

## **PENINSULA TOWNSHIP**

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**PENINSULA TOWNSHIP**

**PLANNING COMMISSION MEETING**

13235 Center Road

Traverse City, MI 49686

October 21, 2019

7:00 p.m.

**1. Call to Order:** at 7:02 p.m. by Hornberger

**2. Pledge**

**3. Roll Call:** Present: Dloski, Hornberger, Hall, Mielnik, Oosterhouse, Shipman, Wunsch  
Absent: Couture, also present: Zoning Administrator, Christina Deeren, Jennifer Hodges, Fire Chief Gilstorff

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

**5. Brief Public Comments:**

**Fred Bimber, 1223 Randolph Street:** Attorney representing township resident Dave Edmondson. Commenting on the proposed Winery-Chateau/PDR Zoning Amendment with an objection to the last sentence in the table in section (f). That sentence states that no uses listed above may be sited upon lands subject to a conservation easement, nor may the necessary acreages required above be subject to a conservation easement. It is unnecessary to the purpose of the ordinance. The township has approved development for a winery-chateau on land that is subject to conservation easements. Bonobo Winery is an example; considers Todd Oosterhouse to have a conflict of interest. Also, Mr. Wunsch owns land under a conservation easement and this poses a conflict of interest. If the sentence mentioned is removed, then the objection would be completely resolved.

**Monnie Peters, 1425 Neahtawanta Road:** Announcement of a November 4, 2019 meeting in the township hall from 6:00-8:00 p.m. for all shoreline property owners and the general public. Speakers will be Heather Smith, Grand Traverse Baykeeper for the Watershed Council of Grand Traverse Bay and Mark Breederland of Sea Grant Extension for Northwest Michigan. The new updated booklet is available and information at the meeting will be about shoreline protection and best practices.

**6. Additions to Agenda/Approval**

**Hornberger:** Add the ZBA report as b. under reports, can Christina do the report?

**Deeren:** yes

**Moved by Shipman to approve agenda as amended, seconded by Hall pass unan**

**7. Consent Agenda**

- a. Approval of Meeting Minutes: PC Meeting Minutes, September 16, 2019

**Moved by Dloski to approve consent agenda, seconded by Wunsch pass unan**

**8. Reports**

- a. Zoning / Winery Regulations Update (Mielnik)

**Mielnik:** The zoning rewrite is under review by the township attorney. The winery review committee will begin with members Larry, Donna, and Randy Hall. They are close to scheduling a meeting to discuss and review the different categories involved with how it relates to the changes in the Michigan state liqueur control laws that were recently passed.

- b. ZBA Report

**Deeren:** The last ZBA meeting had a hearing for a home on Peninsula Drive requesting a variance for a detached garage. The owner has had the property since 1972. The variance was granted from thirty feet to twenty feet and the side setback was granted from fifteen feet to six feet in order to construct a garage.

**9. Business Items**

- a. Public Hearing – SUP #133-Fire Station #3

**Hornberger closes regular meeting and opens public hearing**

**Mielnik:** We have a full packet, the public hearing was advertised as required, and notices were posted. The applicant is the township and the building of the new fire station is in an A1 zoning district and is a special use. Fire Chief Gilstorff and Jennifer Hodges are here to describe the project. There is a draft set of findings and conclusions in the packet and it is in compliance for special use.

**Gilstorff:** We are here to ask the planning commission for approval to build a fire station on Center Road and Swaney on two acres of land that was part of Switzer's tree farm. The building will be approximately 3,500 square feet with two apparatus bays and staff housing for personnel to stay on site. The next step is to go out for bids for an architect. There is hope that the project will be completed in June or July of 2020. This is a great asset for the residents in the northern part of the peninsula and will provide a quicker response and a lower ISO rating. The area is more than five miles from the Mapleton station. There are renderings of what the building will potentially look like and pictures of the potential station.

**Peters:** expresses support of fire station three

**Joe Freeman, 1945 Center Road:** lives north of the proposed station, asks for minimal and down lighting to keep a dark sky

**Gilstorff:** We had the same issue with fire station two and worked with Consumers Energy to put LED flats so the light went down to preserve the dark sky concept.

