comedy, and adult beverages reduces trips into Traverse City, enhancing convenience for the community. The mitigation of parking and traffic concerns, particularly on Seven Hills, also improves safety and represents a meaningful improvement to the area. Input from the Planning Commission is essential to confirm that you agree these conditions are met.

**Dloski:** Asks if the Township is looking at the 'substantial improvement' condition.

**Cram:** The Planning Commission has found the current subjective language challenging to apply, especially for amendments. A subcommittee, including Randy, Susie, Kevin, and myself, has been formed to address this issue. Once Susie returns, we'll review collected example ordinances to clarify how to define and evaluate public benefits, making the language more objective. This is a priority for the commission.

**Hall:** Recent projects have shown the difficulty of applying the "substantial improvement" standard. Many municipalities, like Ann Arbor with its advanced ordinance, avoid this concept and instead focus on identifying potential detriments. If no significant detriments exist, the project is deemed acceptable, making it a clearer and more practical approach than the vague standard in our current ordinance.

**Cram:** Reminds Commission that the existing zoning ordinance must guide this decision.

**Hall:** A liberal interpretation of "substantial improvement" to the property and community leads to the conclusion that expanding alcoholic beverage offerings qualifies as a significant enhancement.

**Shanafelt:** The key factor is the plan's focus on preventing cars from parking on Seven Hills, which addresses a serious safety concern. The responsibility to ensure this is effectively managed falls on them, and that's what makes the plan compelling.

**Dloski:** Good points have been made regarding parking improvements and concludes the commission could apply the standard to that issue alone.

**Shanafelt:** It sets good precedent for thinking about other C-1 properties and parking.

**Cram:** To reiterate: the Planning Commission finds that the requested amendments to add additional liquor licenses is a substantial improvement based on the lower alcoholic alcohol by volume options and their plan to address parking, capacity, and noise.

**The Commission agrees with that statement.**

**Cram:** Moves on to the next standard to be met. 8.1.3(1)(c), confirms the project still meets the requirements for essential services, with no changes needed. (d) ensures no excessive costs for public services. A condition of approval requires the applicants to work with local police and the Grand Traverse County Road Commission to install "no-parking" signs along Seven Hills Road at their own expense.

**Shanafelt:** Asks if there is a timeframe for installation of no-parking signs.

**Cram:** There is no specific timeframe yet, but Deputy France confirmed he will be working on it. If the Planning Commission is comfortable, the motion can be sent to the board, where a timeframe can be addressed.

**Shanafelt:** Notes concern that without a stipulation on when this objective must be achieved the commission runs the risk of not seeing it fulfilled.

**Cram:** A reasonable timeframe should be set. Since winter is slower and no outdoor music is planned, installing the signs by spring would be a practical target.

**Beard:** Points out that the commission should avoid committing either the sheriff's department or the road commission to a timeline. Perhaps the applicants report back to the zoning administrator within six months for the status of this aspect of the project instead.

**Shanafelt:** Wonders how excess parking is avoided without the signs in place.

**Hall:** I'd like to ask Jenn. I know we have other people like Kevin and Larry with a lot of experience on this question. If we put a requirement in here that the project owner manages parking the way that they've offered and they don't do it - what are the enforcement options that we have? Can we send them a notice and if they keep violating it can we then revoke the SUP? Then they couldn't (sell) the extended (offerings).

**Cram:** There's a process. If we receive complaints, or we observe a violation, the first thing we do is let them know. We issue a violation letter. (In this case) a violation letter has already been issued for the noise complaints. If there's another noise violation we could issue a citation and then that citation goes to the Circuit Court. The Circuit Court could put conditions of approval on it. The Planning Commission could recommend to the Board that if there continues to be violation letters and citations then, yes, the Board could consider rescinding the SUP or changing some elements of it that are problematic.

**Dloski:** On that point, Jenn, whereabouts in the zoning ordinance does it allow the Township Board to revoke a SUP?

**Cram:** I don't know that off the top of my head.

**Dloski:** It's not in the zoning ordinance that I can find.

**Cram:** I would have to look and possibly refer to legal counsel. I know that they have discussed that with other SUPs.

**Dloski:** I was looking for it. I don't see it.

**Hall:** Jenn, if you would please check with legal counsel on this? This has come up a number of times when we struggle with how to put some teeth into an approval. What happens if there's noncompliance? I think we need to understand that. If we're comfortable that there's a process then maybe that answers the question: it's a condition of this approval that they do x, y, and z.

**Shanafelt:** What we have in the conditions of approval are actions that will be taken to mitigate the parking issue...

**Hornberger:** And noise...

**Shanafelt:** ...maybe we need to preface that these actions are intended to eliminate extraneous parking on Seven Hills Road. The purpose is not to fulfill the actions, the purpose is to keep cars off Seven Hills Road. I don't know that it adds any teeth but it does sort of explain what the purpose of all that stuff is. In the absence of the parking signs, it's still clear that you're trying to get people off Seven Hills Road.

**Cram:** I will talk to legal counsel. I did not think they were needed this evening, so I did not invite them. I could call Kyle OMeara, if needed, but in my memory of discussions with legal counsel I believe the way that that could happen is via a condition of approval. The board could initiate a condition of approval that if they continue to have 'x' number of violations it could be rescinded. I can confirm that and have that information ready when this goes to the board if that gives you a better level of comfort.

**Hall:** Yes, I think we need to understand the legal nuance.

**Cram:** That concludes the summary of the highlighted revised finding of facts and conditions. Staff believes that with proposed conditions of approval that the proposed amendment meets all of the required conditions of approval per section 8.1.3.

**Alexander:** Notes that there was no discussion about the plan to ensure that capacity is not exceeded by requiring the on-site manager to monitor capacity and turn people away as needed.

**Cram:** On page eight - conditions of approval - condition #3 was revised. It was originally noted that the maximum number of patrons for the restaurant/coffee shop with a market retail space and tasting room/bar/tavern within the Eastern Building and outdoor use areas as depicted on the application site plan at any time both indoors and Outdoors is 70. This condition will be monitored by an on-site manager.

**Hornberger:** Asks that the language be changed to "monitored and enforced by an onsite manager.

**Cram:** Noted. Then Condition #5, the original condition noted all use of the property shall comply with the Peninsula Township Noise Ordinance #40 and as may be amended in the future. OMP Seven Hills LLC acknowledges that as part of the board's prior approval of amendment #1 to SUP#35 that the noise level at the property line was to be no greater than normal conversation as perceived by a reasonable person. OMP Seven Hills LLC agrees that the noise condition of that amendment carries through to the approval of this amendment to the extent that noise levels at the edge of the property will not exceed normal conversation noise as perceived by a reasonable person. This condition will be met by utilizing an on-site manager to monitor sound at the property line and reducing the volume as needed. I thought that captured both parts of the conversation.

**Beard:** Suggests that language should include an indication that Noise Ordinance #40 is not part of the zoning ordinance, but a police power ordinance.

**Cram:** Condition #11 is a new condition that the applicant/property owners will work with the Grand Traverse County Sheriff's Department and Grand Traverse County Road Commission to install "no-parking"

signs along Seven Hills Road at their expense. Notes the lack of time frame and Kevin's concern about committing those entities to one.

**Shanafelt:** Requests Commission think of a way to add language that would ensure compliance in a reasonable time.

**Hall:** Suggests starting Condition #11 with a statement that the applicant/property owners will use their best efforts to ensure patrons of their facility do not park along Seven Hills. We're putting the onus on them. I would go on to say 'may include working with the Grand Traverse County Sheriff's Department and the Road Commission.

**Shanafelt:** Ultimately, we want no-parking signs installed, though.

**Cram:** Believes there should be two conditions. We should add a new condition #11 that the applicants will monitor parking along Seven Hills Road and take action to mitigate said parking.

**Hall:** Yes. We can enforce that whether or not the Road Commission installs "no-parking" signs.

**Cram:** Then Condition #12 would be that they work with the Road Commission to get those signs installed. New condition #13 - originally condition #12 - noted that continued maintenance of the approved landscaping is required. I noted that the five new evergreens were installed to provide additional buffers to adjacent properties. Former condition #18 - which would be become #19 - notes this SUP amendment shall expire one year after the final date of approval unless a land use permit has been issued for a change of the uses on the property. That land use permit helps to document that the use has changed to allow these liquor licenses with this plan for compliance in place. I would welcome any other comments, questions, or additional conditions.

**Beard:** Condition #4: outdoor uses shall cease at 10 p.m. 7 days a week. What are the operating hours of the establishment?

**Cram:** They open in the morning for coffee. Hours of operation were not established during the process of approving amendments #1 and #2. Asks Daily what current hours of operations are.

**Daily:** It changes depending on the time of year. We won't have any outdoor uses (now) after 10 p.m.

**Cram:** The concern was having outdoor uses late at night. They weren't really concerned with indoor use.

**Beard:** I understand, but we're being asked to recommend approval of another liquor license. How late will the establishment be open on any given night?

**Daily:** We're open till 11 on the weekends. We don't have any outdoor uses after 10 p.m.

**Beard:** Do you ever propose to be open until 2 in the morning?

**Daily:** We haven't been but I'm also not going to limit ourselves to what we are able to do if we ever want to do that. I'm not saying that we are. We are not going to choose to, but I don't want to limit ourselves either.

**Beard:** Are there any other Class C's on the peninsula that are open till 2 am?

**Cram:** I don't know of any off the top of my head. During the discussion for amendment #2 we surveyed all of the other restaurant/taverns on the peninsula. None stay open late. However, this is a C-1 zoned commercial property. They were approved as a restaurant/tavern. Neither the board nor the planning commission had an issue at that time.

**Hall:** A question about existing condition #18: I need your help in understanding the process here. It says this SUP amendment shall expire one year after the final date of approval unless a land use permit has been issued for the change of use. I don't understand the land use permit (portion).

**Cram:** A land use permit for a change of use is required to formalize the commencement of the approved use, as no construction is involved in this amendment. The previous amendment required construction, necessitating a land use permit to track the start of the construction project. Section 8.1.2 states that a special use permit expires after one year, and to prevent ambiguity or potential legal issues about expiration, it's important to formalize when the use begins and expires. This helps avoid situations where a

project is approved but remains inactive for years, potentially conflicting with future zoning ordinance changes.

**Hall:** Is the normal process that a special use permit – when issued – also involves a land use permit?

**Cram:** The zoning ordinance specifies when a Special Use Permit (SUP) expires, whether or not construction is involved. To avoid confusion, especially after a past lawsuit questioning an SUP's expiration, it's recommended to always include this as a condition of approval. This ensures applicants are clearly informed about the one-year expiration timeline, as they may not always check the ordinance themselves.

**Dloski:** The zoning ordinance certainly allows us to put reasonable conditions to the extent authorized by law on these special land uses. I'm almost positive that the Municipal Zoning and Planning Act (sic) authorizes the township to revoke a condition of special land use if there's been a violation. I would like to put a condition on to the extent that should the applicant fail to comply with the SUP and additional conditions the Township Board may hold a hearing to revoke the SUP. It gives it a little more teeth than constantly parading in the Circuit Court.

**Cram:** Asks Dloski to repeat his proposed condition.

**Dloski:** Should the applicant fail to comply with the special land use permit and amendments, as well as the additional conditions the Township Board may hold a hearing to revoke the SUP. Notice and opportunity will first be given as part of due process. If our legal counsel says we can't do it before it gets to the board then they can eliminate it.

**Cram:** A motion for consideration is included in the packet. The application held a public hearing on October 10th, and the Planning Commission addressed concerns raised during that meeting and t. The Commission may take action tonight if satisfied that all conditions of Section 8.1.3 and the those heard this evening, conditions of approval have been met.

**Dloski:** I think we should send it to the board.

**Motion to recommend approval to the Township Board with draft conditions of approval as discussed made by Beard, seconded by Hornberger.**

**Motion passed by consensus.**

## **9. Reports and Updates:**

### **a. Shoreline Regulations Amendment Draft**

**Cram:** A draft will be shared at the December 3rd meeting, focusing on single and shared waterfront ownership policies. Public education sessions with guest speakers are being coordinated for late January in collaboration with newly elected Township Supervisor, Maura Sanders.

### **b. Agricultural Advisory Committee Appointments & First Meeting**

**Cram:** Seven members and two alternates have been appointed. The first meeting is set for Monday, December 16th, at 7 p.m., though the regular schedule will be determined based on the members' farming schedules. The committee will establish bylaws and aims to progress on the signage conversation soon after formation.

**Hall:** How will the meeting dates be publicized?

**Cram:** The Agricultural Advisory Committee will operate like the Parks Committee, with pre-approved agendas, meetings broadcast on YouTube, and minutes and packets prepared. Notifications will be sent via email blasts and posted on the website.

**Hall:** Will the public be allowed to attend the meetings?

**Cram:** Absolutely. They will be open to the public and we will take public comment, as well.

**Hall:** Are those meetings subject to the Open Meetings Act?

**Cram:** Yes. The Agricultural Advisory Committee, appointed by the board, serves as an advisory group to provide feedback and policy direction. They won't draft language, their recommendations will be considered by the Planning Commission before any zoning ordinance amendments are drafted by staff.

**10. Public Comments: An audience member commends the Planning Commission on their hard work.**

**11. Other Matters or Comments by Planning Commission Members**

**Hornberger:** I've always been concerned about ensuring compliance when someone doesn't fulfill their responsibilities. Including clear language to address this was a good decision. While they're successful and doing a great job, issues like parking and noise needed to be addressed.

**Cram:** I'd like us to establish a standard list of conditions of approval for every Special Use Permit (SUP), including items like expiration dates. While each application will have unique conditions, having a consistent baseline is important. I also want to implement this for the Zoning Board of Appeals (ZBA) to ensure standard conditions apply to specific types of applications.

**Beard:** I'm uncomfortable with applications for licenses like distilling, winemaking, or brewing when those activities aren't actually performed, just to serve beverages without obtaining a Class C liquor license. While Class C licenses can be expensive, this workaround feels unintended and contrary to the expectations of the Liquor Control Commission. It appears to be a loophole that could be exploited until addressed.

**Cram:** I've discussed with Maura Sanders, our future supervisor, the need to engage the MLCC about loopholes and challenges townships face with outdated liquor license regulations. The goal is to explore modifying licenses to exclude manufacturing requirements, which could benefit local farmers who grow grapes but process them elsewhere, allowing them to store and sell the resulting wine wholesale. Our first step is building a relationship with the MLCC to educate them on these issues. We'll also review our zoning ordinance to address these uses and establish safeguards, as this situation poses a slippery slope.

