

VILLAGE OF NORTHPORT
PLANNING COMMISSION
116 W. Nagonaba St.
Tuesday, January 18, 2023
Draft MINUTES

Note: upon request a Zoom recording is available for this meeting.

Call to Order, Roll Call:

Chair Arbury called the meeting to order at 6:04pm.

Members present: Arbury, Cavendish, Gale, Newell, Woomer, and Wessell. Excused Absences: Caudill.

Public Present:

Multiple members of public attended in person, several other members of the public attended via Zoom

Staff Present:

Zoning Administrator- Joni Scott

Approval of Minutes:

December 13, 2022 meeting minutes were approved as written, moved by Commissioner Gale, seconded by Commissioner Wessell, motion carried

Approval of Agenda:

Chair Arbury added under Old Business: C. 7th Street Update; Survey Lines

Correspondence:

Chair Arbury shared correspondence:

Jane and Mark Voight thanked the commission and the citizens who have been involved and working on the 7th Street property discussion. In particular they thank Gerry Schatz. They also asked why the contamination on the site hasn't been cleaned up immediately.

Gerry Schatz sent the new link to the new legal definitions of the Waters of the United States. He also gave a "Cliff notes" explanation of how the 435 page document applies to our village.

Joanne Geha Swanson sent an email asking that the public hearing be held before a final report is sent to the village council. Chair Arbury explained that the plan now is to have planning commissioners work on completing the Evaluation Tool for each of the three proposed uses, and then next meeting we will begin combining all of our thoughts into one completed evaluation for each proposed use. Then the three evaluations will be sent to village council to review, and then council can schedule a public hearing. After the public hearing all of the information gathered there will be compiled and again submitted to the village council.

Public Comment:

Mary Cermak Betzoldt on North Shore Drive. She zoomed the village council meeting and felt that Commissioner Gale did a great job presenting to council last meeting. She would like to have us think about these three reasons to eliminate proposal 3:

1. In 1941 this was sold to the village for a dollar to be used for public recreation. She feels it is unfair to the family that this now be taken away from the public.
2. If we sell it to a developer she can't imagine what would happen, with no way to stop developers from filing variances and inundating us with paperwork.

3. It is an ecosystem, a living breathing thing. She recalls that someone stated before that the wetlands are like our kidneys, they take everything in and then filter before draining. She collected water from the runoff today and shared the jar with commissioners, and accidentally captured a living creature in the jar. She gathered this water 281 feet from the location to the 7th street property. She feels we can present that proposal 3 be taken off the table.

Randy Koch on North Shore Drive. He understands that proposed use four is off the table. Since he supported that plan, he wanted to share his concerns with proposal one - "leaving as is." Since he has been here he has seen it used as a trash pit, a place to store old tires, and storage for boat trailers. He feels if it is left "as is" that leaves it open to misuse over time, and further arguments in the future. He would like us to consider that if it is to be left "as is" that we talk to the conservancy, or that it be fully naturalized, so the make-shift parking lot is removed.

Gerry Schatz of Mill Street. He feels that Randy Koch's concerns are valid and shares them. He touched on his email correspondence and asked that we take time to review it. We have commercial boat yards in our community and they have storage areas. He also feels we have several vacant lots on the North side of town and vacant lots throughout town that could be used for housing, without using the 7th Street property for housing. Of the alternatives we're evaluating, he thinks that proposed use one is the only one that won't adversely affect the bay and is therefore the only reasonable option to select. He also knows that there has been land alterations over the years to the property, without proper permitting and feels this could be an issue for any sales or developments.

Sue Manson on North Shore Drive. She thanks the commission for all the time spent, and for discussing the work with such passion and civility. Her comment is a clarification of comments made by a trustee at the previous village council meeting, in stating that the conservancy wanted "nothing to do with" the 7th street property. She contacted Tom Nelson, president of the Conservancy to verify this information. Matt Heiman the Director of Natural Land Protection got back to her and let her know "5.8 acres is too small for the conservancy to develop, the village owns the land and the conservancy works mostly with private land owners, but also mentioned how important it is to protect the wetlands and the creek corridor, and he mentioned that the village should have a wetland delineation, and that we should check the Leelanau Zoning Development with regards to the wetlands and what is allowed near or adjacent to the wetlands." She also asked him about the boat parking and contamination, he shared that boat trailer parking would not be in fitting for the location, and that any contamination should ideally be cleaned up by the village, prior to any possible sales.

Old Business:

Review Planning Commission Work Document*:

Commissioner Cavendish asked for clarification as to when the Tree Meetings are scheduled. Chair Arbury explained there is no January meeting scheduled and they are not on a regular schedule currently. The next meeting will be February 13 at 1pm.

