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**NOTICE
OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION**

**Regular Meeting
Thursday, January 9, 2020
6:00 p.m.
AGENDA**

1. Call to Order
2. Pledge of Allegiance
3. Approval of Agenda
4. Public Comment on Non-Agenda Items
5. Approval of Minutes: December 12, 2019
6. Election of Officers: Chair, Vice Chair, and Secretary
7. Appointment of Planning Commission Liaison to the Zoning Board of Appeals
8. Old Business
 - a. Discussion - Nonhazardous Materials
9. New Business
 - a. Discussion - Permitted Uses vs. Permitted Uses with Conditions vs. Specific Uses
10. Any Other Business
11. Planning Commissioner Comments
12. Adjournment

**Policy for Public Comment
Township Board Regular Meetings, Planning Commission & ZBA Meetings**

All public comment shall be received during one of the following portions of the Agenda of an open meeting:

a. Citizen Comment on Non-Agenda Items or Public Comment – while this is not intended to be a forum for dialogue and/or debate, if a citizen inquiry can be answered succinctly and briefly, it will be addressed or it may be delegated to the appropriate Township Official or staff member to respond at a later date. More complicated questions can be answered during Township business hours through web contact, phone calls, email (oshtemo@oshtemo.org), walk-in visits, or by appointment.

b. After an agenda item is presented by staff and/or an applicant, public comment will be invited. At the close of public comment there will be Board discussion prior to call for a motion. While comments that include questions are important, depending on the nature of the question, whether it can be answered without further research, and the relevance to the agenda item at hand, the questions may not be discussed during the Board deliberation which follows.

Anyone wishing to make a comment will be asked to come to the podium to facilitate the audio/visual capabilities of the meeting room. Speakers will be invited to provide their name, but it is not required.

All public comment offered during public hearings shall be directed, and relevant, to the item of business on which the public hearing is being conducted. Comment during the Public Comment Non-Agenda Items may be directed to any issue.

All public comment shall be limited to four (4) minutes in duration unless special permission has been granted in advance by the Supervisor or Chairperson of the meeting.

Public comment shall not be repetitive, slanderous, abusive, threatening, boisterous, or contrary to the orderly conduct of business. The Supervisor or Chairperson of the meeting shall terminate any public comment which does not follow these guidelines.

(adopted 5/9/2000)
(revised 5/14/2013)
(revised 1/8/2018)

Questions and concerns are welcome outside of public meetings during Township Office hours through phone calls, stopping in at the front desk, by email, and by appointment. The customer service counter is open from Monday-Thursday 8:00 am- 5:00 pm, and on Friday 8:00 am-1:00 pm. Additionally, questions and concerns are accepted at all hours through the website contact form found at www.oshtemo.org, email, postal service, and voicemail. Staff and elected official contact information is provided below. If you do not have a specific person to contact, please direct your inquiry to oshtemo@oshtemo.org and it will be directed to the appropriate person.

Oshtemo Township Board of Trustees		
<u>Supervisor</u>		
Libby Heiny-Cogswell	216-5220	libbyhc@oshtemo.org
<u>Clerk</u>		
Dusty Farmer	216-5224	dfarmer@oshtemo.org
<u>Treasurer</u>		
Grant Taylor	216-5221	gtaylor@oshtemo.org
<u>Trustees</u>		
Cheri L. Bell	372-2275	cbell@oshtemo.org
Deb Everett	375-4260	deverett@oshtemo.org
Zak Ford	271-5513	zford@oshtemo.org
Ken Hudok	548-7002	khudok@oshtemo.org

Township Department Information		
<u>Assessor:</u>		
Kristine Biddle	216-5225	assessor@oshtemo.org
<u>Fire Chief:</u>		
Mark Barnes	375-0487	mbarnes@oshtemo.org
<u>Ordinance Enf:</u>		
Rick Suwarsky	216-5227	rsuwarsky@oshtemo.org
<u>Parks Director:</u>		
Karen High	216-5233	khigh@oshtemo.org
Rental Info	216-5224	oshtemo@oshtemo.org
<u>Planning Director:</u>		
Iris Lubbert	216-5223	ilubbert@oshtemo.org
<u>Public Works:</u>		
Marc Elliott	216-5236	melliott@oshtemo.org

**OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION**

DRAFT MINUTES OF A REGULAR MEETING HELD DECEMBER 12, 2019

Agenda

PUBLIC HEARING: THIRD WALL SIGN

CONSIDERATION OF A THIRD WALL SIGN FOR COMMERCIAL TENANT AT 5095 CENTURY AVENUE, IN A PLANNED UNIT DEVELOPMENT

PUBLIC HEARING: LANDSCAPE ORDINANCE

CONSIDERATION OF THE DRAFT LANDSCAPE ORDINANCE TO REPEAL AND REPLACE THE EXISTING ARTICLE 53, FOR RECOMMENDATION TO THE TOWNSHIP BOARD

PUBLIC HEARING: RESIDENTIAL SETBACK ORDINANCE

CONSIDERATION OF THE AMENDMENTS TO SECTION 50.60: SETBACKS FOR RECOMMENDATION TO THE TOWNSHIP BOARD

Old Business

- a. Livestock and Honey Bees Ordinance - Draft Review
- b. Lighting Ordinance - Discussion

Other Business

- a. BTR 2.0 Design Guidelines – Consideration of Approval
- b. Accessory Buildings Ordinance - Draft Review
- c. 2020 Meeting Dates

A meeting of the Oshtemo Charter Township Planning Commission was held Thursday, December 12, 2019, commencing at approximately 6:00 p.m. at the Oshtemo Charter Township Hall.

ALL MEMBERS

WERE PRESENT:

Bruce VanderWeele, Chair
Ollie Chambers
Ron Commissaris
Dusty Farmer, Secretary
Keshia Dickason
Micki Maxwell
Mary Smith, Vice Chair

Also present were Iris Lubbert, Planning Director, James Porter, Township Attorney, Julie Johnston, Consultant, and Martha Coash, Meeting Transcriptionist. Four other persons were in attendance.