**Shanafelt:** It would be helpful to consult our legal counsel to determine if we can legally structure an ordinance that restricts the use of an otherwise lawful strategy.

**Cram:** Our legal counsel is already reviewing this issue due to a related matter. It's likely Maura will bring it to the board for discussion as part of the strategic plan for priorities. This should be a priority for our community, as we face challenges with the abundance of alcohol-related activities and no quotas or capacity limits for small manufacturing licenses. There's significant work ahead.

**Hornberger:** Asks when the Planning Commission will be expected to deal with aforementioned grading and earth change issues.

**Cram:** States that staff is working on this specific situation, but the overall issue can be added to proposed zoning amendment discussion. Also, while Julie Alexander will continue to serve on the Planning Commission as the Board Representative, there will be a vacancy on the Planning Commission. Thanked Armen for his service. While his term has ended, there's an opportunity to apply for the open seat. The vacancy will be posted and any interested should apply.

**12. Adjournment**

**Dloski moved to adjourn at 8:25 p.m. with a second by Shanafelt.**

**Motion passed by consensus.**



# **Intent and Purpose for Shoreline Regulations**

01-07-25 DRAFT

### Great Lakes Shoreline Regulations (Currently Sections 6.2 and 7.4)

**Intent and Purpose.** It is the intent and purpose of these shoreline regulations to protect and preserve the 42 miles of Grand Traverse Bay shoreline in Peninsula Township and to promote the health, safety, and welfare of the public while allowing multiple uses. The water levels of the Great Lakes vary continually, and high water, wave action, or ice can cause damage to existing structures and property and can also become a hazard to neighboring properties. Shallow waters near shore also support lake ecology and provide habitat for a greater variety of organisms than all other aquatic areas.

To protect and preserve the Grand Traverse Bay shoreline, several best management practices are embodied in the following regulations. These include measures to minimize the effects of waves, ice, fluctuating water levels, and erosion and to maintain water quality, ecological health, and scenic views. These regulations also support the best management practices associated with the Michigan Department of Environmental Quality.

08-21-24

## Single and Shared Waterfront Ownership

### Policy Framework

**Why does the Township have an interest in regulating the number and location of docks and hoists?**

- Public Safety
- Natural Resource Protection (Water Quality, Flora and Fauna Habitat, Erosion Control, etc.)
- Conflict Resolution (Standards that support everyone being able to enjoy their waterfront)
- Green Space and View Corridor Preservation

**What are the activities that take place on our waterfront?**

- Walking the shoreline
- Swimming from shoreline and platforms
- Non-motorized watercrafts (paddleboards, kayaks, canoes, etc.)
- Motorized watercrafts (pontoon boats, jet skis, etc.)
- Fishing (from the shoreline, dock, or boat)
- Passive recreation such as sunbathing, picnics, star gazing, campfires, etc.
- Storage of docks, hoists, boats, lawn furniture, etc.

### Docks

#### Number of Docks:

- One dock per parcel, including a “T” or “L” configuration (One point of contact with shoreline)
- Consider an administrative option for single ownership with larger waterfronts (300-600 feet) to allow another dock, especially if there are benefits to neighboring properties for dock and hoist configurations.

**Note:** Existing zoning ordinance allows one dock per parcel. See Sections 6.2.2(2)(c)1. and 7.4.2(4).

#### Size of Docks:

- Average = 3-4 feet wide
- Not to exceed eight (8) feet wide
- Length no greater than what is required to achieve a four (4) foot water depth. (Should there be an exception for larger boats?)

**Note:** The maximum width does not apply to swim platforms or dock patios.

- Average size of swim platforms and dock patios = 12' x 16'

**Note:** The existing zoning ordinance limits the width to seven (7) feet. See Sections 6.2.2(2)(c)3. and 7.4.2(5).

**Location of Docks:**

No closer than fifteen (15) feet from the side property line. Project side property lines outwards into the lake. Setbacks are measured from the imaginary property line. (See sketch) Or, generally centered within the parcel (this applies to parcels less than 50 feet wide or with oddly shaped shoreline).

**Note:** The existing zoning ordinance does not address the location of docks for single ownership. Shared ownership requires that docks be located as near as possible to the center of the parcel. See Section 7.4.2(4).

**Hoists****Hoist Size:**

- Average = 11' x 14'
- Two (2) jet ski hoists equal one (1) boat hoist

**Note:** Existing zoning ordinance does not distinguish between boats and jet skis.

**Number of Hoists:**

- Three hoists per fifty (50) lineal feet of shoreline (i.e., 100 feet of shoreline would allow 4 boat hoists and 4 jet ski hoists, 6 hoists total)

**Note:** Existing zoning ordinance allows for one hoist per fifty lineal feet of shoreline. See Sections 6.2.2(2)(c) and 7.4.2(3) and (4).

**Location of Hoists:**

No closer than fifteen (15) feet from the side property line. Project side property lines outwards into the lake. Setbacks are measured from the imaginary property line. (See sketch) Or, generally centered within the parcel (this applies to parcels less than 50 feet wide or with oddly shaped shoreline).

**Seasonal Storage:**

- All items stored within property lines.
- All items seasonally stored four (4) lineal feet from where the water meets the land (allows the public to walk the shoreline)
- Nothing stored in the road right-of-way
- Avoid storage in the floodplain where possible
- Dock sections to be neatly stacked
- Boat hoists consolidated

**Note:** Existing zoning ordinance requires that a fifteen (15) foot setback from side property lines be maintained. See Section 7.4.2(7).

**Parking:****Single Ownership:**

- Adequate parking provided outside of right-of-way within the driveway and garage.
- Consider minimum requirements for parcels that have single ownership where there is no dwelling and/or associated driveway/garage.

**Note:** Existing zoning ordinance requires two (2) spaces outside of right-of-way. See Section 6.2.2(2)(c)2.

**Shared Waterfront Ownership:**

- Recommend a minimum of one (1) space per three (3) hoists, or
- Allow homeowners association to manage adequate parking for access to dock and hoists. To be noted on the registration form with a disclaimer that the homeowners association is liable for resident and guest safety. (Need to have legal review.)
- Consider adequate parking for all beach usage not just per boat hoist.
- The goal is to promote public safety while minimizing parking on the shoreline.
- Adequate parking will continue to be addressed during the PUD process. Any existing PUD approvals require an amendment to the SUP/PUD. Could look at the number of lots that have access vs. number of hoists.
- Parking within the right-of-way is permitted per Grand Traverse County Road Commission (GTCRC) and Michigan Department of Transportation (MDOT) standards.

**Note:** Existing zoning ordinance requires one (1) parking space per hoist. See Section 7.4.2(3)(b).

**Registration for Shared Waterfront Only**

- Annual registration
- Administrative process
- Easy checklist to complete (lineal feet of frontage, number of hoists, # of parking spaces, location for storage of docks and hoists, etc.)
- Consider an exemption from registration for shared waterfront with 4 or less families.
- Nominal fee to cover staff time.

**Note:** Existing zoning ordinance requires an annual land use permit. See Section 7.4.2(2).

# PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686  
Ph: 231.223.7322 Fax: 231.223.7117 [www.peninsulatownship.com](http://www.peninsulatownship.com)

## PENINSULA TOWNSHIP PLANNING COMMISSION MINUTES August 21st, 2024, 7:00 p.m.

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

2. **Pledge**

3. **Roll Call**

**Present:** Alexander, Beard, Dloski, Hall, Hornberger; **Absent/Excused:** Shanafelt, Shipman; **Legal Counsel:** Chris Patterson, Fahey Schultz, **Staff:** Jenn Cram, Director of Planning and Zoning

4. **Approve Agenda**

**Motions made to approve agenda with additional items:**

- 1) Statement by Township Board trustee Rudy Rudolph regarding August 13th, 2024, Township Board meeting - becomes Item #5 on agenda. Motion by Dloski, seconded by Hornberger.

**Motion passed by consensus**

- 2) Introduction of Chris Patterson, of Fahey Schultz Burzych Rhodes, representing legal counsel for Peninsula Township - becomes Item #6 on agenda. Motion by Dloski, seconded by Alexander.

**Motion passed by**

**consensus**

***Items on the Agenda following two additional items will be renumbered accordingly.***

5. **Statement by Township Board Trustee, William Rudolph, 4784 Forest Avenue**

“During the August Township Board Meeting on 13 August 2024, in a clear case of the tongue and brain being utterly disconnected, I made a statement on record to the effect that - and this is paraphrased because I do not have access yet to the official record - ‘the Planning Commission had made an ethical and moral error in recommending approval of Amendment #5 to the Peninsula Shores Planned Unit Development’. Although this is in the public record, I want to also publicly and emphatically state that this is not at all what I intended to convey. It was never my intent to suggest that members of the Planning Commission were, in any way, morally or ethically remiss in their deliberations or in their recommendations on this matter. I sincerely apologize to each member of the Planning Commission for any hurt or concerns this misstatement may have caused. Indeed, in the two-plus years I have served as a “stand-in trustee” I have seen the members of the Planning Commission to be ethical, fair, and open-minded fellow citizens who take on some of the toughest considerations presented to our community. Members of the Planning Commission serve voluntarily, at high cost to their independent lives, no doubt experiencing sleepless

**Cram:** Because we can't meet the public noticing requirement of fifteen days by the September meeting. I take responsibility for that. I got COVID and that's why we're having this special meeting. I'm trying my best to move applications forward in a timely manner and so it's unfortunate that in order to meet that 15-day requirement we would have to come back in October. Staff would support – if you have all the information you needed – making a motion to take action the night of the public hearing.

**No further questions from the Planning Commission.**

**Motion made to schedule the public hearing in October made by Dloski, seconded by Hornberger.**

**Motion passed unanimously.**

**Cram:** At the public hearing we will have findings of facts and resolutions drafted for consideration.

## 11. Reports and Updates

### a. Shoreline Regulations Study Group – Policy Recommendation for Single and Shared Waterfront Ownership

**Cram:** It's exciting to be at this place and sharing this policy framework with the PC. The Shoreline Regulation Study Group is a sub-committee of the PC, and they have been meeting every other Monday since January. We broke our discussion up into three topics with regard to our current shoreline regulations. The first topic that we tackled was single waterfront ownership. The second topic was shared waterfront ownership. The study group felt comfortable with these two topics and wanted to move them forward sooner than later because we know that our property owners that have shoreline property are already starting to think about what they might be doing next season. The third topic, which is still under discussion, is how to address development standards on the shoreline. When we looked at all three topics we started with the question 'why'. Why does the Township have an interest in regulating these types of things? The study group agreed that the number one reason is for public health and safety. The second reason was to protect our natural resources. Peninsula Township is unique in that we have 42 miles of shoreline so having reasonable regulations that the community agrees to will help the community to sustain this wonderful natural resource. The third reason was for conflict resolution. Since I have been in the role as the zoning administrator we receive a lot of complaints between neighbors. Neighbors putting their docks and hoists in front of another neighbor's property and things become contentious. There was a need to further clarify our regulations to help everyone to be able to enjoy their waterfront. The policy framework begins with that 'why' statement. Why do we have an interest? We talked about what activities are taking place on our waterfront. People walk the shoreline. There is swimming. There is more happening on our shoreline than just boats and boat hoists. We wanted to consider all those things and the relationships of all those activities on the shoreline. Our current zoning ordinance allows one dock per parcel and so this would allow a 'T' or an 'L' which has one point of contact at the shoreline. Everyone agreed that that's working pretty well. There was one thought about allowing one more dock if someone has 600 feet of shoreline or more, so we talked about that, but the group thought that one dock per parcel was working well. Then we talked about size of docks – how big are these things – so we put some parameters around these things. Generally speaking, the average dock is 3-4 feet wide. The current ordinance says that it can't be wider than 7 feet and we couldn't figure why that was so 8 feet seemed reasonable. We talked about the length of the dock, and everybody agreed that the existing standard – the length of the dock is determined by how far out a property needs to go to reach that critical depth in order to have a boat there – was okay. There are other configurations of docks and people create these patio areas so that they can watch the sunset from their patio chair and/or have swim platforms, so we put some parameters around that. The real crux issue is how many hoists are reasonable. To help alleviate some of the conflicts that we experience we talked about having some setbacks. The recommendation is that no dock should be located closer than 15 feet from the side property line. This entails us projecting an imaginary line out into the water where the property line

ends at the ordinary high-water mark, then the 15 feet is measured from that imaginary property line. When we discussed this a few PC meetings ago, Susie Shipman – who is not here this evening – noted that there was a concern that this may not work for all shoreline configurations. Projecting the property lines out into the water doesn't work for every parcel. Here's an example where if you project them out into the water it creates a triangle. It's not fair to not allow that property owner to locate their dock and/or hoist in a reasonable location. (Shows examples on screen from the packet.) In another example, if you look at the parcel to the south, those property lines are parallel to one another, so that situation would work. We could project those out and look at the 15-foot setback, but the parcel to the north of this shows that triangle where it doesn't work. We need to have an alternative for those properties where projecting the property line doesn't work, there could be a parameter that the dock should be located generally in the center, so they still have the opportunity to have a dock and hoist. That's the current policy direction. In a perfect world we would project property lines out into the water. If every property line was parallel to one another, it would work but we need to consider those situations where it doesn't work.

**Hall:** Pardon me, Jenn. I don't recall that we got to this level of detail on that point., We touched on the geometry of some shorelines causing these problems. The point that I'd like you to keep in mind is that it isn't just the geometry. they may need to have their dock come out in a different location because of shallow water, we should allow remedies administratively. Please make a note of that because I don't recall in the study group that we talked about this situation. That idea of centering really should apply to both.

**Cram:** Again, we're at the policy statement level. We're simply talking about these things. Maybe, to have a reasonable ordinance rather than looking at the setbacks, we need to just look at the docks being generally centered.

**Hall:** My personal opinion on that is: if someone has enough frontage, I don't want to tell them they have to center their dock because a lot of people don't want to look at their dock necessarily. They want to offset.

**Cram:** I think where we're landing is that we want the reasonable approach. We want people to have the flexibility of where to locate docks and hoists that doesn't negatively impact their neighbor, but we need to have enough flexibility for unique situations. We don't have to dig into it today, but the study group reviewed this draft and agreed that this was ready for the PC. The ideal situation would be looking at a setback, allowing for flexibility, but we know that we need to provide an alternative.

**Hall:** One more comment on that. I think, Chris, we're going to need your help on what should the mechanism be when we have shoreline like this. Is it an administrative determination of where the docks can be? Does that hold up? I mean, in a situation like this, if the property owners can agree then that's fine. If they can't agree or there's some dispute, then we're going to want them to come in and talk to the zoning administrator. I would imagine that the ordinance should then provide for some administrative determination.