Zoning Update:

Chair Arbury recapped that the planning commission held a special workshop on 1/12/23 where we worked through Articles 1-3. Commissioner Cavendish is working on capturing all that information in a document to pass along to Arthur Mullen. She shared that it should be available and sent out to commissioners within the week. She explained that the easiest way to use the document is to print out the pages and separate into two documents (*one pile the corrections, one pile the zoning pages with identifiers*) and view them side-by-side when reviewing. Commissioner Cavendish also shared she noticed a few more areas in Articles 1-3 that we may want to discuss, one in particular is the setback distance required from any Michigan regulated wetland.

7th Street Review:**

Landscaping ordinance references:

Commissioner Woomer shared examples of zoning ordinances from surrounding communities for commissioners to review and discuss at the special meeting.

Appraisal Update:

Pete Picard shared preliminary appraisal numbers (*available in the dropbox*) and will have a full appraisal ready for us in the near future. Two lots appraised at \$85,000-125,000 and two lots appraised \$95,000-145,000. He did note that lot 4 would not be able to be developed unless there was a private road, due to the wetlands and access.

Survey Line Updates:

ZA Scott shared her email communications with the Township Assessor, which state that the survey has been in the official record since 2020. It is still unknown why it isn't reflected on the county parcel map, so she will be following up. Commissioner Gale asked if the assessor could define the "official record" and what we can do to get this updated at the county level. Commissioner Cavendish agreed and clarified her concern is for the future, and working to ensure that someone can't dispute where the line is, because they have a survey that reflects different property lines than our current survey.

Review/Discuss Village Council Feedback:

Commissioner Gale explained that during the discussion at the previous village council meeting, there was no vote, but that there was a consensus among five of the trustees that we not consider the four residential lot division and sale option (*proposed use #4*). They were satisfied with the evaluation tool and the plan for each of us to evaluate and come back to compile into one evaluation for each of the three proposed uses to submit to the council. They agreed that a joint public hearing at the Northport Creek Golf Course once evaluations are complete and the weather is better would be the next step. After the public hearing, the planning commission will incorporate discussions and information from the public and present a final report/evaluations to the council. Chair Arbury reminded everyone that these are the next steps as we see them now, but that the process could be adjusted as we progress through it, if we discover other steps are necessary.

Commissioner Gale shared that she felt it was important to evaluate the remaining three proposed uses, so that all pros and cons can be shown. Commissioner Cavendish agreed and felt that if we did not evaluate proposed use three (*Partial Combo B - using 7th Street Portion for Development at the discretion of the village and sell the remaining build-able lots*), then future councils and planning commissions, if faced with this same question, don't have a "whole" picture to review, and may consider doing this whole process again.

Commissioner Gale also took a moment to address public comment, explaining that the contamination reflected in the environmental report was very limited and was detected in soil borings, therefore is underground contamination. We received an estimate for a phase 3 study, but have not yet authorized that additional work. We won't know if there is any contamination to ground water until we have further studies completed. Commissioner Newell asked if the contamination could have been brought in with fill dirt. Commissioner Gale explained that we don't know for sure, but that is a possibility. Commissioners reminded the public that all these reports are available for review in the 7th Street Dropbox on the web site, on the planning commission page.

Next Steps:

Chair Arbury explained that now the commissioners will now take a look at all three of the proposed uses and work on completing the evaluation tool for each of those. Then we will work as a committee starting at our February meeting, to compile the information into just one evaluation for each of the proposed uses. Since we also have a lot of discussion on the Master Plan and Zoning Ordinance revisions in the February meeting, we may not complete all three proposed use evaluations in February.

Next Steps in Master Plan work:

Chair Arbury reminded everyone that the homework on the master plan is to review what Commissioner Gale supplied at our December 2022 meeting. The idea is to come back in February with a decision on whether we: (a) don't need to do anything with the master plan, (b) need to revise the master plan, or (c) determine it needs to be completely rewritten. Commissioner Gale added that to also have an idea of what areas you feel may need work or revisions, that would also be helpful so we can see how many commissioners agree on what areas need revisions. The February meeting goal will be to come to a consensus on those aspects, and will then start tackling those areas starting in March.

New Business:

Short Term Rentals (STR):

Chair Arbury started by thanking Commissioner Wessell for all the time and energy that she has put into this topic and reports. Commissioner Wessell then started by summarizing the history and the background of short term rentals in the village (*see STR_timeline_01182023.docx document with timeline created for discussion*).