Call to Order and Pledge of Allegiance

Chairperson VanderWeele called the meeting to order at approximately 6:00 p.m. and invited those present to join in reciting the “Pledge of Allegiance.”

Approval of Agenda

The Chair determined there were no changes to the agenda and let it stand as distributed.

Public Comment on Non-Agenda Items

Chairperson VanderWeele asked if anyone in the audience cared to address the Board on a non-agenda item. As no one came forward, he moved to the next item.

Approval of the Minutes of the Meeting of October 24, 2019

The Chair asked if there were additions, deletions or corrections to the Minutes of the Meeting of October 24, 2019. Hearing none, he asked for a motion.

Mr. Chambers made a motion to approve the Minutes of the Meeting of October 24, 2019 as presented. Ms. Dickason supported the motion. The motion was approved unanimously.

Chairperson VanderWeele moved to the next agenda item.

PUBLIC HEARING: THIRD WALL SIGN **CONSIDERATION OF A THIRD WALL SIGN FOR COMMERCIAL TENANT AT 5095 CENTURY AVENUE, IN A PLANNED UNIT DEVELOPMENT**

Ms. Lubbert indicated RWL Sign, on behalf of Spectrum, was requesting Planning Commission consideration to allow three wall signs where only two are permitted by the Zoning Ordinance. The building in question is located within the Corner@Drake Planned Unit Development (PUD), to the east of the outdoor patio area that separates the Trader Joe’s building from this multi-tenant structure. Spectrum now occupies one of the two suites in this building and has installed their two allotted wall signs—one facing west and the other north—but would also like a third sign facing Stadium Drive.

She noted the subject building has visibility from three roadways—Stadium Drive, Century Avenue, and Drake Road. The applicant is requesting approval for three wall signs where only two are permitted per Section 55.80: *Commercial and office land uses*

of the Oshtemo Township Zoning Ordinance. This section controls signage in commercially-zoned areas and states that multi-tenant commercial structures are only allowed two wall signs per tenant space. In contrast to this, standalone buildings are allowed up to four wall signs.

She explained Section 41.50 of the Zoning Ordinance allows the Planning Commission to consider a departure from the dimensional requirements of the Zoning Ordinance for Planned Unit Developments. To grant such *non-variance* relief, the Commission must find that the proposed departure from the ordinance “meets the purpose of a planned unit development set forth in section 41.60 and 41.70.” These two sections, and indeed the entirety of *Article 41: Planned Unit Development*, discuss how PUDs might benefit from dimensional departures from the ordinance in order to create a more cohesive, unified, and socially beneficial development through the construction of clustered structures, the creation of large open spaces, and other treatments that might not otherwise be possible while observing strict compliance with the Zoning Ordinance.

For context, Ms. Lubbert noted the Planning Commission previously approved the following signage departures from the Zoning Ordinance, under the standards of section 41.50, at the Corner@Drake development:

- Three wall signs for Trader Joe’s at 5099 Century Avenue. (9/14/2017)
- Three wall signs for Mod Pizza at 5099 Century Avenue, Suite 500. (8/9/2018)
- Three wall signs for Olga’s Kitchen at 5095 Century Avenue, Suite D (abutting the Spectrum store in the same building) and an enlarged multi-tenant sign for the PUD. (10/11/2018)

She added that these three approved signage deviations were for corner units, like the building under consideration tonight, and allowing a third sign for this property would be consistent with how the other units with three exterior walls in the PUD have been treated.

Township staff felt approving this request would be in keeping with the Planning Commission’s general approach to implementing Section 41.50 of the PUD regulations. Substantial justice will be observed; the public health, safety, and general welfare will not be compromised if the third sign is approved. Ms. Lubbert added that the proposed wall sign also meets the other standards of the Zoning Code.

Given these findings, Ms. Lubbert recommended the Planning Commission approve the request for a third wall sign for the Spectrum store within the Corner@Drake PUD.

Chairperson VanderWeele asked if board members had questions on the application.

Ms. Smith confirmed there is no actual customer entry on the side of the building where the new sign would be installed, just a service entry door.

Hearing no further questions, the Chair moved to Public Hearing and determined no one wished to address the Board. He asked if the applicant wished to speak.

Mr. Jayson Headly, of RWL Sign, explained Spectrum wished to add the third wall sign, which will face Stadium Drive, for visibility in order to increase store traffic. He indicated the building will be a customer service center.

Mr. Curt Aardema, AVB, developers of the Corner@Drake project said the standpoint of this business is unique as the site sits above Stadium Drive and there is only one convenient entrance, from Drake Road. The third sign requested is critical for customers to be able to find the store from Drake, Stadium Drive, and Century Ave. The retail and service center currently has stores on Sprinkle Road and Westnedge Avenue. He noted there are few spots for new development left at Corner@Drake and successful development of businesses will encourage interest from future ones.

Ms. Farmer asked if there are plans for the area between Trader Joes and Field and Stream.

Mr. Aardema said he had nothing to report currently, but plans are in the works.

Chairperson VanderWeele moved to Board Deliberations.

Ms. Farmer noted the request was consistent with others approved previously.

Ms. Smith said she wishes to avoid gratuitous advertising and questioned the value of a third sign for local traffic as there is no customer entrance on that side of the building. She was not sure it would direct customers to the front of the building. She noted after several months Spectrum still has banners and flags in place that were intended to be temporary.

Ms. Lubbert said she would speak with the ordinance enforcement officer; Ms. Johnston indicated the property managers had been alerted about the flags and banners.

Mr. Aardema said the ordinance within the development itself is largely consistent with Township ordinance and that AVB can also enforce complaints regarding infractions if the complaints come to them.

Hearing no further comment, the Chair requested a motion.

Ms. Farmer made a motion to approve the proposed departure from ordinance to authorize the third sign for Spectrum as presented, based on staff's rationale that approving this request would be in keeping with the Planning Commission's general

approach to implementing Section 41.50 of the PUD regulations substantial justice will be observed and that the public health, safety, and general welfare will not be compromised. Ms. Maxwell supported the motion. The motion was approved unanimously.

