

PENINSULA TOWNSHIP

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PENINSULA TOWNSHIP PLANNING COMMISSION MEETING MINUTES

TOWNSHIP HALL

13235 Center Road

Traverse City, MI 49686

September 21, 2020

7:00 p.m.

Corrected 10/20/2020 by Beth Chan

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

2. **Pledge**

3. **Roll Call:** present: Dloski, Couture, Shipman, Hornberger, Oosterhouse, Hall, Wunsch; also present: Mielnik

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

5. **Brief Public Comments:** none

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

Hornberger: Move agenda business item c., Peninsula Shores (81on East Bay) PUD, SUP#12 (Amend #2) to business item a. Business item e., Recommendation to the township board regarding solar panels on PDR land to business item b.

Moved by Wunsch to approve agenda, as amended, seconded by Couture

Roll call:

pass unan

7. **Consent Agenda:**

a. Approval of Meeting Minutes: Planning Commission Meeting, June 15, 2020

Hornberger: There are three minor changes to the minutes. The first change is on page 5, referring to Dan Leonard's comments, reads based on duel, should read dual. The second change is on page 5, a few units should read as few units; and thirdly, to clarify the language of the motion, to go to the township board to get their feeling about waiving the minimum twenty acres for a PUD.

Moved by Shipman to approve the consent agenda, as amended, seconded by Wunsch.

Roll call:

pass unan

8. **Reports:**

a. Zoning Board of Appeals (Couture): no meeting, therefore, no report

b. Master Plan Update (Mielnik)

Mielnik: The master plan steering committee continues their work. There has been work on the staff level putting together the online engagement tool. The next committee meeting is on

October 5, 2020. Progress is being made on sharing information about the master plan, to get public opinion with an interactive website.

9. **Business Items:**

a. Peninsula Shores (81 on East Bay) PUD, SUP #123 (Amend. #2)

Mielnik: This is an amendment proposed and a public hearing was held, and draft findings and conclusions were prepared. Late this afternoon, the applicant notified the planner's office of the intent to table the issue because of issues that have surfaced. The request is to table this item.

Dloski: Is this to table the amendment to a certain date or to table the issue indefinitely?

Wunsch: This is disrespectful of people's time.

Hornberger: Tonight would be the vote for approval or denial. Do not want it tabled indefinitely.

Dloski: Recommends to vote to deny special land use request. It is not consistent with the use of the property. It should have been used for open space. It should have been left with vegetation. It has been cleared and it is not compatible with the adjoining uses. Believes it will change the essential character of the area.

Hornberger: The setbacks are a more serious problem.

Mielnik: There are issues with regard to the setbacks. The rear setback is not thirty feet, it is fifteen, and it should be made to conform.

Dloski: The special land use standards indicate it should not be hazardous or disturbing to existing or future uses. We have had comment that it will be disruptive. This is the basis for my motion to deny SUP #123.

Mielnik: Points out procedural aspects, based on the mirroring of the standards of the zoning ordinance. The planning commission should review findings and conclusions and it can be edited and brought back to action.

Discussion of the submittal of material and the response.

Couture: Larry's motion is on the table. The normal procedure is to go through point by point the findings of fact and conclusions.

Moved by Dloski to deny SUP #123, seconded by Wunsch.

No action on this motion

Couture: Prepared to vote, Larry went to two standards that have not been met, understands Mielnik's point.

Wunsch: Withdraws motion with respect to procedure, should look at findings of fact by Attorney Howard.

Hornberger: First, Mielnik has not reviewed them. Second, the township attorney is not here and has not reviewed them.

Mielnik: From the procedural standpoint, clear findings and conclusions should be written up based on the sentiment from the planning commission and should be brought to the next meeting in something that is an actionable document.

Dloski: Withdraws motion.

Wunsch: Table this motion until the next meeting.

Dloski: Support.

Hornberger: Once this is tabled to the next meeting and we realize that finding of fact and conclusion are troublesome without ~~Without~~ any changes from the developer, can we vote on this exact amendment next month? This needs to be decided next month.

Mielnik: I believe you can.

Moved by Wunsch to table Peninsula Shores (81 on East Bay) PUD, SUP #123 (Amend. #2) to next month, seconded by Dloski **pass unan**

Scott Howard, Olson, Bzdok and Howard, representing the Haddox family: Expresses frustration at the situation.

Meagan Haddox, 4150 Trevor Road: The developer promised to keep this land along our property an open space. In return, he was granted the right to develop the shoreline with much narrower lots and that portion of the development in denser fashion.

Approval of this amendment would send a message that the developer could take away benefits promised to the community to get a PUD approved in the first place.

The aerial photo shows the developer has already taken down the trees that would have been kept as a buffer. Changing the open space to a building space will negatively affect our property and will be a detriment. Requests that the planning commission deny the amendment.

