

## PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686

Ph: 231.223.7322 Fax: 231.223.7117

www.peninsulatownship.com

### PENINSULA TOWNSHIP PLANNING COMMISSION MEETING MINUTES

January 24, 2022, 7:00 p.m.

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

**2. Pledge**

**3. Roll Call:**

Present: Shipman, Wunsch, Hall, Dloski, Alexander, Couture; excused: Hornberger, also present: Planner, Jenn Cram, Attorney, Meihn via phone, and Township Clerk staff Beth Chan taking minutes.

**4. Review for Conflict of Interest:** None

**5. Brief Public Comments:** None

**6. Additions to Agenda/Approval:**

**Moved by Couture to approve agenda as presented, seconded by Wunsch**

**Roll Call:**

**approved unanimously**

**7. Consent Agenda:**

a. Approval of Meeting Minutes: Planning Commission Regular Meeting, December 20, 2021

b. Correspondence

**Moved by Dloski to approve consent agenda, as presented, seconded by Alexander.**

**Roll Call:**

**approved unanimously**

**8. Reports and Updates:**

a. Master Plan Committee (Shipman/Alexander)

**Cram:** the master plan is still out for public comment and those comments are due mid-February.

Once we receive all of the comments, we will take a look at them and see if any changes need to be made and bring them back to the planning commission for further discussion.

b. Zoning Ordinance Committee (Hall/Dloski/Hornberger)

**Hall:** The zoning ordinance committee did not meet. What is the status of the draft restatement and what is the plan?

c. Project Updates/Project Committee Reports (Cram)

**Cram:** summarized the two resolutions from January 3, 2022, adopted by the township board.

Resolution No. 01-03-2022 #1: to impose a temporary moratorium on the consideration of any new applications for special use permits and amendments to special use permits in the agricultural district for a maximum of six months. Resolution 01-03-2022 #2: to direct the planning commission to work with the citizens' agricultural advisory committee to continue reviewing the zoning ordinance, including specifically the agricultural district, and to provide to the board a complete zoning ordinance for review and approval, if applicable. The agricultural advisory committee has

been meeting to discuss agricultural-related sections of the zoning ordinance and will bring forth recommendations specifically related to the agricultural zones. A document will be produced that will compare the 2009 zoning ordinance with subsequent amendments highlighted in the latest draft. Attorney Greg Meihn and his office will assist with this. We are proposing joint study sessions with the planning commission and board to move that forward within the six-month time frame.

**Hall:** how will the actual drafting of the ordinance language occur and how will Greg Meihn's law firm be involved?

**Cram:** they will be involved (with the comparison of changes) and any additional changes moving forward will be tracked and will go through the appropriate public hearing process.

**Meihn:** the language will be flow-charted through the draft process.

**Cram:** looking to potentially schedule the first joint meeting on the 15<sup>th</sup> of February and again on March 1<sup>st</sup>. These would be study sessions without public comment. Public comment will be taken at public hearings with both the planning commission and the township board.

**Wunsch:** suggested that Alan, Laura, and Monnie be available for questions.

**Couture:** Laura was the note taker.

#### **Discussion of the process, drafting process, and the timeline**

**Meihn:** stated his staff is ready to work on a searchable document during the drafting and for the final draft.

**Cram:** for the Bella View project, they are completing their geotechnical report and the other items that were requested by Gordie-Fraser's office. We have requested a complete application for review.

Finally, work is being done on the annual report for 2021 and it will be presented in February.

d. Resolution for a Moratorium on Special Use Permits and Amendments to Special Use Permits (Cram)

**Cram:** summarized the resolutions.

e. Citizen's Agricultural Advisory Committee (Cram)

**Cram:** gave update under project updates.

f. Non-Motorized Committee (Cram/Shipman)

**Shipman:** currently meeting weekly, parks, township board and planning commission are represented.

### **9. Business Items:**

a. Special Use Permit (SUP) – Peninsula Shores Planned Unit Development (PUD) #123 Amendment #3 – Updates from Introduction and Public Hearing

**Cram:** Mark Maguire, from Gordie-Fraser, is present to answer questions. Summarized the SUP, with packet additions one and two added. Amendment number three proposes to relocate unit one from the southeast part of the site to the northwest corner between units twenty nine (29) and thirty (30). Also, removal of a parcel (A), which served as water access for unit one. Next, make minor lot dimension changes in units thirty-eight (38) through forty-one (41) and finally, a proposed sanitary easement to unit six (6). The applicant did provide some additional information since the December 20, 2021 meeting and it is included in the packet. They have some drawings to show this evening. Public comments were received and they are in the packet.