PUBLIC HEARING: LANDSCAPE ORDINANCE
CONSIDERATION OF THE DRAFT LANDSCAPE ORDINANCE FOR
RECOMMENDATION TO THE TOWNSHIP BOARD

Ms. Johnston reported in 2016, the Planning Commission worked for several months developing a new Landscape Ordinance. Time was spent in the field reviewing constructed sites to see how landscaping was being developed and other community ordinances were examined for comparisons. A revised draft Landscape Ordinance was developed, which staff applied to existing sites around Oshtemo and reviewed with the Commission.

At the conclusion of the draft ordinance review, staff knew the Planning Commission would be working on revising and reorganizing the entirety of the Zoning Ordinance and therefore, decided to table the new Landscape Ordinance to become a part of that project instead of holding the public hearings for adoption. As time constraints persisted, the revised/reorganized Zoning Ordinance project was reduced to being primarily a “reorganization” project. Sweeping changes to the Ordinance, which were originally envisioned, were tabled until after the reorganization was complete.

She noted the Planning Commission resumed its review of the Landscape Ordinance in July of this year. Several meetings were held where additional amendments were completed. The proposed document will repeal and replace the current landscaping ordinance.

The draft Ordinance presented for public hearing differs from the Township’s existing ordinance in the following ways:

1. The draft Ordinance requires an overall percentage of the site be landscaped, which is generally slightly less in square footage than the current ordinance landscaping requirements.
2. The current ordinance is very specific where landscaping must occur – at the property lines. The draft ordinance requires landscaping in the parking lots and along public and private rights-of-way but allows the design professional to determine where the rest of the required landscaping will be planned on the site.
3. The total number of required trees is slightly less than the current ordinance, which will hopefully allow tree species a better opportunity to survive on the site.
4. There are very specific requirements for opaque screening between incompatible land uses in the recommended ordinance, which can include a variety of berms,

fences, walls, landscape materials, etc. But the screening must be six feet in height and opaque. The current ordinance requires larger buffer zones between incompatible uses, but the plant materials are generally trees, which do not provide much screening when the lower branches reach a height beyond five feet.

5. For certain landscape plans, the seal of an architect is required in the recommended ordinance. This is to ensure that if someone is requesting tree credits or wishes to submit an alternate approach to the landscaping requirements, a landscape design professional is creating the plans.

Ms. Johnston indicated two changes were made to the draft Ordinance since the Planning Commission's review at their October 10th meeting. The first was a modification within the parking lot landscaping section, returning to the use of canopy trees instead of understory trees within the required landscaped areas. The concern with understory trees was that very small trees could be planted (maximum growth at 8 to 10 feet), which would not provide the desired visual aesthetic we are trying to reach or provide shade within the parking lot areas.

The second change was to the native planting requirements. The amendment increased native plantings for all other landscape material to 50 percent where 30 percent was previously required. The 75 percent native planting requirement for trees remained the same.

She said the three main objectives of the new ordinance were 1) to allow a smaller buffer zone between buildings, 2) allow for more flexibility, and 3) provide for more/improved screening between residential and non-residential properties.

Ms. Johnston noted staff applied the new requirements to actual existing large and small locations within the Township and found the new requirements could be easily accommodated.

She indicated after receiving public input, staff was recommending approval of the draft Landscaping Ordinance to be forwarded to the Township Board for approval.

The Chair opened a Public Hearing, but closed it and moved to Board Deliberations after determining no members of the public wished to comment.

Ms. Farmer indicated she was in support of the proposed ordinance. After determining there were no further Board comments, the Chair requested a motion.

Ms. Dickason made a motion to approve the proposed ordinance as presented and to forward it to the Township Board for their consideration and approval. Mr. Commissaris supported the motion. The motion was approved unanimously.

Chairperson VanderWeele asked Ms. Johnston for her presentation on the next agenda item.

PUBLIC HEARING: RESIDENTIAL SETBACK ORDINANCE
CONSIDERATION OF THE DRAFT RESIDENTIAL SETBACK ORDINANCE FOR
RECOMMENDATION TO THE TOWNSHIP BOARD

Ms. Johnston reported there was concern recently about how the Township was regulating accessory buildings on residential properties, specifically, where they were permitted to be located on a parcel, lot, or building site. After a careful review of the Accessory Buildings and Setback Ordinances, it was determined some amendments were needed to ensure the two regulations worked in concert.

She explained a goal was to make the ordinance more readable and that the main changes proposed were:

- The term “primary structure” was added to the setback requirements. Without this clarification, it was ambiguous as to whether accessory structures would be allowed in the front yard.
- The term “structure” was added to the setback regulations for accessory uses. A structure is clearly defined in the Zoning Ordinance, assisting with clarity.
- A reference to Section 57.100 was added to assist readers with understanding there are additional requirements for accessory buildings.

The amended ordinance was reviewed by the Township Attorney and Zoning Administrator to ensure the changes resolved the regulatory concerns for accessory buildings. The Planning Commission reviewed the amendments at their October 10th meeting. No additional changes were requested at that time.

Ms. Johnston said at the conclusion of the public hearing the Planning Commission might consider a motion to forward the amended Ordinance to the Township Board.

Chairperson VanderWeele asked if there were questions for Ms. Johnston.

Ms. Smith asked for clarification of 1. B.

Ms. Johnston explained the goal was to maintain uniformity in setbacks for structures in existence on the effective date of this ordinance even if they don't meet the required 30 foot setback.

She indicated “primary structure” in the R zoning code means “principal building” which could be a barn if no home is on the property. She also clarified setback in agricultural and residential circumstances is measured from the road right-of-way.

Hearing no further comments from board members, Chairperson VanderWeele opened a public hearing. After determining there were no members of the public who wished to address this issue, and that there were no further comments from board members, he asked for a motion.

Ms. Maxwell made a motion to approve the draft of the Setback Provisions Ordinance 50.60 as presented and to forward it to the Township Board. Ms. Farmer supported the motion. The motion was approved unanimously.

Chairperson VanderWeele moved to the next item on the agenda and asked Ms. Johnston for her presentation.

