

PENINSULA TOWNSHIP

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**PENINSULA TOWNSHIP PLANNING COMMISSION MEETING MINUTES
VIA ZOOM FORMAT**

13235 Center Road

Traverse City, MI 49686

December 21, 2020, 7:00 p.m.

Corrected 01/27/2021 by Beth Chan

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

2. **Pledge**

3. **Roll Call:** Present via Zoom: Hornberger, Hall, Dloski, Shipman, Couture, Oosterhouse, Wunsch;
also present: Attorney Meihn, Mielnik, Deeren

Hornberger: The meeting is being conducted virtually because of COVID-19 and the members of the planning commission reside in Peninsula Township.

Roll Call:

All reside in Peninsula Township

4. **Review for Conflict of Interest:**

Meihn: Received information of concern that Todd Oosterhouse is participating in the planning commission and is part of the group of wineries that has filed a lawsuit. His conflict of interest is with the ordinance as it relates to the wineries. He must recuse himself from any discussion related to the zoning ordinance and wineries. The members of the planning commission must be cognizant of any conflict of interest and can and should raise a conflict of interest on behalf of any commission member.

Hornberger: There is no conflict of interest for any items this evening.

5. **Brief Public Comments:**

Led by Jim Muratzki, LIAA, acting as Zoom moderator for the meeting.

Lou Santucchi, 7075 Center Road: Asks Attorney Meihn if Todd Oosterhouse is excused from any zoning ordinance discussion or just the zoning ordinance related to the winery issues?

Mike Dettmer: States that Todd Oosterhouse should recuse himself from any township government involvement while he is part of the winery lawsuit against the township. Hornberger and the township supervisor should recluse him. He should resign.

David Taft, 952 Nehtawanta: The attorney gave an opinion about Oosterhouse. Taft sent a letter to the township, and in his opinion, Todd Oosterhouse should not be allowed to attend township meetings, his attendance is a conflict of interest. Whatever he speaks on is a conflict of interest. Asks for clarification.

Couture: Madam chair, for a point of order, should there be an indication of those who wish to comment; are we going through all of the phone callers?

Muratzki: Can ask for the raised hand feature, but phone callers cannot use this.

J.J., no address given: Todd Oosterhouse should not be present

Jill Hammer, 10429 Warren Drive: Had sent written documents to Mielnik; will that be discussed during the zoning update?

Mielnik: Appropriate for comments to be under the zoning ordinance update

Miehn: The question was raised if there would be a conflict of interest for Oosterhouse on the planning commission when discussing the zoning ordinance (winery ordinance). A board member has a responsibility to raise a conflict of interest at the beginning of the meeting before discussion and vote. For the winery ordinance and the ordinance discussion, it is a conflict of interest for Oosterhouse. If there is an indirect conflict of interest, for example, if Oosterhouse wants to promote his winery at that point in a discussion as a planning commission member or a businessman for his winery; a discussion should be held at that time. The real issue is the indirect conflict of interest that would mandate the removal of a board member. There would have to be an inquiry and discussion. There is not anyone present that does not have some indirect conflict of interest at some point in time. If it is such, ~~that~~ they should remove themselves from the discussion, or a board member sees a conflict of interest in another member. Finally, there is a Michigan statute that if a person fails to divulge a conflict of interest, and it is found out that they do have a conflict-of-interest, this results in the removal of the board member.

Dloski: Is conflict of interest defined by statute or township bylaws?

Miehn: Bylaws first, state statutes second. The bylaws would control immediate action if that does not work, then look to the Michigan statute, then after that, the courts look to the definition.

6. Additions to Agenda/Approval: None

7. Consent Agenda:

a. Approval of Meeting Minutes: Planning Commission Meeting, November 16, 2020

Moved by Dloski to approve agenda and consent agenda as presented, seconded by Couture

Roll call:

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8. Reports:

a. Zoning Board of Appeals (Couture)

Couture: ZBA met in November and approved a zoning variance for an individual for storage.

9. Business Items:

a. Zoning Ordinance Update – Public Hearing (continued from 11-16-20)

Hornberger closes the public meeting and opens the public hearing.

Mielnik: Refers to a memo to the planning commission and the town board contained in the packet. Confirming that the public hearing for tonight is looking at the zoning ordinance update with the problematic issues to be set aside and then move ahead with the zoning ordinance that is essentially ninety-five percent acceptable. Comments have been gathered from e-mails and public testimony; time is needed to organize the comments and take them into account.

Hornberger: To summarize, there are sixty-four people present at this meeting. If in the past you have sent an e-mail or spoke at a meeting, we have your comments recorded. If what you wish to say this evening is new, we **wish to** hear those comments.

Curt Peterson, 1356 Buchan Drive, Traverse City: There is a difference in definitions with short-term rentals and home-share. The home-share concept is one where the host is present when the guests are staying in a portion of the house. There have been no nuisance complaints with home-shares.