Commissioner Wessell explained that it started with the village creating an ordinance (111) that required registration, but no fees. Discussions at council since that creation have been over whether there should be a fee, and if so, how much it should cost.

After COVID hit in 2020, there were a number of planning commission meetings that were canceled. When meetings commenced again, a planning commission subcommittee was formed to review and research short term rentals and the impact on our village. A public questionnaire was sent out and 136 responses were received. Those were compiled into a report by Commissioner Gale (*available on the web site in the PC meeting 3-24-21 packet dropbox*). In October 2021, the village council amended the village ordinance to require yearly registration, in an effort to maintain a more accurate record of the short term rentals within the village. As of today's date there were approximately 36 STR registrations filed for 2022 and registrations for 2023 underway.

In 2022, the state house passed a bill that would significantly restrict our ability to regulate STRs. While waiting to see if the State Senate would pass the bill, the STR subcommittee monitored Northport's STR numbers and impact, and continued to gather information on what we might consider implementing if the State Bill did not pass. That bill was not passed through the state senate in 2022, and therefore the village can regulate STRs and work on this subject and implementing any changes with village STR policies can begin again.

What the subcommittee was able to show from 2022 is that many of our surrounding municipalities have hired a short term host compliance firm, Granicus Host Compliance, to review and report on their short term rentals within their districts. The subcommittee was therefore able to get the data from the Leelanau Township report, and learned that they found 50 advertised short term rentals in the village. Commissioner Wessell found that there are some rentals that we have registered that are not on their report, and there are some listed on the report that are not registered with the village.

She also noted that two of the hotel rooms at the Inn were included in the Granicus report as short term rentals, and those aren't really what we consider short term rentals for registration or monitoring by the village under village ordinance 111.

As a side note, Chair Arbury asked if the hotel is paying hotel tax, if they are actually listed as STRs? No one at the meeting was sure, and that doesn't really fall under the planning commissions purview.

Another aspect that the subcommittee reviewed was the STR process and policies of Leelanau Township, the Village of Empire, and the Village of Suttons Bay. Commissioner Wessell learned through discussion with Gina Harder (*Leelanau Township trustee and Leelanau Township planning commissioner*), that they used Granicus to get the information, but for enforcement all they really provide you is a phone number for people to call and the cost of \$4,000 a year may not be the best use of funds for the village. We can extract all the data on the village STRs from their report (since we are within the township) and seek other ways to enforce any STR issues necessary.

The Village of Suttons Bay hired the firm Beckett & Raeder, and Commissioner Wessell was able to get a copy of their report, and that report included a lot of information they wouldn't have by themselves. They had professionals look at their situation and give recommendations.

The Village of Empire formed a "Seasonal Rental Committee" that consisted of: their village zoning officer, village residents, village council members, village planning commission members, and village short term rental owners. That committee did footwork and gathered information, studied it, and created a formal report. Commissioner Wessell talked to Sue Palmer (*the former planning commission chair when the report was created, and now the Empire Village president*), she felt the report was worth doing, but the Village of Empire council didn't adopt any changes or ordinances because they felt they didn't actually have an issue. Sue Palmer did share that she intends to bring this topic back up in her council discussions, because things are changing, and the conclusions reached when they discussed this topic in the past, may no longer yield the same outcome.

All of this information brought the committee back to the comment Trudy Galla made to the subcommittee at a meeting many months ago, "What problem are you trying to solve? What are you trying to prevent?"

This all leads us to our progress and what we would like to do to move forward. This is a complicated discussion and it impacts so many. Taking a page from the Village of Empire's example, we wonder if Northport should convene a task force. Our "task force" could consist of a village council member, a planning commission member, the zoning administrator, and two residents of the village: one with a short term rental, one without. This would allow for community involvement in the discussion from the start, and they can tackle the questions, "Do we have a problem? What are we trying to prevent?" We know we want to provide and facilitate more long term housing, but limiting or capping short term rentals, won't necessarily equate to long term rentals. ZA Scott shared that in her experience, caps can cause homeowners to register per-emptively, and then potentially not even use the permit, just so they have it if they want it.

Commissioner Gale also pointed out that we should ensure that the village council understands that Leelanau Township's Granicus Host Compliance report showing that we have 50 STRs and our registered records indicating only 36 STRs, with some discrepancies between them, shows that our current ordinance is not being followed. As we are now aware of that, we should address the situation. Revising the village ordinance, addressing concerns, discussing enforcement and how to maintain the management of STRs within the village, all could be goals for the task force. Commissioners

even mentioned the possibility of a zoning code enforcer.

