

PENINSULA TOWNSHIP
13235 Center Road, Traverse City MI 49686
Ph: 231.223.7322
Planning Commission Regular Meeting

May 16, 2022 7:00 p.m.

1. Call to Order: 7:00 p.m. by Hall

2. Pledge

3. Roll Call: Present: Wunsch, Alexander, Hall, Hornberger, Couture, Dloski; absent: Shipman; also present: Planner Jenn Cram, Attorney Greg Meihn via phone, Township Zoning Administrator, Christina Deeren, and Recording Secretary, Beth Chan

4. Approve agenda:

Hall: recommends a change for agenda item number five, which currently reads *for public comment for agenda items only*; the change is *to items not on the agenda* according to the bylaws section 2.8.

Moved by Dloski to modify item five on the agenda moving forward to agenda items not on the agenda, seconded by Alexander

approved by consensus

Cram: makes two changes: first add item d. to 8. Reports for an update on the Seven Hills development and add an item to Other Matters or Comments by Planning Commission Members at the end of the meeting for future dates and training.

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

approved by consensus

5. Brief Citizen Comments: (for agenda items only)

Discussion and clarification of citizen comments change

Nancy Heller, 3091 Blue Water Road: commented on the change for public comment and wanted to clarify that any items on the agenda can be commented on by the audience in the beginning. Seeing a big difficulty in what was just presented.

Couture: clarified that public comment (on agenda items) will take place after the business section of the meeting.

Cram: summarized meeting procedure, the only change is reducing duplication of public comments on agenda items.

Hall: this is important, directed audience to ask questions about the meeting procedure

Lou Santucci, 12602 Center Road: asked for clarification on commenting on several items in a group and asked if he can speak to each one of the items separately. This is hard to do in a three-minute time frame. Asked for the items to be separated.

Hall: There is a lot on the agenda, it is a goal to keep public comments to three minutes, but more flexibility will be offered.

Dave Edmondson, 12414 Center Road: Asked about reports and updates in the packet and when did they change to a verbal presentation? Will minutes be taken?

Cram: minutes will be taken

Edmondson: one of my farmer, agriculture counterparts (Tabone) is being harassed by the zoning department, he has the right to sell products from other growers. This is a disservice to the community. We need support, not aggravation. We need to embrace the right to farm act.

6. Review for Conflict of Interest: None

7. Consent Agenda:

Moved by Hornberger to approve consent agenda, as presented, seconded by Alexander

approved by consensus

8. Reports and Updates:

a. PDR Ordinance Re-write (Cram)

Cram: that will be heard before the township board on June 14th and a revised red-line version will be posted online. Technical changes are being made related to accounting processes.

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b. Bella Vue SUP #137 (Cram)

Cram: this application has been pending for over two years. The township board allowed the applicant to move through the PUD process instead of the standard land division. It does not meet the requirement of having a minimum of twenty acres, so it did require board approval to move through the planning commission process. Trees were removed from the property and the application was looked into. It was found that six units were requested on 4.5 acres which exceeds the zoning ordinance; the most they could request is four units. It is more realistic to have three units. A complete application needs to be submitted, and it needs to be determined if the applicant wants to move forward with the PUD process or a standard land division and withdraw the application.

c. New B & B application at 550 Camino Maria Drive (Cram)

Cram: There is a new B and B application, review has begun; suggested an introduction and public hearing for June. In the future, would like to streamline the process and have the introduction and public hearing in the same meeting

d. Seven Hills update (Cram)

Cram: there are two plans, an original and an updated plan. The applicant has reduced the footprint, and all of the uses are consistent with what was approved. The maximum capacity of thirty-two patrons remains in effect. The original approval did not allow for outdoor uses. Will take minor modification to the Township Board for approval on June 14, 2022.

9. Business:

a. Zoning Ordinance Re-write-Proposed Modifications to November 16, 2021, Draft-Public Hearing

Cram: gave a historical summary of the zoning ordinance rewrite for the last six years found in the May 11, 2022 memo found in the packet.