**Hornberger closes public hearing and opens regular meeting**

b. SUP #133-Fire Station #3

**Mielnik:** points out the three approval conditions on page five of statements of conclusion and findings of fact. First, is the continued cooperation with the road commission, drain commission and environmental health. Second, is the full implemented landscape plan. Thirdly, the exterior building design choices illustrated are adhered to.

**Dloski:** When we have a public hearing, is a SUP usually tabled to the next meeting?

**Mielnik:** According to the by-laws, it can be acted upon in the following meeting, unless waived and adopted.

**Dloski:** So, there can be a motion by the planning commission to waive the rules.

**Hornberger:** questions the three letters sent with no response, acceptable, as long as it is an approval condition

**Hodges:** The letters have been sent and has received verbal responses from MDOT and road commission, they are still in transition as to who will own the road. Also, has spoken with the drain commissioner, the health department and has sent an e-mail. Currently, still waiting for that information to be provided back from the drain commission, the road commission and MDOT. As for what the exterior façade building will look like, it will be covered in the next town board meeting; need input to see what they want it to look like. The checklist is implemented and maintained as in all SUPs.

**Wunsch:** questions the alignment of the driveway and the fire station, it is offset?

**Gilstorff:** The driveway, as pictured, allows for apparatus to turn around and allows for the ability to add an apparatus bay.

**Shipman:** What is the timeline for the final drawings for the project?

**Gilstorff:** waiting on planning commission approval and then it will go to the town board. Need to get an architect and then it will go out for bid for a construction company. The spring weather will determine construction time, because it is a concrete slab; hoping for June or July of next year.

**Dloski:** Do we normally see building elevations in the SUP process? Is this part of the approval process?

**Mielnik:** There are no drawings to share at this point, only examples of the exterior façade.

**Oosterhouse:** We should have all of the plans, the specs, and the approvals for drainage and septic.

**Hodges:** All are in the packet, the only thing missing is exterior façade, because it is still yet to be determined by the township. We are looking to the township to determine the building elevations and front facade. There are four sheets that show grading, storm water, utilities, and other information.

**Hornberger:** The library had the exterior in place when they came to us.

**Dloski:** Do you have an architect?

**Hodges:** Not yet. Gourdie-Fraiser was retained for the SUP, land division and purchase of the site; the building shell is next.

**Hornberger:** Anyone else without these items would be sent back.

**Wunsch:** It could be passed with the condition that all elements would be made more restrictive at the township board's discretion. We could approve the SUP conditional upon the township board's discretion. There is a due process concern, the township is its own applicant, so the township can make any element of the design more restrictive.

**Dloski:** it is normal to retain an architect early on, they are doing it in reverse

**Hodges:** Cost estimates are provided. Originally, it was going to be a storage barn and it evolved into a building that will be staffed full time. A memo that provided the project background was given in the last meeting.

**Oosterhouse:** even with approved plans, the county can change the plans

**Mielnik:** they have in the past, but complete plans are needed for all construction

**Hodges:** are not getting a full set of plans at this time

**Oosterhouse:** for example, if plans were approved, and then they were changed by county as the project was built, the applicant would have to apply all over again

**Hodges:** If setbacks changed, we would have to come back for an amendment. At this point the exterior is undecided. The site plan and storm water are all set and it is in the package.

**Mielnik:** It does take a special motion for the planning commission to act after a public hearing.

**Hornberger:** Even if we didn't waive it and put it off until November, still do not have anything to show what it looks like, would like to see what it looks like. Can you get that far along in November?

**Hodges:** as long as I get something from the township board

**Shipman:** Why now, what step is hinging on a vote tonight, if we could have the package in November?

**Mielnik:** if everything looks fine to the planning commission; ultimately the choices are up to the township board (by their budget) for the exterior

**Hornberger:** We can put this on the agenda to vote on next month, if the client shows us what it will look like.

**Moved by Dloski to table SUP #133, Fire Station #3 until next month, seconded by Oosterhouse pass unan**

c. Public Hearing – Zoning Ordinance Amendment #200 Winery Chateau / PDR

**Hornberger closes regular meeting, opens public hearing**

d. Zoning Ordinance Amendment #200 Winery Chateau / PDR

**Mielnik:** In April, the issue of Winery Chateau/PDR came to our attention as an area to address. We had a committee of three members, Larry, Suzie and Todd, who met several times to work on language for this. We had winery interests attending the meetings. The final outcome language is in the packet. In the last meeting, it was felt it was ready for public hearing.

