

## **PENINSULA TOWNSHIP**

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### **PENINSULA TOWNSHIP PLANNING COMMISSION**

#### **MEETING MINUTES**

TOWNSHIP HALL

13235 Center Road

Traverse City, MI 49686

November 16, 2020 7:00 p.m.

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

2. **Pledge**

3. **Roll Call**: present: Couture, Hornberger, Oosterhouse, Hall, Wunsch;  
excused: Dloski, Shipman; also present: Mielnik, Deeren, Hodges, Attorney Mieh  
(via phone)

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

5. **Brief Public Comments**: None

6. **Additions to Agenda/Approval**: None

7. **Consent Agenda**:

a. **Approval of Meeting Minutes: Planning Commission Meeting, October 19, 2020**

**Hornberger**: Two corrections: page three, an instead of and, page eight, contiguous instead of continuous.

**Moved by Couture to approve the consent agenda, as amended, seconded by Wunsch**  
**pass unan**

8. **Reports**:

a. **Zoning Board of Appeals (Couture), Master Plan Update (Mielnik)**

**Couture**: The ZBA met in October and a variance request was heard by the board, the November meeting is tomorrow, November 17, 2020.

**Mielnik**: The steering committee met on November 9, 2020, and is ready to launch the online engagement tool. The committee is expecting a demonstration next month.

9. **Business Items**:

a. **Zoning Ordinance Update – Public Hearing (continued from 10-19-20)**

**Mielnik**: Due to COVID-19, there was a need for a ZOOM option for public comments.

**The ZOOM session is being recorded.**

**Dave Edmondson, 12414 Center Road, Traverse City**: (Audio was not streaming correctly)

Commented on the junkyard section of the ordinance and said it could be detrimental to the farming community. Also, he spoke about the farming community. This is a poor opportunity to

comment if the community cannot be in-person, suggests that the Zoning Ordinance Update be postponed until after the COVID crisis is over. The last meeting packet was incomplete and inappropriate; it is important that it be concise and accurate.

**Chris Rieser, 1087 Lochmoor Lane, Traverse City:** Refers to Section 313 “waterfront regulated area and shared waterfront docks, 2e.” Sent a letter on behalf of the Quaker Valley HOA voicing concerns over shared waterfront docks. The language added is concerning for several reasons, laid out in the letter.

**Curt Peterson, 1356 Buchan Drive, Traverse City:** (Audio was not streaming correctly, these comments were sent in via e-mail) So let's bring us up to date since the first portion of the public hearing.

1. The consensus of the planning commission is that the zoning rewrite was not to make changes that would be regarded as substantive.

2. At the last meeting our chairperson said the wording of 6-20 (Oct 14th packet additions) on STR is no change from the existing ordinance.

I contend that there are definitely some substantive changes. Well, let's look and review these.

The Oct 14th packet addition adds words that rooms within a dwelling are illegal for rent.

And now Christina said at the previous hearing that rooms are dwelling units. Not so.

Definition of dwelling is amendment 190. Let's look at that. Definition of Dwelling Peninsula

Township – Amendment 190: Dwelling: A single building, or portion thereof, providing complete independent living facilities for one (1) family for residential purposes, including permanent provisions for living, sleeping, eating, cooking, and sanitation. June 29, 2016, Corria / Hoffman: So a room is not a dwelling unit as a room does not include permanent provisions for living including heating, cooking, and sanitation. Therefore the Oct 14th packet addition that excludes rooms for rental is a substantial change. This would eliminate home share which is rental of an owner-occupied dwelling. There has not been one recorded nuisance incident of home share. So we do not need to try to fix a problem that does not exist Next let's look at B

and B being the only allowed use of single room rental per staff's ascertainment other than Chateau district. Again not so. Existing Ordinance “Section 6.2 R-1A Districts: Rural and Hillside Residential:(a) Rental of Non-owner Occupied Dwelling: (REVISED BY

AMENDMENT 182) a.1. Intent -This is a clarifying amendment that confirms the determination by the Zoning Board of Appeals on September 9, 1999, that the minimum length of time that a dwelling may be rented and be in conformance with the intent of the ordinance is one month and reaffirmed by the Zoning Board of Appeals on September 11, 2008, as 30 days. This is also to distinguish between rental of a “non-owner-occupied dwelling” and “Bed and Breakfast” which is rental of A (emphasis added) owner-occupied dwelling. a.2. A property owner may rent a non-owner occupied dwelling, provided that the minimum length of time that the dwelling may be rented is 30 days.” Curt Peterson comments on this existing wording. See emphasis added (A). So in our existing ordinance Bed and Breakfast is mentioned as an example of A (emphasis added) owner-occupied dwelling. So the ordinance recognizes that there could be other examples of owner-occupied dwelling rentals or the ordinance would have said “Bed and Breakfast which is a rental of THE (emphasis added) owner-occupied dwelling.” So clearly there are other legally rented owner-occupied room rentals as anticipated by our ordinance. So