Lou Santucci, 12602 Center Road, Traverse City: Comments on the proposal by Wunsch which places the controversial parts of the zoning ordinance update aside to a later date. Which parts of the

ordinance will move along? The whole ordinance should be set aside. The proposal in the packet with the days of notice of an infraction would be set aside. In the last packet, there was no notice time. Proposes to keep the fifteen or seven days.

Dave Edmondson, 12414 Center Road, Traverse City: For section 612, general farming could be expanded into more detail to what actual farming is happening on Old Mission Peninsula. Concerned about the penalty with equipment that is parked over fourteen days. He owns a cherry harvester that has not been used for three years. It is not junk. The board needs to understand what is important to the farming community.

Monnie Peters, 1425 Neahtawanta Road, Traverse City: Refers to the definition of structure, which has been redone. Wondering about fences above four feet, it should be a small height level of three feet. Another issue is driveways, it should not be limited to paved driveways. When does a driveway fall into a two-track? How do we qualify driveways?

Jan Beckett, 671 Hidden Ridge Drive, Traverse City: The definitions area needs more work. For example, questions structure and driveways. Section 9.06b. about minimum setback of driveways is unclear.

Hornberger: Encourages citizens to send in written comments.

Hornberger closes the public hearing and opens the regular meeting.

Couture: Clarifies that the non-controversial issues will go forward, and the controversial issues will be pulled out.

Hornberger: The controversial issues should be defined.

Mielnik: The language can be fine-tuned. A committee should work to clarify the issues brought forth in the meetings.

Couture: Volunteers to be on the committee.

Shipman: The memo in the packet said the town board would not take this on until July.

Wunsch: The process could be accelerated at the town board level. The work should be done in the planning commission meetings. The public hearing should occur for a few more meetings.

Hornberger: The committee should consist of Mielnik, Deeren, and three other members.

Hall: What is the process? We have a draft with the controversial issues. Are we going to extract those, and then the draft sent with controversial items as they stand?

Hornberger: The committee will look at the issues, and send it to the township board with the original language.

Hall: The draft with the original language could get approved, and a sub-committee would work on the issues.

Hornberger: The controversial issues would be discussed and put back into the ordinance.

Hall: The controversial issues would be addressed later.

Shipman: Volunteers to be on the committee.

Hornberger: The committee members will be Couture, Hall, and Shipman. Work is to be supported by Mielnik and Deeren.

b. 13795 Seven Hills Road – SUP #139 Public Hearing

Hornberger closes the regular meeting and opens the public hearing.

Mielnik: During the last meeting, the applicant gave an introduction. Since then, a formal application has been submitted. The application was sent to Gordie-Fraiser and funds have been escrowed for an engineering review. Some issues need to be addressed, and the review is underway.

The important concern is the hotel proposed on the site; five acres are required for a hotel under the current zoning ordinance, and the site does not have five acres.

Julie Alexander, 4856 Forest Avenue, Traverse City: They do not have enough land to build the hotel. The survey sent out last year showed that the residents do not want this (type of development).

Nancy Heller, 3091 Blue Water Road, Traverse City: Requests to keep the public hearing open, this application does not contain enough information and is hard to read. Since the COVID restrictions are in effect, the public can not go to the township office to view the formal application. They are stating the approximate location for the new building. The packet was hard to read and they are referencing 1995 plans. Concerned with the health, safety, and welfare of creating traffic in a gully.

Monnie Peters, 1425 Neahtawanta Road, Traverse City: Agrees with Nancy's points. This application does not have the detail that other SUP's possess. Access on Seven Hills is a concern and the speed limit is not marked. Asks to table it for the evening; need more readable information.

Adalaide Leitzel, 1673 Neahtawanta Road, Traverse City: There is not enough information.

Brit Eaton, 1465 Neahtawanta Road, Traverse City: Hypocritical since we are restricting residents and the rentals. This is in conflict with bed and breakfasts. This is opening pandora's box. In the master plan, the residents did not want more expansion.

Dave Merrill, no address given: Zoom is a problem format. Agree with comments on the development. This a residential area and a rural setting. Putting in a commercial venture is alien to public opinion. Secondly, this is a commercial and office service site. Remarked on the traffic and the winter ice.

Michelle Zebell, 2616 Bowers Harbor Road, Traverse City: Lives on a shared driveway. There is a need to consider the quality of life and development rights. Traffic to the boat launch ramp is heavy. Against a hotel, it is in opposition to what we have supported. There is a water issue in this area, it floods.

Sara Thomas, 4856 Forest Avenue, Traverse City: Agrees with the previous comments. Is the commission obligated to consider every proposal? This contradicts the survey results.

Mielnik: The property is zoned commercial. An applicant has the right to make an application in front of the planning commission. The planning commission is not obligated to approve a SUP.

Sara Thomas: Asks the developer why they are building at this site.

Jay Milliken: Not sure of the protocol.

Hornberger: Answer at the end of the questions.

Spencer Stegenga, 13975 Seven Hills Road, Traverse City: This is a busy stretch of land and used to be a machine shop. Remarked on shared property lines. There are drainage concerns- what does that mean to the adjacent property? The vineyard has projects that could be jeopardized.