**Wunsch:** States that there would be a conceived conflict, as he owns property with easements.

**Dloski:** comments that Wunsch can stay

**Oosterhouse:** states that he has a conflict

**Hornberger:** Cannot say whether you should stay or not

**Oosterhouse:** I will reclude myself

**Nancy Heller, 3091 Bluewater Road:** Questions where the PDR and those with current contracts with the permitted uses at the time of contract signing, if they were not spelled out in the contract, at the time of the contract will all parts of the ordinance will be enforced with these contracts? When the first vote was taken, and people were signing up for PDR, would those applicants would all have agricultural uses in that district? If it is not spelled out in the individual contract, will their contracts be subject to this amendment? In agreement with Mr. Edmonds attorney, excluding the PDR acreage computation would not be good business sense, because you can't use PDR acreage for a winery chateau. For example, if there are fifty acres, you will need one hundred and five acres; if there is a resident an on-site manager, you require five acres. References page three in the letter from township attorney Greg Meihn, and reads this paragraph contained it the letter in the packet:

PTZO, Section 6.7.5.2

Section 6.8.1 of the PTZO, see footnote i, states that “[a]ccess to residential building sites on Farm land subject to a recorded Conservation Easement consistent with the intent of Ordinance No. 23 shall be regulated by the provisions of Section 6.7.5.

Reading these sections of the PTZO together, the conclusion is clear. While the PTZO does not intend to directly conflict with the PDR, the requirements of the PTZO will control and impact land under the PDR. For instance, farmland under the PDR may be divided irrespective of road standards in Section 7.10, but the PTZO calls for other requirements as articulated in Section 6.7.5.2, subparts (1) through (3). Accordingly, the PTZO provisions control.

I cannot see how it would be practical to sign up.

**Jed Hemming, Peninsula township resident:** Expresses concern, has PDR land. Everyone that signed up had faith and trust in the township's promise that they would not be further restricted. Commented that with adding further restrictions, beyond what was agreed to; “we” did not sign up for that.

**Peters:** Agreed with Mr. Bimber's comments taking bottom line in the chart, he articulated the issues very well. What he said was her concern as well. Also, appreciates the comments from Nancy Heller and Jed Hemming on the initial thoughts about when the PDR began.

**Bimber:** The comments express concern about the one sentence in the table in sub-part (f) of the proposed amendment, if that came out, the concern would go away. Given property owners have the right to develop property and it is governed by the conservation easement and is in the four corner of the agreement. The conservation easements were signed and the conservation easements under the PDR were put in place to prevent the peninsula from being on continuous subdivision.

**Ben Kroupa, 3183 Shorewood Drive:** Gives a brief historical perspective of farming and of the changes in farming and tree fruit farming in the area, citing 167 years of history. The (original) PDR ordinance is helpful, and it seemed to work well. Try to avoid cutouts.

**Harold Edmondson, 12414 Center Road:** The PDR program has been valuable for Edmondson Orchard, who has been around for 150-160 years. What is being proposed, undermines the PDR. If passed, I would regret entering the program.

**John Wunsch, 17881 Center Road:** Wants to clarify the original intent of the chateau ordinance passed in the 1990's, that when there was a residential unit extinguished and for every single use, that was clarified. The chateau unit itself cannot be on the PDR land. For those who have an easement on their land, it is too late to take a cutout. The requirement should be taken out that it cannot be on PDR land. It excludes all easement that already exists. It was our first attempt at conservation, before we thought of a PDR. We did not have the vocabulary. Stressed that it should be revised to one reserve unit to exchange off to extinguish when you put in a winery chateau.

**Hornberger closes public hearing and opens regular hearing**

**Dloski:** Move to table this amendment indefinitely, because it has been going around and around since April. Thought we had a consensus; now hearing things that need to be addressed. We have guidance from our attorney. The requirements of the zoning ordinance will control and impact land under the PDR. Agricultural use is under the conservation easement.

**Mielnik:** The aim is clarity. The zoning ordinance is not clear on how PDR is being treated when a winery chateau is being proposed. The winery chateau zoning regulations were written before the PDR program as an agricultural land preservation tool. It allows a certain level of development (winery, guest rooms, single family homes, managers residence) given 50 acres or more, to be clustered on twenty-five percent of the site. The PDR program came in later, and allowed development rights to be purchased. Yet it is suggested that the same level of development can occur with PDR (and similarly clustered). We now have public comments and we can go back and edit it.

