

**Packet Addition Two
for February 9, 2021,
Regular Township Board Meeting**

PENINSULA TOWNSHIP BOARD

Meeting Date: February 9, 2021

RESOLUTION 2021-02-09 #1

RESOLUTION TO AMEND A CONSERVATION EASEMENT – Mannor Properties LLC Request

WHEREAS, on May 4, 1994, ORDINANCE #23 PURCHASE OF DEVELOPMENT RIGHTS was adopted by the Peninsula Township Board of Trustees and subsequently amended on August 25, 2003, to provide a process for amending easements; and

WHEREAS, a Deed of Conservation Easement was made and entered into on September 21, 2000, between Russell and Carol Holmes in favor of Peninsula Township and recorded on September 22, 2000, at LIBER1436 PAGE 269; and

WHEREAS, a portion of the Holmes property (parcel 103-009-55) was sold to Mannor Properties LLC on April 11, 2017 recorded at 2004R-0635 ; (attachment 1) and

WHEREAS, a portion of the Holmes property (parcel 103-009-02) was sold to Cheryl Kroupa on July 30, 2004, recorded at 2004R-18141 , (attachment 2) who then sold it Garry R Mannor and Sandi L. Mannor on October 5, 2004 recorded at 2004R-18142; (attachment 3) and

WHEREAS, on January 5, 2021, Peninsula Township and Clerk Becky Chown received a request from Mannor Properties LLC to amend the “EXHIBIT C – PERMITTED STRUCTURES MAP” recorded at LIBER 1436 PAGE 281 (attachment 4) to eliminate the Reserved Residential Building Site and replace it with the Revised Building Site (attachments 5 and 6) pursuant to Section 8B of the PDR ordinance No 23 dated May 4, 1994, amended August 25, 2003, (attachment 8) and;

WHEREAS, Section 8B(4), Application Costs, states:

- a. The township shall not be responsible for any expenses incident to the request for amendment;
- b. All costs associated with the requested amendment, including appraisals, attorney fees, and publication fees, shall be paid by the applicant;
- c. Prior to undertaking any direct expenses related to the request, the township board shall require a deposit to cover the estimated costs associated with consideration of the request with all unexpended funds returned to the applicant; and

WHEREAS, the estimated costs associated with the Mannor Properties LLC requested amendment, including appraisals, attorney fees, consultant fees, and publication fees totaling \$1,600.00, shall be paid by the applicant prior to the township undertaking any direct expenses related to the request; and

WHEREAS, the township board adopts the following findings pursuant to Section (5) (5) Standards. An amendment to a conservation easement shall not be granted by the township board if the amendment causes any of the conditions set forth in Section 8B(5)a. i-vii to occur unless a finding is made that the standards in both Section 8B.(5) b. and c. have been satisfied:

(5)a

i. The amendment increases the number of future dwelling units.

The township board finds that the Permitted Structures Map on liber 1436 page 281 shows one reserved residential building site on current parcel 103-009-02 that will be deleted and a new location that will be created at a location on the westerly portion of the easement area on current parcel 103-009-55. (attachment 5)

ii. The amendment increases the probability of parcel fragmentation.

The township board finds that the relocated building site will not increase the probability of parcel fragmentation as it is adjacent to a non-restricted area of the parcel.

iii. The amendment results in a scattering of residences more than prior to the amendment.

The township board finds that the relocated site will be adjacent to nearby residences on adjacent parcels while the current site is adjacent to land being farmed.

iv. The amendment increases the amount of driveway across prime and unique agricultural land necessary to access dwellings.

The township board finds that the current site is on land that is unique agricultural land and about 922 feet from Center Road while the relocated site is about 478 feet from Peninsula Drive and the driveway is not prime or unique agricultural land.

v. The amendment reduces the net amount or quality of productive agricultural land as a result of the amendment.

The township board finds that there will be a net increase in unique agricultural land of at least one acre.

vi. The amended building sites interfere with air drainage.

The township board finds that the new building site is in a lower area adjacent to mature woodlands.

vii. The amendment results in new buildings located in identified scenic views.

The township board finds the Prime Scenic View Map does not show a scenic view at the new building site.

WHEREAS, a regular township board public hearing was held on February 9, 2021, with the following members present: _____; now

THEREFORE, BE IT RESOLVED THAT:

1. The above findings are adopted;
2. The standards of Ordinance No. 23, Section 8B (subsections 1 through 5 are met);
3. The appraisal by Nichols Appraisal Services dated January 18, 2021 (attachment 7) submitted by the applicant is accepted and shows a decreased value of \$31,000 in the new residential building site compared to the original site and meets the requirements of subsection (6);

4. The township board requires a deposit of \$1,600.00 from the applicant to cover the estimated costs associated with consideration of the request(attachment 9);
5. The township treasurer shall place the deposit in an escrow account with all costs associated with the application to be deducted, including but not limited to recording fees, attorney expenses, and any referendum that might occur related to the transfer, with all unexpended funds returned to the applicant as required in subsection (4)c.; likewise, the clerk shall bill the applicant for any costs above the escrowed amount as required in subsection (4)b.;
6. The township clerk shall publish the decision to amend the conservation easement in the same manner as an amendment to the township's zoning ordinance as required in subsection (7);
7. A decision by the township board to amend a conservation easement is subject to a referendum with the same standards and procedures for a referendum on a zoning ordinance amendment with a a petition for referendum staying any action until the decision has been approved by the voters as required in subsection (8);
8. The clerk shall have the approved amendment that is no longer subject to referendum or unpaid bills recorded at the Grand Traverse County Register of Deeds office along with the written findings that explain the reasons for the amendment as required in subsection (9).

MOTION to approve the above amendment to the conservation easement along with the findings and conditions stated.

Motion by _____, second by _____

AYES: _____

NAYS: _____

ABSTAIN: _____

 Becky Chown,
 Peninsula Township Clerk

I hereby attest that the foregoing resolution was adopted at the regular meeting of the Peninsula Township Board of Trustees on February 9, 2021, at 7:00 p.m. at the Peninsula Township Hall, 13235 Center Road, Traverse City, MI 49686.

 Becky Chown,
 Peninsula Township Clerk

ATTACHMENTS:

1. Warranty Deed 2017R-06365 Holmes to Mannor 28-11-103-009-55
2. Warranty Deed 2004R-18141 Holmes to Kroupa 28-11-103-009-02
3. Warranty Deed 2004R-18142 Kroupa to Mannor 28-11-103-009-02
4. LIBER 1436 PAGE 281 PERMITTED STRUCTURES MAP -EXHIBIT C
5. Revised PERMITTED STRUCTURES MAP EXIBIT C
6. LIBER 1436 PAGE 281 PERMITTED STRUCTURES MAP - EXHIBIT C with current parcel numbers and conservation easement boundary shown
7. Nichols Appraisal Services Appraisal January 18, 2021
8. PDR Ordinance 32 Section 8B
9. Itemized Cost Estimate