

PENINSULA TOWNSHIP

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PENINSULA TOWNSHIP PLANNING COMMISSION MINUTES

March 18, 2024, 7:00 p.m.

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

2. **Pledge**

3. **Roll Call**

Present: Beard, Hornberger, Shanafelt, Shipman, Hall

Absent: Dloski, Alexander

4. **Approve Agenda**

Cram: Introduced Sara Kopriva, representative from Beckett and Raeder. She has been helping in the zoning office and with planning projects including assistance with revising the draft master plan.

Beard moved to approve agenda as presented with second by Hornberger. Motion passed by consensus

5. **Brief Citizen Comments (For Agenda Items Not Scheduled for Public Hearing)**

Judy Spencer, 6450 Peregrine Court: good evening. I introduced myself during the December 18 planning commission meeting, where I provided the perspective from my family and my kids, of what it has meant to us to have a boat with shared frontage for the last six years. A perspective that is shared by so many of us citizens on the peninsula. It is for that reason I volunteered to be part of the shoreline regulation study group. While I appreciate being a part of the study group, and I sincerely appreciate the time the group is putting into this complex topic, I want to publicly and respectfully say that I'm completely disappointed and deflated with this whole process. I went in thinking that the intent of the study group was to get a diverse group of citizens to discuss potential changes and ideas to the current ordinances that would minimize conflict. My first disappointment was when I learned that half of the study group were individuals from the township's planning committee or board or what have you. And during most study group meetings, the planning committee members made up the majority of the study group meeting attendees. While I truly appreciate the continued time commitment of those respective committee members, I can't help but be disappointed we are not approaching this with more of a diverse set of opinions from various citizens. Secondly, it was made very clear early on in the study group that there are two distinct legal opinions on the matter of jurisdiction over the Great Lakes. One, that the township could regulate the number boat hoists beyond the ordinary high-water mark on the Great Lakes. The other opinion, that the township cannot regulate beyond the ordinary high-water mark, as the Great Lakes is outside the township's jurisdictional boundaries. I was optimistic at the beginning of the study group process, that maybe we could propose a recommendation that accomplished the same intent;

minimizing boat density and increasing safety, while staying within the township's jurisdictional boundary. A proposal recommendation that would result in less legal disputes for the township and minimize conflict. However, I was very disappointed to learn during our second study group meeting that we were mandated by Jenn Cram and Randy Hall to proceed with the assumption the township has jurisdiction beyond the ordinary high-water mark based on the direction that they received from the townships legal counsel. We were asked not to bring up other ideas that would assume otherwise. Ideally, the study group exercise would have enabled a process to layout various options for the revised ordinances based on the varying opinions of the legal matter, similar to what was seen with the building heights, and let the planning commission discuss at the public hearing. However, that is not the case. While the study group may come up with a recommendation to bring back to the committee, I want to make it public that any recommendation or conclusion was not holistic, and not all opinions are being heard. Unfortunately, the way in which the study group is heading will not minimize conflict, but rather increase ongoing legal disputes for the township in the many years to come. Which makes me very sad and disappointed. Thank you.

6. **Conflict of Interest: none**

7. **Consent Agenda**

- a. Approval of Meeting Minutes: Planning Commission Special Meeting, February 22, 2024.

Beard moved to approve minutes as submitted with second by Shanafelt. Motion passed by consensus

8. **Business**

- a. Draft Master Plan – Review Redlines and Discussion on Future Land Use Map

Cram: sent current draft master plan dated December 8, 2021 date to all of you and asked for you to review it. Received your comments by February 12. A Planning commission subcommittee, made up of Randy [Hall], Kevin [Beard], Maura Sanders, Sara Kopriva and me was formed to guide adoption process. We met and reviewed all of the comments received and grouped them into three categories. One category is typos and formatting, quick changes. That's what we'll be going through tonight. Sara and I are still comparing this redline her team prepared with all of your comments to reconcile everything. There might be a couple more things. Believe this is a good process, transparent, the community can see from the existing draft out for public review to this where we're making some changes for accuracy. The second category were updates based on accomplishments since the draft was released to today such as the section on PDR. The PDR ordinance passed and we're in round five of applications. The parks master plan was also adopted. Amendment 201 Farm Processing was adopted. Rather than go through and make all of those timeline changes, we will draft a prologue at the front of the master plan that explains that since the draft was released in 2021, here are all the things that have been accomplished. The third category are policy related including the philosophy behind the future land use map and clarification of the vision statements and action steps. The goal is to get this master plan across the finish line as quickly as possible. Many of the things accomplished were action items in this master plan. Are you all comfortable with this approach?