OLD BUSINESS

a. Draft Livestock and Honey Bees Ordinance review

Ms. Johnston said at the Township Board first reading of the amended Keeping of Livestock and Honey Bees Ordinance, two questions were posed:

1. How large can the bee hives be?
2. Why can't hives be placed in the front yard?

After some discussion among Board members, it was decided the draft Ordinance should be returned to the Planning Commission to allow them to consider these questions and any potential amendments.

She explained staff made the following changes for the Planning Commission to deliberate:

1. The term “colonies” was inserted to replace “hives” in the acreage requirement for bees. One colony will likely live in three hive boxes, making the use of the term “hive” difficult when determining how many are allowed per property.
2. The acreage requirement for bee colonies was removed from the acreage requirements for animals and given its own subheading. The acreage allowances for animals has minimum requirements for each animal. As an example, a 5-acre parcel would allow 2 acres for 2 horses, 1.5 acres for six sheep, and 1.5 acres for seven chickens. We did not expect bee colonies to fall into these acreage exclusion requirements. On 5 acres, a property owner could have the animals noted above, plus the allotted number of hives.
3. All buildings and structures would now be required to follow the Accessory

Buildings Ordinance, which does not permit these types of structures in the front yard, unless approved by the Planning Director or the Zoning Board of Appeals. This would stop someone from placing a chicken coop in the front yard unless it was deemed appropriate by either the Planning Director or the ZBA.

4. Language has been added to allow hives within the front yard, but with a 100-foot setback. This number was used to discourage the placement of hives in the front yard of parcels, lots, or building sites that aren't at least an acre in size.
5. Hive size has been added to the Ordinance. Based on staff research, the Langstroth hive is the most popular hive configuration, which is stacked boxes of various heights that come in three depths: deep, medium, and shallow, and two widths: 10-frame or 8-frame. In order to cover all possible hive configurations, we have included language that would allow a maximum of three 10-frame deep hive boxes per colony.

Ms. Johnston recommended discussion of these potential changes and consideration of a motion to move the draft Ordinance with any amendments to the Township Board. She noted a public hearing would not be necessary; the amendments will be considered by the Township Board in a public forum.

After discussion, it was agreed it would be appropriate to move D. 1 language, adding it to E. 4 for clarification regarding hive placement.

In answer to questions, Ms. Johnston clarified the wording regarding hive size and confirmed the size listed would be the biggest that would be used. She also confirmed a hive is an accessory use, not a structure or a shelter as they are not attached to the ground.

Although a public hearing was not required, Chairperson VanderWeele asked if there were comments from anyone in the audience.

Ms. Amanda Lentz, librarian at the Oshtemo Branch of the Kalamazoo Public Library, told the board the branch library received a grant for an indoor observation hive. The bees would have access to the outdoors through a window to the south lawn where there are wildflowers. Before implementation, the ordinance amendments must first be passed. She hoped the board would approve the amended ordinance so the children visiting the library can learn about bees and their importance to the environment.

Hearing no further comment, Chairperson VanderWeele asked for a motion.

Ms. Farmer made a motion to approve the draft of Keeping Livestock and Honey Bees, 57.80 as presented with the one change to move hive placement language from D. 3. to E. 4. and to forward it to the Township Board. Ms. Dickason supported the motion. The motion was approved unanimously.

Chairperson VanderWeele moved to the next agenda item and asked Ms. Lubbert for her presentation.

b. Lighting Ordinance – Discussion

Ms. Lubbert noted recent concern about how the newly implemented Outside Lighting Standards Ordinance (Section 54.60) could be interpreted; specifically the Ordinance's intent and the general usage of outdoor upward lighting. This discussion was triggered by the recently installed blue upward lighting at the Holiday Inn Express at 1315 Westgate Drive. The current Lighting Ordinance permits this type of upward lighting with the Planning Commission's approval. However, this lighting was not part of the approved lighting plan reviewed by the Planning Commission with the Holiday Inn Express' 2017 Site Plan and has accordingly been turned off. While reviewing this case, staff was made aware that the upward lighting standards were unclear and open to subjective interpretation. Prior to the adoption of our current Lighting Ordinance on September 10th, 2019 upward lighting of this nature was strictly prohibited. □

Ms. Lubbert noted that in September of 2018 the Township Board held a work session on lighting after hearing requests from local business owners on permitting LED string lighting within the Township. After receiving a directive from the Township Board, the Planning Commission drafted the Lighting Ordinance over a six-month period, utilizing the Dark Sky Society and Illuminating Engineer Society model ordinances and other township and city lighting ordinances as examples. In addition, the draft Ordinance was reviewed by a lighting provider, Circuit Electric, who assisted with amendments to the ordinance language. After discussion and multiple public meetings, the Lighting Ordinance was adopted by the Township Board on September 10, 2019.

Ms. Lubbert requested the Commission revisit Section 54.60 Outdoor Lighting Standards to clarify the intent of the regulations pertaining to upward lighting and determine if and what amendments may be needed to further clarify the intent before additional cases arise.

Extended discussion followed, centered on what standards, if any, for upward lighting might be allowed in amendments to the Outdoor Lighting Standards Ordinance.

Chairperson VanderWeele sought consensus among board members regarding several questions about upward lighting. Their responses indicated most did not want to totally eliminate upward lighting, did want limits on the height of upward lighting to 14 or 15 feet, wanted a significant architectural feature for upward lighting cut-off, and wanted to consider lower allowable foot candles for upward lighting.

The group also felt more information was needed before a decision could be made as to whether any color beyond white should be allowed, and whether upward lighting, strictly for advertising should be allowed.

The Chair asked Ms. Lubbert to look into these questions further, taking the board's comments into account, and to return to the Planning Commission with more information and guidance for their further consideration.

He moved to the next agenda item and asked Ms. Johnston for her review.

OTHER BUSINESS

a. BTR 2.0 Design Guidelines – Consideration of Approval

Ms. Johnston said the BRP: Business and Research Park District requires a set of design guidelines be created for any coordinated development on property zoned this classification. The Western Michigan University (WMU) Business Technology and Research Park (BTR 2.0) located at the northwest corner of Drake Road and Parkview is zoned under this District.