**Moved by Dloski to close the regular meeting and open public hearing, seconded by Hall  
approved by consensus**

**Scott Howard, 420 W. Front Street, representing the Haddox family and the Lewis family cottage:** gave an overview of his January 24, 2022 letter, included in the packet, with emphasis on the zoning ordinance sections 8.1.3 (1)(a), 8.1.3 (1)(b), and 8.1.3 (3)(f). Section 8.1.3(1)(a) says the property needs to be designed, operated, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and the letter details why that standard is not met. This standard cannot be met and it will be detrimental to their property and others in the neighborhood. Section 8.1.3 (1)(b) is a standard that addresses natural resources and this was discussed at great length when this particular project was approved and there is a series of documents that explain the natural features that were to be preserved. Explained photos of an aerial view of the proposed plan and what was done during construction. Discussed Map C2, found in the packet, as well as a series of photos showing the natural features of Peninsula Shores. There is a requirement of the developer to designate those natural features and preserve them. Spoke about the impacts of the proposal on the Haddox property and their use and enjoyment of the area. Stated that the SUP should be denied by the planning commission.

**Meagan Haddox, 4150 Trevor Road:** explained that this is the third attempt by the developer of Peninsula Shores with an amendment to make a change to the open space, the developer promised to keep his land along our property and open space buffer when the PUD was approved. In return, he was granted the right to develop the shoreline with much narrower lots making that portion of the development much denser than otherwise would have been permitted. Now the developer is coming back to the township and saying, never mind what I promised. Letting him break that promise is fundamentally unfair. It would mean that the community can have no faith that future PUD's and SUP's will be honored by the township or a developer. The photos show that the developers have already taken down trees by our property that they promised would remain a buffer. The new house will be visible from every window of their house and tower over the natural open space. Light and sound will be increased and negatively affect the use and enjoyment of our cottage and cul-de-sac. The proposed amendment does not comply with at least four of the requirements of the township zoning ordinance. Urged the planning commission to reject the amendment.

**Mark Nadolski, 10 McKinley Road, speaking as President of Protect the Peninsula:** felt this project should have not been approved. The developer has removed at least eighty percent of the trees the bluff will be unstable because of the tree removal. The developer is always coming in with changes. Asks the planning commission to deny any changes.

**Dixie Roethlisberger, 25532 Bluff Road:** property is contiguous to part of the area they are trying to change and she is in favor of the change. Thought the open space was for the development itself.

**Kyle O'Grady, 416 Michigan Avenue:** stated for the record, that it is highly offensive for Mark to say the bluff will not hold. It is disheartening for somebody to put on the record after we followed every single standard that was asked of us and we are monitored. We have reached out to the neighboring property owners three times. The project has been thoroughly vetted by all governing agencies. Showed pictures of the site. The first photo shows the trees and land before development. Photo two shows where the proposed unit one will go and there were no trees before the development was started. The comment about trees being taken down on areas they were not supposed to be taken down is false; it is part of the approved plan. Shows additional photos of the site, including the water access that goes through two neighboring properties. Moving lot one to the north side of the property is much more congruent with the subdivision as a whole. Green open space will be at the corner of Bluff and Boursaw Roads. The first amendment dealt with open space and was approved. Since day one, we have followed the zoning ordinance.

**Dloski:** looking at sheet two, at an area identified as common open space, it appears it ends at the boundary where the new house is to be built. Why is that?

**O'Grady:** it does not end there currently, the house was photoshopped in.

**Alexander:** It looks like there are trees there.

**O'Grady:** those trees are existing trees. Explains where the property is in context to the Haddox property.

**Alexander:** their concern is that trees were taken down elsewhere.

**O'Grady:** I will let them speak to this, but where the house is to be built, there are no trees and there never were.

**Alexander:** asked for clarification of the condition that more development could occur on the shoreline if the open space was left alone.

**O'Grady:** we didn't promise anything, we follow an ordinance that was approved.

**Alexander:** referenced the map, and lot twenty-nine; asked for clarification for lot one and lot twenty-nine.

**O'Grady:** we were moving the road and the lot, there was an initial objection to moving the lot, so we just moved the road. Then we came back to move the lot on this amendment. Lot one was further to the east. Moved it further to the west.

**Alexander:** with the changes in density along the shoreline, you would leave that space empty; would that have been discussed/recorded in the original 2015 PUD?