Shanafelt: it has a certain symmetry to it. Set's up for the next master plan which we're going to start working on in a year or so.

Cram: would like to reconcile some misinformation out there, that we are in some legal trouble because we haven't updated our master plan within five years. It is best planning practices for the

planning commission to look at their master plan every five years to determine if it needs to be updated. There are communities that never update their master plans. Comparing the current master plan adopted in 2011 and the community survey in 2019, show several things have changed. It is worthwhile for us to update our master plan. The master plan steering committee and the previous planning director put a lot of time and effort into this beautiful document. We should adopt it and move forward. Whether or not we have to start working on the next master plan the day after this one is adopted, is yet to be determined. If that's what you want me to do, I will do it. We did the community survey in 2019, and then the draft was released in 2021. Maybe it makes sense for us to get the next community survey out in 2025 so we can be working on it and have an amendment in that time period.

Shipman: probably the most efficient way to do it. Started doing my detailed review, a couple of them are spelling. But when I see the volume of the updates, thinking about the context of when we actually did that process, I can see why you came to that conclusion. What is the timeline? One of the things that I did find going through it, there was a little repetition. Think about that maybe for the next master plan. I would hate to add another 10 pages to this.

Cram: I agree there's a lot of redundancy around PDR. If the planning commission is comfortable in minimizing some things prior to adoption, I would support that. I did not want to offend anyone because of the great work that has been done. This prologue is going to be a one pager. It's bullet points. Since the draft was released, here are all the things we accomplished.

Shanafelt: prologue is great, says; "Here we are today." Now we can figure out if we need to do it again. I think there's a push to do a survey in 2025. The composition of the peninsula has changed since 2019. Have that survey, decide what to do with the output. Whether we start the next master plan or not, moot at this juncture. Get this one done and approved.

Cram: conducting a survey in 2025 would allow the planning commission to compare the current master plan to the community. Value in doing the community survey regardless.

Shanafelt: other reasons to do the survey so it'll get done.

Cram: most of the revisions were timeline related updates.

Shipman: how are you feeling about the timeline, getting back to the planning commission?

Cram: have an agenda for tonight. If we need to go through the redlines and the typos line by line, happy to do that. I was hoping to spend most of the conversation tonight on the future land use map and depending on your thoughts we might need a month or two to make revisions. Originally committed to getting the master plan across the finish line in the first quarter of 2024. First quarter of 2024 will end in April. The planning commission has eyes on this. We've redlined it, identified the issues to get this through to adoption. After we talk about future land use and I get your input on that, if you want to make some changes to future land use, which we believe we should, because that's the most important part of the master plan. Then might need a little more time.

Hall: I would suggest as far as edits to the text we not spend time tonight. I think staff can certainly do that. If you have edits Susie [Shipman], please forward them.

Cram: hoping we caught most of them. I received comments from everybody. I also received comments from Laura Serocki, she had quite a few comments and when the planning commission received the board's approval in 2021 to release this draft to the regional planning agencies with the deadline of February, she was the only person that responded. With regard to timing, I believe the

planning commission can expect to have the master plan on every planning commission agenda moving forward until we get this across the finish line.

Shanafelt: if we didn't do anything with the maps, when would the prologue be finished and ready?

Cram: planning to bring a prologue draft back to you at our April 2 meeting. I started working and wanted to pause and get approval to make sure I have an outline of everything.

Hornberger: I agree that going through the red lines is not a good use of our time.

Cram: please review them at your earliest convenience.

Hall: if the prologue introduced at the April 2 meeting and we like it, timeline for approving the future land use map, is that the final piece?

