# CHARTER TOWNSHIP OF GARFIELD PLANNING COMMISSION MEETING

Wednesday, June 26, 2019 - 7:00 pm Garfield Township Hall 3848 Veterans Drive Traverse City, MI 49684 Ph: (231) 941-1620

#### AGENDA

## Call Meeting to Order

#### **Roll Call of Commission Members**

- 1. Review and Approval of the Agenda Conflict of Interest
- 2. <u>Minutes</u> –June 12, 2019
- 3. <u>Correspondence</u>
- 4. Reports
  - a. Township Board
  - b. Planning Commissioners
  - c. Staff Report
- 5. Business to Come Before the Commission
  - a. PD 2019-71 Period of Effect-Special Use Permits Text Amendment Follow up
  - b. PD 2019-70 Sign Ordinance Update Overview
  - c. PD 2019-72 Barlow Garfield Neighborhood Plan Update
- 6. Public Comment
- 7. <u>Items for Next Agenda July 10, 2019</u>
  - a. Living Hope SUP Finding of Facts
  - b. Munson Childcare SUP Finding of Facts
  - c. Ashland Park PUD Amendment Finding of Facts
  - d. French Manor PUD Amendment Finding of Facts
  - e. Chelsea Park West PUD Amendment Introduction
  - f. Grand Traverse Leisure SPR
  - g. Zoning Ordinance Auto Laundries, Golf Course, R-3 Side Yard Text Amendment Public Hearing
  - h. Alpers SUP Renewal Introduction
- 8. Adjournment

Joe Robertson, Secretary Garfield Township Planning Commission 3848 Veterans Drive Traverse City, MI 49684

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# CHARTER TOWNSHIP OF GARFIELD PLANNING COMMISSION MEETING June 12, 2019

<u>Call Meeting to Order:</u> Chair Racine called the meeting to order at 7:00pm at the Garfield Township Hall, 3848 Veterans Drive, Traverse City, MI 49684.

## **Roll Call of Commission Members:**

Present: Robert Fudge, Joe Robertson, Pat Cline, Chris DeGood, Steve Duell, Joe McManus and John Racine

Staff Present: Planning Director John Sych and Deputy Planning Director Steve Hannon

# 1. Review and Approval of the Agenda – Conflict of Interest (7:01)

Racine and DeGood declared conflicts with item 5e.

Duell moved and Cline seconded to approve the agenda as presented.

Yeas: Duell, Cline, Fudge, DeGood, Robertson, McManus, Racine

Nays: None

## 2. Minutes (7:01)

## a. May 22, 2019

Fudge moved and McManus seconded to adopt the minutes of May 22, 2019 as presented.

Yeas: Fudge, McManus, DeGood, Duell, Robertson, Cline, Racine

Nays: None

## 4. Correspondence (7:02)

None

## 5. Reports (7:03)

## **Township Board Report**

Duell reported that the updated Articles of Incorporation from Metro were adopted, Molly Agostinelli was reappointed to the Joint Recreation Authority, and Planning Director Sych presented a Strategic Plan Proposal. The board also approved a letter from the Township Supervisor supporting the Ironman race.

## **Planning Commissioners**

No reports

#### Staff Report

Sych said that at the June 26<sup>th</sup> meeting the Barlow/Garfield neighborhood plan will be discussed. Deputy Planning Director Steve Hannon said he is working on GIS software and considering an online option.

## 6. Business to Come Before the Commission

# a. PD 2019-59 Green US-31 Findings of Fact (7:05)

The applicant requests to rezone approximately ¾ of an acre of land from C-O Office Commercial to C-G General Commercial via map amendment. The property is located at 1202 N. US 31 South and is vacant except for a paved parking and turnaround area. The property was formerly a scenic overlook. Staff said that this proposed rezoning is not consistent with the Master Plan as the master plan targets the property for agricultural purposes.

Duell moved and Fudge seconded THAT the Findings of Fact for application Z-2019-02, as presented in Planning Department Report 2019-59 and being made part of this motion, BE ADOPTED.

Yeas: Duell, Fudge, DeGood, Robertson, Cline, McManus, Racine

Nays: None

Duell moved and Fudge seconded to RECOMMEND to the Township Board THAT application Z-2019-02 BE DENIED.