**Patterson:** You'll see ordinances that have sort of a dual layer in this situation. You could do a couple of things: you could do administrative level and make a sort of classification standard where you defer to the discretion of the zoning administrator when they think "okay, too complex for me" then it would kick it to the Planning Commission. Doesn't mean it needs to be a public hearing.

**Hall:** We don't want to see that.

**Patterson:** Otherwise, you develop some other standard where discretion rests with the zoning administrator. Disagreements with the zoning administrator would always go to the Zoning Board of Appeals. Part of your goal that you should discuss is when you have these sort of situations, I think you still probably want to be streamlined and deal with it administratively, so if you're sitting in the shoes of the zoning administrator, often they're left as the ones discussing with the applicant "hey, here's the consequences of the situation with your parcel" and it's best for the zoning administrator to have sufficient clarity in the standards that they can address the applicant and explain what would need to be done. Then,

if they disagree, obviously there's already an appeal process built into the zoning ordinance. I think you just need to be thoughtful about what the standard is.

**Cram:** Just to add to that: what we agreed at the study group is that we came together with a united purpose and that was to improve our existing zoning ordinance; to make it better for the community. We wanted to have reasonable standards that brought most situations that exist out there today into compliance, that allow for flexibility because we heard loud and clear that there are more people with boats and our existing zoning ordinance isn't working, that we need to accommodate this, and we want to help alleviate some of the community disputes. It's true with any zoning ordinance that if there is a process - which, I'm thrilled with the process - we've been meeting two times a month. We learn things, we hear things. The process has evolved. Zoning ordinances are so much easier to administer where there is community buy-in, and the community has been a part of the process.

**Beard:** I was just going to say that I think the idea of having a setback makes a lot of sense, but I think the magic word here is "unless". Unless the geometry of two neighboring parcels would block or inhibit one of those parcels from open access to the lake. You probably can craft language that will go to the zoning administrator to determine proper or appropriate location for the dock in those situations.

**Cram:** Thank you. Moving on then, we talked about hoists, and we talked about the average size of the hoist. One of the things that was made clear is currently our zoning ordinance allows for one dock per parcel and one hoist per 50 feet. People who have jet skis - one jet ski currently counts as one boat hoist. The study group agreed that two jet skis would equal one boat hoist, so we clarified that and would like to make that recommendation. With the number of hoists per linear foot, the existing zoning ordinance allows for one per 50. The study group looked at most of the existing shared waterfront situations as to how many lots were in the subdivisions, what's the lineal footage of each of those shared situations, how many docks and hoists do they currently have, do they comply with the existing zoning ordinance or not - that's where we realized that most of our shared waterfront systems as they exist today are not compliant. We didn't want, in amending our zoning ordinance, to create multiple non-conforming situations so, again, how can we make most of these compliant and be reasonable. The recommendation is to allow three hoists per 50 lineal feet which would triple the number of hoists per lineal foot as to what the existing zoning ordinance currently allows. Then, of course, if you had jet skis you could have two per one boat hoist. With regard to policy direction, we are considering an increase from one (1) per fifty (50) to three (3) per fifty (50). The location of hoists would be handled similarly to the location of the dock. In an ideal situation we would project the property lines out into the water. Those hoists would have to be fifteen (15) feet from that property line unless the geometry prohibits them, then we would generally center it, and it would probably need to have some neighbor discussion.

We talked about where docks and hoists should be stored because these are seasonal docks on the Great Lakes. We agreed that all of the docks and hoists should be stored: within the property lines, that they would be stored four (4) lineal feet from where the water meet the land to allow the public to walk along the shoreline, nothing stored in the road right-of-way, to avoid storage in the floodplain where possible. Again, these are temporary things so in an ideal situation, if shared waterfront or single waterfront ownership can store it out of the floodplain that is preferred. As you know, we have many single and shared waterfronts where access to the beach is like this (gestures to show a steep grade) so the only place you can store it is maybe within the floodplain, we didn't want to limit that. Again, we wanted to encourage people to be good neighbors and neatly stack dock sections to be consolidated. The existing zoning ordinance requires a fifteen (15) foot setback from the side property lines to be maintained. The study group thought that that requirement for storage in the winter when not in use was restrictive. They just want to make sure it's stored on the property, not in the road right-of-way, and to allow the public to walk the shore.

We also talked about parking. Single ownership isn't really a concern with parking. People who have single ownership can park in their driveway, or in their garages. People can park outside of the traveled way, on the edge of the right-of-way outside of the fog line, or the white line. The discussion of how we address parking with the shared waterfront is a bit more complex. Some shared waterfronts do have designated parking. We all agreed that we didn't want to pave our beaches just for the sake of provided parking. The consensus of the study group was parking has been working okay for these shared waterfront ownerships, let's allow them to address where people park to access the beach. We agreed that parking could be flexible.

The existing zoning ordinance says that shared waterfront property should come in every year and file a land use permit. That is not happening. The land use permit process isn't really tailored for (that). Again, we wanted to have buy-in to this. We wanted to make it easy, so we agreed that rather than the land use permit process there would be a registration for the shared waterfront properties. It would be a form – that is really easy: what's your subdivision, how many lots, how much lineal footage..., check the boxes - and then we can confirm that they're meeting the zoning ordinance that we all agree to. There'd be either a nominal fee or no fee, to encourage compliance. Rather than the land use permit we just wanted to create a registration process that's easy to complete. The reason for that, our number one reason is for public health, safety, and welfare and natural resource protection. The study group felt that was reasonable. The one thing, Chirs, that you see here is that the study group wanted to have legal review with regard to parking to allow the homeowners to manage it. Do we need a disclaimer that they are taking responsibility for the safety of their shoreline? We didn't want to make this cumbersome. We also didn't want to open the township up for any future liability because we're not requiring parking on-site and things like that, but we didn't want it to be onerous to the shared waterfront properties. The other thing that was brought up at the last meeting was that maybe the registration form for shared waterfronts that have four (4) or less people in them is overkill, so maybe there would be a minimum of five (5) or more that would participate in the registration to make sure that they're following the standards and we're promoting public health, safety, and welfare.

That's a summary of where the study group is at. I'd love to hear from you about any questions, comments, concerns...Staff is ready to work with legal counsel to start on drafting actual zoning ordinance language if you're comfortable with where we're at with this policy direction. We don't believe that we would be starting from ground zero. There was a lot of information in the zoning ordinance rewrite that we put on the shelf. We reviewed the intent and purpose statement and diagrams. We could use that as a starting place and then incorporate these policies with regard to increasing the number of hoists per linear foot, the registration form, and things like that.

**Hall:** Let's open it up to discussion among the commission members first. Seeing no comments, I have some comments. Let's go to the first page and size of docks. The third bullet point.

**Cram:** (Pulls up the document so that the audience may follow along.) For everyone in the audience, this is in the packet so it's now part of the public record. All these documents will continue to be available online as needed.

**Hall:** Third bullet point says, "length no greater than what is required to achieve a four (4) foot water depth". Then there is a parenthetical question: should there be an exception for larger boats? Yes. Does anybody have a boat that requires more than four (4) feet? (Several audience members affirm this.) So, there's our answer.

**Cram:** So, should this just be that "a length no greater than what is required to achieve the appropriate depth for the size (of the) boat or something? The four (4) feet came in from a previous discussion.

**Hall:** It's arbitrary. Well, I don't know if it's entirely arbitrary. I don't know what the average depth required is, but probably just don't put a specific measurement in there.

**Cram:** Okay, thank you.

**Hall:** The second point is for Chris. Let's go to the third page under 'shared waterfront ownership' the second bullet point about the disclaimer. Chris, during the discussion in the study group, a question was raised - I will say, by a non-lawyer - that if the township (and this is not verbatim) approved a shared waterfront ownership project should the township include, or get a disclaimer from the association, that the homeowner's association is liable for resident and guest safety? What was motivating the question was that if there were a parking arrangement, an approved site plan, that was unsafe and somebody got injured, would the township be liable? I don't think so. I wouldn't make the HOA make an affirmative statement that they're liable. Just leave it. Leave it to tort law. Can you help us to address this?

**Patterson:** Generally speaking, we do not require...there's two things. One is the question of, is it being noted on the registration form, and sort of addressed in your question: if it's some type of hold harmless or some piece of that...I mean, certainly I think that's definitely more extensive than what's required for a zoning approval. Two, even to the extent that you made them acknowledge that they understand they're liable for residents and guests - I mean, they are liable for residents and guests, period. Just under state law, they are liable for those people that they invite on their property. We would have to, as a township, exercising its governmental function whether it's approved by the zoning administrator or through the zoning ordinance itself with no approval. Generally, you're going to be immune from any tort liability and I don't even think that it's negligent to not require a disclaimer anyways, right? So, even if it wasn't governmental immunity and you were just in general tort law, I think you have a hard time putting together any connection between the ordinance and any injury to happen. I think there's a lot of reasons you don't need it.

**Hall:** Thank you. Simpler is better.

**Cram:** So, we don't need it.

**Hall:** We don't need it.

**As there are no further comments from the Commission, Hall opens up to public comment.**

**Michael Mulcahy, 7202 Peninsula Drive:** I'm trying to figure out the smartest way to compress all of this. I'm brand new to the subject. That we even had somebody looking for a method to this. There is a longstanding business principle called the principle of subsidiarity, and this means to move the decision making as close to the affected people as possible using the lowest powered competent authority. I think that is how the definition works. You brought up a great point, Jenn, that I think should be expanded on. This was when you got to the parking problem. You said, you know, I think we should leave that to the five households that are there. Who knows the smartest way to do that? It's the people who live there. I don't know how many people have actually argued with their neighbor/brought it to your attention but take five houses as an example: if you're the middle one then there are two on each side, if there's a dispute have them figure it out. What you can do to control that is to say if they can't come to an agreement within 90 days or something like that, fine them \$1000 bucks. They'll figure it out. There are some lots I know where there is a gabion - do you know what a gabion is? - and it could very well be that this landowner and this landowner each want to put their dock almost right next to each other, but if you have a fifteen (15) foot setback they're going to be going "who put this regulation together? This is idiotic." Or you might have some guy that takes care of everybody in the neighborhood because he's really wealthy. Everybody likes him. He wants to put five (5) jet skis out there. They're going "hey, we get to borrow his jet skis, let's put ten out there. Come on, we've got a lot of kids." Let them do it. If you try to micromanage it, you're going to tick off a lot of people. But I think the parking example that you had is a real good one. You ought to expand on that.

**Chris Radu, 1328 Londolyn Terrace:** I want to expand on that. I'm the president of my association. I have twenty-eight (28) lot owners. We've got twenty (20) houses. We have thirteen (13) vessels out in the water. I grew up six houses down from the house that I live in. I had private frontage back then and our neighborhood back then had a single easterly dock finger that went out and there was a boat on each side. I bought my house in the neighborhood in 2015 and there are pictures on Zillow of the frontage, and it was the same single section that went out with a boat on each side. It wasn't a problem when I lived on Center Road from 1993 to 2015. But from 2015 to present we went from two (2) boats out on the water to thirteen (13) boats out on the water and one of them has got stilts on it, so it made it easier. We self-regulate our association. We have no parking. Our master deed - our site plan - wasn't designed with parking. You go to the Liber pages, and I have, and there's nothing in there that talks about any regulation about number of docks or the number of hoists that have to go in there. So, if we arbitrarily create these rules in an ex post facto manner I'm supposed to go to my neighborhood and pee in someone's Cheerios and say "hey, you're going to come off the dock because this arbitrary standard was set"? We self-regulate, you know, the lowest common denominator. I also have some questions in regard to even the legal authority to do this. Part 301 of EGLE specifically says permanent docks or permanent dock hoists which are left in year-round require a permit. Seasonal docks and hoists do not require a permit if they are for private, non-commercial use by a landowner, do not unreasonably interfere with the use of the water by others, and do not interfere with water flow, and will not be placed in wetlands. So, EGLE is responsible for controlling riparian rights. Where does the township even fall on that category? So, I guess those are my concerns. I get that there's been a study group. I've been trying to get the information for that. I have another member of my community who's retired who has the luxury of coming to those meetings. The majority of them were three o'clock in the afternoon. I mean, I work for a living. I couldn't come to those things. We had one that got canceled. (To Cram) I'm sorry that you got COVID, that's unfortunate to hear and I'm glad you're doing better. I was actually trying to come to that one and I was almost all the way here when I found out that it was canceled. And the people that are on it, yes, they may represent some neighborhoods, but they certainly don't represent our neighborhood. If you said four (4) hoists per fifty (50) feet, fine. Then we're in compliance. But at three we would continue to be out of compliance. At the end of the day, all that's doing is degrading the value of our property and so on one hand we talk about all these services that we want to pay for out here and being able to collect the necessary taxes and on the next hand you guys are lowering the value of property of shared frontage when that's not what was originally outlined when our neighborhoods were formed. I mean, the last amended document to our neighborhood was 1988. I don't understand how that's serving the public good by devaluing our shared frontage versus private frontage. Thank you.

**Hall:** Thank you. I'm going to respond to a couple of those points. Let me take this opportunity also, if any of you have comments that you don't get out tonight and you want to make those comments, please send them to Jenn. This is a topic of great interest, and we take it very seriously. A couple of points: for shared waterfront we've got...there aren't two that are identical. We've got a great variety of shared waterfront, some that self-regulate and it works for neighbors, others - because of challenges of underwater topography - have enormous challenges. So, we have a whole wide range. We recognize it. We're not trying to prevent people from using boats, but to answer part of what you're talking about...you're saying that some of this is going to devalue property values...that's not the point. You go back to the 'why'. Why are we doing this, and that's why we're doing it. Because of those bullet points there. I know that's not a specific answer to your question, but we're not trying to penalize people or anything. We're trying to address these 'whys'. We think the 'whys' are good questions and need to be answered. Parking - we've struggled with that one and we've talked about what we do with existing projects. We recognize some projects - some shared waterfront projects - don't have community parking and so on. We've also talked about what we do when a new project comes in and that's different because we have a blank slate there and I recognize the

difference. Last thing I want to say is you raise the question about legal authority. With that comes under the category of jurisdiction and jurisdiction is a complicated set of laws that apply. You have federal law because these are navigable waters out here. You have EGLE because the state owns the bottomlands and trust for the public. And we have the shoreline, and it is our legal counsel's opinion that because these seasonal docks are used in connection with land that is in the township, the township has the authority under the Zoning Enabling Act to regulate the use of those docks. If you want a more detailed discussion with case law and reasoning, I'd be happy to send that to you. Just send me an email and I'll send it to you. You can share it with your attorney and whomever.