home share is allowed in all zones. Well B & B has a distinct definition (Michigan State Statute) that requires serving a breakfast. So in our homeshare, we have no intention of becoming a B & B with that requirement of serving breakfast and the associated complications and legal requirements of food service and safety. Lastly, you have still not shown how the 30-day rule applies to other than R1A (Rural Hillside district) which is the only district that lists that the prohibition of a short-term rental. So I maintain that the Jan. 2020 draft and 6-20 (Oct 14th packet addition) represent major changes in the existing ordinance which was not the stated intent and should be eliminated from the rewrite. Suggested plan of action. Leave the STR and home share ordinance as is for the time being. As the Township Board discussed we should consider getting a community group together to work out whether any form of home share or STR could/should work. This should take place when we can safely meet together at some time in the future.

**Bob Venegoni, 16213 Center Road, Traverse City:** Commented that he does not understand the urgency in dealing with the zoning update, and there is some struggle with ZOOM to comment on the ordinance update. Agrees with those who have weighed in on this issue. We live in a farming community, and farmers have a lot to deal with subdivisions are moving in. Asks that the zoning ordinance update be tabled, at least, until after COVID is over.

**Gordon Hodges, 1331 Lindale Drive, Traverse City:** Commented on the waterfront shared frontage language. The intent is for private frontage, and the language is for shared frontage. This supersedes the deed restrictions. This needs to be rewritten so it does not encumber shared frontage properties and addresses private frontage.

**Jan Beckett, 671 Hidden Ridge Drive, Traverse City:** A thirty-year resident. She has just begun to read the ordinance and questions the definition of a structure and what is involved and called for in a structure definition. Mentions driveways, sidewalks, and utilities and questions how it fits in the definition of structure. Refers to the comments about the hurry to respond to this (zoning update). Notes that the quarterly newsletter did not mention the zoning ordinance update and the opportunity for public comment.

**Jennifer Venegoni, 16213 Center Road, Traverse City:** Given the circumstances tonight, there is a need to be heard and this should be delayed for residents to express themselves.

**Marc Santucci, 11789 Center Road, Traverse City:** Some of the changes to the zoning code are significant, not clearing, but confusing. Specifically the rental of rooms and houses. Greg Meihn gave a presentation in which he said the township should be more aware of the state's actions on the rental of rooms. The ordinance is for the health, safety, and welfare of the community. Remarks on the winery lawsuit.

**Meihn:** The township needs to be aware of why the state overrules townships. The basis for the ordinance for the health, safety, and welfare of the community. It has to do with opinion. Reference the winery lawsuit. There is a need to look at the citizens' concerns.

**Terri McDermott, 12372 Center Road, Traverse City:** Agrees with what has been said towards the zoning update. This impacts the entire peninsula. With the COVID restrictions, lack of seasonal residents in November, and the problem with ZOOM, there is a need to send the ordinance to all the taxpaying residents of the township and not hurry it through.

**Lou Santucci, 12602 Center Road, Traverse City:** Comments on the packet addition concerning the thirty-day room rental, and the language was changed. Added “portion of a dwelling” and “occupied.” Brings up the idea of a family member or friends staying with you and the problems around that idea for a room rental. Also, the notice period for a zoning violation changed from fifteen to seven days. The packet change was from seven to zero days. There is no time for correction. Discusses room rental. He feels that these issues need better discussion; this should be put off until the spring.

**Joanne Westphal, 12414 Center Road, Traverse City:** Encourages the planning commission to move ahead with the in-ground solar energy zoning regulations. Comments on the planning and meeting process. Talks about ordinance 199.

**Zoom call is closed**

**Deeren:** There was a time delay between the ZOOM call and the planning commission meeting. The board did not talk over the callers.

**Hornberger:** Using ZOOM for the first time is a learning experience, and we would like to continue the meetings with citizen safety in mind.

**Mielnik:** Hybrid meeting formats are difficult, but the option that we have at this time.

**Joe Gartland, 2253 Harbor Reach Drive, Traverse City:** Voices concerns for Article 3, section 3.13 of the ordinance. Referring to the language of one dock for every fifty-feet of shoreline, does this pertain to private on or an association? This is a dramatic change. The shared waterfront docks language is confusing and needs to be reworded.

