

**OSHTEMO CHARTER TOWNSHIP  
PLANNING COMMISSION**

**MINUTES OF A VIRTUAL MEETING HELD FEBRUARY 11, 2021**

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**Agenda**

**PUBLIC HEARING: CODE AMENDMENT – USES OF NONCONFORMING LOTS  
CONSIDERATION OF AN AMENDMENT TO THE TOWNSHIP ZONING ORDINANCE,  
FOR RECOMMENDATION TO THE TOWNSHIP BOARD, TO PROVIDE  
CLARIFICATION ON USES PERMITTED ON LEGAL NONCONFORMING LOTS.**

**2021 CODE AMENDMENT PRIORITY SETTING**

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A virtual meeting of the Oshtemo Charter Township Planning Commission was held Thursday, February 11, 2021, commencing at approximately 6:01 p.m.

**MEMBERS PRESENT AND  
WITHIN THE TOWNSHIP:**

Bruce VanderWeele, Chair  
Micki Maxwell, Vice Chair  
Kizzy Bradford  
Deb Everett  
Alistair Smith  
Anna Versalle  
Chetan Vyas

**ABSENT:**

Also present were Iris Lubbert, Planning Director, James Porter, Township Attorney, and Martha Coash, Recording Secretary.

Guests attending were Curt Aardema and Joe Gesmundo, of AVB.

**Call to Order and Pledge of Allegiance**

Chairperson VanderWeele called the meeting to order at approximately 6:01 p.m. and invited those in attendance to join in reciting the Pledge of Allegiance.

**Approval of Agenda**

Hearing no changes, the Chair let the agenda stand as published.

**Approval of the Minutes of the Meeting of January 28, 2021**

The Chair asked if there were additions, deletions or corrections to the Minutes of the Meeting of January 28, 2021. Hearing none, he asked for a motion.

Ms. Maxwell **made a motion** to approve the Minutes of the Meeting of January 28, 2021 as presented. Ms. Versalle **seconded the motion**. The **motion was approved unanimously by roll call vote.**

Chairperson VanderWeele moved to the next agenda item.

**PUBLIC HEARING: CODE AMENDMENT – USES OF NONCONFORMING LOTS. CONSIDERATION OF AN AMENDMENT TO THE TOWNSHIP ZONING ORDINANCE, FOR RECOMMENDATION TO THE TOWNSHIP BOARD, TO PROVIDE CLARIFICATION ON USES PERMITTED ON LEGAL NONCONFORMING LOTS.**

Ms. Lubbert indicated Planning Staff was recently approached by an individual who wished to build a medical office on a legal nonconforming parcel within the R-3 Residence District. A medical office is considered a special use within the R-3 Residence District. What can be built on a legal nonconforming parcel, lot, or building site is outlined in Section 63.20 of the Oshtemo Ordinance. Currently the language reads that “permitted uses of the zoning district” are allowable on these types of properties. There are three categories of uses outlined in the code: permitted uses, permitted uses with conditions, and special uses. Both the Planning Department and Legal Counsel have interpreted the language in Section 63.20 to mean that only the uses outlined under the “permitted uses” and “permitted uses with conditions” categories of a zoning district would be allowed on legal nonconforming properties. That means a special use, that is the requested medical office, would not be permitted on the legal non-conforming lot in question. However, after additional research and discussion, the Planning Department and Legal Counsel determined that this interpretation is not the intent of the code. In this case the use of the word “permitted” was intended to mean “allowed,” an instance of poor wording.

To avoid future confusion and provide clear direction, she recommended the following change, (bolded and underlined), to Section 63.20 Nonconforming Parcels, Lots or Building Sites of the Oshtemo Ordinance:

“In any zoning district, notwithstanding limitations imposed by other provisions of this Ordinance, where a nonconforming lot, parcel or building site of record, lawful at the time of its creation, fails to meet the requirements for minimum area, minimum width, minimum frontage or exceeds the allowable depth to width ratio of 4 to 1, such lot, parcel or building site may be used for the permitted uses , **permitted uses with conditions, or special uses** of the zoning district, provided that all other applicable minimum requirements are met.”