**O'Grady:** we are discussing something that was years ago. Emergency access was discussed with the neighbors, but there was a concern with a septic system.

**Alexander:** feels it would be beneficial to look at the original document.

**O'Grady:** explained the importance of amendments to the residents of the community.

**Craig Haddox, 4150 Trevor Road:** submitted a lengthy e-mail to the township, which is included in the packet. The second request was an open space calculation with this request. Reviews open space previously presented.

**Mark McGuire, Gordie-Fraser:** confirmed open space calculations were done.

**Craig Haddox:** in terms of Dixie's comment, there is nothing to stop conveying beach access to Dixie and building on lot one. The lots in this development are similar in size and the lots in Smokey Hollow Estates are approximately two acres, so open space is not the same thing. For communication with Kyle, it has not occurred for over a year. Offers site visits for the planning commission members to visit the Haddox property. In terms of the trees and the views, Kyle has mentioned that no trees were cut, that was not our main point. This lot will benefit from the trees that were removed before in the buffer. The trees were supposed to remain originally. What was done in past amendments that were approved was a shifting of internal open space, there was no encroachment on the buffer for the benefit of adjoining properties.

**Moved by Dloski to close the public hearing for SUP-Peninsula Shores Planned Unit Development (PUD) #123 and reopen the regular meeting, seconded by Alexander.**

**approved by consensus**

**Dloski:** this issue is going to turn on three ordinance provisions cited by Mr. Howard in his January 24, 2022 letter. Asked O'Grady if he has reviewed the ordinance provisions and provided a response.

**O'Grady:** no, but in speaking with GFA we have met all of the criteria.

**Hall:** concurs with Dloski, asks GFA and Cram to look at those provisions.

**Discussion ensued**

**O'Grady:** the provisions are subjective; asks that the three ordinance provisions be reviewed with regards to the new lot location and the open space at the entrance of the subdivision.

**Alexander:** referred to the map of units six through ten, along Shoreline Court; the front setbacks do not look consistent with all the other front setbacks.

**O’Grady:** the setbacks go from twenty to ten feet.

**Wunsch:** reiterated that (applicant) material should be submitted with more time given; not to be turned in the day of the meeting.

**Wunsch moved to table SUP-Peninsula Shores Planned Unit Development (PUD) #123 Amendment #3 and reopen at the February 28, 2022 planning commission meeting, seconded by Alexander.**

**Roll call:** approved unanimously

b. Special Use Permit (SUP) #140 - Schroeder Bed & Breakfast – Updates from Introduction and public hearing.

**Cram:** the proposal is for an owner-occupied bed and breakfast. There is one bathroom and a sitting space also associated with those two bedrooms. But the occupancy is based on the number of bedrooms; the property is located at 11594 Peninsula Drive. The applicant is here, there was some additional information provided since the introduction on December 20<sup>th</sup>, the applicant answered several of the questions. We did receive two public comments that are included in the packet addition. We also received a response from the fire department, that all of their items had been fulfilled as of January 19<sup>th</sup>.

**Dloski:** what is the occupancy?

**Cram:** five

**Beth Schroeder, 11594 Peninsula Drive:** three in the large bedroom and two in the second bedroom.

**Moved by Dloski to close the regular meeting and open the public hearing, seconded by Alexander.**  
approved by consensus

**Jason Delo, 1399 Chimney Ridge:** stated objection to the bed and breakfast, does not like the precedent set creating new bed and breakfasts in this area. He owns property adjoining the proposed bed and breakfast. He moved up here for the quality of life and does not like the idea of transients, people that are not part of the community, coming in and out. Secondly, he does not like the tweaking of permits.

**Sean Goheen, 1223 Chimney Ridge:** concerned about the additional traffic, this is a residential area, not a commercial space. Is this the beginning of different changes that will allow other people to do this? This may increase the volume of guests coming in. Not in support of the SUP.

**Schroeder:** has been following the application process in a serious manner. This is our home and we will be home during the time of rentals. Will enforce rules and will maintain the integrity of the property. There will be a maximum of five people; does not see the occupancy as a major impact. Section 3a does require that we be in residence during the rental period.