~~**Hornberger:** There is a motion to table SUP #123, Amendment #2 until the next meeting.~~

b. Recommendation to the Township Board regarding solar panels on PDR land

Mielnik: This is a relatively new issue for the township talking about the placement of solar panels on land that is encumbered by a PDR. A year ago, we passed an amendment for free-standing solar panels as an accessory use limited to a certain size on residential properties, for panels not on the roof. This recommendation is for solar panel placement on agriculture and also covered by a PDR easement. Referencing a letter from the township attorney, his opinion states that the planning commission should make a recommendation to the township board for solar panels on agricultural land. A draft memo describes this. An e-mail came in speaking to item number four of the memo. Wanted the township policy to be consistent with the conservancy. The wording should be the policy of Peninsula Township to consider the installation of solar panels as common agricultural practice as defined by the PDR easement when such panels are in direct support to on-site agricultural practices. This will power equipment or motors that are agricultural practices. The recommendation is the amended highlighted memo in the packet. This should go to the township board.

Planning commission discussion of the use of solar panel installation on PDR and agricultural land serving agricultural use, sizing in zoning, use as of right versus special

land use, the specific use of ground cover with the installation, net-zero contract installation in agricultural uses, and what happens to the energy produced.

Hornberger: Send the memo recommendation regarding solar panels on PDR land to the town board.

Motion on the floor by Wunch to send memo recommendation regarding solar panels on PDR land to the town board, seconded by Dloski.

Discussion:

Joanne Westphal, 12414 Center Road: The Cherry Connection farm has eighty percent of its acreage in PDR land. Would like to place a net-zero solar array on the farm ways to reduce cost. Zoning ordinance #199 does not allow this size of solar installation. Westphal describes the energy usages and the net-zero process for savings on the farm. Explains how the energy companies do calculations for the energy produced on the farm over a twelve-month period. Accessory uses, as protected by the right to farm, include energy generation via wind, solar water heaters, water, streams and rivers, hydraulic and geologic resources. This system will take twenty-five hundred square feet.

Hornberger: We have a motion before us to approve sending a memo dated September 21, 2020, from the planning commission to the town board to approve or modify.

Shipman: Asks for clarification of the land conservancy policy in the legal option that includes the protection of wetlands and viewsheds. Does not want to give blanket approval. How do we protect that?

Planning commission discussion of how ten-kilowatt arrays can be presented to the township board.

Mielnik: The legal opinion asked for a recommendation from the planning commission.

Westphal: There is a deadline for net solar metering. Westphal will lose two grants if this issue is not considered.

Shipman: Not comfortable with the memo because of the impacts and protection of PDR resources. Need to look at the issues together.

Mielnik: It eliminates the issue of a ten-kilowatt structure and it would not be approved because it is not an agricultural use on PDR property.

Planning commission discussion of viewsheds and solar arrays, and accessory structures.

Moved by Wunsch to pass this memo to the township board, as amended, that it is a solar panel structure, seconded by Dloski. pass unan

- c. Introduction – Lavender on Old Mission Peninsula - SUP #138

Mielnik: This is an introduction for a SUP for a lavender operation on Carroll Road. Information in the packet describes the site and the building. Nurseries are a SUP under the zoning ordinance.

Amy Parker, 4133 Old Mission Road: The property is on Carroll Road, and 8,000 plants are grown on ten acres to then sell fresh and dried lavender products. Currently building a 24 by 24 pole barn.

Wunsch: Clarifies the reason for the SUP application.

Mielnik: The public hearing can be set for the October meeting.

Moved by Dloski to set a public hearing for the October meeting for SUP #138, Lavender on Old Mission Peninsula, seconded by Shipman. pass unan

d. Peninsula Farms Condominium Subdivision Plan – Public Hearing

Hornberger closes the regular meeting and opens the public hearing

Mielnik: This is rescheduled from last month, that meeting was canceled.

Sean McCardel, Sean McCardel Consturction, Inc., 310 Water Watch Lane: This project is 8.78 acres parcel at 6960 Center Road, the Carroll property. It rests in a split class zoning classification and the site plan has taken this into consideration. There will be ten single-family homes serviced with municipal water and sewer. Plans have been submitted to the township engineer and the township fire department. We have received a preliminary approval site plan review from both offices. To preserve natural resources are an important part of this plan. Discussions were had to take the property to the east, we are now presenting the ten-acre plan. During the due diligence period, McCardle has spoken with the adjoining homeowners to the south and spoke with representatives of Wildwood Meadows.

Hornberger closes the public hearing and opens the regular meeting.

Dloski: Is there access to Pelizzari as mentioned?

McCardle: We do not have access to Pelizzari, the comments and discussion relative to Pelizzari were premature, and not part of the plan.