Chairperson VanderWeele determined there were no questions from Commissioners, opened and closed a public hearing as there was no one present who wished to speak, and after hearing no comments from Board Members during Board Deliberations, he asked for a motion.

Mr. Smith **made a motion** to approve the recommended amendment to Section 63.20 Nonconforming Parcels, Lots or Building Sites of the Oshtemo Ordinance as

presented and to send it to the Township Board for approval. Ms. Maxwell **seconded the motion**. The **motion was approved** unanimously by roll call vote.

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

## **2021 CODE AMENDMENT PRIORITY SETTING**

Ms. Lubbert noted the Planning Commission is responsible for maintaining the Master Land Use Plan, a living document that expresses the community's vision for the future of Oshtemo. The Zoning Ordinance, a written regulation and law that defines how property in specific geographic zones can be used, is the tool to implement the Master Land Use Plan. Like the Master Land Use Plan, the Zoning Ordinance is a living document. In order to ensure that these two documents accurately reflect the type of community Oshtemo residents enjoy now and desire for the future, the Planning Commission is tasked to work with Township Staff when necessary to recommend amendments to these documents to the Township Board for adoption.

She presented the following compilation of larger Zoning Ordinance amendment projects for consideration:

- **Signage**: The existing signage code does not meet the federal neutrality regulations and requires review and amendment. There is also a need to have the signage lighting regulations updated to mirror the recently approved outdoor lighting standards.
- **Marijuana**: It has been requested that the current zoning code be amended to allow for marijuana to be grown, processed, and sold within Township boundaries.
- **Permitted Uses, Permitted Uses with Conditions, and Special Uses**: To be more efficient organizationally, there is a strong interest in revisiting the three use types in the Zoning Ordinance with the ultimate goal of making approval of Permitted Uses and Permitted Uses with Conditions administrative.
- **Go Green Oshtemo**: An award-winning vision plan recently adopted by the Township. The Zoning Ordinance and Master Land Use Plan need to be reviewed and updated to be consistent with this plan.
- **5G**: 5G refers to a new type of communication tower linked to driverless cars. Federal regulations have required that municipalities allow for these special towers. The zoning ordinance needs to be updated if the Township wants to have any control over where and how these towers are placed. An application for a 5G tower can be submitted at any time.
- **Maple Hill South Mixed-Use Overlay District**: The creation of this overlay district would lead to the redevelopment of an existing golf course at the south east corner of W Main Street and US Highway 131 into a compact, pedestrian-oriented, mixed-use district. This new overlay zone would implement the adopted Maple Hill Sub Area Plan.
- **Nonhazardous Materials**: The zoning ordinance has been requested to be updated to allow for the processing and treatment of non-hazardous materials

within its boundaries.

- Village Form Based Code Overlay Zone: In April 2020 an amendment was adopted to the Village Theme Development Plan. Part of that amendment included changes to the vision of development in the overlay to help make the area more development friendly. In order for the desired changes to take effect the Village Form Based Code Overlay Zone needs to be amended.
- Sidewalk, lighting, dry sewer in developments: Over the years a number of shortfalls have been identified within the Oshtemo Charter Township Subdivision, Site Condominium, and Land Division Ordinance. These shortfalls have resulted in developments with sidewalk infill inconsistencies and/or insufficient street lighting. In addition, the adopted 2017 Master Plan urges that dry sewer be installed within new developments – the current ordinance does not reflect this. The Oshtemo Charter Township Subdivision, Site Condominium, and Land Division Ordinance needs to be reviewed and updated to ensure that current inconsistencies, which have resulted in enforcement and safety issues, are not continually created as the Township grows.