Throughout much of 2016 and 2017, WMU worked with the Township and interested citizens to create the development plan for BTR 2.0. This plan was not required to be approved by the Township due to state laws related to property owned by universities. However, the University worked closely with Township staff to ensure a plan that met Ordinance requirements.

To comply with Section 20.50.B of the BRP District, WMU provided a set of design and maintenance standards for the park. Staff had the following recommendations:

1. Consider adding the Township Planning Director to the membership of the Design Review Committee. This should be an ad-hoc position as the Planning Director has no authority to approve plans which will ultimately be presented to the Planning Commission. However, by allowing the Planning Director on the Committee, they can be informed on upcoming projects, provide information on zoning related requirements, provide insight on any potential concerns, but not vote on the plans directly.
2. The Site Design Standards section has a section related to Landscaping. The first standard includes language that native plant materials shall be used to the greatest extent practical to minimize water and fertilizer requirements. The Landscape Ordinance has specific requirements related to native landscaping as follows:

“At least 75 percent of required canopy trees shall be native to lower Michigan. At least 30 percent of all other required landscape material within each Plant Material Type shall be native to lower Michigan.”

They recommended this section be changed to *“Native trees, shrubs, plants, and low maintenance turf grasses must, at a minimum, meet Oshtemo Township Zoning Ordinance requirements for native plantings, and be used to the greatest extent practicable to minimize water and fertilizer requirements.”*

3. The landscape standards go on to say that one tree shall be required for every 10 parking spaces. Staff was not sure if this condition is in addition to the parking lot landscaping required by the Township Zoning Ordinance. If not, then the guideline would not have met Ordinance requirements, which are one canopy tree and two shrubs for every 200 square feet of required landscaping. We asked that they consider the following calculations:

Township Zoning Ordinance Requirements:

50 space parking lot = 1,250 square feet of parking lot landscaping
1,250 square feet of landscaped area = 6 canopy trees and 12 shrubs

BTR 2.0 Design Guidelines:

50 space parking lot = 10 trees and no shrubs

We asked language be added to this section clarifying whether the parking lot trees required by the Guidelines are in addition to the Township Zoning Ordinance, or the language should be changed to reflect Township Landscape Ordinance requirements.

4. In the Site Design Standards there were guidelines for items that have Zoning Ordinance implications. In most of these sections, language was added that the Oshtemo Township Zoning Ordinance requirements must be met. This language was not found in the Landscaping section. We recommended adding “*Landscaping shall conform to the requirements of the Oshtemo Township Zoning Ordinance*” to the end of the Landscaping section.
5. The Architectural Design Standards has a section related to mechanical and electrical equipment. The language read:

“Mechanical and electrical equipment, whether on a roof or next to a building, should be screened from view...”

We recommended strengthening this language to “shall be screened.” The term “should” indicates that it is not required. If mechanical equipment is placed on the ground, we recommended some landscape screening, at minimum.

6. Page 23 of the Design Guidelines has requirements for Step 3 approval. Staff recommended the following amendments:

*“After approval of the Preliminary Plan, a refined plan shall be prepared to illustrate greater detail; two copies shall be submitted to the BTR Park Phase 2 Representative on the Design Review Committee. Because Site Plan Review and approval will be required from Oshtemo Township, this plan shall contain all information required **for site plan submittal per** ~~in the Site Plan, Landscape, and BRP District chapters~~ of the Oshtemo Township Zoning Ordinance...”*

Ms. Johnston said all of the staff recommended changes, except for adding the Township Planner to the membership of the Design Review Committee were met. They agreed instead to notify the Planning Director, which is acceptable to staff.

She felt the BTR 2.0 Design Guidelines, as revised to include all the Township staff recommendations but one was acceptable for approval by the Commission.

Chairperson VanderWeele asked for comments. Hearing none, he asked for a motion.

Mr. Commissaris made a motion to adopt the BTR 2.0 Design Guidelines as revised. Ms. Farmer supported the motion. The motion was approved unanimously.

Chairperson VanderWeele moved to the next agenda item and asked Ms. Johnston for her presentation.

b. Accessory Buildings Ordinance - Draft Review

Ms. Johnston reported that recently, there was some concern about how the Township was regulating accessory buildings on residential properties, specifically, where they were permitted to be located on a parcel, lot, or building site. After a careful review of the Accessory Buildings and Setback Ordinances, it was determined some amendments were needed to ensure the two regulations worked in concert. The Planning Commission reviewed and approved the Setback Ordinance amendments earlier in this meeting.

She provided a copy of the draft Accessory Buildings Ordinance, *Section 57.100: Accessory Buildings* and said the primary recommended changes to relate to where accessory building shall be permitted on the parcel, lot, or building site; when accessory buildings require an extra level of review through a required plan; and, the criteria in which those accessory buildings will be reviewed. The intent of the amendments is to assist staff with approval procedures for those accessory buildings which do not fit the norm or exceed ordinance standards.

Ms. Johnston noted the amended ordinance was reviewed by the Township Attorney and Zoning Administrator to ensure the changes resolved the regulatory concerns of placement of accessory structures. She requested Planning Commission review of the recommended changes.

Chairperson VanderWeele expressed concern regarding the height restriction on accessory buildings; for example, a pole building would not be allowed if it exceeded the height of a ranch house. He agreed it would not be desirable to have the primary structure overwhelmed by the accessory building. He suggested a formula might be developed that would take into account the accessory building's distance from the house and the number of feet in height the accessory building exceeded the height of the house.

Ms. Johnston said other factors in a formula might include the property, maybe zoning; a difference between sub-divisions and rural area.

Ms. Hubbert suggested that she develop some further information for consideration, including a comparison of the size of lots in different areas.

Chairperson VanderWeele agreed the draft be returned to Ms. Lubbart to further development for a second round of review by the board at a later date.

c. 2020 Meeting Dates

Ms. Lubbart presented a draft of 2020 meeting dates for the Planning Commission. The draft included several moves to fifth Thursdays from fourth Thursdays of the month, in an effort from staff to implement a more efficient Schedule of Applications which would require that the Planning Commission meetings would fall in the same weeks as Zoning Board of Appeals'.