Dloski: Looking at units six and seven, will they use the main road to access Pelizzari?

McCardle: yes

Hornberger: How was the easement from Wildwood Meadows handled?

Mielnik: Historically for Wildwood Meadows, there was a conversation that it could be a complete subdivision and a parallel road to Center Road would be a good idea to control traffic. When Pelizzari came in, there was not a strong need for an access road. The master deed was reviewed to see who would pay for it, and it was not the owners of Wildwood. Since it was only a forty-foot road, the Wildwood HOA would prefer not to see the road.

Dloski: There will be three curb cuts in a short distance, there are no deceleration lanes.

Mielnik: It was sent to MDOT and they do not see a problem with the configuration of the road. Center Road is still under MDOT jurisdiction.

Couture: Voiced ongoing concern about more development in this area.

Planning commission discussion of continued development.

Chris Thompson, 79 Wildwood Drive: Supports the proposed plan for development and does not wish to see the road connecting Wildwood with Peninsula Farms.

Mielnik: In regards to setbacks, units nine and ten present issues because of corner lots. The corner lots have two front yards, questions the rear setback. There is incorrect property information on drawing C-2. For lots five and six, we need additional conservation about the conservation easements, with trespassing issues, and the pedestrian easements on lots six and seven. Need to review the language and seek legal help to resolve this.

Shipman: If lots five and six, on the east end, had an easement to Pelizzari, because of the current situation with five and six, the homeowners could not utilize this.

Meilnik: There is mention that the conservation easement presumably donated to GRTLC as open space. As drawn now there is no access, it is almost a landlocked piece.

Hornberber: Next step would be for Mielnik to receive updated plans and prepare material for vote next month.

e. Bella Vue PUD Update

Mielnik: A copy of the memo that went to the township board in the packet, based on the actions of the last planning commission meeting that spoke to the difficult position with regard to five acres. The township board approved it. The developer did not get revised plans to the planning commission and are working on a plan. The township board agreed to review the conceptual plans, conceptual findings, and conclusions.

Planning commission discussion of the conceptual plan going to the township board, in regards to the five acres and the twenty-acre minimum.

Hornberger: The public hearing occurred; the next step is to review the revised plans.

Mielnik: Looking back at open space in past subdivisions, it is important to look at open space. For Bella Vue, there is a need to review the open space, especially in preserving the slopes. The applicant can go with a conventional subdivision.

Planning commission discussion of the process of review, of the past plans, and revised plans.

f. Zoning Update

Mielnik: There has been an additional conversation on the zoning update related to the deficiency in the regulation of where docks and hoists are located.

Hall: The deficiency is a result of past disputes over the permitted location of a dock and boat hoist. Our zoning ordinance is not clear on how docks and hoists are regulated in the township. Need to be more succinct about the language of the permitted location. We are

talking about navigable waters, not inland lakes. The proposed language says the permitted location of the dock should be inside the setback from the imaginary side yard lines limits into the bay. The dock would have to be in the area.

Oosterhouse: Does it say how far the lines go out?

Hall: Because they are navigable waters, the Army Corp of Engineers has rules not to interfere with navigation and the state has requires but does not address how far out it would go.

Mielnik: With that change, we have a draft dated September 21, 2020. Recommend that this move forward with discussion on how to move this forward.

Moved by Dloski to schedule a public hearing for the zoning ordinance update for the next meeting, seconded by Couture. pass unan

Planning commission discussion of the ways to present this to the public, with an additional opportunity such as a Zoom meeting. This will allow the public to weigh in and have their questions answered.

Hornberger: To recap for the October meeting: there will be a discussion on Peninsula Shores, Bella View (probably) is coming to us, Peninsula Farms is ready to vote on, and the lavender operation is ready to vote on, and the zoning ordinance public hearing.

Wunsch: Look at the increase in the solar limits for accessory agricultural uses for the next meeting.

Dloski: Make a recommendation to the township board.

Planning commission discussion of the limit size for accessory agricultural uses, putting it as a separate item on the agenda.

Moved by Dloski to place solar limits for accessory agricultural uses on the agenda for next month, seconded by Wunsch. pass unan

10. **Public Comments:**

Monnie Peters, 1425 Neatawanta Road: Interested in the solar issue. We are witnessing significant climate change; therefore, it is good to move forward with more alternative energy.

Bill Smethells, 10547 Bluff Road: Was not present for the July 20, 2020 meeting (Bella View). Asks that pubic commentary with the new proposal to handle the PUD is allowed, when that new plan is provided.

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

12. **Adjournment:**

Moved by Shipman to adjourn, seconded by Dloski.

pass unan

Adjournment at 8:49 p.m.

Peninsula Township
Planning Commission Minutes
09/21/2020
Beth Chan, Recording Secretary