Jay Milliken: Gave an overview of the project. The developers are local residents on the peninsula and are passionate about responsible development. Some of the buildings will be removed. The motel/hotel terms go with the commercial zoning designation. The hotel is ten rooms. They are working with engineers to comply with the project. Aware of the survey and the goal is not to increase tourism, but instead, create a community center.

Jennifer Hodges: We have been corresponding with the developer to address the concerns and better understand the plans. The health department and the road commission have been involved in the preliminary reviews; concerning the impacts to the drain field and well, as well as the traffic counts. We have asked for ADA compliance.

Milliken: We are working with documents from the nineties and we will be working on new, more legible plans.

Mielnik: There is a five-acre requirement for a hotel.

Hornberger: We are working under current zoning. We should continue this public hearing until January.

Dloski: Agree, tried to decipher the plan; is there a new 3,700 square foot building for storage?

Milliken: The plans are from 1995. That is a building that will be removed. We have submitted all of the plans requested.

Discussion of the plans and the five-acre requirement, ordinance, and zoning requirements.

Hodges: The goal and objective are to work and clear confusion, working with the applicant to clean up the plans and get preliminary reviews.

Mielnik: We will prepare findings and conclusions when we have an actionable application.

Hornberger: Requests a clean application that can be approved.

Miehn: It is unfair for the applicant to come back with documentation and new plans when he does not meet the requirement of five acres for the hotel.

Mielnik: There are other elements to the project, besides the hotel.

Miehn: If there are other elements for consideration that is alright, but the hotel can't be approved.

Milliken: We would like to proceed without a hotel.

Moved by Wunsch to table 13795 Seven Hills Road – SUP #139, seconded by Couture.

Roll call:

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Hornberger opens the regular meeting. Hornberger closes the regular meeting.

c. Zoning Amendment #200 – Accessory Solar Equipment - Public Hearing

Hornberger closes the regular meeting and opens the public hearing.

Mielnik: We have been talking about amendments to on-site solar systems. The solar proposal was discussed at the last meeting, with expansion to ground-mounted systems between 10kW-30kW, and also a provision for ground-mounted solar systems that are 30 kW or greater. Clarifies 3e.

Monnie Peters: For 30kW or larger, do they need D and E that is in the 10kW-30kW about viewsheds and PDR? Should have sections D and E under 3, also under 4, unless there is some reason not to.

Dave Edmundson: Needs clarification, is D and E included in ground-mounted solar 30 kW and greater?

Mielnik: As written, number 4 ground-mounted solar energy systems 30kW or greater may not be on a parcel included in a viewshed, so D would not apply.

Dave Edmundson: A solar panel on PDR land or viewshed, and in that covenant, people that have a conservation easement have an agreement with the township. That would breach existing contracts. Opposed the removal of the panels if you do not use them for twelve months.

Hornberger: D and E are in number 3, and not in 4.

Mielnik: This is because 4 said a ground-mounted solar panel cannot be on a parcel in a viewshed.

Miehn: Do not need a consideration or evaluation process.

Comments and discussion of Solar Amendment #200

Hall: Does section 3E which talks about PDR land, is that for ground-mounted systems of any size?

Miehn: Yes, it could go under 4.

Hall: 3E should be moved to 5 and make it 5D and would apply to sections 3 and 4.

Hornberger: 3E and move it to 5D

Wunsch: Eliminate D on 2

Hornberger closes the public hearing and opens the regular meeting. Zoning Amendment #200 – Accessory Solar Equipment (amended as discussed) to be put on the agenda for the January meeting.

Wunsch: Would the first header allow us to enforce the on-site energy requirement?

Miehn: Yes, we need an enforcement mechanism. The energy companies are self-enforcing; we wanted additional protections.

d. Election of Officers

Hornberger: There is a need to elect a chair, vice-chair, and secretary. Would like to step down as the chair.

Couture: Volunteers to work with Hornberger to create a slate for January.

e. Annual Report

Mielnik: Will produce an annual report for the January meeting.

f. Discussion Regarding Master Plan Update

Mielnik: Summarized history of the master plan work. The survey done last year is viewed as a foundation for the new master plan update. State law requires communities to look at master plans every five years. The town board has approved an online tool for community engagement and the platform is “Bang the Table,” and the township has named it “Participate Old Mission.” It will be introduced in the winter newsletter in January. Presents a PowerPoint of the site setup. It is designed for the public to provide feedback, dialog, ask questions, share ideas, and pinpoint locations that should be looked at for improvement or preservation.

Planning commission discussion of the online engagement tool.

g. January & February Meeting Dates – 1-25-21 & 2-22-21

10. Public Comments:

Heller: Asks if the public can get the list of public comments for the zoning ordinance. Seasonal residents should be given time to comment on the zoning ordinance update. “Bang the Table” is not anonymous. Asks Hornberger to reconsider continuing the chair position.

11. Other Matters or Comments by Planning Commission Members:

12. Adjournment:

Moved by Couture to adjourn, seconded by Shipman.

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Adjournment at 9:45 p.m.