Board members indicated they were willing to try that for 2020. They also confirmed they will continue the pattern of only one meeting in the months of November and December and removed both second meetings from the proposed schedule.

Ms. Farmer made a motion to adopt the following 2020 Schedule of Meeting Dates with the agreed upon revisions. Ms. Dickason supported the motion. The motion was approved unanimously.

Second and Fourth Thursday of every month @ 6PM

2020 Meeting Dates

<i>2nd Thursday of the Month</i>	<i>4th Thursday of the Month</i>
01/09	01/30*
02/13	02/27
03/12	03/26
04/09	04/30*
05/14	05/28
06/11	06/25
07/09	07/30*
08/13	08/27
09/10	09/24
10/08	10/29*
11/12	11/25 *
12/10	12/23 *
01/14/21	01/28/21

*Dates shifted to avoid holidays or for consistency with the Development Schedule of Applications.

PLANNING COMMISSIONER COMMENTS

Chairperson VanderWeele noted both Mr. Chambers and Ms. Dickason were leaving the Planning Commission Board and that this was their final meeting. He presented them each with a certificate of appreciation and thanked them for their service. Mr. Chambers will be moving to the Zoning Board of Appeals.

ADJOURNMENT

With there being no further business to consider, Chairperson VanderWeele adjourned the meeting at approximately 8:35 p.m.

Minutes prepared:
November 13, 2019

Minutes approved:
_____, 2019

DRAFT

December 31, 2019



Mtg Date: January 9, 2020
To: Planning Commission
From: Iris Lubbert, AICP
Subject: Discussion - Nonhazardous Materials

Background: Taplin, Inc. an environmental services firm within Oshtemo Township, wishes to build a structure to process nonhazardous waste within their facility located at the corner of Drake Road and Michigan Avenue, just west of Bud and Doug Walter Auto Sales. The owners of the firm met with Township staff in early August to discuss the possibility of constructing this facility. Currently a nonhazardous materials treatment and disposal facility is not permitted within the Township Zoning Ordinance.

After discussion with Taplin of the requested project, staff decided to investigate the use and determine if ordinance language could be written to allow for this development. Staff conducted research on the requirements of nonhazardous material management through the Environmental Protection Agency and the Michigan Department of Environment, Great Lakes and Energy. In addition, other treatment companies were reviewed to determine if special requirements must be met. Finally, a search of ordinance language related to nonhazardous treatment facilities was conducted.

The results of these searches determined that the treatment of nonhazardous material should occur within an enclosed building and a secondary containment system would need to be provided to ensure the results of any process within the facility does not impact ground water. The secondary containment system would be particularly important in Kalamazoo County, as all our water is ground water. Permission from the City of Kalamazoo to discharge the resultant water from the treatment process would need to be obtained.

Taplin's request was presented to the Planning Commission at their regular October 24th meeting along with a drafted ordinance amendment allowing for nonhazardous materials treatment and disposal facilities within the 1-2: Industrial District as a special use. At this meeting, the Planning Commission expressed concerns about the request and moved to postpone the item in order to get additional information from Taplin, Inc. For reference, the applicable section from the October 24th meeting Minutes along with the previously drafted code language are attached.

Requested Discussion: Steve Taplin, representing Taplin, Inc., is scheduled to be present at the January 9th Planning Commission meeting to answer any questions that the Commission has regarding his proposal to allow for nonhazardous materials treatment and disposal facilities within Oshtemo Township. After discussion, the Commission is asked to provide township staff direction on how to move forward with the Nonhazardous Materials request.

Thank you.

**Nonhazardous Materials Treatment Facility
Draft Amendments**

Article 28: I-2: Industrial District

28.40 Special Uses

F. Nonhazardous materials treatment and disposal facility.

Article 49: Requirements for Special Uses

49.160 Nonhazardous materials treatment and disposal facility.

- A. Allowed uses. Establishments primarily engaged in operating nonhazardous material treatment and disposal facilities or the combined activity of collecting and/or hauling of nonhazardous materials.
- B. Prohibited uses. Landfills, compost, combustors, incinerators and sewer systems, or sewage treatment facilities.
- C. Development requirements.
 - 1. The nonhazardous material must be stored within a completely enclosed building.
 - 2. The treatment of said material must also be conducted within a completely enclosed building.
 - 3. A secondary containment system that meets the standards of the Environmental Protection Agency to prevent any migration of wastes to soils, ground water, or surface water must be constructed for any building that stores or treats nonhazardous material.
 - 4. Proof in the form of a certificate, approval letter, manufacturers guarantee, etc. that the secondary containment system meets the Environmental Protection Agency standards must be provided as part of the Special Use application.
 - 5. Any loading/unloading facilities:
 - a. Must be included within the secondary containment system of the building.
 - b. May not be adjacent to residential zoned or used property.
 - c. Must be screened from any street right-of-way with a 6-foot opaque fence or landscape materials.

6. Approvals from the City of Kalamazoo for wastewater discharge into the public system must be obtained.
7. The transportation of nonhazardous materials must meet all requirements of the Environmental Protection Agency and be certified for the types of materials being transported.

Re-number remaining uses in Article 49.

Hearing no further comments, the Chair closed the public hearing. After determining there were no Board comments, he requested a motion.

Ms. Dickason made a motion to recommend the Village Theme Development Plan as presented to the Township Board for approval. Ms. Farmer supported the motion. The motion was approved unanimously.

Chairperson VanderWeele asked Ms. Johnston for her presentation on the next agenda item.

OTHER BUSINESS

a. Nonhazardous Materials Treatment Facility – draft ordinance review

Ms. Johnston said Taplin, Inc., an environmental services firm within Oshtemo Township, wishes to add a structure to process nonhazardous materials so that they can become recyclable within their facility located at the corner of Drake Road and Michigan Avenue, just west of Bud and Doug Walter Auto Sales. The owners of the firm met with Township staff in early August to discuss the possibility of constructing this facility.

Staff informed Mr. Taplin the use requested is not permitted within the Township Zoning Ordinance. After discussion of the requested project, Staff investigated the use to determine if ordinance language could be written to allow this development.