**Radu:** I know that may not be your intent but that is a side effect of what you're ultimately doing under the current structure. You are going to lower the land value of shared property owners. I can appreciate that there's a topography thing. I have countless emails that go out to my residents that have said 'because of the topography challenges that we have as an association that if the water level were to recede as it was back during the earlier years that we were going to operate on a last on/first off policy simply because we could not accommodate'. As a result of the water receding, we had to change where the starting point of our dock was. Historically, it was on the southernmost point, this time it had to go to the center because that was the deepest area available. So, again, it falls under that self-regulatory aspect, and I understand the opinion that you guys believe per legal counsel that you have the right to govern the shoreline above the high water mark but below the high water, my understanding of riparian law as I read it and as my counsel has told me, and other associations are dedicated to protection of riparian rights. Some of, most of them, located here in Michigan is that you don't have the authority to regulate that. So, if we were to start our dock, say, underneath the water mark then that would technically fall under riparian rights.

**Hall:** (Due to overlapping talk in the audience, Hall states that he wants to follow protocol and does not want back and forth on jurisdiction. Invites members of the audience to send an email.) I will just comment that the advice you're given is contrary to the advice we have from legal counsel. I'll also make the observation that there's no reported case in Michigan holding that municipalities with shoreline on navigable waters do not have jurisdiction of the legal power to regulate seasonal docks. I can't even find - I haven't found - any cases that even raise the issue. That isn't to say that it couldn't be raised but I think that your understanding is imperfect on that. I invite you to send me an email and I'm happy to send you what I have, which I think is pretty thorough and sophisticated and then you could consider that.

**Cram:** We are at 9:25. This is just a policy discussion. It's the first time we've heard it. Rather than us trying to respond to all the comments let's hear them and we know that there will be more time. Let's try to limit time to three (3) to five (5) minutes so that everybody that's here can speak. We'll just listen and take notes and get through this item.

**Hall:** I understand that but the jurisdiction issue - it's been like whack-a-mole. We talk about it, and it keeps coming up. I respect the fact that people haven't been in attendance at prior meetings, but it keeps coming up and we need to not spend more time on it. That's why I invite you to just send me an email. Anybody who's concerned about the jurisdiction questions. Send me an email and I'll get back to you.

**Judy Spencer, 6450 Peregrine Court:** I want to be cognizant of Chris's time because I think we're paying you hourly so it seems like we're getting free access to legal counsel when in fact I think you should be representing the community. Having legal counsel...Randy, you also said many times you're a lawyer, past-lawyer. Chris, I'm glad you're here. But I'm not a lawyer. I wish I had a lawyer here. I don't want to not talk about jurisdiction because actually I was part of the study committee, and we wanted to bring a diverse opinion to that study group. We wanted to say "hey, if we put an ordinance in place that might very well go just slightly beyond or very much beyond your jurisdiction, this will result in more legal costs for our township". Now, we're in a state of our taxes potentially going up because of high legal costs because we have overstepped our boundaries. We've sat here, listened to many cases where others feel that you continue to overstep your boundaries. So, while the intention, your intention - you wrote them down - that

why we're doing this is because of the public health, to protect our shoreline and to avoid conflict. I talked about, at the study group, before I left because Randy, you said the same exact thing, you're tired of hearing about jurisdiction. You wouldn't let us bring it up one more time. So, it wasn't a diverse opinion from our whole entire community. We don't want further lawsuits. So, when you have ambiguity about where the shoreline goes out in an imaginary line, do you think that that's going to not bring any lawsuits? When someone loses that argument? It's going to bring a full-fledged flow of lawsuits, right, so avoiding conflict resolution...in fact, I don't, actually, Donna you used the term earlier "unintended consequences". Okay, this whole process sounds great but what are the unintended consequences of extending your jurisdiction? Having an ordinance that goes beyond your jurisdiction, it's going to be more lawsuits, right? You also mentioned, Randy, that there's no other cases raising this issue. Let me tell you: our small little community, we should not be on the headline. We do not have enough funding to pay for a Supreme Court lawsuit. Let's sit on this for a while. Let other communities that have more funding, that haven't just been sued by WOMP and let them fight it. Let them set the precedent. We don't want to spend our money going to court on this. Safety. Okay, if I have a boat on a hoist or on a moor because I have a permit from the Army Corps - even if I don't have a boat - I will use my shared frontage at any time I want. So, if I have a boat there or not, I'm going to be using that land the same way. Just getting to that water. So, the usage of the land, I think it's...yes, I'm not a lawyer but I don't think that having a boat or not determines how I use my land that I own. I just want to lastly say this: I am in a subdivision that has an abnormally long dock. We do it due to topography and we do have a permit from the Army Corps of Engineers for the amount of boats - actually we're underneath the amount that the Army Corps of Engineers allowed us - and I also mentioned before that in 2016...

**Hall:** (Speaking to Spencer) Please address the chair.

**Spencer:** In 2016 when I bought my lot, built the house with my own money, bought a boat and a hoist, it was based off of your predecessors that said the township does not have jurisdiction over the water, go ahead and have a boat. Go ahead and build a house. And we did that. I was a law-abiding citizen and four (4) years later you come back and you're going to make my husband, who is the president of our association, tell anywhere from three (3) to five (5) people that they have to get rid of their boat that they just spent their money on? This is not an easy decision. So, I'll leave you with one thing: if you're looking to avoid conflict and reduce legal fees, I think you need to think long and hard about the unintended consequences of this discussion. Thank you.

**Randy McClure, 1297 Londolyn Terrace:** Chris is our association president. I attended some of these meetings, these work group meetings. I found out about it late, but I wanted to get involved and it was not a transparent process. We could come to the meetings, but you had a private document, a working document, that you wouldn't share with people. So, I couldn't go home and read things and look at what was going on and make comments or ask questions at the next meeting. That's why I'm here tonight because number one: I'm not happy with that. It wasn't an open and transparent process. The second thing are these interests that you all agreed on that are supposedly in the public interest, but I challenge you to take all these changes that you've got listed here and explain to me how they add to public safety or how there's natural resource protection or how there's conflict resolution. You know, that's a bunch of crap. That's not true. Furthermore, not once did you mention private property rights. The whole purpose of this thing is not to promote or protect private property rights, it's to put onerous regulations and fines on people using their own property. That's wrong. The number of docks, the size: who cares what size the dock is. Tell me, does that improve conflict resolution or is that green space and view corridor preservation? None of your business. Location of docks. I agree with Chris. I don't think you've got any business regulating the bottomland. You can't draw any line out there that makes any sense to me. Lastly, why do you treat shared frontage differently than you do individual frontage? Why don't all waterfront property owners have to fill out a little registration form of how they're doing their dock. If you've got regulations that affect those

property owners, then they should have to sign a form, too, and say “I’m in compliance with your regulations” but you continually pick on shared waterfront people. Especially regarding the insurance issue, a disclaimer that the homeowners association is liable for resident and guest safety. That’s shared waterfront. What about individual people? Don’t they have to have the same requirement? Yeah, I’m not happy with this whole process and I think it goes against our individual property rights and when you get further into this, I’m going to have more to say. Thank you.

**Terry Mulcahy, 7202 Peninsula Drive:** I have a question for Jenn. You mentioned the ‘T’s’ on docks, the regulation on that and I understand about how far you can go out because every year it seems we’re moving in closer or farther. We come from a big family so what was recommended is we put the dock out and then on the end this ‘T’ for adults and kids on each side, so it’s three sections and three sections, so it’s a ‘T’. Is that...

**Cram:** That’s one dock.

**Mulcahy:** That’s one dock. We own 100 feet and it’s one dock with a ‘T’. Just wanted to clarify that. And then, with you Randy about the jurisdiction about the rules and laws, before I came, because I just found out about this, I looked up riparian rights and it’s just really clear - they go over and over - and this is why there might be that confusion for people that are just quick looking it up on Google. It says you’re allowed a dock and you’re allowed a boat, so maybe that’s part of the problem because they don’t go into great detail about it.

**Hall:** I can assure you it’s a highly technical area of the law and we are trying to understand the interplay of federal, state, and local jurisdiction. Most real property lawyers - if you asked them - wouldn’t be able to explain it to you because it’s a specialty area. I appreciate the question and it’s a natural question. People say, “if my dock doesn’t touch the land then you shouldn’t be able to regulate it” and that’s just not true.

**Mulcahy:** We’re putting our finger in a pencil sharpener with this. Thank you.

**Jeff Spencer, 6450 Peregrine Court:** Just going to add to this conversation, not talk about jurisdictional arguments. I just go back to the ‘why’ which is safety, and I’ve lived in neighborhoods off of East Shore Road for over thirty (30) years, in my life I’ve probably crossed East Shore Road probably 10,000 times in my life to use the boat and not use the boat. Never once thought about ‘I’m going to sue Peninsula Township if I cross the road and get hit by a car’ unfortunately I’m not but besides that point, I guess I just look at this and say, ‘what besides people complaining about potential safety hazards has ever been a documented safety incident with shared water frontage in East Bay or West Bay?’ I’ve never heard of one person getting hit by a boat exiting or entering a dock in my entire life. Why is there a safety problem? I’ve never once experienced one in my entire life. Most boaters on this bay are very responsible boaters if you ask me. What I personally think, again to reading the complaints about our HOA which is unfortunately at the epicenter of a lot of the complaints, it’s all about length of the dock. It’s all about views. And that’s not the ‘why’ with this. People are mad about their view being blocked and you live in a neighborhood that is several houses down and your view is impeded, I’m sorry that’s happened. It’s not our intent. But that’s not a reason to write regulations about limiting boats in the water, if you ask me. That’s all I wanted to say. Thank you.

**Debbie Pasco, 6525 Peninsula Drive:** I would just like your email.

**Hall:** My email address is on the website. Just go to the Peninsula Township website.

**Discussion between audience member(s) and Commission/Planner.** Cram offers to locate Hall’s email address for the audience and commission clarifies that all email addresses are listed on the website under **Departments and Planning**. Cram also reminds that the **Shoreline Regulation Study Group** meetings are every other Monday. The next meeting will be Monday the 26th from 3-5pm. The agendas are posted to the website and there is a distribution list if residents want to receive an email with the agenda.

Everything that the committee discusses is also shared publicly so that all those who participate in the meeting have an opportunity to read along with the document. The format of a study group, rather than

**the Planning Commission, ZBA or Board, does not lend itself to the taking of minutes or the posting on YouTube, and there are not packets made publicly available because of limited staff resources. All are, however, welcome to attend and public comment is welcome at that time. The Township hopes that residents continue to be part of the discussion.**

**Pasco:** What do you do about people who aren't able to attend daytime meetings?

**Cram:** If you're not able to attend a daytime meeting you're welcome to provide comments or see what topics are on the agenda. As this moves forward with the Planning Commission, packets are published, minutes are taken, things are available on the website.

**Hall:** My email address is [rand.plancom@gmail.com](mailto:rand.plancom@gmail.com). That's news to me.

**Hornberger:** Do you ever look at it?

**Hall:** I do, I just never send anything to it.

**Mike Mulcahy, 7202 Peninsula Drive:** In your sub-committee meetings did you consider shutting it down and not doing anything?

**Cram/Hall:** Never.

**Mulcahy:** There was a gentleman that questioned whether the three purposes...to me, in business, to start a committee to do something and then you get there and say 'why are we doing this', if we don't already have a problem to solve. That is why we're doing it, but if we go to the meeting first and start a big process and then say 'why are we doing this' and we don't even understand why we should have a big meeting, I mean...the health - I ask myself: "what? How can that possibly be?" The second one was protect the environment and I ask myself "how can that possibly be?" And the third one might have made sense, I just don't understand the magnitude of the problems that maybe have occurred. Most people can solve them within two households...

**Cram:** But they are not, sir. So, that's the issue. That's why this study group started meeting is because of the numerous conflicts out there.

**Mulcahy:** What were those problems?

**Hall:** Pardon me, we're not going to get into a specific description of all of the problems that have come up but Jenn, approximately, this year: 2024, how many complaints have you had from shoreline owners about docks.

**Cram:** 37

**Hall:** There you go. We didn't make this up.

**Cram:** And they've gotten to the point where the Sheriff's department was called and there's violence and so it is an issue that we were asked to address because of life safety. Because neighbors aren't getting along. They aren't being kind to one another and violent things are happening. We have an existing zoning ordinance that was adopted in 1972, and we want to make it better so that we can support those people and hopefully prevent...so that we can function as neighbors. So that we can come up with reasonable guidelines that work that we can all agree to...

**Mulcahy:** These aren't guidelines, are they? They're laws.

**Cram:** They will be standards.

**Hall:** They will result in changes to the zoning ordinance, they won't be guidelines.

**Judy Spencer:** Well, I understand your stance on the jurisdictional question I think it would be helpful, and I don't know if this is appropriate or not, but as the township's legal counsel are you able to lay out the two different jurisdictional stances? Because some people aren't familiar with the law. You were saying, Randy, it's very complex and you lawyers understand it very well. I'm doing my best to play Erin Brockovich to try to learn it, to save money on my lawyers. I don't have ample access to a lawyer. So, it would be really nice if we could lay it out really clearly. These are the laws, the US code, the state law, the Michigan Enablement Act (sic) that allows you to do local ordinances within your jurisdiction. And then why we think that going beyond the ordinary high-water mark is actually beyond your legal jurisdiction and therefore the Michigan

Enablement Act (sic) doesn't even apply. So, I think we want - I know it's complex - but if we were to outline to the general citizen what the laws are, why we think, why your legal guidance is saying "yes, you have the ability to provide these ordinances" but also be transparent and say, 'this is why some of the citizens think that you don't have jurisdiction'. And that should have been the discussion amongst the public. And once you decided, yes, this is something we want to move forward with, then we should have gotten into the specifics but instead, when I went to the study group and tried to talk about the jurisdictional topic we were asked to state our opinion about jurisdiction for about thirty (30) seconds maybe in two (2) minutes, I probably took up five (5) and we were asked not to bring it up again. So, that would be a nice ask if that's something the township could provide in a transparent manner. Thank you.

**Mike Frederick, 14877 Shipman Drive:** Back to the jurisdiction thing, I think it would be very important through this process that I know, Randy, you think you believe that whatever opinion you have is gold, I think it would be very smart for the township to consider both sides of the argument, so you don't get in another lawsuit. Because we will have lawsuits for sure if this happens. You know they're going to come from shared waterfront, not individual, but it will happen. I think you guys should get your ducks in a row, so you don't have another big lawsuit on your hands because we end up paying for that when it happens.