**Hall:** Poses question about the administration of PDR ordinance, Fred Bimber said you should look to the document, the four corners of the easement agreement that sets out the limitation on development. Those documents could eliminate this ambiguity.

**Mielnik:** There is an annual monitoring of the PDR program to determine that the easement is being honored.

**Hall:** in new purchases, those documents can be clear

**Mielnik:** The tipping point is when an applicant asks for a new winery chateau and part of the land is in the PDR program

**Hornberger:** in this document, we are pulling out PDR land from the calculation

**Mielnik:** If the PDR includes a residential development site, it is not a complete extinguishing of a development right

**Shipman:** This does not impact going back, just new applicants. When a PDR arrangement is made and you have a conservation easement, the appraisal will take into account those building sites, and you will not be compensated for the development rights. They will not be a part of the conservation easement. We have not presented this with an easy explanation.

**Hornberger:** asks Larry, Suzie and Todd for something that will explain this clearly and come back to the planning commission

**Wunsch:** questioned the language on the website from last meeting.

**Discussion about the language from the previous meeting and the recommendation from the committee.**

**Hornberger:** in front of me is language that reads “No uses listed above in this chart may be sited upon lands subject to a conservation easement, nor may the necessary acreages required above be subject to a conservation easement” in the website and the packet

**Dloski:** John, with the second part of that sentence being struck, is that acceptable?

**Wunsch:** still a question with language struck, believes an error has occurred

**Moved by to table Amendment 200 Winery-Chateau/PDR Zoning Amendment, seconded by Shipman pass unan**

e. First Congregational Church SUP #80 Amendment #1

**Mielnik:** We have an application from the First Congregational Church; they introduced plans for an expansion in August, and the preliminary review is in the packet. There is a preliminary review from the township engineer. There is no public hearing scheduled yet, the application came in on October 7, 2019. Need to schedule a public hearing.

**Pastor Chad Oyer, First Congregational Church:** This information is a result of three hundred members engaged in this process and \$3,500,000.00 raised in a capital campaign. There are plans to renovate parts of the sanctuary and to expand the facilities serving children and their families.

**Bob Verschaeve, Gosling Czubak Engineering Services:** The project is broken into two phases with the first phase consisting of the Kid’s Zone and a storage addition on the southwest part of the sanctuary. Also, there will be a pole building for the community garden. The Kid’s Zone will be 5,600 square feet, the addition is 3,600 square feet of basement area and that will be built on top. Phase two is the Christian Life Center, which is a center for church activities (approximately 12,700 square feet) and a 6,500 second level with a multi-use gym, meeting rooms and a walking track. With phase one operations, there is a raised grade to the north where the Kid’s Zone will be constructed, and that material will be relocated to the parking area for phase two. The preliminary report from Gourdie-Fraiser is in the packet.

**Mielnik:** We have not done a complete review. There is a question about the traffic, as M-37 is a state route that is to be turned over to the GTC Road Commission soon. In the calculations for trip generation associated with the Christian Life center, there is a statement that it is reduced by half. The peak flow traffic for Center road is important. There should be a conversation about traffic with the road commission.

**Verschaeve:** The recreation center traffic generation, using the guidelines, does not fit into recreation centers, such as a YMCA, which would generate more traffic. The intensity is not the same and that is where the reduction is seen.

**Deeren:** There was a concern about traffic and speed from the residents of Edmar Drive which is across the street from the church. This is a bigger issue. How much more traffic would this generate?

**Dloski:** the Kid's Zone would operate until ten in the evening

**Verschaeve:** This would only be on Sunday. The Christian Life Center (phase two) will be open until ten.

**Mike Wills, First Congregational Church Construction Chair:** The Kid's Zone is Sunday morning only and the daycare is daytime use during the week. The Christian Life Center gymnasium and community center traffic will be staggered, but it will not be open when church is going on.

**Deeren:** What are the projected hours for the Christian Life Center?

**Wills:** until ten at night

**Dloske:** what is the occupancy for the Christian Life Center?

**Verschaeve:** do not have the numbers for the occupant load for the Christian Life Center

**Hornberger:** what activities will occur there?

**Wills:** walking track, gymnasium, and community rooms for meetings

**Dloski:** the neighbors can use it, will there be memberships or a fee?

**Wills:** not at this time

**Pastor Chad Oyer:** The Christian Life Center will not charge, but if there is an organized (community) class, there could be a fee from the instructor. School teams could practice.