Yeas: Duell, Fudge, DeGood, Robertson, Cline, McManus, Racine

Nays: None

# b. PD 2019-61 Ashland Park PUD Amendment Public Hearing (7:08)

The application requests an amendment to Phase 2 and Phase 3 of the Ashland Park Planned Unit Development by replacing the 2001 original approved mix of 124 quadplex residential units, 42 duplex residential units and 21 single family residential units with a new pattern consisting of 158 duplex residential units. In 2017, 110 dwelling were proposed. This plan would result in an overall reduction of 29 residential dwelling units and bring more open space to the area.

Ben Brower, representing the owner, spoke and said the duplexes are very popular. Additional pocket parks have been added along with additional sidewalks and walking paths throughout the complex.

Chair Racine opened the Public Hearing at 7:13pm.

Jack Follett, an adjoining property owner, spoke about his concerns with the PUD which were too many duplexes, and duplexes being placed next to residential one family homes. He was also concerned about duplexes being rented.

Tom Gorsline lives near the development and is concerned about the density of the proposed development.

*Gretchen Murray* of Birmley Estates Drive said her home has been impacted since there is little buffer between the developments.

Tom Cash of Hillview Drive lives in one of the condos. Most condos are purchased by retirees.

Sheryl Pozna asked about association fees and wanted clarification on the home classification and their value and also agreed that a buffer was needed.

Chair Racine closed the Public Hearing at 7:32pm.

Ben Brower came back and addressed the questions brought up in the public hearing. He stated that there will be association fees, and that there are no renters shorter than 12 months. Duplexes will continue to be built in the same fashion as the ones presently existing.

Commissioners discussed the proposed project along with density, maintenance and accesses.

Duell moved and Robertson seconded to direct Staff to prepare Findings of Fact for application PUD-2001-01-F for consideration at the July 10, 2019 Regular Meeting of the Planning Commission.

Yeas: Duell, Robertson, McManus, Cline, DeGood, Fudge, Racine

Nays: None

## c. PD 2019-62 French Manor PUD Amendment Public (7:52)

The applicant requests an amendment to the Terra Energy PUD which was approved in 1995 to provide a single-story 80 unit assisted living facility. Phase 1 development consists of 30 units. Future phases will expand the units to a total of 80 units. The parcel is approximately 3.78 acres and located in the Terra Energy PUD east off of LaFranier Road. The existing zoning of the parcel is R-3 Multiple Family Residential.

Dusty Christensen, of Mansfield Land Use Consultants on behalf of the applicants, explained the project and said that they would like an 80 unit assisted living facility built in two phases. He stated that there are similar developments in this corridor and the main access will be off of Terra Drive. Developers have contacted Metro Fire and a hydrant will be provided nearby with a fire access off of LaFranier Road.

Chair Racine opened the Public Hearing at 7:58pm.

Ruth Smith of Terra Road inquired about the access and said that their association has always paid to maintain the private road.

Larry Cornell of Chestnut Hills shared his concerns about a buffer zone, privacy, and a generator being placed right near the border of his property. Catherine Vallaveck inquired about the road and asked about a privacy buffer.

Carol Evans of Terra Road shared concerns with a buffer.

Jacquie Gwyn of Terra Road shared concerns with the Road Commission maintenance agreement.

Larry Vidovic of Terra Road shared concerns with the private road.

Diane Vidovic asked about parking and building placement.

Chair Racine closed the Public Hearing at 8:13pm.

Dusty Christensen addressed the comments and concerns from the public concerning the road, the buffer and the generator placement. He stated that the buffer exceeds the standards set by the township at this time.

Commissioners discussed the buffer, and the private road and asked if the generator could be placed in another location. Sych explained what could be placed on the property according to the ordinance and said that French Manor was a fairly light use for the property.

DeGood moved and Fudge seconded to direct staff to prepare Findings of Facts for application SUP-1995-03B for consideration at the July 10, 2019 Regular Meeting of the Planning Commission.

