

**CHARTER TOWNSHIP OF NORTHVILLE
PLANNING COMMISSION
February 23, 2021**

DATE: February 23, 2021

APPROVED: March 23, 2021

TIME: 7:00 PM

PLACE: Meeting held remotely via video/teleconference

CALL TO ORDER: The meeting was called to order by Chair Zawodny at 7:01 p.m. via Zoom video conference meeting, in compliance with the Open Meetings Act, MCL 15.261, *ET SEQ.*, AS AMENDED. Members of the public body and members of the public participating electronically were considered present at the meeting and could participate as if physically present. Planning Commission members identified their location during roll call, as required.

ROLL CALL:

Present: Mindy Herrmann, Northville Township, Wayne County, MI (left meeting 9:22 pm due to connectivity issues)
Eric Lark, Northville Township, Wayne County, MI
Edward McCall, Northville Township, Wayne County, MI
Jayne Watson, Northville Township, Wayne County, MI
Matthew Wilk, Northville Township, Wayne County, MI
Gary Yang, Northville Township, Wayne County, MI
Tim Zawodny, Northville Township, Wayne County, MI

Excused: None

Staff: Jennifer Frey, Township Planner
Robert Belair, Director of Public Services

APPROVAL OF MINUTES: Planning Commission – January 26, 2021

MOTION by Wilk, support by McCall, to approve the January 26, 2021 Planning Commission meeting minutes as presented.

Roll call vote: Ayes: Herrmann, Lark, McCall, Watson, Wilk, Yang, Zawodny

Nays: None

Motion approved 7-0

CORRESPONDENCE: None

BRIEF PUBLIC COMMENTS: None

NEW BUSINESS: None

OTHER BUSINESS:

1. Request to consider Zoning Ordinance text amendment for the Consumer Industrial (CI) District

Noting that this was a discussion item only, Chair Zawodny invited Township Planner Frey to give her review.

Referencing her February 12, 2021 memorandum, Township Planner Frey gave the background for tonight's discussion request to consider a Zoning Ordinance text amendment for the Consumer Industrial (CI) District.

The Township received a request from Jack Kelly, property owner and lessee of property on Gerald Avenue, in the Consumer Industrial zoning district, to consider an ordinance amendment to allow various types of indoor and outdoor assembly uses/events at his location. Mr. Kelly's letter identified the current use of the property and gave some details about what he would like to do. Potential uses include weddings, parties, gatherings, etc., and special events such as ice skating, farmers markets, food trucks and shopping.

The property currently operates as a landscape supply yard and design showroom, which are permitted land uses in the CI district. The events the applicant wants to do are not specifically listed as permitted or special land uses in the district and are not incidental to the principal business. The applicant indicates the events will occur mainly outside of typical business hours. Mr. Kelly is asking the Township to consider amending the ordinance to allow that indoor and outdoor assembly events be permitted in the CI zoning district.

Chapter 43 of the zoning ordinance (Amendments) outlines the process to petition the Township for a zoning ordinance amendment. Article 3 of the General Use Provisions, Section 170-3.1.B. also applies.

Township Planner Frey provided the zoning map and table of uses, showing the land uses that are currently permitted in the CI zoning district, and uses that are permitted in other zoning districts. The Consumer Industrial zoning district is limited to Gerald Avenue.

The letter from Mr. Kelly referenced assembly land uses as being permitted in the Industrial Zoning district. The use referenced in the table of land uses in the Industrial district is "conventions/conference centers and assembly uses". Past practice has interpreted "assembly uses" to be indoor assembly, such as places of worship.

If the Planning Commission favors allowing the uses identified in the applicant's letter and as discussed at tonight's meeting, Township Planner Frey recommended that the table of uses be expanded to include the uses presented, to be permitted upon special land use approval in the Consumer Industrial zoning district. A special land use will allow the Planning Commission to evaluate each proposal on its own merit and in conjunction with the special land use standards contained in Article 30, Special Land

Uses. Additionally, if the Township expands the list of uses authorized in the Consumer Industrial zoning classification, indoor and outdoor assembly uses should be distinguished in the CI district and the Industrial District.