**Dloski:** there is a need to flush out the traffic issue

**Pastor Chad Oyer:** The traffic will be staggered for the Christian Live Center, there will not be a huge increase in daytime traffic. Basketball games could be a busy traffic time. Right now the church hosts community events which cause an increase in traffic. When he served in Birmingham, MI, as pastor, a community center was built at that church.

**Hall:** where in Birmingham?

**Pastor Chad Oyer:** First United Methodist in Birmingham, on Maple and Pleasant.

**Hall:** familiar with the area, mentions passing lanes

**Discussion about the concern for a bottleneck while entering and exiting the church, peak traffic events, peak parking times, what will back up traffic, especially around the Christian Life Center**

**Pastor Chad Oyer:** This needs to be addressed. We will follow the guidelines to make this happen. But at this time, there are only funds to build the Kid's Zone, the Christian Life Center is two to three years out.

**Mielnik:** both phases are in the SUP application

**Dloski:** in the SUP application, construction must commence within one year

**Mielnik:** there is language on phasing

**Verschaeve:** there will be a request for an extension

**Mielnik:** looking for a full traffic impact study

**Verschaeve:** We have presented a logical explanation of expected traffic. MDOT does not require a full impact study

**Deeren:** the driveway to the church is shared with an eight-unit condominium development  
**Shipman:** Jennifer Hodges has recommendations, the main one relates to traffic. What can be done between now and November? In the last paragraph, the road commission has a recommendation of traffic analysis.

**Hodges:** The synopsis of the letter is, overall, compliance; it did meet the intent. The biggest concern (with the traffic study) is who will ultimately take control of Center Road. When looking at the traffic analysis, there are a lot of assumptions made for volumes, but not a full traffic study.

**Verschaeve:** Pointing out items on the traffic memo, it does identify a.m. and p.m. peak hours. For the Christian Life Center use, we are estimating weekday a.m. peak hour twenty-six additional trip generations and twenty-two for p.m. peak hours. MDOT has criteria for an additional fifty to one hundred trip generations, then there is a need for a traffic impact assessment. Feels they are not anywhere near that level that would require a study.

**Hall:** Are those specifics for thresholds for a two-lane highway? Concerned it will be a bottleneck and impede traffic. Does not feel it is specific enough when addressing a two-lane road.

#### **Discussion of traffic and use of the Christian Life Center**

**Wills:** will scale back the project and drop the Christian Life Center from the application.

**Hornberger:** Focus on the project that is ready to go (phase one) and get approval to get started; come back with phase two in the future. The board is comfortable with dealing with the Kid's Zone project.

**Verschaeve:** phase one is the Kid's Zone, pole barn and storage addition

**Mielnik:** amend the application to phase one and a public hearing can be held

**Verschaeve:** will revise and make phase one clear

**Mielnik:** there is a fifteen-day notice requirement; needs to be in twenty days before next planning commission meeting

#### **Discussion and clarification of time lines, traffic and phasing, public hearing in November, voting in December, and sending to the township board in January**

**Moved by Dloski to have public hearing for the First Congregational Church SUP #80**

**Amendment #1, in November, seconded by Wunsch pass unan**

#### **f. B&B Zoning Amendment**

**Hornberger:** not ready to discuss at this time, recommend to table until November meeting

**Mielnik:** not prepared to offer anything

**Moved by Shipman to delay discussion of the B&B Zoning Amendment until November, seconded by Wunsch pass unan**

10. **Public Comments**

**Heller:** question about planners comment on #8 on winery regulation, could you clarify what your task is?

**Mielnik:** There was a letter provided by the township attorney, which speaks to the new changes to the Michigan Liquor Control Commission regulations. There are several matters where the ordinance is directly or partially in conflict with those regulations. We should be addressing those comments.

**Heller:** There is concern that this goes beyond the agricultural community that has had input on these regulations. There will have questions from the agricultural community

**Mielnik:** The meetings will be advertised and conversations will be held.

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

12. **Adjournment**

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

**pass unan**

Adjournment time: 8:50 p.m.