Yeas: DeGood, Fudge, McManus, Cline, Robertson, Duell, Racine

Nays: None

# d. PD 2019-63 Living Hope SUP Public Hearing (8:33)

The applicant is requesting approval of a Special Use Permit for a proposed 13,500 square foot addition to an existing 7,296 square foot church, with an associated 134 space parking area. Institutional uses are permitted via special use permit in the R-1 One-Family Residential District.

Steven Richardson of Peninsula Construction talked about signage and a buffer. The existing accessory building owned by the church will be taken down, but the other one is owned by AT&T and will remain. The church will hook up to existing water and sewer underneath S. Airport Road.

Chair Racine opened the Public Hearing at 8:37pm.

Larry Andrews has property next to the church and is in support of the church project but asked about winter maintenance.

Brenda Lau of Day Drive said that a buffer is important to her since she is a neighboring property. She has no issue with the expansion but shared concerns with snow removal and storage.

Chair Racine closed the Public Hearing at 8:45pm.

Commissioners discussed the dumpster enclosure and asked questions about the snow removal and storage.

Duell moved and Robertson seconded to direct staff to prepare Findings of Fact for application SUP-2019-02, submitted by Living Hope Church, for a Special Use Permit for a church addition at 3050 South Airport Road.

Yeas: Duell, Robertson, Cline, McManus, DeGood, Fudge, Racine

Navs: None

e. PD 2019-64 Munson Childcare SUP Public Hearing (8:52)
DeGood and Racine excused themselves for this agenda item.

The applicant requests approval of a Special Use Permit (SUP) to use an existing 9,256 square foot building as a Child Care Center. The building is located at 5222 North Royal Drive and is zoned C-O – Office Commercial. Child Care Centers are permitted via SUP in the C-O District. The center will be for use by Munson employees only and will have a capacity of 110 children. There will be 20 staff members and hours of the center will be from 6:00am – 6:00pm, Monday through Friday. Petra Kuehnis of Mansfield Land Use Consultants said nothing major has changed since the introduction except that buffering has been discussed and a taller privacy fence has been erected.

Vice Chair McManus opened the Public Hearing at 8:54pm and seeing . no one wishing to comment, closed the Public Hearing.

Commissioners asked to make the dumpster enclosure larger.

Duell moved and Fudge seconded to direct staff to prepare Finding of Fact for Application SUP-2019-03, submitted by Munson Healthcare Children's Center, for a Special Use Permit for a childcare center at 5222 North Royal Drive.

Yeas: Duell, Fudge, Cline, Robertson, McManus

Nays: None

7. Public Comment (8:56)

None

- 8. <u>Items For Next Agenda June 26, 2019 (8:57)</u>
  - a. Performance Guarantee/Renewal of SUP's
  - b. Sign Ordinance Update Content Neutrality
- 9. Adjournment

Fudge moved to adjourn the meeting at 9:00pm.

Joe Robertson, Secretary Garfield Township Planning Commission 3848 Veterans Drive Traverse City, MI 49684

Charter Township of Garfield Planning Department Report No. 2019-71				
Prepared:	June 20, 2019	Pages:	Page 1 of 2	
Meeting:	June 26, 2019 Planning Commission Attachments:			
Subject:	Period of Effect-Special Use Permits (Sect	ion 423) Text Amendr	nent – Follow-Up	

#### **BACKGROUND:**

At the May 22, 2019 meeting, the Planning Commission reviewed the proposed amendment to Section 423 of the Zoning Ordinance regarding the period of effect for special use permits. The proposed text amendment would have added a statement indicating: "Special use permits with an active performance guarantee must be brought before the Planning Commission every five (5) years for review and renewal."

The catalyst for this text amendment is gravel mining operation currently operating under an approved Special Use Permit (SUP). The SUP covers a 10-year period and the agreement allows the Township to review the terms and conditions every two years to assure that they continue to be met. Another part of the agreement allows for review of the monetary amount of the performance guarantee every 2 years.

As mentioned in PD Report 2019-56, the current Zoning Ordinance has no clear provision to allow for the renewal of a SUP in this manner. However, there may have been an interpretation or provision of the previous Zoning Ordinance that allows for this application of a SUP.

Commissioners had some concerns about the proposed text amendment language. Specifically, any text amendment should not place a greater than reasonable burden on an applicant, nor should the language be interpreted as trying to push out a particular use.