If the Township is interested in modifying the list of uses within the CI and Industrial zoning districts to include the types of activities identified, a zoning text amendment is necessary. The Planning Commission would make a motion to direct staff to prepare a draft amendment for review. The Planning Commission is then required to hold a public hearing and make a recommendation to the Board of Trustees. The Planning Commission shall determine if they want to review the draft ordinance revision at the next meeting, prior to scheduling the public hearing, or review the draft language and hold a public hearing at the same meeting. If an ordinance amendment is approved by the Township Board, an application for a special land use and site plan from the applicant will follow; the site plan will need to comply with all current ordinance standards.

Township Planner Frey said tonight's meeting was to obtain additional information and clarity regarding the proposed use, and for the Planning Commission to determine that if the use is not specified or identified in the ordinance, does it need to be, and what districts would be appropriate for the suggested use.

Commissioner Lark said that the Light Industrial district included special land uses that were more similar to what was being proposed this evening. Why were those uses included in the Light Industrial but not Consumer Industrial? Township Planner Frey explained that when the ordinance was written, generally properties in the CI district were quite small, so that certain assembly uses such as amphitheatres, performance venues and outdoor movie theaters that might be appropriate in LI because of greater parcel size would not necessarily be appropriate on Gerald Avenue, in the CI district.

In response to a question from Commissioner Wilk, Township Planner Frey clarified the request before the Commission and the process for moving forward.

Jack and Carly Kelly, 19275 Gerald and 19265 Gerald, were present on behalf of this request. Utilizing a presentation shown on the Zoom screen, the applicants gave the history of their company, Imagine Design and Build. They were proposing an outdoor gathering space, *Imagine Peace Park*, at their location. This space started out as a display space for their landscape business, but evolved into something different during COVID lockdown restrictions.

The applicants purchased 19265 Gerald several years after moving in to 19275 Gerald, and cleaned up that property. In 2020 they developed their outdoor showroom and gathering space, which replaced a parking area, and which demonstrated their landscape design elements, including planters constructed from pallets, and their trademark "sniff bar," full of aromatic plants.

They were now hoping to use the space as a place to hold events and gather and experience the outdoors in a peaceful and safe setting. 17 proposed uses were listed in

their submittal document, including private events such as weddings and parties, business events, food truck concessions, pop-up shopping, farmers markets, team building events, etc.

Standard hours of industrial operations on Gerald Avenue would not interfere with typical event times, which would typically host gatherings in the evening or on weekends. No residential properties were in the area.

Imagine Design & Build would remain the primary business at this location, and would have a complementary ongoing relationship with Imagine Peace Park. Parking will be provided for 150-200 guests, following the 1 space per 3 seats for both assembly use and outdoor recreation.

Imagine Design & Build is in the process of combining the 19275 and 19265 parcels. Imagine Peace Park was seeking to a) obtain either a Special Land Use and/or Accessory use, or b) initiate a process to amend the types of uses permitted in this zone by creating the use itself, or c) rezone from Consumer Industrial to Industrial since the latter allows event spaces to operate within its guidelines.

The applicants presented several letters of support for Imagine Peace Park, including business neighbors, local residents and community groups, and other landscape professionals.

The applicants concluded their presentation.

Chair Zawodny explained that tonight's conversation would not focus on site plan review, but rather the question of use in this zoning district. He opened the meeting to Commission discussion.

Commission questions

In response to Commission questions, the applicants gave the following information:

- There were no environmental issues at 19265 Gerald.
- From the front of the property to the back of the train tracks is 357 feet; the train tracks did not present a safety issue to people, including children, using Imagine Peace Park.
- Events would be hosted by the applicants, or event space might be rented out. In either case, food service and alcohol (if any) would be catered. Some events might include pop-up stores and the use of food trucks.
- The outdoor space allowed for appropriate social distancing during COVID, but the use of the outdoor space transcended the current moment.
- Restrooms were indoors, and food service would also utilize the indoor space of the existing building. The indoor space would also be used during inclement weather.
- Event tents might be utilized.
- The renderings showed a shipping container used for storage.