Board discussion on the flow of the public hearing

Cram: summarized the proposed modifications to the zoning ordinance noted in the May 11, 2022 memo found in the packet. For the most part the language that is in the current rewrite will be removed from certain Sections as noted and will be replaced with the original language in the 1972 existing zoning ordinance. In addition, a few words have been deleted to clarify intent. Items one through six were covered in the last meeting. Then the floor will be opened for public comment.

1. Section 1.05-Conflicting Regulations (Page 1-2)
2. Section 2.02-Definitions (Pages 2-1--2-17)
3. Section 6.15-Hotels and Motels (Pages 6-9--6-10)
4. Section 6.24-Rental of Dwellings (Page 6-19)
5. Section 6.25- Roadside Stands (Page 6-19)
6. Winery-Chateaus 6.34 (Page 6-32)
7. Section 3.13-Great Lakes Shoreline Regulations (pages 3-11--3-19)
8. Section 8.04-Soil Erosion and Sedimentation Control and Protection of Steep Slopes

Wunsch: will the requirement for a roadside stand to have fifty percent of the product be grown on the farm?

Cram: future policy direction includes the fifty percent requirement as is consistent with the Right to farm GAAMPS for Farm Markets.

Hornberger: wanted clarification that this is going back to the original language.

Dloski: will the new language be available in June for roadside stands?

Cram: policy direction from the Citizens' Agricultural Committee will be presented in June

Dloski: is the policy direction going to be consistent with the right to farm act?

Cram: yes

Dloski: Under the GAAMPS for farm markets, roadside stands are under the umbrella of farm markets

Cram: a roadside stand is a type of farm market

Moved by Dloski to close the regular meeting and open the public hearing on items 1-6, seconded by Wunsch

approved by consensus

Curt Peterson, 1356 Buchan Drive: provided a handout (attached) to planning commission members. Summarized handout on the difference between rental of dwelling (short-term rental) and Home Sharing.

Lou Santucci: commented on the short-term rental, glad to hear the different views will be vetted. One cannot state that they are banned in all of the zones. For owner-occupied short-term rentals, there has never been a problem; we are here to support

them. Cherry farms are missing and this would give agricultural operators a leg up. Agriculture is changing, tourism is here to stay.

Cram: the Citizens' Agricultural Advisory Committee is not addressing short-term rentals. Home sharing is a bed and breakfast.

Marc Santucci, 11789 Center Road: read comments included in an attachment to the minutes.

Lou Santucci: commented on the farm market, it is not just fifty percent of total sales; it includes fifty percent of the floor area or the business plan. An easy fix is that the township will follow the right to farm act and GAAMPS. The township is trying to enforce an ordinance that does not comply with GAAMPS. The language should be fixed. Cites a case in Leelanau County where a farmer had built a building and the judge told the township they could not enforce a setback because it conflicts with the GAAMPS. There is no size requirement in the GAAMPS, there is a setback requirement. Our township needs to take note of the GAAMPS and follow them.

Dave Edmondson: Concurs with Lou and Marc. The right to farm is important to the agricultural community and will make life easier for legitimate farmers. The wineries are preserving the land, we need to embrace the wine community.

Hall: should we move forward with seven and eight?

Dloski: questioned one through six, proposed revisions; we are going to the original language?

Cram: roadside stands will be addressed in the future. The Citizens' Agricultural Advisory Committee is reviewing and will provide policy direction; the other items will be vetted through the planning commission. The list will come back one at a time for discussion and at that time will allow for public comment. Once completed, the township attorney and I will draft the verbiage. Every planning commission agenda will likely have an item for consideration.

Hall: if the planning commission concurs with staff recommendation on the zoning ordinance rewrite, we will have a motion to approve the rewrite to be sent to the township board. We should talk about seven and eight and then consider all items.

Wunsch: explains the process at the township board level when recommendations are sent from the planning commission

Cram: summarized item seven found in the May 11, 2022, Memo Re: Zoning Ordinance Re-write-Proposed Modifications the November 16, 2021 Draft, Great Lakes Shoreline Regulations. Notes that this is a priority moving forward due to the value of the graphics. Dock placement is a discussion for the future.

Hall: was staff going to accept the new language removing the language on shoreline vegetation?

Cram: heard from citizens about this topic, but a past planning commission member had said that a public hearing had not been held on this topic, they recommended removing and replacing.