#### **REVIEW OF INFORMATION:**

In addition to reviewing the original SUP for the gravel mining operation, staff also reviewed the other relevant parts of the Zoning Ordinance and State laws. The Michigan Zoning Enabling Act (Act 110 of 2006, MZEA) includes language governing allowable regulations for special land uses. According to the MZEA (MCL 125.3504(4)), "reasonable conditions may be required with the approval of a special land use" and that "conditions imposed shall meet all of the following requirements:"

- a) Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being, of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
- b) Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
- c) Be necessary to meet the intent and purpose of the zoning requirements, be related to the standards established in the zoning ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

These conditions need to be related back to the review of standards for approval. The MZEA also allows municipalities to collect a performance guarantee, but this section does not have any requirements on how often the performance guarantee should be reviewed.

Section 423.E of the Zoning Ordinance describes the standards of approval for special uses. Applicants must demonstrate that the proposed use will not be hazardous due to excessive noise, dust, and other nuisances; will not be detrimental to the public health, safety, and welfare; and several other standards.

Also, Section 774 describes the use regulations for sand or gravel pits and quarries. These include the ability for the PC to require a performance bond and implementing measures to reduce nuisance from noise, flying dust, and rock.

The purpose of having a time limit and periodic review of a SUP is to ensure that the conditions of the permit, use regulations, and special use approval criteria are being met. The purpose of allowing for the requirement of a performance bond is to ensure that adverse impacts of the use are mitigated.

## **POTENTIAL APPROACHES:**

As described in PD Report 2019-56, the property owner is required as part of the current SUP approval to have an updated performance guarantee to cover reclamation activities once the gravel mining operations cease in the future. The dollar amount of the performance guarantee is updated at every 10-year review. Moving forward, any one of the following three approaches may be taken:

- Continue including this provision as a condition of the SUP. The review of the performance guarantee and terms of renewal of the SUP would continue to be part of this particular SUP, and no change would be made to the Zoning Ordinance.
- Add language to the Zoning Ordinance applying this provision to specific use standards. The specific use standards for sand or gravel pits and quarries currently allow the PC to require the applicant to submit a performance bond. If the PC believes that timeframes for renewal of a SUP are most applicable to this or other particular uses, then this section of the ordinance may be appropriate to amend to add this language.
- Add language to the Zoning Ordinance applying this provision to all special uses. The draft
  language from the previous PC meeting would require any SUP with an active performance
  guarantee to be submitted for review and renewal on a five-year basis. Five years was chosen to
  ensure that the performance guarantee is more up to date in its dollar amount given the rising
  costs of construction, and to ensure potential complaints regarding the SUP could be addressed on
  more frequently.

## **ACTION REQUESTED:**

No action is requested at this time. We suggest that the Commissioners provide a preferred approach based on the potential approaches as listed above.

Charter Township of Garfield Planning Department Report No. 2019-70					
Prepared:	June 20, 2019	Pages: 4			
Meeting:	June 26, 2019 Planning Commission	Attachments:			
Subject:	Sign Ordinance Update Overview	· · · · · · · · · · · · · · · · · · ·			

## **BACKGROUND:**

On June 18, 2015, the U.S. Supreme Court decided the case of *Reed v Town of Gilbert* regarding the constitutionality of the Town of Gilbert's (Arizona) sign ordinance. Good News Presbyterian Church, led by Pastor Reed, lacked a permanent building and had been posting temporary directional signs around the Town to indicate where services were being held. As the Town enforced its sign ordinance and these signs were regularly removed, the church argued that the sign ordinance showed unfair preference for other types of temporary signs.

In this case, the Town regulated temporary directional signs differently than other noncommercial signs (e.g., political signs and ideological signs). For example, while the Town of Gilbert allowed non-profit event signs to be displayed for 12 hours prior to the event and one hour after the event, the town allowed political signs to be displayed for an unlimited length of time prior to an election and required to be removed 10 days after the election.



The Supreme Court ruled that the Town's sign ordinance was unconstitutional, finding that distinctions based on a sign's content favored certain types of signs (i.e., speech) and violated the First Amendment of the U.S. Constitution. A majority opinion from Justice Clarence Thomas established an important rule from this case: If you need to read the message on a sign to determine how it is regulated, then the regulation is content-based and is therefore subject to strict scrutiny.