**Hall:** I certainly understand the point of view. It is my view that it would be a failure of government for us not to answer these questions. The 'why' questions dealing with changes to our zoning ordinance dealing with docks and shoreline.

**Brad Niergarth, 8717 Peninsula Drive:** I'm a numbers guy so you answered one of my questions I was going to ask, how many calls do you get on property disputes, so thanks Jenn. I had an observation with the detail that you go through with the aromatherapy and the other issue that you discussed tonight. You're a busy person. I can't imagine how much time and effort you put in, and with that in mind, I'm surprised that you want to take time to then tackle this issue. How many waterfront property owners do we have in Peninsula Township?

**Cram:** About 2,100. We did send a letter out to all shoreline property owners this spring to let them know that the study group was meeting and going to be talking about these issues and invited them to participate.

**Niergarth:** Thank you. I think I got that letter. I remember now. So, if I said 2,000 and we round up to 40 complaints, percentage-wise we're dealing in the 2% range or something like that? So, it sounds like part of your response here and your efforts are aimed at solving a 2% problem which I think the other 98% of the taxpayers probably do not want to pay for, as we've heard. I've also done some study of the Peninsula Township financial statements and I'm trying to complete that study with comparing your legal costs compared to other townships in the state and country to see where you fall in that. Obviously, I agree with the previous comment that if you get sued too many times for issues, you might be overreaching, so I caution you on that. I guess I'm just concerned. When you're looking at this kind of detail, as to how many chairs I can have on my dock or how many boats I can have on my dock, are you going to hit my front porch next and tell me how many people I can have on my front porch and what they're going to do? I know there's disputes with trees and interference with the views, but I would just caution you and maybe have you step back just from a common sense...is this something you want to spend the time and effort to tackle and leading to probably more legal situations? I'd hate to see our township incur the kind of legal costs we are, as somebody said, we're paying for that. Thank you for your time and thank you for all the effort you put in, Jenn.

**Scott Duensing, 1777 Buchan Drive:** I've been on the Peninsula as a resident for almost 23 years. I am on the study group, and I joined the study group in January when it started. Didn't know what I was going to get from the study group, but I came with an open mind, basically to listen, learn, and participate in improving an ordinance that's already in place, whether it's being enforced or not is up for discussion. The intent was to study the challenges that we've had and listen to the complaints and encourage public

# PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686

Ph: 231.223.7322 Fax: 231.223.7117

[www.peninsulatownship.com](http://www.peninsulatownship.com)

**Minutes Corrected by Shaina LaFond October 7th, 2024  
Planning Office**

## PENINSULA TOWNSHIP PLANNING COMMISSION MINUTES September 3rd, 2024, 7:00 p.m.

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

2. **Pledge**

3. **Roll Call**

**Present:** Beard, Dloski, Hall, Shipman, Shanafelt, Alexander; **Absent/Excused:** Hornberger

4. **Approve Agenda**

**Motion to approve as presented by Beard, second by Shipman.**

**Motion passed by**

**consensus**

5. **Brief Citizen Comments (For Agenda Items Not Scheduled for Public Hearing):** Hall notes that in the absence of any public hearings on this particular agenda that it would be appropriate to take any comments about anything on the agenda at this point. However, the preference of the Planning Commission would be to provide the opportunity for public comment after each individual agenda item is discussed. **None.**

6. **Conflict of Interest:** none

7. **Consent Agenda:** none

8. **Business:** none

9. **Reports and Updates:**

- a. Shoreline Regulations Study Group – Continued Discussion on Policy Recommendation for Single and Shared Waterfront Ownership

**Cram: Planner, Peninsula Township:** At the last meeting of the Planning Commission on August 21st we walked through what the policy direction - basically the comments that the Shoreline Regulations Study Group had made regarding single waterfront ownership and shared waterfront ownership. We received a lot of public comment after we walked through that item so we didn't have an opportunity to talk about next steps. In the packet for this month, I did include the existing zoning ordinance for reference so that you can see what (that) includes. I also included information from the zoning ordinance rewrite draft. For those of you that weren't here, in 2016 the Township engaged McKenna Associates to make some modifications to the existing zoning ordinance that was focused mostly on reorganizing the document, making specific sections current with the Michigan Zoning Enabling Act, but not making any substantive changes. McKenna passed that document off to the Township, then the Planning Commission created a sub-committee which continued to do additional work to the document. When I first became your planner in January of 2022 that rewrite was scheduled to move forward from the Planning Commission to the Board. At the Board level, several comments were made that the community didn't feel comfortable with some of the changes being

made, that they hadn't been vetted through the appropriate process, and so the Board subsequently decided not to adopt that draft. We agreed that a lot of work went into that. There's a lot of good information. That rewrite would be put on the shelf and used in the future when we look at amending the zoning ordinance. As such, some of the good information in the rewrite related to shoreline regulations. Our existing zoning ordinance addressed shoreline regulations under Section 6.2.2(2)(c) and it also addressed shoreline regulations under Section 7.4. The idea going forward is to make it a more user-friendly document and consolidate the sections that relate to shoreline regulations: single waterfront ownership, shared waterfront ownership, as well as development standards for work on the shoreline - those would all be in one section. Under the zoning ordinance re-write draft, you can see that these sections were consolidated. The study group touched on both the existing zoning ordinance and the rewrite draft when we were talking about the 'why'. Why does the Township have an interest in regulating things along the shoreline? It's really important for us to have strong 'intent and purpose' statements as to why the Township is regulating these things or certain districts within zoning, why we have regulations for private roads or the R1-A zone district. In reviewing the draft rewrite everybody felt that the intent and purpose statement was strong. We also felt that the diagrams that were included were very helpful. We thought that it could be a springboard for moving our shoreline regulations forward, which is why they are included in your packet. This way you can see the existing zoning ordinance that we're currently operating under, that I administer as the Zoning Administrator as well as the draft. My goal tonight is to see if the Planning Commission is comfortable in authorizing me to move forward with drafting new shoreline regulations based on the work of the study group, the existing zoning ordinance, rewrite draft, and what we know from our legal counsel to make our ordinance stronger, and to prepare a draft that you could then respond to and provide comments on to move the process along. As you know, the only way the zoning ordinance can be amended is to follow the process in the Michigan Zoning Enabling Act which requires the Planning Commission to have a public hearing (at least one) where you take public comment and make a recommendation to the Board. We are in the early stages of the amendment process. We've had discussions with the study group. It was a diverse group of individuals who have single ownership, shared ownership, (who are) contractors, property owners, etc... Right now, we've just received some thoughts for us to consider. I would like your permission to move forward with drafting zoning ordinance amendment verbiage with diagrams if you're comfortable. I'd be happy to hear comments or any concerns based on what you heard from the August 21st meeting.

**Hall thanks Cram and asks Planning Commission for any response.**

**Beard:** In the draft document you've got yellow highlighting, green highlighting, and then some unhighlighted sections. Can you explain the difference between these three?

**Cram:** When it was first brought to the Board's attention that there were many changes that hadn't gone through a process, our legal counsel at the time compared the existing zoning ordinance to the new and highlighted the changes that they found in comparing the two documents. The highlighted sections are sections that were new and not included in the existing zoning ordinance. You can see a lot of the shoreline regulations that were included in the rewrite draft are new based on their comparison. That was kind of a "Wow! There are a lot of new things in the ordinance."

**Shipman:** To follow up: the difference between the yellow and the green? What are the green ones?

**Cram:** It's been a while, let me take a look.

**Shipman:** 3-13? It's hard to make out because it's such a dark highlight, as well, so I can't really help you out.

**Cram:** I don't know what the green means. I'd have to go back and look at my notes.

**Shipman:** To me, it's definitely new things. I looked at it digitally and it appeared to be new.

**Alexander:** That was my question. I don't recall what the difference was at this point in time. I know that originally the new sections were highlighted.

**Shipman:** I'll carry on. The amount of work that was done by some people in this room and Planning Commission to prepare this proposed language was extremely thorough, transparent, and public. I think it's got great figures and drawings. That is something we have nothing of. I know that that was one of the things with the ordinance update, or rewrite, that was important was getting some diagrams in there that help to illustrate for people what the language actually means. That aspect of it - 100% we have got to build that in. I appreciate a lot of what has been added, but by the same token, I appreciate a lot of what has been kept because I think that what was written originally was a lot of great stuff. I know we talked about that a little bit previously. I think there's been some really smart updates here but now we have even more information from the study group - which is yet more public input. Putting all these things together is a great opportunity to see what can be put together to make it even better. Obviously, we would be reviewing and editing over time and there would be lots of chances for people to weigh in. So, I'm 100% in favor of you starting to go ahead and make it happen.

**Cram:** Just to add onto what Susie said, I think the easiest thing, because we're working with the existing zoning ordinance, when you see revisions, my thought process is that the sections, with dock and hoist references under the section 6.2.2, under the R-1A zone district, that those would move to section 7.4, that it makes the most sense to keep them under 'Shoreline Regulations'. If, and when, amendments are adopted, that section in 6.2.2 you'll see "Revised by Amendment 205" or whatever amendment it ends up being and you'd see it in one location rather than two.

**Shipman:** It's weird right now that it's separate.

**Cram:** That is the challenge with this zoning ordinance, I will tell you as a professional planner and zoning administrator, that you can't just go to the zoning ordinance to get an answer in one place. You have to know to look in multiple places. As we move forward with revisions and the better organization that the rewrite attempted to accomplish there's lots of room for improvement.

**Hall asks the Planning Commission to go around and state their individual opinions on allowing Planner to begin the process of drafting language, as requested.**

**Shanafelt:** As I didn't have the benefit of the August 21st meeting, I don't really have anything to say. I think I agree with the strategy of the rewrite.

**Alexander:** I agree with everything Susie said. The pictures are so helpful.

**Cram puts the noted images on the screen for the audience to view.**

**Alexander:** I had a question for my own benefit because I keep forgetting about the base flood elevation line. Is that an established number or is that a number of feet above the high-water mark?

**Cram:** For many years, the flood plain was a static number. It was 584 (feet). With us being required to adopt the updated FIRM maps on April 19th, 2023, that is not a set number any longer. We would have to refer to the adopted FIRM maps as amended, rather than a specific elevation because in some places the 584 mark stayed the same, but in many locations it went up 2-6 feet.

**Alexander:** So, is there a table somewhere. We just have to refer to that table? Is there a way that we could include that?

**Cram:** No. Do you know the maps I have are like this (uses hands to show size) so we would just have to refer to the flood elevation as added by the FIRM maps, as amended. It would (say) April 19th, 2023 and as amended, so we don't have to update the zoning ordinance every time FEMA updates the flood plain elevation. It is very easy for staff and the public to figure out what the floodplain elevation is. You can go to the FEMA website and type in your address and it will bring up a map and show you the floodplain line and what the elevation is. We use that map regularly when reviewing land use permits to see whether or not properties are in or out of the floodplain.

**Dloski:** I will simply echo Susie's comments.

**Beard:** Like we did with the building height sub-committee and the several meetings we had there collecting this information, when it came to the Planning Commission, we were very specific in telling staff

what we wanted to see in the ordinance. The maximum height, the starting point for measurement, and several other definitions. I think that's what Jenn is looking for from us this evening is some of that. As we get this input from the shoreline study group, I think we need to either agree and ask that these things be included in the draft ordinance or disagree and ask that they be left out.

**Hall:** If I may, Kevin: I don't think that's what she's asking for. I think what she's asking for is our approval for her to go ahead and do a first-pass draft of proposed language to amend the zoning ordinance and then at that point, that draft would be presented and we could drill into any specific items we want, including what you're talking about.

**Cram:** Or if there's something that is a no-go, or you have some things to add, Kevin, I'd be happy to schedule time to make note of them.

**Beard:** I'm not sure I do at this point.

**Cram:** I definitely listened to the public comments and understand where the sticking points are. In having picked the profession of being a public sector planner I know that we do our best to draft zoning ordinance amendments that are flexible enough but there's no way that we will make everybody happy and can address every specific situation out there. I know that the study group worked very hard to be reasonable and looking at the existing zoning ordinance and existing conditions in our community tried to make recommendations that would bring most of the situations into compliance, but clearly not all of them would.

**Hall:** My view is - first, I agree with Susie's comments. A lot of good work here. A lot of basis for moving forward and for you to put together some draft language. For the benefit of the Commission but also for the citizens here, the way this will work is: this language will be produced, it will be presented to the Planning Commission, it'll be publicly available, there will be discussion at the Planning Commission, there will be at least one public hearing on it and as with so much of life, the devil is in the details. I don't mean to preclude Kevin or anybody else on the Commission from drilling into any specific item - or maybe there are missing items based on the policy discussions we've had or the existing ordinance or the draft rewrite, somebody feels needs to be discussed and possibly included, that can all help. What we're doing tonight is responding to Jenn's request that she be authorized to put together draft language. That will focus our discussion and then we can all react to that. I'm in favor of that and would say that we should approve that. Kevin, you're our parliamentarian - do we need a motion on this? Okay. I need a motion.

**Motion to authorize the Township planner to prepare draft language for the Planning Commission's consideration made by Dloski with seconded by Alexander. Motion passed by consensus**

**Hall opens the meeting to public comments about the work of the Shoreline Study Group and the process.**

**Mary "Monnie" Peters, 1425 Ne Ah Ta Wanta Road:** What is very interesting is that I was thinking about this at about 4:30 this afternoon and that's what I jotted down on process (referring to a memo given to Planning Commission, attached). What you all have discussed this evening on process is very similar to what we did before to create the drafts. There were three of us who were in a sub-committee. We were all members of the Planning Commission. It was myself, Laura Serocki - who was brilliant at finding the right words - and Alan Couture. I think it really helps to not just have poor Jenn do it all, but to meet on a regular basis, and that's what we were doing. We were doing the whole rewrite and I think we saw three different planners during that time but I can't remember. I think we started in 15 (2015) or early 16 (2016) going into 17 (2017). The beautiful drawings in here - and I can't remember his name, the gentleman from McKenna - who actually did it. The reason they look so good is that they were professionally done rather than sort of a hand-drawing. I really recommend that when you get to the point where you've decided what it looks like, it's worth it to find the money and find an outside source to really help do these drawings and going back

and forth on them. What I can say is: I would be happy to be a little helper to Jenn in helping to do some of the rewrite because I could go back in old copies - and there are multiple old copies because I'm terrible at throwing things out - and looking at what we did and how we argued over specific language. I can remember our process was "well, let's argue about the basic idea" and then we all agreed on "oh, we need to do it this way" and then trying to find the right words to do that. And that was the in-house committee in most of the words you see but McKenna was brilliant on the drawings so that's where it would be worth finding some money. If we could get a charitable donation, I would do that. It's worth it. To make the drawings really well done. We might be able to go back to McKenna. I'm sure I can go back in my stuff and find out who did it. I wanted to share sort of what was done before with you all and have you all think about a little more collaboration than just have it all sit in Jenn's lap. It's not as though she's sitting at her desk eating bonbons with nothing else to do. Thank you.