Cram: one other piece. Organized your comments into three categories. Formatting and quick things. Then the updates, which we have agreed now to handle with a prologue. Then there are some policy things we need to talk about. Policy discussions include what to do about the zoning district map and the future land use. The vision statements and action plan are important. Spend time with you going through each of those vision statements and the action items related to that. At the April 2 meeting, you'll have a draft of the prologue and go through those sections. Your homework for our next meeting is to read through the vision statements and the action steps.

Hall: possible at the April 2 meeting, be in a position to say we're comfortable with all of that except for the future land use?

Cram: yes. Depending on the direction you give us, we could come back with future land use map at the May meeting. As well as any other final changes we've made. At the May meeting, would be wonderful to focus on the master plan. But I know we're going to have another item on that agenda. We might need a special meeting in May to get this across the finish line. Does that timing sound good? Staying pretty close to the first quarter 2024. Depending on where we land with the future land use map, might need a little more time.

Hall: explain why the master plan and this part of the master plan is important, or not important from a legal point of view? For example, if we have a future land use map showing a certain area, expecting to be used in a certain way, does that impact someone who wants to rezone that property?

Cram: yes. Two part. The verbiage that is in the master plan that talks about the philosophy of future land use, the vision statement, action plan, as well as the map. Both the 2011 master plan and this master plan include our zoning district map. The only way that a zoning district map can be officially adopted is if we go through the same process that we go through for a zoning ordinance amendment. Our zoning district map was adopted in 1972. I have the original maps in my office, they are archaic. An electronic version of the zoning district map was started and included in the 2011 master plan. Not the official map, just for reference. To see the official map, you need to come into the office. Our community looks at the master plan and they see that zoning district map. That's not the official zoning district map. It is important because when someone wants to come in and request a rezoning, we don't have specific guidelines in our zoning ordinance. We look at, what does the master plan say? Does the community support up-zoning and adding additional density? Some communities do. I don't think based on what's written in the 2011 master plan, the 2019 community survey and what's in this draft master plan supports that. If we adopt the future land use map as it is, people can come in and say the future land use map supports an up-zoning.

Shanafelt: easy way to fix that? Don't include the map in the master plan? Or say this is for representational purposes only? All decisions will be made based on the original existing plan.

Cram: that's what I would recommend. First, we were leaning towards removing the zoning district map from the master plan. The Michigan Zoning Enabling Act and Planning Enabling Act don't require us to have a zoning district map in the master plan. We were just going to eliminate it. But it does add some value because the master plan talks about the intent and purpose of each of those zoning districts. Removing the map, it's a larger revision to the current draft. We could keep it in but make it clear that it is unofficial. Put a disclaimer on it. That is our next priority planning commission. We need to do the work to adopt an electronic version of our zoning district map that is accurate.

Shanafelt: that's going to take a while. Not in a position to approve in the near term. Can approve the representational diagram that refers back.

Hall: confusing two different things?

Cram: three different things. Right now, the draft of the master plan, page 55, we have our existing land use. Existing land use, how we use the land, is different than our zoning district map. Our zoning district map has never officially been adopted, on page 57. Then we have the future land use map which is included on page 71. Three maps which is causing people issues. When they look at this draft, all three of those maps look very similar. The way that things are labeled and colored labeled is so similar, it's confusing.

Beard: maps you are referring to are in the appendix, in the last few pages of the packet?

Cram: in the master plan. Three maps and so we keep the zoning district map in there and we label it as official.

Hall: make sure the labeling will say it's not official and needs to direct people to where the official map is. We will retain the zoning district map.

Cram: label it as unofficial. Have a disclaimer and where the official version can be found. Get that done by 2025. Don't want to hold up the adoption of the master plan.

Zoning district map; the A1 agricultural zone, C1 commercial zone, R1A rural and hillside residential. When someone comes in, and they want to develop their property, tell me their address and I can look up their zoning requirements that apply to that zone district. But the zoning district map can be different from how the land is currently being used. For instance, our existing land use map should include our PDR. The zoning district map is so similar to the existing land use map and the future land use map that people are confused and think they are not accurate. I printed some examples for you from Acme Township. If I live in Acme Township, I can look to see my property; I am zoned single family residential, so I know what my setbacks are if I want to propose an addition to my home. If you look at their existing land use, they have different categories. It's not the same. They've broken it down into more general categories. Their agriculture, commercial, industrial, institutional, recreation. It's a different color, it has a different name. Look at their future land use map, can see what their goals are. We need to put the agricultural preservation area and the easements that have been obtained as of 2021, which happens to be the same timeframe as this draft master plan because we haven't created any new conservation easements. For the future land use, the other categories that make sense for how we're currently using our land.