#### IMPACT ON TOWNSHIP SIGN ORDINANCE:

This case has impacted sign ordinance regulations throughout the country. Several types of signs are commonly defined by their content based on their popularity, such as political signs, real estate signs, and similar signs. Other signs indicate a specific event, such as grand opening and garage sale signs. Some signs are commonly be defined by their speakers such as gas station signs. These are all content-based regulations, and so any distinction in the sign ordinance that regulates signs based on the message, the speaker, or an event would be challenged based on the ruling in the *Reed* decision. However, the decision also left many unanswered questions regarding a municipality's authority to regulate signs based on commercial content or off-premise content.

The Township should consider updating the sign ordinance to remove any content-based regulations and to review the usability and enforceability of the ordinance. A full review and update should include the input of the Planning Commission, Township Board, Township Staff, and Township Attorney.

#### **OVERVIEW OF MAJOR ISSUES:**

Major issues to consider in updating the Township sign ordinance include the following:

- **Definitions.** Any definitions related to different sign types should be carefully worded to avoid the inadvertent favoring of specific content, speakers, or events. Definitions should include sign types to be allowed, those to be prohibited, and descriptions of how to measure sign height and area. Examples of specific definitions to consider may include the following:
  - Flags. Sign ordinances often define flags for nations or governments. While these types of flags are common, they should not be given any more or less permission than any other type of flag, including feather flags. The ordinance may regulate the maximum height, area, and total number of flags.



- Lights Signs. Display or holiday lighting may or may not be considered as signage. Lighting is also used by businesses to draw attention to signs in their windows. If the sign ordinance includes regulations for lighting, any distinction in how the lighting is used should be worded carefully to remain content-neutral.
- Murals. Art and murals, if desired, can be an asset to the public. Defining "art" may be tricky, since murals may or may not contain words or a readily discernible message and thus occupy a gray area as to whether or not they are signs.
- Symbols. Some features that do not contain words; such as a red, white and blue pole (barber shop) or brass balls (pawn shop); are readily understood to indicate a specific industry. Regulations surrounding these should be careful to avoid favoring specific content or favoring one industry over another.

- Content Neutrality. Several common sign ordinance regulations make references to a sign's content. These regulations should be modified to only describe the sign itself and its height, size, materials, and other similar information. Sign types within the same zoning district should be regulated the same. Common content-based distinctions to look out for include the following:
  - Yard Signs. Many different types of yard signs are identified by their content such as political, real estate, construction, garage/yard sale, home business identification, farm stand, or other similar signs. All of these signs should be treated the same as yard signs and should not favor any particular content, speaker, or event, including in the amount of display time for any yard sign.





- Freestanding Signs / Electronic Message Centers. Some freestanding signs include electronic message centers. If these are to be permitted, then any regulations should not favor one type of content over another. For example, it is common for gas stations to have electronic signs for their prices, but gas stations should not be treated differently than any other use.
- Signs Relating to Existing Businesses/Products. Requiring a sign to relate to existing businesses or products on the site would be a specific regulation of content. Many signs contain messages that do not directly relate to existing businesses or products on the site without acting as advertisements, sometimes for historic reasons.
- O Directional or Entrance Signs. Signs at entrances help control traffic and indicate how to navigate the site. However, directional signs will often include information other than what is necessary for traffic management. Appealing to a standard, such as the Michigan Manual on Uniform Traffic Control Devices (MMUTCD) may be appropriate.

#### **OTHER REGULATIONS:**

Many signs in the Township are under the control of another jurisdiction including the State, County, and TCAPS. State legislation such as the Highway Advertising Act (affecting US 31, M-37, M-72) or any program such as Tourist Oriented Directional Signs, Michigan Historic Sites, or Centennial Farms also affects allowable signage in the Township. Planned Unit Developments (PUDs) and other development agreements bring a unique set of regulations, which may or may not include signs, to specific sites.