**Fred Swaffer, 1045 Gray Road:** My question pertains to the draft, specifically 3-18 where it talks about shared waterfront. It was talking about minimum lot widths for shared properties not approved within a subdivision or condominium. There are shared frontage parcels where members may, in fact, be in the same subdivision but they were not platted with that subdivision when it was constructed. My reading is that, basically, up to four families - looks like 50 feet a family, after that it's 5 feet, so if you had six families, you're talking 210 feet of frontage...I know several where you have 70 feet of frontage with six families. I wonder, is that going to be grandfathered?

**Cram:** Existing legal non-conforming situations will be grandfathered, yes. Any zoning ordinance amendments would apply to any new PUD, SUP, land divisions, things of that nature.

**Swaffer:** So, it would be non-conforming going forward with this draft...

**Cram:** If it conformed to the zoning ordinance at the time that it was developed...we'll probably have to do a little research.

**Swaffer:** There are existing shared frontage parcels that have been in existence for 20-30 years that would not conform to this, and if I read the original draft, it was fairly similar.

**Cram:** Mr. Swaffer, this was a rewrite that was never adopted, so we'd be moving forward with something new. What we were looking at for the new (draft) was based on the recommendations, the policy direction, from the study group. They were looking at one dock per parcel, three hoists per fifty feet, those types of things...we do know that there are several parcels that exist on the shoreline that don't conform to our zoning ordinance regulations with regard to frontage and lot size and things like that. There were parcels that were nonconforming where they were given a specific thing. Those would not change as long as they are compliant when they were created, they would be grandfathered.

**Hall:** I would like to qualify that, and let's be careful about the concept of grandfathering because it is a legal concept under zoning law, as you know. To the extent that we are changing regulations that might be police power or something else, grandfathering doesn't apply. So, I want us to be careful about that. We are not using legal judgments tonight.

**Teri Mulcahy, 7202 Peninsula Drive:** I grew up here and we've owned waterfront since 1997. At the last meeting I researched riparian rights and that's where I kind of got screwed up because of Lake Michigan and the bays. It's a whole different ballpark than inland lakes. There is some great documentation out there: Life on the Lake, dock laws, and Field and Stream and Lakes has some great legal opinions explaining that townships do have the right to make changes. My question is to Jenn because we tried to look it up. Is the reason for doing this whole waterfront thing is for health, safety, and what was the third thing? Is it conflict resolution or what is the third thing.

**Cram:** In the study group, when we talked about the 'why' the first thing was for public health, safety, and welfare.

**Mulcahy:** And welfare. Okay. So, is there anything, a policy, now regarding health?

**Cram:** It's a broad concept. Public health, safety, and welfare. We have a current zoning ordinance...

**Mulcahy:** Pertaining to waterfront?

**Cram:** Yes. We've looked at drafts. Those are included. We're just trying to reaffirm why we're doing this and so we're looking at these things because it is in the best interest of the community to look at shoreline regulations. I'll give you one example of a safety reason. Whether we agree or disagree that there should be on-site parking, we know that we have situations where there isn't enough parking on the shoreline and so where are people parking and how are they getting to their shoreline? We have children crossing the road. We have cars and trailers out in the right-of-way, blocking traffic. The reason that we have regulations for the shoreline (is) to address those safety concerns, so we all agree that we are following the same rules related to whatever topic we're speaking of. So, yes, the existing zoning ordinance and the proposed amendments will always address public health, safety, and welfare. The other reason we embarked on this was because of complaints that we receive on a regular basis of neighbors not getting along. So, there was the conflict resolution and then natural resource protection.

**Mulcahy:** So, that's new? The conflict resolution.

**Cram:** It's kind of the third (thing) now.

**Mulcahy:** Okay, because I remember you saying there were 37 reports or complaints.

**Cram:** And I got four more since last time.

**Mulcahy:** I contacted one of the attorneys and he said - I'm glad you brought that up - that the bulk of the complaints are coming from, the majority of complaints that come in about bottom, you know, the rights are from non-waterfront owners. With regards to, I think, one time the sheriff had to be called is that when you do have conflict, when you do have people that are outright - no matter where they live, I don't think it's the Peninsula Township - it should be the sheriff. I mean, if they're that out of line the sheriff should be called. Lastly, I was very interested in - because you are able to make your rules and changes - but the percentage of Townships along Lake Michigan and the bays that actually put these regulations on its citizens it's very very very - he said three times - very few do it. So, I don't know if you've looked into that or not, but I've lived in this house since '97 and I've never had so many people that are out of town or out of the country calling and are so upset about this. I grew up here so it's just, it seems like a bad pencil sharpener to put your finger in. Anyway, I just wanted to be correct regarding not knowing about riparian rights.

**Beard:** Can I try and clarify a point? Folks from out of town or even out of the country complaining about what?

**Mulcahy:** This whole bottomland, shore land, permits, docks, shared subdivision numbers. It's all along the waterfront. It's people that own on the waterfront or are in subdivisions on the waterfront. They live and own a piece of property on the waterfront.

**Beard:** I didn't want to misunderstand you. It sounded as if you were implying that boaters on the lake were getting into conflict...

**Mulcahy:** No, no, no. It was what Jenn had mentioned because we had asked at the last meeting. She mentioned there was a lot of, part of the thing was conflict resolution. The reason why you were doing this was for health, safety, and conflict resolution. That was a new thing that was brought up because she had 37 complaints and she's got four more since the last meeting. One of them, the sheriff had to be called. I talked with the sheriff, I said "what's the deal?", he said 'absolutely, Peninsula Township, when there's someone that out of control, the Sheriff needs to be called. It doesn't matter if it's in the middle of the peninsula or the shoreline'. When neighbors - well, I don't know if they're neighbors - are that out of line that the sheriff needs to be called.

**Hall:** I have a few comments. First, to your point that you received comments from, it sounded like attorneys who were saying that it's highly unusual, it's a matter of statistics, for a municipality with shoreline and let's narrow that to navigable waters. We're not talking about inland lakes, we're talking about the Great Lakes, navigable waters. Highly unusual for municipalities to have that situation, to have regulations dealing with dock location. I agree with that. We looked at it. The reason we looked at it was to

look for sample ways that municipalities having shoreline geography and density as similar to this as possible and there isn't anything like this, Peninsula Township, on the shores of Lake Michigan. There are some communities that have this sort of regulation and there are not many. It becomes apparent when you start - which is what I did - I started in Mackinaw City. You know, you could go down the shoreline and you don't see a lot of docks. You see some, but you don't see the density of docks that we have extending into Lake Michigan because these are seasonal docks that we're talking about and seasonal docks don't do well in Lake Michigan if they don't have some protection for the shoreline. So, if somebody runs a 30 foot seasonal dock, the first major storm that comes along, the dock is going to end up in some other community. Not guaranteeing that, but that is what I found, anyway. And it wasn't until we started looking at communities that have protected shorelines - Elk Rapids, for example - their zoning ordinance does address dock location. Saugatuck, I believe does as well. Douglas, probably. Grand Haven, etc. There are not many, and it's by far, if you just measured shoreline, it's a very small percentage of that shoreline that is subject to this type of regulation. Not everybody has the situation that we do. We've got more - I'm guessing - we've got more shoreline than anybody, certainly with docks on it. We have 2,000 plus owners. **Cram:** I also learned, because I've been looking for examples as well, that the reason that you don't see a lot of regulation around this is because other municipalities don't allow for the keyholing or the shared waterfront to the extent that Peninsula Township does. So, the reason that they don't have more detailed regulations is because they just don't allow shared waterfront, so they're only dealing with single waterfront owners. It's the amount of shared waterfront, and as Mr. Swaffer said, we have parcels that were created that don't meet minimum standards. Everybody wants to be on the shore, and so our situation is that much more complex for allowing that shared waterfront.

**Hall:** I'd like to address another point that you made, why are we doing this when the sheriff is on call? I want to explain that the question leaves a gap and the gap is the area where you've got two shoreline owners, they have a dispute about where the docks are to be located. One of them is running their dock out - he doesn't want to look at it - so he runs it out and the other neighbor looks out his picture window and sees his neighbor's dock - that's a real situation - and if they can't agree and they are not functioning, reasonable adults, they end up threatening violence. I'm describing a real-world event. When it gets bad enough, the behavior does become criminal and at that point, the sheriff would be called. But what about before that? We have a gap right now. We don't have an ordinance that will...first, let me tell you, I'm saying this as an attorney. I don't know what your background is. In my opinion - let's not talk about the criminal situation - there is no civil remedy. If you don't like where your neighbors putting their dock because they've angled it out and you're looking at it, there is no civil remedy. There's no body of law that gives you the right to file an action against them in the civil court and get them to move it. If there's any remedy at all, it's going to be provided by local government. In my view, in the view of - I think - everyone on the Planning Commission, it would be a failure of this government if we didn't amend our zoning ordinance to give the code enforcement officer a tool to use, short of criminal incarceration of somebody, to address the problem.

**Mulcahy:** With regard to this health, safety, and conflict resolution - up until that's written in, my understanding, from getting some good opinions - that I feel are good opinions - anything prior to that when that's in is grandfathered in.

**Cram:** And that's where we have to be careful.

**Mulcahy:** Are you saying no?

**Hall:** No, I'm saying we are not going to offer legal opinions on that question tonight.

**Mulcahy:** So, you're not answering tonight?

**Hall:** I'm saying that you should go talk to these legal authorities that you've been talking to and ask them about when grandfathering applies to the zoning situation and when it doesn't apply. You might ask them

about police power type regulations and ask them if grandfathering applies to that. I'm not saying that that's exactly where we are, but I'm saying it's a complex area.

**Mulcahy:** The main thing was that the three items: the safety, health, and conflict resolution and that's written in. Anything prior to that is not grandfathered. That's the information I got, but it's an opinion.

**Hall:** And lawyers can disagree.

**Mulcahy:** Yeah. He's a very good lawyer. Most of his calls are from attorneys calling him.

**Shipman:** Can I just - I want to preface this by saying that I was not part of the shoreline committee. As Planning Commissioner - I have listened to some of these comments, but I think that terminology and how Jenn and the information here was presented is maybe being taken in a different way from what it's meant. You're referring to this 'health, safety, conflict resolution'...

**Mulcahy:** That's what the attorney said.

**Shipman:** This has nothing to do with what your attorney says, and I don't want to be brusque about that, but I do want to make a strong point. Those terms are simply being used to describe when the community came together as they looked at what the problems were, they realized that those were the buckets. So, there's nothing about policy that's using that terminology, it was simply how they were looking at the process. I don't want you to think that there's going to be some kind of policy development that is focused around those three things, that was just how the discussion was framed.

**Mulcahy:** But I think Jenn said that there has been some in the past. Some documentation.

**Cram:** So, our office receives complaints on a regular basis and addresses violations, and so yes, we do get complaints from shoreline property owners. It's not other people. It is those with single or shared ownership and they're not getting along with their neighbors. They're concerned about dangerous situations, there are conflicts that are ongoing and have been for some time. We've been in a lawsuit because of it.

**Mulcahy:** But I think you mentioned that there was documentation regarding safety, health and I don't know if conflict resolution was in there. That's what I was trying to get an answer for.

**Chris Radu, 1328 Londolyn Terrace:** Interesting statistic from the last meeting was - now we can say 41 complaints - for 2,000 owners, so here we are writing a rule that's impacting 2% of squeaky wheels getting the oil, essentially. You had more than 41 people present at these meetings. I've only been to the last two because I work, I have three kids, and a bunch of other things I have to take care of, and yet I feel compelled that I have to come here to protect my property rights because we're trying to write a rule for 2% of the population. You've had more than that show up here, and most of the people are not in favor of what's being drafted and what's being done. And that's just the ones that are taking the time to come here. As I said last time, we've got 28 lot owners that are in my neighborhood that all view this as you diminishing their property value by trying to put these rules in place, because ours is non-conforming, and you adopt the new rules it's going to continue to be non-conforming. Now we're having a conversation about grandfathering this and, you know, Susie, you sent a thing that's got lot lines that go like this 15 feet out into the water. You guys are trying to stuff the genie back in the bottle here after it's long gone. You're going to end up peeing in so many people's Cheerios that you talk about being in a lawsuit, you're going to be in another one. I still go to the question of jurisdiction. I know you're going to love this but after the (last) meeting I contacted the state - EGLE - the division that is responsible up here, they're stationed up in Cadillac. I talked to the guy that is responsible for it and the supervisor and they told me that part 301 doesn't apply, that's for inland lakes only, but part 325 does. None of what you guys are talking about gives you the authority to regulate this. You've got the changing high-water mark, which you've just acknowledged it used to be a set number, now it's at 581 ½ even though the water is at 579 ½. So, technically, 2 feet onto my beach is the Army Corps of Engineers responsibility to govern. He's located out of Grand Haven and you know, doesn't come up here to look at much of the situation. Technically, everybody that's putting a dock in should be contacting him to get a permit to put the dock in and they

should be contacting him to get a hoist, but yet 325 says you don't have to do either one of those things, so you've got cross currents between the Army Corp of Engineers and the State of Michigan, but EGLE would be at 581 ½. I fail to see where you guys fall in between Army Corps of Engineers and part 325 which is EGLE's purview. I can't imagine that they'd be interested in you guys coming in and regulating and that's technically their purview, and they have a budget that's dedicated to that. I still have the hardest time with jurisdiction here and then upon leaving the meeting everybody that was here last time got multiple association owners that are in the shared frontage situation, the presidents of those that are all now starting to get together and saying 'well, we may as well start raising funds now for a legal challenge because we can all see this threat that you guys are bringing to our property values'. So, the lady before talked about, I mean, I've lived out here since 1994 - the majority of my life - never had any problems with any of this stuff. (I) govern, like I said 26 lot owners, 28 lots, as a president. It's a thankless job. Probably as thankless as you guys feel sitting up here, and the last thing I want to do is now deal with some ordinance that you guys passed through where I may be grandfathered, maybe I'm not grandfathered. Then I've got - I mean, you talk about the threat of violence - if I go kick four people off of the dock because of some new rules you guys have you're going to have to come and protect me from violence because I'm going to have my neighbors at it. And while we're on the subject of that, I've got neighbors that do things. I've got people that let dogs out that poop all over the place. Can we put an ordinance there? Maybe you guys can map that out. I got some other ones that have trees that are too tall that are blocking one person's view and it's blocking somebody else's. You could do an ordinance for that. I mean, at what point are we just saying 'life, liberty, and the pursuit of happiness' because nowhere in anything that you guys are talking about it is talking about how important the protection of private property rights are. Nowhere in that discussion is that taking place, so again for 2% of the population - we've had more than that show up to this - what are we doing here? I'd rather be at home playing soccer with my kids but I'm not going to have my property value devalued because of this in an ex post facto matter. It's ridiculous.