Staff conducted internet searches of requirements for nonhazardous material management through Environmental Protection Agency and the Michigan Department of Environment, Great Lakes and Energy. In addition, staff reviewed other treatment companies to determine if special requirements must be met. Finally, a search of ordinance language related to nonhazardous treatment facilities was conducted.

Results of these searches determined the treatment should occur within an enclosed building and a secondary containment system must be provided. This system is designed to ensure results of processing within the facility will not impact ground water.

She said the draft ordinance recommended placing this type of facility within the 1-2: Industrial District as a special use. This would allow Planning Commission an opportunity to ensure all ordinance requirements are being met and any compatibility concerns addressed. She recommended review of the language to determine if its location in the 1-2 District is appropriate, that all concerns have been addressed through the regulatory requirements, and that special use approval should be required.

Ms. Johnston said Taplin, Inc. is an environmental remediation facility and she believes the materials they would like to process are currently shipped elsewhere for treatment.

Board members had several concerns and questions regarding noise, what types of materials would be processed, a definition of non-hazardous materials, what regulations are applicable, and whether approval must be given.

Attorney Porter said if the request is for a lawful use, the Board generally has to try to accommodate the use unless there is no place for it in the community or unless it can be accommodated in another way.

The Board agreed to postpone this item and to invite Mr. Taplin to a future meeting to address the Board and answer their questions.

OLD BUSINESS

a. Maple Hill South Overlay Zone – draft ordinance review

Ms. Johnston said at the September 24th meeting, the Planning Commission discussed the difference between net and gross acreage and its impact on the density and open space requirements of the draft Ordinance. No final decisions were made at the September meeting.

She recommended beginning discussion on residential maximum densities and density bonuses. Extended discussion followed, with a decision that a maximum density not to exceed 8 dwelling units per acre be established for the Ordinance. It was also decided a “sliding” density bonus would be established for densities between 10 and 16 with the inclusion of amenities as follows:

- 10 dwelling units: 4 amenities.
- 12 dwelling units: 4 amenities, including a public option
- 14 dwelling units: 5 amenities, including a public option
- 16 dwelling units: all 6 amenities

Ms. Johnston will make those changes and return the document for further consideration and review.

PLANNING COMMISSIONER COMMENTS

Ms. Johnston informed the Board the Livestock/Honey Bee ordinance will be returned to the Planning Commission from the Township Board for further consideration.

There were no comments from Commissioners.



December 31, 2019

Mtg Date: January 9, 2020

To: Planning Commission

From: Iris Lubbert, AICP
Planning Director

Subject: Discussion: Permitted Uses vs. Permitted Uses with Conditions vs. Special Uses

Introduction: Oshtemo Township’s Zoning Code outlines three different types of uses within each Zoning District: Permitted Uses, Permitted Uses with Conditions, and Special Uses. When a site plan for new construction or a significant alteration is submitted within a zoning district it will fall into one of these three categories, each triggering a different level of review. Apart from single-family homes, duplexes, and accessory buildings, all site plans are required to be reviewed by the Planning Commission or the Zoning Board of Appeals. The Township’s Site Plan review process is outlined in Article 64 of the Zoning Code. In this section you will find a chart, under 64.20 Applicability, which outlines which site plans fall under which reviewing body’s authority. For your reference I have attached this section of the Code. In summary, the Planning Commission reviews all Special Uses, the Zoning Board of Appeals reviews Permitted Uses and Permitted Uses with Conditions, and staff administratively reviews smaller alterations and temporary uses.

Site plans that fall under the review of the Zoning Board of Appeals or the Planning Commission go through a six week or more public review process. A brief summary of the three types of uses requiring this level of review is outlined below:

- **Permitted Uses:** In every zoning district within the Township there are listed Permitted Uses. These are the uses allowed in a zoning district without contention and often are used to define the character and intensity of that district. For example, in the Township’s R-1: Residence Zoning District the listed permitted uses are: private one family dwellings, essential services (excluding buildings and regulatory stations), accessory buildings and uses customary to the foregoing, and family daycare homes. Based on the listed uses it is clear that the intent of this district is for low-density single-family development. Submitted site plans that fall under the Permitted Use category can only legally be reviewed on the criteria outlined in the Zoning Ordinance. Often these uses are referred to as “uses by right”. When a site plan for a Permitted Use is under review and meets the requirements of the Ordinance, it is required by law to be approved. In these cases, the reviewing body is not permitted to request any additional conditions aside from what the

Zoning Code requires.

- **Permitted Use with Conditions:** These type of uses follow the same principles of Permitted Uses with the difference being that there are additional conditions that the submitted site plan needs to meet in order to be approved. For example, a request for a Home Occupation in the R-1 Zoning District needs to meet the general development standards of the zoning code in addition to the specific requirements for this specific use outlined in the code, such as: “the occupation shall not utilize more than 25% of the interior gross floor area of the premises...” (Section 48.60 (A)(6)). Similar to Permitted Uses, when a site plan for a Permitted Use with Conditions is under review and meets the requirements of the Ordinance, it is required by law to be approved. In these cases, the reviewing body is not permitted to request any additional conditions aside from what the Zoning Code requires.
- **Special Uses:** Special Uses are permitted uses identified in a zoning district that may have potentially unique characteristics that could be incompatible with other uses permitted in such zoning district. Unlike the previous two use types, the reviewing body of a site plan that falls into this category is permitted some discretion in their review. This discretion is meant to allow for flexible zoning control and still afford protection of property values and orderly and compatible development. For example, if a site plan is submitted for a Group Day Care Home in the R-1 district the reviewing body is permitted to determine if this type of use is appropriate at that specific location. If they find the use not compatible or if other concerns arise, even if the request meets the zoning requirements, they have the authority to deny the request or request modifications.

It is the Township’s practice to take all three of these use types through the Township’s six week or more public review process. This process involves staff coordination with the applicant, one or more staff reviews of the submittal to ensure zoning compliance, the creation of a staff report that outlines the compliance or non-compliance of a project, and a presentation and public hearing at the reviewing body.