## **OTHER CONSIDERATIONS:**

The sign ordinance should cover all types of signs that the Township wants to regulate, including any potential new sign types like window signs. The ordinance should also address situations where the desired signage may be different than what would be suggested by zoning, such as non-residential uses (churches, schools) in residential districts and signs on PUD sites. A process should be described for waivers and modifications including necessary criteria and process.

The Township may also want to update the format and organization of the sign ordinance. Creating a chart would allow for intuitive understanding and easier enforcement of the ordinance, as seen in the following example:

Sign Type	Zoning Districts Permitted	Sign Permit Required	Max. Number of Signs	Max. Sign Height (feet)	Max. Sign Area (sq. ft.)	Other Regulations
Address sign	All districts	No	-	-	2	
Flag	All districts	No	2	20	16 (each)	
Freestanding sign	C-1; C-2; M-1	Yes	1	16	100	Min. setback from front lot line: 15 ft. Min. setback from residential district: 100 ft.
Historical marker	All districts	No	-	-	-	
Incidental sign	All districts	No	-	-	2	
Memorial sign	All districts	No	-	-	-	
Nameplate	All districts	No	-	-	2	
Neighborhood entry sign	R-1R; R-1E; R-1A; R-1B; R-M	Yes	1 per entry	6	50	Min. setback from public right-of-way: 50 ft. Min. setback from any residential lot line that is not part of the development: 100 ft.
Non-residential use sign	AG/RP; R-1R; R-1E; R-1A; R-1B; R-M; RPS	Yes	1 per use	6	16	Shall be a freestanding sign or wall sign.
Portable sign	C-1; C-2; M-1	Yes	2	Height of primary building on the lot	16	Min. setback from front lot line: 10 ft. Min. setback from residential district: 100 ft. Max. time in one location: 2 months
Public sign	All districts	No	-	-	-	
Wall sign	C-1; C-2; M-1	Yes	2	Height of wall	100 (total per building)	Max. projection or overhang beyond wall or permanent architectural feature: 1 ft. No projection above or beyond the roofline.
Window sign	All districts	No	•		25% of window area	
Yard sign	All districts	No	-	6	9 (each)	Max. time in one location: 2 months

#### **ACTION REQUESTED:**

If the Planning Commission wishes to pursue amending the sign ordinance section of the Township Zoning Ordinance, we offer the following motion for your consideration:

MOTION THAT the Township Planning Department prepares an informal introduction of the sign ordinance amendment project for the July 24, 2019 Planning Commission meeting

	harter Township of Garfield lanning Department Report No. 2019-72	
Prepared:	June 20, 2019	Pages: 1
Meeting:	June 26, 2019 Planning Commission	Attachments:
Subject:	Barlow Garfield Neighborhood Plan Update	

## **BACKGROUND INFORMATION:**

At the May study session of the Planning Commission, the Commissioners authorized the release of the Notice of Intent to Plan, which has been publicized in accordance with the Michigan Planning Enabling Act. The project has been identified as the Barlow Garfield Neighborhood Plan.

Planning Department Staff has refined the intended process and timeline for the plan. Over the summer, staff will research and collect data relevant to the study area, including the built environment, economic and demographic trends, housing and business market analyses, environmental conditions, Walk Score, and others. Staff will also outline existing plans and policies for the area and provide an inventory of potential investment resources such as Opportunity Zone, Corridor Improvement Authority, and others. This data will be presented in an Existing Conditions Report for the Planning Commission.

In the fall, this information will be presented to the public as part of a visioning session. The goal of the visioning session will be to inform the public and gather feedback on what people most value about the area and what they would prefer to see in terms of land uses, design, and connectivity.

Following the community engagement period, a "road map" will be developed into the form of an action plan, containing implementation and monitoring activities. All the information from each step will be gathered into a draft plan. The proposed milestones for the project include the following:

•	June-August 2019	Research data, trends, and other necessary information
•	August 28, 2019 PC	Draft Existing Conditions Report
•	September 25, 2019 PC	Final Existing Conditions Report
•	Mid-October 2019	Community Visioning / Public Engagement Session
•	October 2019-January 2020	Develop draft plan from existing data and public input
•	January 22, 2020 PC	Present (near final) Draft Plan

## **ACTION REQUESTED:**

No action is requested at this time. Staff will update the Commissioners as the project progresses.