**Hall:** I want to compliment you on your speech-making abilities. I'm serious. I think you're very passionate about it and you just roll right along. I have a couple of comments. Not one person has, despite my offer at several meetings now, emailed me and asked for the detailed legal analysis and opinion that I have available. It was produced by the Township's legal counsel. I invite you to look at that. Email me, I will be happy to send it to you, and if you want to do this offline, I'd be happy to discuss it with you. Your analysis of jurisdiction is incomplete. I suspect you're not a lawyer. Read what I will send you. The last comment I want to make about this - it's a rhetorical question - if only 2% of the people in Peninsula Township were out killing other residents, should we not have a law against murder?

**Cram:** I would like to add to that 2%, and that the reason we're doing this is because we did a community survey and that survey showed that most of the Peninsula cares about our shoreline regulations and what's happening on our shoreline, and the Master Plan said that we should look at our shoreline regulations, so we are following the direction that was laid out in the Master Plan by more than 2% (of residents). The proposal is to allow more hoists on the water so that your shared waterfront would likely be more compliant. You're definitely not in compliance with the existing zoning ordinance.

**Radu:** A couple of comments. Number one: I took down your email address. I have a general rule of thumb in life which is trust but verify. If someone is infringing upon what I feel to be my rights, I'm not going to go to the person I feel is quote-unquote poisoning me and ask them for the cure first. I'm going to go someplace else first, find the answer, become educated on the topic, and then come back and show up with more than a butter knife. If I just took your word for it then there's no point in me showing up here. I am going to email you after this because I want to get what you're working off of because that's important. I'm giving you what I'm working off of. You say it's incomplete. That's fair. All I can do as a public citizen is research it to the best of my ability. The survey - I love that because before the primary election, I talked to Kelly Clark and Ms. Sanders and what I love about the survey is that the number of people that responded

in accordance with the census data from 2020 is 16% of the population that lives in Peninsula Township. I did not respond to the survey. I'm part of the 84% that wasn't represented by the answers and are pretty simple. Leave me alone. I don't want to have to come to these meetings to protect my property rights. I'm happy. I moved out here, I came back home on purpose after having moved away, gone to school, made the money to come back. I wasn't part of those and I have a feeling many of the people sitting in this crowd weren't part of it either because again 84% of the people who live out here did not respond to that survey. Not to mention, those questions, when you look at them, are so weighted toward the answer that somebody actually wanted - whoever wrote that - I mean, talk about slant and bias. It was a guarantee for that. So, when you're using that as rationale for what we're doing here, that's not a true depiction of what the population is out here, especially the way that that's written. I appreciate your invitation to email you. I promise you I'm going to.

**Hall:** please do.

**Mike Mulcahy, 7202 Peninsula Drive:** I feel like the kid in the movie "My Cousin Vinny", halfway through the trial he says "I want him for my attorney". He was good. Sorry I've got to follow him. But I agree with him totally. The way things are, I feel like lawmakers have a hammer and so they make everything look like a nail. We're going 'you got some guys that might get mad and then it might turn into violence so we need to get out in front of that and make sure we've got regulations so they won't get mad and because if they get violent and call the cops' - you can't cover all those bases. There's some pain in life; we all suffer from it. But here we've got 2% of people, maybe 37, 41 whatever it is. I've been here two weeks (in a row) now. I'm not too involved in politics, but I've heard 25, 20, 30 people talk. I didn't hear any of those people who are so worried about their rights. I didn't hear one person come up here and go "great. This really is, this is what I've been hoping for, for a long time". Didn't hear one. Not one and yet we're plowing ahead. Did anybody say anything last meeting or this meeting that appealed to you? I didn't get any reaction. It was all pushed back. All I got, all I heard was pushback. I didn't hear anybody say "you know, what you live here, you're coming up with a pretty good idea. I think will factor that into what we plan, what our plans are." I didn't hear that at all what I heard was "no, wait a minute, you're not right." I think you're pushing a rope here. It's not going to handle well if you just keep pushing a rope.

**Hall:** I will comment that the purpose of the study groups that we form, not all the time, but when we feel that we need an education on the topic - the building height group is an example - we were very fortunate to have experienced contractors as well as property owners and others to engage in very detailed discussion to educate the planner who could put together the basis of a policy statement for an amendment to the zoning regulations. We have had a lot of discussion in the study group on Shoreline regulations so while it may look to you if you look at the process and said "well, we don't know why you're moving ahead because you have only a small representative of the population here" - it's the people who don't like it. It's a little bit like, six years ago when the blight ordinance was proposed. People thought the ordinance was a good idea didn't go to the meeting. It was the ag community - the ones who didn't like it - that showed up. It's not a representative group.

**Patrick Kelly, 8648 Peninsula Drive:** I have lived (at the previously stated address) for a long time and, first of all, I want to thank you all on this board for taking this on, and for updating and modernizing. Whatever you're doing. I wasn't able to be at the other meetings and I haven't looked at what the committee has suggested. I've had visions of people, perhaps with small amounts of riparian frontage, putting a dock out and putting a whole bunch of holsts out and having people pay them. Kind of run their own little marina. I've almost seen some of that activity and I think it's important to address that because I think it would be negative for the township and the environment to have that kind of activity. As far as having regulations or not, there are probably some people who would like no regulations. Do whatever they want. But that opens the door to that kind of activity that I just mentioned, and we can't have that. One thing I don't know is if it's in the ordinance or in the Planning Committee's process is whether or not there's a requirement for

township riparian rights in order to have equipment out there. Can people, I don't know if this is true or not, but I think it should be addressed. Can people who are not Township residents (sic) who don't have any riparian rights put equipment down there on the shoreline. I think that should be addressed if not.

**Cram:** Do you mean lawn chairs? Things like that? Is that what you mean by equipment?

**Kelly:** I mean docks and hoists. I mean, if you live in Lake Ann and you have a friend who's got 50 feet of frontage in Peninsula Township and your friend says "oh yeah, come on out and put your dock in, hoist in" you know that's a little bit, I think that should be addressed. Again, I thank you for taking this on because we do need some regulations. There could be all kinds of things that could happen, so thank you.

**Hall:** For those of you digging into the legal aspects of this, just a couple of comments. Zoning regulations are a limitation on individual property rights. They are. Take a look: ask your lawyers to give you a copy of the 1926 US Supreme Court case 'Village of Euclid v. Ambler Realty Co.' where the US Supreme Court addressed that very question. And the realty company said "you're depriving us of our property right by these zoning regulations". The Supreme Court said as long as the regulations are related to the health, safety, and general welfare of the community and they are reasonable, not arbitrary and capricious, they are valid and enforceable. That's a general statement. They weren't talking about dock locations or anything else but that's the US Supreme Court, 1926. This is good stuff. We need to hear from everybody we really do. We appreciate all the comments. We're trying to get it right.

**Audience member asks if written comments are accepted. The Chair asserts that they are. Audience member asks if they go into the record.**

**Cram:** If you submit written comments to me, as a planner, and request that they be included in a packet, then they become part of the public record, so yes we always accept comments.

**Audience member states that he is speaking of a couple of individuals who have expressed concerns to him but aren't able to make these meetings. Asks for clarification that submitting them that way would be as effective as doing so during a public comment session. Planner/Commission asserts that it would be.**

**George Weber, 1046 Peninsula Drive:** While I'm here: the parking issue. I think the health, safety, and welfare concept is tied largely to the parking component of the deliberations in this area. **I still maintain that there is no correlation between designated parking requirements and the number of boat hoists that may be installed offshore.** And I looked at a couple of places in point over the weekend on Sunday, a couple of subdivisions. One did not have parking. There was substantial parking along Peninsula Drive. There were no boats off of the hoist on Monday and there were two boats off of the hoist combined, probably 25 boats between the two properties, that were off the hoist so there's very little correlation between the number of desirable parking spaces, the number spaces that would be nice to have had been considered when those developments were approved by the Township to begin with. Look at our subdivision, we've got 18 to 20 kayaks, paddle boards. We've got a swim raft. We've got seating on the beach for between 25 and 30 people. We've got four large picnic tables, umbrellas. We've got decks galore with seating. I would say it'd be very safe to say the less than 5% or less than 10% of the foot traffic across Peninsula Drive to this beach area is comprised of boaters. So, there's really no correlation. It would make more sense to correlate the recommended number of parking spaces with the number of beach chairs that are down there permanently, and that's why I'm having difficulties still with this exercise. I think this exercise, you guys will all agree, is largely in response to contentious relations between neighbors. I suspect this would not have gotten the priority that it has with all of you were it not for the complaints you're getting. I've lived out here for 45 years and to my knowledge I've never heard of anybody being killed by any of the speeding vehicles on Peninsula Drive or Center Road going to the beach. To my knowledge, you'd be hard-pressed to peg it on a boater if one was killed because they comprise a very small percentage of the people that are using the beach. Something to keep in mind, but I have a hard time with that health, safety, and welfare association for that reason.

**Teri Mulcahy, 7202 Peninsula Drive:** you brought up a good point earlier, Jenn, referring to the documentation with highlighting green and yellow. Is that online?

**Cram:** It is now because it's part of the packet.

**Mulcahy:** Okay, good. So, we'll be able to look that up.

**Shipman:** Can I just make a quick comment about that? Teri, keep in mind: there is nothing official about that information. That's important to clarify. There's nothing official right now except for our existing zoning regulations. I just want to follow up and say: listening to the last meeting and attending the last shoreline meeting, being at this meeting, and listening to comments -and we do absolutely listen to comments - what I'm hearing from many people are comments related to being not in compliance) with the existing zoning ordinance, I'm hearing that a lot. Another thing that I'm noting is in the policy direction. There are several items relating to relaxing certain aspects of the existing zoning ordinance. And that is responding to the change in use that we have seen over the last 10, 20, 30, 40 years. So, I just want people to have a longer-term view about what is happening when we look at some changes here. Just think about, if you look back 40 years, what this peninsula looked like and you look at how many people had boats, how many houses were built on the shoreline, and you look at it now and you think about where we might be if this peninsula was fully built out in another, I mean, who knows maybe it'll only take 10 years or 20 years. Those are the kind of long-term considerations that are on the table when we're having these discussions. I think it's important to think about that aspect of what the Planning Commission does. We're not creating an ordinance. We're looking at the previous one. We're looking at our current reality. We're looking at our future planning and we're trying to be reasonable. We're trying to be accommodating for how people use the shoreline. There are many more people, there are many more boats, there are so many more docks, hoists, jet skis, lawn chairs... And I think there's a lot of good to be had here. I just want to help people to understand. We always want to hear comments, but until there's something to review - and that's what we're asking Jenn to do - just keep in mind, none of what you read here is set in stone except for this - the existing zoning regulations. I just want to remind people, I think people get really upset, and I know my reaction to looking at the property lines and how they crossover... It's the same kind of feeling. I know what that feeling is and I empathize with that, but there's got to be a reasonable set of regulations so that we can have this beautiful community going forward. The balance is all of these different aspects of how we live and use this land. I'll leave it at that.

**Radu:** I hear your statement and I share that with you. I guess the origin of my frustration is that my association was formed under state rules even before the current ordinance that isn't being enforced. The last meeting I talked about how it's not just about our situation. Ours is an easy one. I bought our house in our neighborhood in 2015 and the pictures on Zillow had our neighborhood dock had one boat on each side of one finger that went due east into the water, so there were two boats out there in 2014. From 2014 to present we have 13 out there and we self-regulate. I came to the township upon being elected, if you can call it that, the president of my association. I talked to the previous zoning administrator - actually, probably the predecessor - and I asked what paperwork do you have on file for Londolyn Shores and the file was empty. Then I had to go to the county and say OK well what paperwork is on file because everyone was living off of these bylaws in our neighborhood that were sacrosanct and yet they weren't even on file with the county or the township, so everyone was living by rules that hadn't even been registered. So it wasn't until we had an election to change the dues and we stamped in what the rules were, you know for our neighborhood and I was told, oh, this is a big problem that starting to develop here because all these people are moving out here and so the wrestling that I have is: hey, I could be one less voice here at the next meeting. You're right it's a draft. Change it to 4 per 50 feet, say it applies to absolute digits, and my 191 feet all of a sudden becomes 200 feet with reasonable topography that I currently regulate as the president. I don't have to kick anybody off. I'm fine with that. But what you had is the study group and it was articulated at the last meeting by some of the people from Hidden Ridge or people tried to show up in good faith. I

can't speak to it, I can only speak to what they said. I tried to show up in good faith. They felt like the deck was already stacked, and then you had certain people who shared frontage that became complicit because they felt that based on their shared association, the three per 50 was going to accommodate them and so anybody after that, it didn't matter. So those are the people that stayed on the Planning Commission study group to draft those recommendations and then the other problem that you run into as you have private frontage versus shared frontage, but the last meeting we're talking about, you know shared frontage, having to register with you guys. There might be a nominal fee. Well, now you're allowing people that don't have frontage (and) people that have private frontage to regulate people that have shared frontage. And anytime you can empower someone to screw over somebody else without impacting them. Unfortunately, the natural human tendency is to do that as opposed to being empathetic like you said you are. And stepping into the other person's shoes and saying gosh, I can see why this person is so irritated that they'd want to leave their kids soccer practice so they could come and you know fight for their property rights. I hear you on that front and I guess I hope that you hear those of us that are saying I want to because you know I live out here on private frontage and I've lived out here on shared frontage. I've been on both sides of the coin and I never came to the township building until I tried to do an addition at my house and then you want to talk about conforming versus nonconforming. My existing roof line to my garage was 14 1/2 feet away from my lot line. So, when I wanted to put an addition on the back of my house, guess what I had to do to my architectural plans... Even my architect didn't realize at the time, my add-on has half an inch less overhang...