Discussion on procedure

Couture: inclined to stay with the plan to go back to the original language

Wunsch: concurs

Monnie Peters, 1425 Neahtawanta Road: it is much better to go back to the old version and take a look at the new version. McKenna helped with the diagrams and the drawings with the shoreline definition. We did not broach where you put the dock and how many hoists can be on the dock. We recognized at that point those were problematic. This section wasn't clear that those pages should be taken out. At this point, the old regulations are enforceable and pick up all of the shoreline regulations.

Dloski: is the intent for the planning commission to review the shoreline regulations in their meetings or would a subcommittee work for discussion?

Cram: a planning commission subcommittee will work on this

Dloski: a subcommittee is set up for zoning issues

Cram: Donna, Randy, and Larry make up the subcommittee

Discussion of priorities

Cram: summarized item eight found in the May 11, 2022, Memo Re: Zoning Ordinance Re-write-Proposed Modifications the November 16, 2021 Draft, Soil Erosion and Sedimentation Control and Protection of Steep Slopes.

Explained how the amendments were incorporated into the zoning ordinance.

Hall: asked for public comment on item eight

Hall closed the public hearing and opens the regular meeting

Hall: asked for a motion to approve the zoning ordinance rewrite with the amendments one through eight recommended by staff to approve this as amended to send to the township board for approval of the zoning ordinance rewrite

Moved by Couture to adopt the eight changes to the current recommended zoning ordinance revisions and the eight changes bringing back the current language and forward that to the township board, seconded by Alexander.

Discussion

Dloski: questioned that the roadside stand language is not enforceable

Hall: the statute quo on roadside stands may be inconsistent with the right to farm act and the GAAMPS

Meihn: ordinances that may have questionable issues on how they are thought of can be enforced in a manner that is compliant with GAAMPS.

Roll call:

approved unanimously

b. Policy Recommendations from the Citizen's Agricultural Advisory Committee on Winery-Chateau and Farm Processing regulations-Discussion and Recommendation to Township Board

Cram: the Citizens' Agricultural Advisory Committee was created by the township board in light of the winery lawsuit with the intent of understanding current ordinances and recommending possible modifications to mediations of points outlined in the lawsuit. The township board appointed ten citizens to the committee so far. The wineries have not participated in an official capacity, three seats remain open. The last official meeting of the Citizens' Agricultural Advisory Committee was on April 28, 2022. The committee was interested in continuing to discuss zoning issues. Three additional seats were requested and approved for agricultural operators to be heard. The intent is for parity across all agricultural operators. This committee will meet at 10:00 a.m. on the fourth Thursday of the month. Reviewed the memo to the planning commission included in the packet dated May 11, 2022, Re: Winery Chateau and Farm Processing Policy Recommendations from the Citizens' Agricultural Advisory Committee. Reviewed the policy direction from the memo.

Alexander: asked what happens to a winery chateau in existence?

Cram: any winery chateau with an SUP will be grandfathered in under what was approved. Moving forward if a modification is requested, they will have to come through an amendment process. In the coming months, all SUPs in the township will be examined by the planner and the zoning administrator.

Hall: are these policy recommendations final at this point? Will the planning commission approve these tonight?

Cram: the planning commission is approving the policy direction, not the exact language. Staff and the Township attorney will draft the language.

Hall: comment can be heard tonight and also when the language is drafted.

Dloski: how does this relate to the lawsuit?

Cram: The Citizens' Agricultural Advisory Committee was formed as a result of the lawsuit. When they started to talk about the zoning ordinance, we realized it would be beneficial to look at future recommendations to address the zoning ordinance that would provide clarity, these are not specific to the lawsuit.

Dloski: what good is this? This could be negated by a judge.

Cram: we needed to look at the current zoning ordinance and the Citizens' Agricultural Advisory Committee decided during this process- did they agree or did they want to look at something else. What a judge would rule on is specific to the lawsuit, not necessarily our entire zoning ordinance.

Dloski: not prepared to vote on this tonight

Cram: there is a moratorium that ends on July first, the Township Board would like to update the zoning ordinance before that date.

