

PENINSULA TOWNSHIP

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PENINSULA TOWNSHIP PLANNING COMMISSION MEETING AGENDA

Township Hall

13235 Center Road

Traverse City, MI 49686

September 16, 2019

7:00 p.m.

1. **Call to Order**: by chairman Hornberger at 7:00 p.m.
2. **Pledge**
3. **Roll Call**: Oosterhouse, Hornberger, Courture, Dloski,
Absent; Shipman, Wunsch, Hall
4. **Review for Conflict of Interest**; None
5. **Brief Public Comments**; None
6. **Additions to Agenda/Approval**;
Moved by Dloski to approve the agenda as presented, seconded by Couture.

Passed unam
7. **Consent Agenda**
 - a. Approval of PC Meeting Minutes from August 19, 2019
Moved by Dloski to approve the consent agenda as presented, seconded by Oosterhouse.

Passed unam
8. **Reports**
 - a. Zoning Update (Mielnik)

Mielnik: Reported on this last month but wanted to update the commission on recent issues that surfaced regarding wineries. The winery provisions are old, and approximately nine months ago the state laws changed with regard to how liquor control is regulated by the State of Michigan. The township attorney has reviewed this zoning language, along with other issues found in the rewrite, and has found a number of areas where there are inconsistencies with state laws. This issue has been discussed among staff and some of the wineries, and it is recommended that the planning commission create a committee to address these issues. It will take some time to evaluate and compare them to state laws in order to bring the ordinance into a better organizational framework to meet compliance regulations.

Oosterhouse: We need to be consistent across the board with state, federal, and local laws and what preempts and what does not before we begin to adopt new ordinances.

Mielnik: This is going to be a more in-depth review of these specific ordinances and not just re-organizing the language. We will have the assistance of our attorney as he has already rendered some legal opinions in regard to key provisions that need to be addressed. The challenge is found in all of the differences between "food processing," "wineries," "winery-

chateaus,” and “remote tasting rooms” and how these facilities relate to the state laws as mentioned. We are hoping that three members from the planning commission can volunteer to be a part of this sub-committee to join in this endeavor.

Dloski: Would like to serve as a member on this committee.

Hornberger: Also available to be a member.

Couture: Hesitant to take on more at this time.

Mielnik: Will send out an email to see if one of the three that are absent would also be available to serve on the committee.

9. Business Items

a. Public Hearing – Bed and Breakfast Zoning Amendment

Hornberger closed the regular meeting and opened up the public hearing for the bed and breakfast zoning amendment.

Mielnik: There has been a fair amount of discussion on this issue for at least the past six months on amendments to this portion of the zoning ordinance. Representatives of the industry have spoken on this in the past. This was addressed by the re-write committee and was delayed due to the context of this being affiliated with the winery-chateau requirements as there are several similarities with how acreage is calculated with the dwelling units in the context of PDR land. The proposed amendment has been published and is available on the township website. This essentially allows a number of additional guest units when a parcel has a large amount of acreage associated with it. The existing code states that a B&B is allowed three units regardless of parcel size. Therefore, it does not matter how many acres an establishment has. If you have a large parcel, it seems reasonable to allow additional guest units. As proposed, if a parcel is between one and five acres, three guest units would be allowed. Between five and ten acres, you would be allowed four, and with 10 or more acres, the number of units increases to five.

Hornberger: If I am reading this correctly, then the maximum number of adults allowed if you have 10 acres or more would be 10 adults. So, no more than two people per room.

Mielnik: No more than two adults are allowed per unit.

Chuck Goodman, 1875 Gray Rd.: Reviewed this ordinance about 45 minutes prior to the meeting. Glad to see there is a little more recognition of a B&B not being an awful thing, which seems to have been the thinking in the past. Stated that the requirement that acreage is subject to recorded conservation easements should not be included in the proposed ordinance. His property is currently under a conservation easement. Currently, his three units are allowed eight guests, and it is not specified whether these are adults or a combination of adults and/or children. It is not uncommon to have a girls’ getaway where there might be as many as six to eight people, and having one room where you are allowed up to four people including four adults and not just two adults and kids makes it more feasible. This proposed amendment will eliminate that and make it more restrictive than it currently is. Goodman’s advice is to allow one room to have up to four adult guests and not just two. Would be happy to submit some revisions.

Dloski: Asked if Goodman has a written conservation easement and if it states specifically that it allows a bed and breakfast.