**Hall:** Let's talk about shoreline.

**Radu:** I'm just saying you don't see that until it impacts you and that's the same thing for these people.

**Shanafelt:** I'm confused. So you're telling me you don't want to follow the ordinances or you do?

**Radu:** I would love to have an ordinance that acknowledges what works for my neighborhood.

**Shanafelt:** I'd like you to answer my question. Are you willing to follow the ordinance, or do you feel you don't have to follow the ordinance?

**Radu:** As of right now, no one's really following it.

**Shanafelt:** No, no. That's not an answer. Do you believe you should follow the ordinance, or do you believe you cannot follow the ordinance?

**Radu:** As currently drafted, I would not follow the ordinance.

**Shanafelt:** So, you willfully want to break our ordinance structure. You don't respect our ordinance structure.

**Radu:** It's very difficult for someone to consent to be governed when they don't feel represented. This country was founded on that idea. No taxation without representation.

**Hall:** OK. That's enough. Thank you.

**Mike Mulcahy:** you mentioned that there were some sweeteners, but nobody's ever mentioned any.

**Hall:** I'm sorry, some what?

**Shipman:** Some positives? Some relaxing of things?

**Mulcahy:** Nobody has ever mentioned them.

**Hall:** Well, they have been mentioned and thoroughly discussed in the shoreline study group, but the simplest one that I can think of is the recognition that people have more watercraft today than they had 20, 30, 40, 50 years ago. When some of this was originally drafted and so we are proposing an increase in the number of hoists allowed.

**Cram:** Currently, the zoning ordinance only allows one hoist per 50 feet and we are proposing to triple that to three hoists per 50 feet, which brings most of the shared waterfront properties into compliance. Right now, a land used permit is required for shared waterfront, we are proposing a user friendly registration form.

**Mulcahy:** So, that's what it is right now, only one dock per 50 feet of frontage?

**Cram:** Yes. One dock per parcel. One hoist per 50 feet. And many people are not meeting it.

**Mulcahy:** And you're talking about having three docks per parcel?

**Cram:** One dock per parcel, three hoists per 50 feet. So, we're increasing the number of hoists.

**Mulcahy:** any other big ones you can think of?

**Cram:** A land use permit is currently required and we're looking at a registration form to make it easy. A checklist. So, people can come in and note how they comply.

**Shipman:** Mr. Mulcahy, at the last meeting - the August 21st, the one I wasn't at - the packet for the August 21 meeting, that's where it has the policy recommendations and you can go through and you can see what some of those things are that Jenn is talking about. That I was referring to.

**Cram:** I noted in that draft what the existing ordinance says and what we are proposing. What's being proposed is much more flexible than what exists right now. If you would like us to stick with what we have right now we can.

**Mulcahy:** I'm going to have to read up on this.

**Hall:** I'd like to comment about your characterization of what happened with the study group, and that certain people were excluded, or their opinions were suppressed. My view, having been present for all of the study group sessions, is that from the very beginning: we had a very, very vocal minority that didn't want the study group to meet. They didn't want the study group to report out any recommendation at all. This minority was adamant that the township does not have jurisdiction and that therefore none of this is valid and they wouldn't let that go. They kept on it. We had some debate about it, but the study group isn't a court. We're (the Planning Commission) not a court. The Township board isn't a court. We're simply relying on our Township legal counsel to guide us as to what is legally defensible. If that opinion is wrong or if court litigation is commenced, as you seem to think is highly likely, will occur and it goes to a court and the court says "oh, we don't have jurisdiction" well, then there's an answer. But that vocal group - when they realized after at least two meetings that we were not going to cave into them and just about the whole process they left. What they did, by leaving, was end their ability to influence the policy discussion. Now they would come - some of them would come to the meetings here and that's fine - but frankly, I was sorry to see them leave. These were intelligent people who use boats and are well versed (in) it, but we didn't exclude anybody. We didn't try to suppress anything. Other than, in order to get any work done we had to say 'look we're going to rely on the legal opinion of our counsel that we do have jurisdiction, otherwise we can all go home'.

**Cram:** And all of those people continued to receive all of the emails. I never dropped anybody from the original group. We did hear you, the public, that the timeframe of 3 to 5 PM may have prevented some people from participating so we agreed at the last study group meeting that we would move the meeting time to 5 to 6:30 PM. The next meeting, next Monday, will be from 5 to 6:30 PM. The agenda will go out end of this week for next week's meeting. We probably only have a couple of meetings left because there's a few more topics to discuss, but again, we are trying to be flexible to get as many people to participate, so we can hear from them whether they're in support or not. That's how we learn.

**Patrick Kelly, 8648 Peninsula Drive:** Three hoists for 50 feet of frontage is very generous. I mean, anybody complaining (about) that needs to reassess how they feel about regulations. I appreciate your comments about whether you're going to comply or not. I would ask that there be a consideration as to who owns those hoists and boats because there are instances where people who are not Township residents. You know one guy with 50 feet +3 hoists, the potential to rent is out there.

**Hall:** We're aware of that and we're going to address that.

**Weber, from audience:** I'd like to echo his concerns about non-ownership. Some of the equipment is... It does not exist in our association, but I know of a couple that it does exist. The ordinance should be amended to prevent that.

**PDF VERSION INCLUDES ADDITIONAL PUBLIC COMMENT AS PAGES 19-20**

August 31, 2024

Traverse City Planning Commission  
Peninsula Township  
13235 Center Road  
Traverse City, MI 49686

Re: Brief Citizen Comment for Sept. 3, 2024 Planning Commission Meeting  
Shoreline Regulations Study Group

Dear Planning Commissioners:

I would like to address the Shared Waterfront Ownership policy recommendations for my property at 9449 Center Road. I have attended these Shoreline Study Group Meetings and appreciate the dedication of its members and administration team for the good of the residents and shoreline protections.

My home is deeded to 60' of Shared Waterfront with 3 single family homes behind Center Road. See attached pdf document for visual documentation. We are not currently using this location for water access, but interested in the policy outcome that will affect our intended future use of this frontage and waterfront property values in the sale of my home. I appreciate the addition of a land use permit and site plan with the Zoning Administrator, as I am interested in preserving shared space for my family's use.

Conflicts with the proposed policy recommendations:

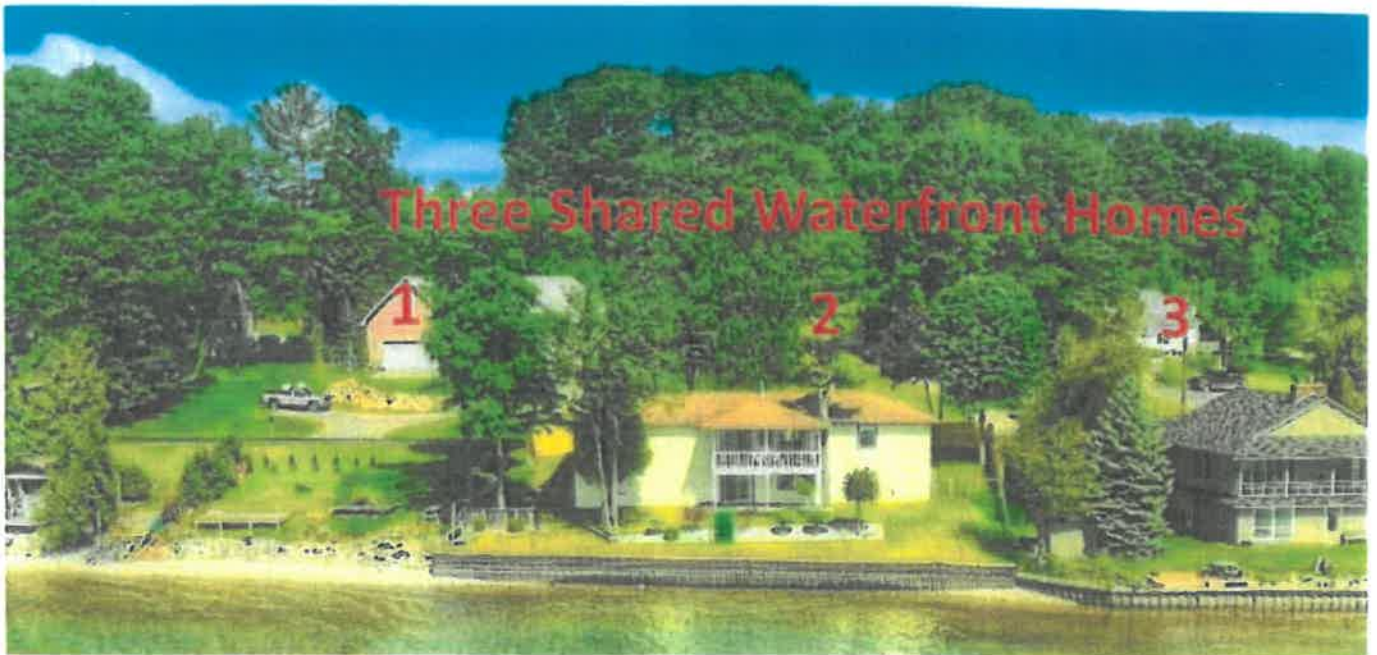
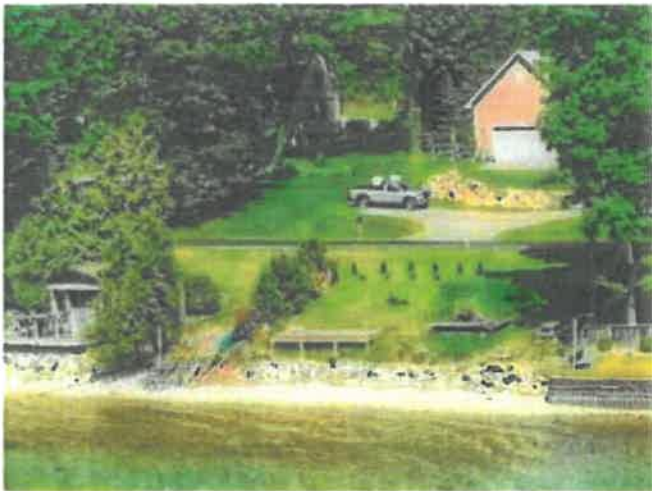
1. Three Families are required to have 150' minimum lot width. We only possess 60' total with 3 deeded single family homeowners.
2. One dock and hoist for a 50' shoreline located at the center of the parcel. With 3 deeded homeowners, a total of 3 hoists should be allowed. I recall a previous guideline of one hoist per 50' of shoreline, and additional hoist for each additional 5' of shoreline. This previous guideline would allow for 3 hoists for 60' of shoreline.
3. With the 15' minimum side yard setback, this would only allow 30' of property for individual's use of fire pits and decks on the ground.

On our subject shared property, this would limit homeowner's usage to small individual spaces on land or to a condo type set-up with one larger deck flush with the ground and one shared dock in a "T" formation for 3 possible hoists. Currently 2 decks take up the shared frontage, and this new proposal would require allotted space for my usage. Currently one homeowner is using the waterfront for a boat and 2 jet skis, and I may require a boat hoist for the upcoming 2025 boating season. I believe a side ramp area is currently being used on the shared property to load and unload jet skis and equipment into the water along the side yard setback.

I am requesting that a minimum of 3 hoists (one per deeded homeowner) be allowed on this shared frontage. The site plan can be drafted accordingly for the one shared dock and hoists and 3 individual spaces on land for each of the 3 deeded homeowners. Thank you for your consideration in this matter.

Sincerely,  
Rose Sickle  
9449 Center Road  
Traverse City, MI 49686  
(231) 883-5218  
rsi9449@yahoo.com

# 9449 Center Road - 60' Shared Frontage w/ 3 Property Owners



Full Photo of 60' Shared Frontage including 3 Shared Frontage Homes Behind Center Road

## **Section 8.1.3(1)(b) – Substantial Improvement**

use permit, or within one year of the schedule established for the project in the approved special use permit whichever is later.

- (c) Each phase of the project shall be commenced within one year of the schedule established for the project phase in the approved special use permit.

For special use permits involving construction, if such construction is not commenced within such time, any approval of the final plan for the project shall expire and be null and void, provided, an extension for a specified period may be granted by the Township Board upon good cause shown if such request is made to the Township Board prior to the expiration of the initial period.

- (d) An occupancy permit shall be received within one year of approval of a land use permit for any construction authorized by special use permit.

If an occupancy permit is not received within such time, any approval of the final plan for the project shall expire and be null and void, provided, an extension for a specified period may be granted by the Township Board upon good cause shown if such request is made to the Township Board prior to the expiration of the initial period.

- (e) In the event a final plan has expired, a new application shall be required, and shall be reviewed in light of the then existing and applicable law and ordinance provisions. **(ADDED BY AMENDMENT 96C)**

- (6) Effect of Approval. If and when approved, the special use permit, with all conditions imposed, if any, shall constitute the land use authorization for the property, and all improvement and use shall be in conformity with such amendment. **(ADDED BY AMENDMENT 96C)**

### **Section 8.1.3 Basis for Determinations:**

Before making recommendation on a special use permit application, the Town Board shall establish that the following general standards, as well as the specific standards outlined in each section of this Article, shall be satisfied.

- (1) General Standards: The Town Board shall review each application for the purpose of determining that each proposed use meets the following standards, and in addition, shall find adequate evidence that each use on the proposed location will:
  - (a) Be designed, constructed, operated and maintained so as to be

harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.

- (b) Not be hazardous or disturbing to existing or future uses in the same general vicinity and will be a substantial improvement to property in the immediate vicinity and to the community as a whole.
  - (c) Be served adequately by essential facilities and services, such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities, or schools.
  - (d) Not create excessive additional requirements at public cost for public facilities and services.
  - (e) Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by fumes, glare or odors.
- (2) Conditions and Safeguards: The Town Board may impose such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights, and for ensuring that the intent and objectives of this Ordinance will be observed. The breach of any condition, safeguard or requirement shall automatically invalidate the permit granted.
- (3) Specific Requirements: In reviewing an impact assessment and site plan, the Town Board and the Planning Commission shall consider the following standards:
- (a) That the applicant may legally apply for site plan review.
  - (b) That all required information has been provided.
  - (c) That the proposed development conforms to all regulations of the zoning district in which it is located.
  - (d) That the plan meets the requirements of Peninsula Township for fire and police protection, water supply, sewage disposal or treatment, storm drainage and other public facilities and services.
  - (e) That the plan meets the standards of other governmental agencies where applicable, and that the approval of these agencies has been obtained or is assured.
  - (f) That natural resources will be preserved to a maximum feasible