**Dloski:** you will only be renting during the summer?

**Schroeder:** we will be here in the summer and fall, only while we are in residence.

**Moved by Wunsch to close the public hearing and open the regular meeting, seconded by Hall.**  
approved by consensus

**Hall:** asked for a brief summary of bed and breakfast zoning.

**Cram:** generally the use is regulated. It does note that there are specific requirements that have to be met: minimum lot size of one-acre, off-street parking shall be provided per section 7.6.3 and 7.6.4. So essentially, they would have to have two parking spaces for the existing residents and two additional parking spaces for the bed and breakfast. I did ask the applicant for some additional information on that, her response was included in your packet. And I did speak to her about having a site plan or something that shows specifically where parking would be located and there will likely be a condition of approval. If supported, there would be no parking permitted on Peninsula Drive. The residents shall be the principal dwelling occupants on the property and shall be owner-occupied at all times. We would have to take into consideration the seasonality of the property owners and make that very clear. The residence shall have at least two exits to the outdoors; that is in the letter from the fire chief. No more than three sleeping rooms; they are proposing the two sleeping rooms. Not more than eight overnight guests may

be accommodated any time the rooms utilize for sleeping shall be part of a dwelling. An occupancy permit is provided in your packet. The rental sleeping units have a minimum size of at least a hundred square feet. Proof of evaluation of the well and septic is required; they have provided updated records for both well and on-site septic system. They have provided a floor plan at the appropriate scale of 1/8 inch equals 1 foot. Each owner-operator shall keep a guest registry which will be available for inspecting by the zoning administrators, police, and fire officials. At any time of the length of stay of each guest will not exceed seven days.

**Discussion ensued**

**Wunsch:** this leaves room for subjectivity or site-specificity. Reads zoning ordinance section fifteen and refers to section thirteen; it leaves flexibility for the permit process. The transient occupancy works better with the bed and breakfasts versus allowing short-term rentals. Bed and breakfast operators need to give up their primary residence exemption. This is the smallest lot size that a bed and breakfast would be on the peninsula.

**Meihn:** to clear the record, does not agree with the use of the word "discretionary" when one considers the evaluation of a SUP. Each planning commission member will conclude as to whether one or more of the requirements are met. But I just want to be clear not to use the word discretion.

**Couture:** are there three bed and breakfasts on the peninsula? This is rare for a bed and breakfast request.

**Shipman:** how far is the nearest resident to the north

**Schroeder:** there is a house being built, fifteen-feet three inches off of the property line. House to house may be approximately sixty-five feet.

**Shipman:** the provision in the ordinance is page 123-124 of the current zoning ordinance for reference. Refers to number 13, noise. The planning buffer provision will protect neighbors. The bill is moving through the state legislature for short-term rentals, but this is a different issue.

**Alexander:** appreciates the residence requirement

**Wunsch:** will the beach be opened?

**Schroeder:** they can only use the waterfront

**Dloski moves to table the recommendation for Special Use Permit (SUP) #140 - Schroeder Bed & Breakfast to the next planning commission meeting, February 24, 2022, seconded by Wunsch**

**Roll call**

**approved unanimously**

**Cram:** The facts, findings and conditions would be ready for that meeting.

**Discussion of procedure**

**10. Public Comments:**

**Meagan Haddox:** to clarify, we will be able to see the house from our cottage; it is our property and the cul-de-sac that we use.

**Jason Delo:** concerned about the use of plans for the bed and breakfast property, it is like a slippery slope. Concerned there will be more bed and breakfasts and do not want to see the neighborhood/area changed.

**Dloski:** notes that a guest registry will be available to provide compliance information

**Cram:** condition of approval will be owner-occupied

**Meihn:** the township can look at the registry and act on complaints. For enforcement, these actions exist civil infractions, injunctive relief, and forfeiture of the SUP.

**Schroeder:** the fire chief will inspect annually

**Craig Haddox:** reiterated invitation to visit his property

**Mark Nadolsky:** question in regards to how the owner of the bed and breakfast will advertise, will it be on the Airbnb, if so, will that make it an Airbnb?

**Couture:** Section 8.1.3(1)(b) of the zoning ordinance is a key component of our analysis of the change to the Peninsula Shore SUP. Questioned what this means: “change not be hazardous or disturbing to existing uses in the same general vicinity and will be a substantial improvement to the community as a whole,” what does it mean to be disturbing to existing uses?

**Meihn:** will provide a response

**Mark Nadolsky:** asks for an answer to his question

**Cram:** will research the exact answer; advertisement should be consistent with the approval

**11. Other Matters by Planning Commission Members:** None

**12. Adjournment:**

**Moved by Dloski to adjourn, seconded by Hall**

**passed by consensus**

Adjournment at 8:41 p.m.