For site plans that fall into the Permitted Use and Permitted Use with Conditions, the Zoning Board of Appeals can only approve or deny an application based on whether the request meets the code or not. As noted above, the reviewing body cannot request alterations or deny a request if the requirements of the code are met. Currently, staff determines the compliance of the case through review and outlines that compliance in their staff report for the Zoning Board of Appeals to consider.

Requested Discussion: In many jurisdictions, as there are no considerations beyond what is outlined in the code, reviews of Permitted Uses and Permitted Uses with Conditions are administrative. Staff requests that the Planning Commission discuss and consider the possibility of transferring Permitted Use and Permitted Use with Condition site plan reviews to Township Staff for administrative review and approval. This change would drastically decrease the amount

of administrative time needed in these types of reviews and streamline the process for Permitted Use and Permitted Use with Condition site plans; the overall goal being an increase in efficiency.

With this request staff understands that certain types of Permitted Uses or Permitted Uses with Conditions can be controversial and that the Township may still wish to have certain requests be reviewed by a reviewing body as well as allow public comment. However, under the current set up, even if the public is against a specific proposal, the reviewing body cannot react to the public's concern as they are required by law to approve a request of this nature if the plan meets zoning standards. Staff would like to propose moving these controversial types of uses from Permitted Uses or Permitted Uses with Conditions to Special Uses. Not only would this allow for the continuance of public comment, it would also allow the Township the ability to respond to public concern and place conditions on these types of requests.

Process: Staff first presented this idea to the Zoning Board of Appeals for discussion at their special meeting on December 17th. The Board was unanimously supportive of exploring this option. With the blessing of the Zoning Board of Appeals, Staff now wishes to discuss the idea with the Planning Commission. If a consensus is reached, staff would work with the reviewing bodies to determine which Permitted Uses and Permitted Uses with Conditions in each zoning district should be converted into Special Uses and then move to make the review of the remaining Permitted Uses and Permitted uses with Conditions administrative. This process would be phased and involve review from the Zoning Board of Appeals, the Planning Commission, and the Township Board.

Thank you for your consideration.

ARTICLE 64

64 – SITE PLAN REVIEW

Contents:

64.10 PURPOSE

64.20 APPLICABILITY

64.30 REVIEW BY TOWNSHIP PLANNING COMMISSION

64.40 SUBDIVISION/SITE CONDOMINIUMS UNDER OPEN SPACE OR PUD

64.50 OPTIONAL SKETCH PLAN REVIEW

64.60 APPLICATION PROCEDURE

64.70 ACTION ON APPLICATION AND PLANS

64.80 CRITERIA FOR REVIEW

64.90 CONFORMITY TO APPROVED SITE PLAN

64.100 AMENDMENT TO SITE PLAN

64.110 PERFORMANCE GUARANTEE

64.20 APPLICABILITY

- A. Prior to the establishment of a use, addition to an existing use, or the erection of any building, a Site Plan shall be submitted to and approved by the Township in accordance with the procedures of this Article, and the development requirements of this and other applicable ordinances.
- B. The Township shall not approve the issuance of a building permit until a Site Plan, where required, has been approved and is in effect. Obtaining Site Plan approval does not guarantee issuance of a building permit.
- C. No grading, removal of trees or other vegetation, landfilling, installation of utilities, or other construction improvements shall commence for any development which requires Site Plan approval until a Site Plan is approved and is in effect, except as permitted by this ordinance or by Section 56.30.
- D. Site Plan review shall be required for the activities or uses listed in the table below. The Planning Commission, Zoning Board of Appeals, or Planning Department through Administrative Approval shall have the authority to review and to approve, approve with conditions, or deny Site Plan applications as provided in this Article, in accordance with the table below. If all Site Plan application requirements are met, the Site Plan shall be approved, approved with conditions, or denied within 60 days of receipt of the completed application.
- E. The Planning Director shall have the discretion to forward any Site Plan submitted for administrative approval to the Zoning Board of Appeals for final determination.
- F. If administrative approval is denied, the applicant may appeal the decision to the Zoning Board of Appeals.
- G. Single-family and two-family dwellings are exempt from these requirements.

Activity/Use	Administrative Review	Zoning Board of Appeals	Planning Commission	Township Board
NEW CONSTRUCTION				
Open Space Developments			Approve	
Planned Unit Developments (PUD)			Approve	
Multi-Family Developments/Buildings		Approve in R-4 District	Approve in R-3 District	
Mobile Home Community			Recommend	Approve
Any Nonresidential Building, <u>Structure</u> or Use (unless Special Use)		Approve		
Special Uses			Approve	
EXPANSION/MODIFICATION TO EXISTING BUILDINGS				
Alteration or expansion involving less than one-fourth of the floor area of an existing structure or is no greater than 2,000 sq. ft. whichever is less	Approve			
Alteration or expansion involving more than one-fourth of the floor area of an existing structure or is greater than 2,000 sq. ft.		Approve		
Expansion/Intensification of a Special Use			Approve	
CHANGE IN USE				

Activity/Use	Administrative Review	Zoning Board of Appeals	Planning Commission	Township Board
Reuse of an existing building where no building expansion is proposed, if the Planning Director determines the new use is similar or less intense in terms of parking, traffic generation, drainage, utility needs, noise, aesthetics and other external effects	Approve			
Change of land or building to a more intensive use, as determined by the Planning Director, that may involve substantial change in parking, traffic flow, hours of operation, public services, effluent discharge, or substantial alteration of the physical character of the site		Approve		
Change to a Special Use			Approve	
Temporary uses, buildings and structures	Approve			
Change of use/occupancy of an individual suite within a Commercial Center	Approve			
ACCESSORY STRUCTURES AND SITE IMPROVEMENTS				
Accessory structures/buildings that are one-fourth the size of the principal building or less and does not affect other Zoning requirements	Approve			
Accessory structures/buildings that are more than one-fourth the size of the principal building and/or affect other Zoning requirements		Approve		
Outdoor storage, sales and display for more than one day			Approve	
Modification or expansion of existing off-street parking, stacking spaces or loading and unloading areas	Approve			
Construction, relocation or erection of signs, screening walls, fences, waste receptacles, sidewalks, lights, and poles	Approve			
Modifications to comply with accessibility requirements	Approve			