Commissioner Woomeer wanted to ensure that the council has interest in STRs and that they actually want to see further work or changes on it, since no one can clearly state if there is a problem or not. He asked if there had been any complaints due to STRs this past summer? ZA Scott reported that there had been one second-hand noise complaint. Commissioner Cavendish shared that she was directly aware of many rentals that rent from November-April as long term, with May-October as STRs, and that housing for employees to rent or buy is non-existent, and that from her view, this makes it a problem. Commissioners agreed that since the STR ordinance is a village ordinance, that addressing all these questions did fall to the village council, and all of the questions could be reviewed and examined with a specific task force.

Commissioner Gale **moved** that the planning commission recommends to village council that the council consider the matter of short term rentals, the current short term rental ordinance, and consider appointing a task force (*possibly with 5 members: ZA, Village Trustee, PC Commissioner, Village Resident with an STR, and a Village Resident without an STR*) to study and report back on next steps. Commissioner Newell **seconded**. **Motion carried unanimously.**

Zoning Administrator Report:

Report found on the village web site in the PC January 18, 2023 Meeting Packet Dropbox.

ZA Scott gave some highlights from her report. She shared that she captured what our DI Development allows for uses, and that she recommends the planning commission reviews what uses are allowed there. She is encouraging the planning commission to consider revisions, particularly to include commercial uses. Commissioner Cavendish agreed and pointed out that we may not have ever reviewed the new chart that Arthur Mullen (*Wade Trim consultant*) created for uses across all zones, and that we should be sure we review that in a future meeting. Commissioner Gale agreed, and felt that we could review prior to meeting with Arthur, and then discuss with him once we've reviewed and have recommendations.

Infrastructure Committee Report:

Chair Arbury shared the minutes from the December Infrastructure Meeting found on the village web site under the Infrastructure Minutes.

Trustee Report:

Commissioner Gale reviewed - report found on the village web site in the PC January 18, 2023 Meeting Packet Dropbox. Critical points have already been discussed in the meeting about how to proceed with the 7th Street property land use proposals. She also touched on President McCann's work on playground equipment for South Beach Park. It is of course expensive and they're looking for grants, but he is also looking to get the opinions and feedback from parents and children. It was already suggested that they could perhaps coordinate with the school, or with the Library on Wednesday craft nights, but if anyone can think of additional ways to get input from parents and children in the community, let him know. Commissioner Newell shared that he has heard multiple people give feedback that we want to ensure it is a structure for younger children, since the one by the restrooms at South Beach is for older children.

Tree Committee Report:

No January meeting, so no report. The next Tree Committee meeting is scheduled for Monday, February 13 at 1pm. Still no word from the state on the status of the Tree City designation.

Public Comment:

Gerry Schatz on Mill Street. Thanks us for getting involved in the review of STRs and their implications.

It's a tough chore that needs to be done, and he thinks we're going about it in a sensible way.

Joanne Geha Swanson on North Shore Drive. She arrived late, so she missed some of the meeting. She wanted to verify that we received the email. *[it is included in the dropbox]* Her main concern is the 7th Street Public Hearing and thinks that it would be futile to have a report ready prior to the public hearing, as that reduces the opportunity for the public to change or contribute to the report. She also feels that the evaluation tool still has some questions on it that she doesn't understand where the information is going to come from, for example, the environmental impact. Who is writing that and where is that information coming from?

Commissioner Comments:

Commissioner Woomer wanted to confirm that the next couple meetings are the third Wednesday of the month, as he will be out of town and will be zooming into the meetings. Chair Arbury confirmed they will on the third Wednesday of the month.

Commissioner Gale shared a point of procedure, that the terms on the planning commission run through the end of March, so in April we set the schedule for the coming year.

Commissioner Wessell commented that on the web site on the planning commission page, under the calendar it still says that we are meeting via zoom, and she thinks it may be confusing to people and sound like they can't attend, or that we are not attending in person. She asked if it could be revised to mirror the language for village council meetings, that the commission is meeting in person and that residents can attend in person or via zoom.

Adjournment:

7:53pm Motion to Adjourn - **moved by Commissioner Newell, seconded by Commissioner Woomer, motioned carried**

Next Special Zoning Review Meeting - Wednesday, January 25th, 2023 at 9am-12pm

Next Regular Meeting - Wednesday, February 15th, 2023 at 6pm

Respectfully submitted,
Laura Cavendish, Secretary

** all reports are in January 18, 2023 packet on website: villageofnorthport.net/planning-commission/*

*** all 7th Street Documents are in the 7th Street Document Drop Box on website: villageofnorthport.net/planning-commission/*

**** Meetings are mandated to be conducted within 2 hours unless extended past 8 PM by vote.*