Goodman: It does not specifically allow it; that is why we had and requested an attorney's opinion that it would include having a bed and breakfast.

Mielnik: Asked if that letter was still in Goodman's possession.

Goodman: Has the letter.

Couture: Comments make sense. Not sure on some of the language and if section six is needed at all.

Dloski: We were in a situation where a person is being paid for the development rights, residential, commercial, and industrial development rights, and then to be allowed to put a commercial use on the PDR land (bed and breakfast) is what we are trying to avoid. As people have already been paid for those rights, including a commercial use on those properties.

Couture: Unfortunately, are we discouraging by doing that using the property for something better than development? A bed and breakfast has a minimal impact on the footprint of the property. This is new language that has not been in the ordinance before.

Dloski: This will not change Mr. Goodman's situation.

Meilnik: There is no requirement to move this forward. We are having a public hearing to accumulate public comment so this can be tabled and reviewed at a later date if that is the wish of the planning commission.

Couture: If we eliminate paragraph six, then there still is a total number of guest units allowed. Is still undecided if the language needs to be changed.

Meilnik: As it is written currently, there is still a capped number of guests allowed on a sliding scale, which is only eight guests allowed.

Couture: Feels the language needs to be revised before he can vote on this amendment.

Moved by Couture to table the bed and breakfast zoning amendment until public and board comments can be made to the next meeting, seconded by Oosterhouse.

Passed unam

Hornberger closed the public hearing and opened the regular meeting.

b. Public Hearing – Solar Zoning Amendment

Hornberger closed the regular meeting and opened up the public hearing to discuss the solar zoning amendment.

Hornberger stated that Brad and Amy Lyman emailed a letter to the board on their position on this zoning amendment request.

Mielnik: Brad and Amy provided a letter as they were not able to attend. The amendment language has also been provided to the board, which is amendment 199. A graphic was provided in an effort to illustrate what this would look like on a parcel with regard to the setbacks. The graphic illustrates what a five-kilowatt system (approximately) would look like with a setback of 23 feet with a maximum height of 10 feet. Beyond this are some possible amendments that were generated after a resident came in to the office and pointed out that the placement of a solar panel on a five-acre parcel would look much different and would require more flexibility. Specifically, this includes allowing placement of a solar panel

between the home and the road. Additionally, a solar panel should be measured at the furthest point and not the support structure, with the maximum percentage of lot coverage measured with a panel at full tilt in terms of the land it occupies.

Todd Wilson, 782 Nehtawanta Rd.: Wanted to voice his support for this ordinance and feels it is a great idea. Was looking into having a solar array on his property as he was not able to put this on his rooftop and the vendor offered to place it on the beach. He would need to have something placed somewhere else on his property. Questioned the maximum of 10 kilowatts and wondered if this also applied to farmland arrays as well, as many more panels could be placed on larger properties, and wondered if this ordinance interfered with that.

Mielnik: This was considered to be an accessory use on a lot and not necessarily a solar array that is connected to a sub-station or a community solar system so this is restricted to a residential use to serve your own needs. The ordinance does not currently allow for a solar array to be placed on a lot as the principal use of that property.

Peter Meyer, 1800 Nelson Rd.: Would like to install a ground-mounted array on his five-and-a-half-acre parcel. Is concerned about the wording of this amendment as he would like to place this panel in his front yard. He can understand the need to keep things attractive but for him the front yard is the best placement and in order to place a panel in the rear yard, trees would need to be removed and then it would be a visual impairment for the neighbors.

Deeren: Do you currently know the depth this would be off the property line?

Meyer: They just put in fiber optical cable, and the depth is right around 300 feet from the road. There is a lot of tree coverage and vegetation so it would be possible to see it now but in a year or two it would be invisible.

Mielnik: Just for clarification purposes, we had a conversation regarding this in the office and that is what drove the addition of the material highlighted in red that speaks about the agricultural requirements. We would drop the requirement of not allowing it in the front yard and simply respect the 50-foot setback and allow more flexibility on a five-acre lot.

John Bercini, 746 Walnut Ridge: Supports endorsement of this amendment and encourages the board to pass it.

Oosterhouse: On bigger lots, it makes sense to allow the 50-foot setback, which is the requirement of a structure. Has no issues with that.

Couture: Graphics are fantastic; the visual helps.