Ms. Lubbert noted the Township is due for a Master Plan update in 2022/2023. She explained to ensure that amendments capture the intent of the Community's vision and as they ultimately become written regulation and law, each amendment will necessitate considerable research, time, and discussion by Staff, the Planning Commission, the Township Board, and the public. It is important that all parties have the opportunity to give each amendment their full attention. She sought guidance on setting Zoning Ordinance amendment priorities for 2021. Staff and the Planning Commission can realistically work on one to two of these ordinance amendments at a time. The intent is that staff, and/or a hired consultant, would work on the first two items and as items are completed the other amendments on the list would move up accordingly. She recommended the list, once set, be revisited as needed and proposed the amendments be addressed in this order:

1. 5G
2. Sidewalk, lighting, dry sewer in developments
3. Permitted Uses, Permitted Uses with Conditions, and Special Uses
4. Maple Hill South Mixed-Use Overlay District
5. Village Form Based Code Overlay Zone
6. Signage
7. Marijuana
8. Nonhazardous materials
9. Go Green Oshtemo

Ms. Everett asked for an explanation of #8: nonhazardous materials.

Ms. Lubbert said a request had been received from an applicant to be able to dispose of and treat nonhazardous materials onsite within the Township, which is not currently permitted. This matter will need to be researched and an amendment considered.

Ms. Everett wondered what the status is for a community survey; Ms. Lubbert thought that would occur in 2022.

Attorney Porter noted there is a survey underway currently regarding sewer issues.

Ms. Maxwell asked for an explanation of #2: sidewalk, lighting, dry sewer development.

Ms. Lubbert explained this regards the subdivision code. Some inconsistencies need to be addressed. One example is when sidewalks need to be provided. Usually that occurs when a house is built, but years can go by after approval before construction, if at all, which leads to a patchy and incomplete sidewalk system.

Another example is dry sewers. Rather than putting sewers in piece by piece later at owner cost, it would be cheaper in the long run to put in sewers at the beginning of a development project, with the cost being the responsibility of the developer. She explained there are pros and cons to consider. She added that dry sewer is something that the Township's Master Plan currently advocates for but is not something addressed in the code.

Attorney Porter noted this is a sensitive legal issue; when sewers are required is not clearly laid out in law. There may be different ways to accomplish this, such as providing incentives to the builder.

The Chair said he would like to see the Maple Hill South Overlay District moved up to number two in priority. He noted much of the work has already been done and that a consultant could be employed to finish it.

Ms. Maxwell agreed. She also asked why signage was on the list.

Attorney Porter noted the Township signage code is out of date after major Supreme Court decisions that have been made.

Ms. Lubbert added lighting is also affected, for example the illumination of billboards. She added she has permission to utilize consultants as needed to address the priorities.

Chairperson asked for a motion.

Ms. Maxwell **made a motion** to approve the code amendment priorities as recommended except for moving #4, Maple Hill South Mixed-Use Overlay District up in priority to #2 as shown below. Ms. Versalle **seconded the motion**. The **motion was approved** unanimously by roll call vote.

1. 5G
2. Maple Hill South Mixed-Use Overlay District

3. Sidewalk, lighting, dry sewer in developments
4. Permitted Uses, Permitted Uses with Conditions, and Special Uses
5. Village Form Based Code Overlay Zone
6. Signage
7. Marijuana
8. Nonhazardous materials
9. Go Green Oshtemo

Ms. Maxwell was concerned about trying to work on the priorities while still meeting virtually.

Ms. Lubbert said when enough research has been done on individual items on the priority list, she expects they can be successfully addressed virtually.

Chairperson VanderWeele asked if there were any members of the public who wished to comment.

### **PUBLIC COMMENT**

Mr. Curt Aardema, AVB, thanked the Commission for their support on the Maple Hill South project, is happy with the potential of the overlay district and said he was open to being contacted with any questions.

Mr. Joe Gesmundo, AVB, told Commissioners the firm has made a legal commitment to the Elks to purchase their property. The deed is in escrow and he said AVB is ready, willing and able to move forward with the overall site plan and one to two projects for the property. He felt the development will be a great asset for the Township and the community and noted AVB is anxious to finish up the zoning language so they can get started.

### **OTHER UPDATES AND BUSINESS**

There were no updates or other business to consider.

### **ADJOURNMENT**

With there being no further business to consider, Chairperson VanderWeele adjourned the meeting at approximately 6:28 p.m.

Minutes prepared:  
February 12, 2021

Minutes approved:  
February 25, 2021