Hall: back up and talk about the purposes of these three different maps. Talking about the map for existing land use and the map for future land, looking at Acme township, you point out the

geographic locations are not identical to the zoning district. What is the purpose of the existing land use and the future land use in the context of a master plan?

Cram: the existing land use map should represent how we're currently using the land regardless of how it is zoned. Acknowledge some maybe non-conforming uses. Future land use map shows the vision statements and action plan, that's the direction that the community wants to go. The existing land use gives us a snapshot in time about how land is being used, regardless of how it's zoned. The future land use shows us what might happen if we do nothing or what might happen if we do something.

Discussion on land use maps

Cram: schedule in May a public hearing before recommending on to the board.

9. Reports and Updates

a. Special Use Permit (SUP) #123 Peninsula Shores PUD, Amendment #4 – Verbal Update

Cram: the planning commission recommended denial of amendment #4. The amendment proposed to increase the density by adding a new unit of development. That was scheduled to go before the board at the February meeting. It was tabled. Between the February meeting and the March meeting, Kyle asked to meet with me. Presented a sketch. He heard there was an issue with density, what we've been talking about here with our master plan. He said, PUDs evolve as you're building. He has a new proposal that does not propose any new units of development. It would still have 41 units. He's proposing to move things around and reconfigure where he was going to put the new unit 42. This proposal actually increases the amount of open space slightly, does not propose any new density, improves the open space by preserving another view from public right of way and creating more contiguity. They're proposing a planting plan for pollinators. I thought the planning commission would be interested in looking at this amendment. Our fee schedule notes if you propose a major amendment before it's adopted, you can come back. He has paid the fees, submitted an application for this amendment. At the the last board meeting, amendment number four as proposed was tabled indefinitely. Kyle will come back to the planning commission at the April meeting for an introduction. Then potentially a public hearing in May.

Hornberger: how do we stand with the tree plantings?

Cram: trees were planted. I believe they meet the intent of the condition of approval. There is a double row of evergreens. He exceeded the height on the first row. Went and physically measured them and they are all 8 to 10 feet on center. There is a property owner that continues to believe this is not the case. I received a certified letter today questioning. In my professional opinion these trees based on their species are planted appropriately.

Shanafelt: the certified letter, does it make demands or threats?

Cram: just questions whether or not it has been fulfilled.

Shanafelt: request for any action?

Cram: addressed to Isaiah [Wunsch, Supervisor] and I was CC'd. I plan to email the property owner.

Shanafelt: sounds like crossing over into asking the township for more than it should reasonably pay for.

Cram: my plan is to follow up politely and professionally, that we went out to measure them.

Shanafelt: don't think it would be appropriate to have your time spent measuring again.

Hall: I don't think there's an issue. This is not the job of the planning commission. Will rely on your conclusion if condition has been met.

Cram: in my professional experience, the condition of approval has been satisfied.

Hornberger: happy with your answer.

Cram: bring it back for an introduction and see what you think.

B. Shoreline Regulations Study Group – Verbal Update

Cram: three meetings of the group to date. 14 members, including Randy [Hall] as the chair. Julie Alexander also sits on the committee as a resident with shoreline. Rudy Rudolph sits on the committee, a board member who lives on the shoreline and also has a background in oceanography. Sally Erickson who was staff for one week but no longer, is a resident with shared waterfront interest. John Dolton sits on the committee, a ZBA member with shared waterfront interests. Scott Duensing, a resident and HOA representative. Have two representatives from Hidden Ridge; Judy Spencer who spoke earlier and Andy Luea. We have Brandon McDowell a resident who represents the Underwood HOA. The representation on this committee is predominantly residents who have either single ownership interest or shared waterfront interest. The planning commission is the body that looks at zoning ordinance amendments and has experience in that process. The board hears from the community. I believe the group is diverse. We have Jordan Valdmanis, a resident and represents landscape contractors. Lauren Tucker, who is not a resident but represents the Home Builders Association and a wide variety of contractors. Dave Sanger is also on the committee to provide experience as ordinance enforcement but also as a resident with shoreline. A study group is just to talk about policy. There is no conflict of interest for anyone to talk policy. In the three meetings we've had, there have been some strong opinions. As the planner, learned so much from hearing the different sides.