Discussion on the Policy Recommendations from the Citizens' Advisory Committee dates moving forward

Cram: recaps recommendations included in the packet dated May 11, 2022, Re: Winery Chateau and Farm Processing Policy Recommendations from the Citizens' Agricultural Advisory Committee

Hall closes the regular meeting and opens the public hearing

Marc Santucci: states he does not believe there is a member on the agricultural committee that is growing grapes. The three Protect The Peninsula members have publicly spoken against wineries. There are three citizens. These members have been picked by the township board. For the SUPs, all bets are off.

Cram: All SUPs are grandfathered with original approvals.

Marc Santucci: Disagrees with the change in the rules where the grapes and cherries come from, under these rules, you are limited to a twenty percent limit. Disagrees with the additional land requirement. For the rules on food, what reason for the prepared versus made from scratch food? Can't use the vegetables grown on-site because it has to be prepared and can be heated but not cooked. This is NIMBY. The wineries will go to the state to get the rules changed. There are two proposed wineries that want to come in and the township is blocking them from coming in on the existing rules. Disagrees with the committee makeup and was not allowed to participate, because he was not in Traverse City at the time. The members of the wineries were not allowed to participate.

Lou Santucci: Challenges the planning commission in passing the policy recommendations. Feels they will trap a future winery. An existing winery with a change to their SUP will be subject to the new rules. He did not have input and two days is not enough to consider these recommendations. Feels the process was not transparent. Challenges the committee and the results of the committee. Recommends that this is tabled.

Chris Baldyga, 9707 Montague Road: echoes the comments on the makeup of the committee. Feels like it was not a balanced group. The first recommendation made was to sunset the winery chateau ordinance and the remote tasting room ordinance. Questions the invalidation of the work put into these ordinances in the past. Commented on the farm processing language: it doubles it to from forty to eighty acres with sixty-five percent of acreage covered in crops. The size of the parcel doubles and is five times the amount of acreage required. There are no incentives mentioned, instead more restrictions for small farms. The language holds back Old Mission agriculture.

Dave Edmondson: concurs with his counterparts. He participated in this committee. There were three agriculture operators and they were outvoted. Most of these items the agriculture participants did not want. Need more participation from agriculture. Need all sides and feels it does not represent this. The township needs to work for the agricultural community.

Todd Oosterhouse, 7700 Peninsula Drive: appreciates the re-write as it was time, it was non-ag-centered people. Why rush something so important to the community. Gives examples that he feels do not represent parity. Feels it is limiting the growth of a winery, once the land is maxed at eighty percent, that is as high as it can go.

Cram: what is proposed is more flexible

Todd Oosterhouse: it says from your own land. Make the committee top-heavy on the agriculture side.

Nancy Heller, 3091 Blue Water Road: asks that when going through the policy recommendations, how realistic was placement? Asks about do-ability because of the unique shape of these properties. Mentions that comments tonight about staff were not fair. Feels haste makes waste.

Curt Peterson: there are unintended consequences with not serving meals. Right now, groups go through the wineries sampling the wine. By not allowing meals, unwanted activity remains. Cited an example of restaurants in New Zealand wine county.

Law Siebold, 3195 Cherry Hill Road: not all farmers agree with one another and farms are very different. It is not only grapes and cherries. Need something general enough for each farm's intention. He is a member of the committee; there has been good discussion. There are different interests, good general input brings clear ideas to move forward. Cooperation is needed. Unsure of the future, but appeals to all to look at this objectively to make the peninsula the best place to live.

Dennis Arouca, 850 Nehtawanta Road: commented about economic development and serves on the board of directors of GTEDC, Grand Traverse Economic Development Corporation. On a personal level, Old Mission is rural and agricultural, a key tenant is to enhance the assets we already have. In this case, it is the rural and agricultural character. Another is balance. Do not destroy the assets for growth. The Citizens' Agricultural Advisory Committee seems to be moving in the right direction, a reset of appropriate balance among the competing interests that preserves what makes our peninsula great and allows for enhanced economic development in the agricultural community.