**Deeren:** This is for private residences, not shared waterfront property.

**Hall:** Recognizes the issue presented. Will clarify the separation of HOA versus private docks.

**Monnie Peters, 1425 Neahtawanta Road, Traverse City:** Discusses how the ordinance should move forward to best serve the citizens of the peninsula and get their opinions. She feels the rollout was unclear. Suggests a series of advertised meetings.

**Hornberger:** This public hearing will be continued in December.

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

**Moved by Wunsch to continue Zoning Ordinance Update public hearing in the December 21, 2020 planning commission meeting, seconded by Oosterhouse.**

**pass unan**

**Wunsch:** We have a substantial revision to the ordinance where it seems ninety-nine percent is uncontroversial and ready to go. Suggests removing flashpoint issues so that a document can be produced that is free of more challenging issues. Continue the public hearing. Proposes to work on the flashpoint issues one at a time once the major document is behind us. By pulling these flashpoint issues out, we can move forward with a document that can move forward.

**Hall:** Is the current redraft on the township website?

**Mielnik:** Yes, with the additional material that was put in October. The flashpoints can certainly be removed to make this a cleaner and less controversial document to move forward.

**Hall:** Is the latest version on the website available to the public?

**Mielnik:** Yes

**b. Lavender on Old Mission Peninsula – SUP #138**

**Mielnik:** A public hearing was held for Lavender on Old Mission Peninsula last month. There are packet additions and a set of findings and conclusions in the packets. There are eleven approval conditions and safeguards. Many are standard and retail sales and related commercial activity are allowed provided and are not less than fifty percent of the inventory of items offered for sale and “include items wherein lavender and/or other ingredients grown on-site is a constituent element of the product.” This is not a general retail store. The number of attendees at events is capped at twenty-five.

**Hornberger:** Refers to page five, number eight: confirming no more than twenty-five participants.

**Mielnik:** With favorable action tonight, this will go to the town board.

**Moved by Wunsch to approve the general findings of fact for Lavender on Old Mission Peninsula-SUP #138, seconded by Hall.**

**pass unan**

**Hornberger:** What is located outside?

**Parker:** The distillation is outside, the propane tank for the still.

**Mielnik:** The fire chief will review and will need to approve.

**Moved by Wunsch to approve the specific findings of fact for Lavender on Old Mission Peninsula SUP #138, seconded by Hall.**

**pass unan**

**Moved by Wunch to pass this to the township board and recommend approval of Lavender on Old Mission Peninsula SUP #138, seconded by Couture.**

**pass unan**

**c. Peninsula Farms Condo Subdivision**

**Mielnik:** This is a use by right permit. The application and plans are in the packet. The engineer’s report from Gourdie-Fraiser is in the packet. The pedestrian easement was brought to the parks committee. On page three, the twenty-foot-wide easement is for a possible connection for long term planning. There is no obligation to make this connection.

**Laura Serocki, 6924 Center Road, Traverse City:** We own property adjacent to this property. Sean McCardle has personally discussed the easement. The pedestrian walkway is on the plan, and she does not understand why her property is being involved. It should be on the subdivision document and taken off the site plan. Does not want trespassing across her property.

**Sean McCardel, 3130 Waterwatch Lane, Traverse City:** Never intended for trespassing to occur across the Serocki property. Will discourage the residents from walking and trespassing across their property.

**Mielnik:** Add language to the condominium documents, not obligating any property owner to make the connection. Can it be resolved before it goes to the township board?

**McCardle:** Yes, and there will not be a trail. We are not encouraging trespassing.

**Discussion of the plan and the trail.**

**Hall:** Is the proposed twenty-foot-wide pedestrian easement is running along the south boundary of eight and seven?

**McCardle:** Six and seven.

**Hall:** Suggests a consult with the condominium attorney for the condominium documents. It is a disclosure to the potential purchasers of lots six and seven. It will not obligate the Serockis.

**Discussion of the plan, the easement, and trespassing on the eastern section of the boundary of lots six and seven and the Serocki property.**

**Bill Serocki, 6924 Center Road, Traverse City:** Reports that he has experienced trespassing from Pelizzari Park. The easement will compound the trespassing problem. Asks that it be removed from the plan.

**Hall:** This is not an easement in the Serocki property, but outside the property. References an example from Eagle's Landing where the developer has language to create an easement should it come available. The disclosure will be there if the easement becomes available. Not in favor of doing anything other than edit the language and removing the Serocki name from the site plan.

**Discussion of the easement and the language of the easement.**

**Jennifer Hodges, Gourdie-Fraiser:** The preliminary review letter is contained in the packet and contains the preliminary review. An escrow will be put in place for water and sewer.