The first issue we are tackling is single waterfront ownership then plan to move to shared waterfront ownership. Complex issues include natural resources, tree removal on the shoreline, how much impervious surface do we want? What's the process for those approvals? What does it mean now that the new FEMA firm maps have been adopted and the floodplain has risen and there are uses that now are not allowed in that location. I'd like to know how many parcels are on the shoreline, how many property owners are there, send a letter letting them know this study group is meeting and these are the issues we're talking about. Make them aware of changes that have taken place that they might not be aware of. If they're planning to do some improvements on their shoreline this spring to know to call our office to see whether or not a land use permit is required. A friendly informative letter, to let them know that this work is happening, that they can come and listen at the study groups, make comments at the end, submit comments. There will be multiple public hearings as we move these regulations forward. Does the planning commission support me doing the work to get that letter out to shoreline property owners? I promised this to the community last fall, and then it paused. Having participated in the study group meetings, I think it's really timely that we get something out to educate the community about this.

Hall: great idea as far as transparency, also let people know that this is happening. If they want, to attend the meeting and listen to the discussion. If they have points to add, they can at the meetings or send you an email.

Cram: the composition of the study group we have currently is great for the first two items, talking about single waterfront ownership and then shared. As we move forward to other natural resources, I'd like to invite at least one additional landscape contractor that's working out here.

Shanafelt: the other issue is very different. Almost need to create another study group, it's a lot more technical.

Hall: it is. More like the building height study group, where it was helpful to have building contractors.

Cram: having the FIRM maps adopted in April of 2023 changed the location of some of the improvements that people want to make. People weren't happy with me. They were upset that they had been planning this and they saw their neighbor could do it and now the floodplain is in a different location.

Shanafelt: stuck having to follow the law.

Cram: in addition to the FEMA FIRM maps and section 7.4.7 for wetlands and floodplains notes uses that are allowed in those areas and prohibited uses. This community needs to have a conversation about what are the types of improvements we want to see on the shoreline, and at what point is it negatively impacting the natural resources if you remove all the natural vegetation and do a manicured lawn and a patio. If everyone does that, our shoreline is going to look very different. Erosion and other natural disasters increase. We have to work together to decide what is reasonable, to remove some trees to improve your view and to have some passive use areas but not paving paradise.

Shipman: that aspect of the group, agree with Armen [Shanafelt], you need biologists, a bay keeper, you need additional [input]. Important to the health of the Great Lakes and fisheries.

Cram: those issues are going to take a bit longer. Hoped to get shoreline regulation amendments passed this spring to address the conflicts that are coming with docks going in. Could get pretty close if we focus on the single ownership and shared ownership. The work of the natural resources continues, through spring and summer, however long it takes to get it right. Want to get out ahead of this and educate property owners that some things have changed. We're looking at this, we want you to be a part of the conversation.

Shanafelt: like the staged approach. Dealing with docks and hoists is immediate. Soil management is complex and if we wait to get that before the docks, it'll be a problem. Pass something around docks and then we can figure out the right thing to do on shoreline.

Discussion on shoreline regulations

Cram: one more update. Building height passed at the board last Tuesday and was published in the Record Eagle on Sunday. Our new building height regulations are effective this coming Sunday.

10. Public Comments

Nancy R Heller, 3091 Blue Water Road: as your chair mentioned earlier, about the positioning of the planning commission not making decisions that don't have to do with the planning commission. I would like, when you're considering things, especially in enforcement; I've experienced the township getting involved where it's a civil matter. I think it's important we all become versed on what is civil and what is the township's responsibility. I talked separately with one of the members of the community because they didn't understand what they were trying to convey, had to do with HOA and enforcement. It's important to know on shoreline, where the townships responsibility is and where the HOA's civil responsibility is. It's a bit confusing. Important to consider these things. I know the planner gets call after call. What is township enforcement? What is civil enforcement? But it's coming down to that because of the additional lawsuits. People want what they want when they

want it. Now becoming important to be educated on what is civil and what is the township's responsibility.