Rudy Rudolf, 4784 Forest Avenue: serves on the agricultural committee. Clarified that the grape growers chose not to serve on the committee, however, they were in the audience and had the opportunity to comment. Early in the process, heard from agricultural operators (not from wineries) who felt they did not have the same footing on the peninsula and felt the zoning ordinance favored wineries. As a result, one of the first actions was the winery chateau ordinance was sunsetted to put energy back into making a good farm processing ordinance that benefitted all operators. Winery operations are more intense than regular agriculture. That is why a scaled approach was recommended for farm processing. Regular agriculture is not dead, there are many acres planted with new trees: 300 acres of orchards in the last few years. Concerned about the request by the wineries to bring in outside juice to process from outside the area. Agriculturally zoned land is for agricultural purposes. Unlimited amounts of juice being brought in should be on industrial zoned land. The same for commercial establishments. Finally, mentioned provisions due to a problem due to climate, additional materials can be brought in and are on the books.

John Wunsch, 17881 Center Road: is on the committee. The planner did not feed the committee information. The attacks on the planner's process are unfounded. There is a myth that orchards are not viable, 300 acres were planted in the last five years. Commented on imbalance, when restaurants raise the price of land value. A balance should be made. Scaling allows smaller agricultural operations to get going. Thinks that make it easier for all farmers. The lawsuit allowed for reexamination. If the balance is tipping to large operations that are not farming, then it is time for a reset. Wineries are not bad, but there were over a thousand complaints against wineries in the last year. Commented that bringing in juice does not support agriculture. Move forward with the policy recommendations.

Cram: the Citizens' Agricultural Advisory Committee was created for balance. When they first started meeting, the recommendation came out to sunset the winery chateau ordinance. Took the group through an exercise to compare the winery chateau to farm processing for pros and cons. For fifty acres in ownership and seventy-five percent must be planted, there are acres preserved in agriculture. The other growers wanted what they perceived the wineries had. Looked at what should a true farm processing operation as a use by right look like. Requested three more agricultural operators to bring back policy that promotes agriculture. For a farm market, it allows for limited processing. This is a part of the puzzle that has been elevated as a result of the lawsuit. This committee is not a decision-making body. The meetings were open and comments were accepted in writing. It was an open process.

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Beth Chan, Recording Secretary

Michelle Zebel, 2616 Bowers Harbor Road: observed that farmers are critical and will become more important in the future. Having local experts is critical. The farmers and farmland are precious and they have a passion.

Hall closes the public hearing and opens the regular meeting.

Dloski: not comfortable making a recommendation on a policy statement not in the form of an ordinance; wants to review it more thoroughly.

Cram: the goal was to see if it is headed in the right direction

Hall: does not have the background of the discussion

Dloski: table it to the next meeting

Meihn: can call a special meeting, the planning commission does not have to be pushed to make a decision

Wunsch: committee put in over thirty hours to develop these recommendations. Should direct the planner to start draft language for discussion

Discussion of a special meeting

Motion by Dloski to table the discussion of the Winery Chateau and Farm Processing Recommendations from the Citizens' Agricultural Advisory Committee to Monday, May 23, 2022, special planning commission meeting, seconded by Wunsch.

Roll Call approved unanimously

c. Future dates (Cram)

Cram: meet with Greg Meihn on the process and protocol and look at the by-laws. There should be training and onboarding for new planning commission members. Secondly, would like to streamline the process for the applicant

10. Public Comments:

Marc Santucci: Commented on the December mediation, Protect the Peninsula discussion. Wanted to participate in the Citizens' Agricultural Advisory Committee but it was not open to everyone. For the 300 acres of planted trees, in 2001, 850,000 2021, 130,000 took out trees because it was not profitable. His pick your own business is profitable. Spoke about buying land for a vineyard or winery. Spoke of the costs to plant a vineyard, a multi-million investment.

Lou Santucci: wanted to participate via YouTube for the Citizens' Agricultural Advisory Committee but was not allowed. This was not an open process.

Todd Oosterhouse: why are we taking things away, why can't cherry farmers do what wineries do?

Dave Edmondson: the committee voted for YouTube, but the clerk said it was unavailable.

11. Other Matters or Comments by Planning Commission Members:

Wunsch: stated his actions have been mischaracterized. The decision to not use YouTube was consistent with other subcommittee actions, felt it was an open process.

12. Adjournment:

Moved by Dloski to adjourn, seconded by Wunsch

approved by consensus

Adjournment at 10:05 p.m.