**Mielnik:** There was a conversation with MDOT.

**Oosterhouse:** If someone bought lots six and seven, the owners would like to know about the easement. If in fifty years that property was sold, then there could be a possible connection to the park. Eliminate the note of a possible pathway.

**Mielnik:** The parks committee prefers one path instead of several small paths.

**Board discussion of the pros and cons of eliminating the note of easement connection to Pelizzari. Discussion of easement language with the developer and the language to strike the Serocki name from the plan. Leave the note in but remove the reference to the Serocki parcel, with language reading possible future pedestrian access to Pelizzari Natural Area should a connection become available.**

**Serocki:** It is still private property.

**Hall:** This is very common in condominium documents. It does not create an easement across your property.

**Discussion of the easement and trespassing.**

**Hall:** The master deed to the development should be addressed.

**Moved by Couture to approve Peninsula Farms Condominium Subdivision, with the language on C-4 and L-1 be amended to delete the reference to the Serocki parcel, and send to the town board, seconded by Hall. pass unan**

**d. Bella Vue PUD/SUP – Concept Plan - SUP #137**

**Mielnik:** A PUD must be twenty acres, and the township can waive that. To make that determination, the township board needed to see a concept plan. The developer was advised to come to the planning commission with a plan. The revised plan is now five units. The open space calculations have been verified by Gourdie-Fraiser. This is to recommend to the township board that a PUD on less than twenty acres in this instance makes sense. This would come back to the planning commission for consideration.

**Meihn:** Approving this on a conceptual level, there are reviews and details to be worked through.

**Hornberger:** The language is to recommend to the township board that a PUD on this site is suitable and reasonable based on the conceptual plan provided.

**Moved by Couture to recommend to the township board that a PUD on this site is suitable and reasonable based on the conceptual plan provided, seconded by Oosterhouse.**

**pass unan**

**Bill Smethells, 10457 Bluff Road, Traverse City:** Do we have any access to these plans?

**Mielnik:** They are in the packet.

**Smethells:** This is being returned to the board.

**Mielnik:** Being considered is a PUD on less than twenty acres is acceptable in this instance.

**Smethells:** To set this standard aside, the rule does not apply in the future.

**e. SUP Introduction – 13795 Seven Hills Road**

**Jay Milliken, 7580 East Shore Road:** We are proposing a community center on a commercial property. Buildings will not be added, and some of the buildings will be removed. The intent of Seven Hills is to create an extremely focused, well-curated experience rooted in local commerce and exceptional hospitality. The project will carefully align with the township and local residents to preserve the natural charm and beauty of the surrounding area. All tenants will be local, handpicked businesses that will provide a wide array of goods and services such as a coffee shop, dining, distillery/tasting room, boutique motel. Also, an art studio and gallery (existing), yoga and massage (existing), mixed retail, farmers market, and outdoor recreation. Presents a rough conceptual plan. We will not add any buildings but will remove some of the buildings.

**Deeren:** Define outdoor recreation.

**Milliken:** The ability to link to existing trails.

**Mielnik:** Procedurally, with a full application submitted, a public hearing will be held on December 21, 2020.

**Moved by Couture to schedule a public hearing for a SUP – 13795 Seven Hills Road on December 21, 2020, provided that an application is submitted, seconded by Wunsch.**

**pass unan**

**f. Discussion regarding amending zoning regulations for solar panels**

**Mielnik:** At the last meeting, there was a desire to allow larger solar panels on agricultural property. This has been reviewed by the township attorney. An official viewshed map is needed to tie to the ordinance.

**Wunsch:** This works with what is on the horizon with solar policy.

**Hall:** Is there a sizing concept?

**Wunsch:** You are only compensated for the electricity you use as a landowner. The thirty-kW cap should work for most agricultural property.

**Board discussion of the sizing element, with a reference to the Chateau Chantel's solar panels that were installed. The idea of allowing panels (larger than thirty-kW) was discussed as a SUP.**

**Deeren:** Solar panels may also be put on the roof.

**Hornberger:** The feeling is to allow more than thirty-kW, as part of a SUP.

**Moved by Wunsch to hold a public hearing for solar panels for December 21, 2020, with the change in wording, seconded by Hall. pass unan**

**10. Public Comments:**

**Smethells:** If Bella View comes forward, the public should be able to share their comments.

**Mielnik:** A new public hearing would be planned for Bella Vue.

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

**12. Adjournment:**

**Moved by Hall to adjourn, seconded by Wunsch pass unan**

**Meeting adjourned at 9:30 p.m.**