11. Other Matters or Comments by Planning Commission Members

Hornberger: when we're talking about shoreline regulations, dealing with docks and hoists could be dealt with and written up separately from vegetation. Maybe we can get that part done, not having to do the whole thing all at once.

Hall: We're not doing it all at once. Three phases. The first is single family parcels, second is shared waterfront, third is shoreline development.

Judith Spencer from audience: a lot of those people elected to be part of the study group were part of the study group for that third topic. Everyone came from a different area of owning the shoreline. My point earlier was, we're not seeking the general public opinion. We're not asking other people outside of this room. When you remove Lauren Tucker, Valdmanis, and other people who were solely on the committee for that third topic, I would like to review why we selected those folks. It wasn't advertised. Traverse City advertised and has an application process for people to be part of the same kind of study group for shoreline regulation, that's looking at inland lakes and Great Lakes. They're acknowledging there's a difference in regulating the two. I hope you're following it as much as I am. Traverse City is going through a very similar study group but a way different process for electing and notifying the public that the study group was going on. While I agree on the topic of separating it out, [there were] individuals that only joined for that third topic. Unfortunately, I remain a little disappointed.

Cram: you are entitled to your opinion, and we appreciate hearing from you.

Hall: appreciate your enthusiasm for the issues. It's interesting what's going on in Traverse City but it's not binding to us. We don't follow the same process. Our study groups are not elected. They're appointed by the chair working with our planner, that's pursuant to the bylaws of the planning commission. I hope you didn't interpret tonight's informal discussion as concluding that any particular people are going to be removed. It's just an issue that we have to think about when we move into that quite different technical area of shoreline development, and also consider the possibility of the study group becoming unwieldy because of the number of participants. I understand your concerns. We want it to be as productive and diverse as possible.

Cram: article G of the bylaws, planning commission committees notes that; "The chairperson may appoint advisory committees comprised of members of the planning commission and other citizens to assist the planning commission and planning director with research, analysis and identification of issues and alternatives on issues before the planning commission." The planning commission is the appointed body by the township board to address zoning ordinance amendments. We did discuss the formation of this study group at several public hearings before the planning commission and the board. We asked people to come forward to express their interest. This is a large study group which can be difficult to manage, but we want to hear from as many people as possible. We also do not have the same resources as the city of Traverse City. We are following the same process that we used for getting amendment 201 passed for Farm Processing Facilities, the planning commission and board appointed members for a citizens agricultural advisory group, the planning commission appointed the members for building height and likewise for shoreline regulations. And yes, I am following what the city of Traverse City is doing.

Shipman: we have done a processes like that. When we did the master plan committee, we had applications from people. They wrote up a little why they wanted to participate and what they brought to the table. Every member of the planning commission and the town board voted on who would form the committee along with the representatives. Had 17 people on that committee. That was an over two-year commitment for people. It was more of a formal commitment. A lot of what we're trying to achieve here is being responsive to these needs. It would take a lot longer to go through that kind of a process. We're trying to be quick on our feet here to respond to these issues.

Hall: comment Nancy [Heller] about your comments. It is very common that people do not understand there are, in many cases, two layers of restrictions or relevant provisions. One layer is whatever exists at the township level of zoning ordinances, police power ordinances and so on. I'll give you an example. The dark night sky ordinance affects the entire peninsula. There are also HOAs that often have a set of rules and restrictions. That's what you're referring to, I believe, as civil as opposed to governmental restrictions. To use that dark night sky example. Where I live, it's in a site condominium, and we have restrictions on exterior lighting. We also have the township restrictions. Sometimes people are confused. They think if they comply with their civil restrictions that are in their HOA documents that they have therefore complied with the townships. Or they don't even know about the township regulations, which is also common. It comes up quite a bit. We also often see people buying units in a shared waterfront situation, thinking they're somehow getting ownership rights in a dock or a boat hoist. Primarily the subject of private restrictions. I appreciate you bringing that up.

12. Adjournment

Shipman moved to adjourn at 8:46 p.m. with a second by Hornberger.

Passed by consensus