Dloski: Questioned how many kilowatts are allowed on a roof system as we are limiting ground to 10 or fewer but there is not a limit to a roof mount.

Deeren: It may just depend on the size of the roof.

Oosterhouse: It is not creating another structure on the property because the roof already exists.

Mielnik: There would not be a limit on a roof system.

Dloski: A ground mount is limited to 10 kilowatts.

Hornberger: 110% of that number.

Hornberger: No limit on roofs as it is not a separate structure.

Hornberger closed the public hearing.

Moved by Dloski to approve the solar zoning ordinance amendment to the township board, amendment 199, seconded by Couture.

Passed unam

c. Winery Chateau Zoning Amendment

Mielnik: The committee of Larry, Susie, and Todd has met three to four times to discuss this issue. This was prompted by John Wunsch coming to the meeting about four months ago and pointing out the relationship of the PDR and the winery-chateaus. He pointed out that it was not the intention that the PDR program should be combined with the winery-chateau system of agricultural preservation. The winery-chateau ordinance was written prior to the PDR program being established. Issues have surfaced on the PDR land being included in the acreage calculations for winery-chateaus, specifically for guest rooms and single-family residences. Four different versions of this ordinance have been created, and the amendment before you was the final of those that came from our last meeting. The decision would be if this is ready for a public hearing or not.

Hornberger: The change to this is on page two and is highlighted in yellow.

Meilnik: Correct, this can still be edited but this is what was published and is available on the township website as the proposed amendment. We would have a public hearing in October and obtain public comments and then potentially act on this.

Dloski: We did have at our meetings several industry representatives. I understood after the last meeting that there was a consensus that this language was appropriate.

Hornberger: So they were comfortable with this?

Dloski: Yes.

Moved by Dloski to schedule this for a public hearing at the October meeting for the winery chateau zoning amendment, seconded by Oosterhouse.

Passed unam

d. Introduction – Fire Station #3 SUP

Mielnik: Material was provided in the packet along with a memo stating that efforts have been made for a third fire station in Peninsula Township for some time. A site was identified on Center Road between Swaney Road and Tompkins Road. Like other public buildings and uses, it does require a special use permit approval; therefore it is subject to the same process as other special use permits. These plans are still being developed, but because of the timing, we thought it would be appropriate to at least do an introduction and then seek approval to hold a public hearing. We have had additional material submitted since this memo was written along with some correspondence from Jennifer Hodges, the township engineer who put the application together. Adjacent property owners will be notified along with a publication in the *Record Eagle*. This is just an introduction as Jennifer and the fire chief were not able to join us for tonight's meeting.

Dloski: Normally we require developers to have all their submittals in advance so that the board can review them prior to the public hearing. Are we treating the township's special use permit the same way or is it being treated differently?

Meilnik: This is the same way we treated the 81 when they came in and did an introduction and we had material at the same level as this.

Hornberger: By the time we had the public hearing, we had the information in the packets.

Meilnik: We had materials submitted today that came in, so Jennifer is doing the application on behalf of the township.

Hornberger: Is it your feeling that by October we would have the necessary information?

Meilnik: Yes, the key issue is that we need to have all of the information by the time the public hearing notice is sent out. That way, if a resident wishes to review the application, it will be available. This is just a way to try to expedite the process.

Hornberger: If everything is not in by October, then we can cancel the public hearing.

Moved by Couture to hold a public hearing on the special use permit for fire station #3 in October, seconded by Oosterhouse.

Passed unam

e. Master Plan Update / Draft Survey Questions

Meilnik: The memo provided an outline of how the master plan steering committee members worked with EPIC to develop these questions. The 2006 survey was used as a basis and these new questions were developed from that survey and edited to what is pertinent today. There will be a random phone survey sample along with an online electronic version. The online survey might have many more responses but will not be a random sample. Some questions relate to not only asking questions about key issues but also questions that give insight and awareness. There are some questions related to the general growth of the township along with questions on the PDR program and if people are familiar with that. The hope is to have the survey completed by Thanksgiving.

f. Election of Officers

Hornberger: This is generally done in September. We have a chair, vice chair, and secretary. Am willing to remain chair.

Moved by Dloski to keep the officers the same, seconded by Couture.

Passed unam

10. **Public Comments:** None

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

12. **Adjournment:**

Moved by Couture to adjourn, seconded by Dloski.

Passed unam

Final adjournment: 7:50 p.m.