Commission discussion included:

- The Commission was impressed by the creativity of the proposal, and the applicant's creative response to the COVID pandemic.

- All the landscaping, including structures and putting greens, was already built.
- Additional uses, outside of landscape client use, was already happening, including weddings and other events. When this was brought to the Township's attention, those activities could not be authorized by the Building Department, and the applicants were required to shut down that part of their business.
- Should the use move forward, the site would need to be reviewed for compliance with normal Township standards and ordinances.
- The zoning could not be changed for one parcel, which would be considered spot zoning.
- The requested uses were also not permitted in Industrial zoning district.
- Any ordinance amendment would apply to all properties in the CI district. A special land use might be the best option, because then the uses would require Planning Commission review.
- Ordinance text amendments were usually initiated by the Township. In this case the request for a text amendment was being brought forward by the applicant.
- The Commission recognized that the applicants were bringing forward a new use that might not have been contemplated when the ordinance was written.
- Uses and circumstances change over time, and the ordinance sometimes needs to be updated as times and conditions change.

Discussion regarding justification for an ordinance amendment:

- The Commission discussed Section 43.6 A. and H., which read:
 - A. *The proposed amendment would correct an error in the chapter.*
 - H. *Other criteria as determined by the Planning Commission or Township Board which would protect the health and safety of the public, protect public and private investment in the Township, promote implementation of the goals and policies of the Master Plan or other subarea or corridor plans and enhance the overall quality of life in the Charter Township of Northville.*
- Article 3.B addressed the determination of "similar uses:"

Each zoning district provides for "similar uses". If a proposed use is not explicitly listed as a permitted or special land use in any of the zoning districts, an application for determination of similar use shall be made to the planning commission. If a use is determined to be similar to a use listed in a particular zoning district, the proposed use shall comply with the standards that apply to the similar use. If the Planning Commission determines a proposed use is not similar to a use in a particular zoning district, the applicant may petition for an amendment to the chapter, as described in § 170-40.7. Based on information provided by the applicant, the Planning Commission shall determine if the use is similar by considering factors such as, but not limited to, peak hour use, nature of use, aesthetics, traffic generated, noise, vibration, dust, smoke, odor, glare and other impacts in terms of health, safety and welfare.

Discussion regarding the proposed use(s):

- The proposed use(s) did not fit neatly into any category, and there was a lack of clarity regarding the uses.
- 17 uses were proposed for the property; probably not all of those could be granted.
- Perhaps the requested uses could be combined into 3-4 categories of use.

- Amending the ordinance for this property would affect all properties in the zoning district. Additionally, the Commission would need to analyze whether other zoning districts should include any of the new uses.
- A special land use would be preferred, should the change move forward.
- There appeared to be a trend for this type of mixed use in industrial and other districts.
- There were examples of this type of mixed use in other areas, e.g., Magnolia in Waco TX, Planterra in West Bloomfield, Hercules section of Queretaro, Mexico.
- Any ordinance amendment will need to reflect the bigger picture in the Township, and discussion will include how the amendment will impact other businesses and activities in the Township.
- Ordinance standards, such as parking requirements, accessible parking, noise standards, etc., must be met.
- Fire Department and Building Department standards must also be complied with, including safety inspections for tents, events, and so on. Outside events open to the public trigger different types of inspections than indoor uses.

Tentative Conclusions

- The Commission found Imagine Peace Park to be lovely and the concept regarding its use(s) intriguing. The Commission reiterated their support of the applicant's creative, entrepreneurial drive; they would like to see this effort succeed.
- It is difficult to write an ordinance for something that is nebulous, and if not clearly defined, the use affected by the ordinance can become a moving target. The goal is to work through the process in a clear and thoughtful way, providing clarity to what is being allowed.

Going forward

- Commissioners and the applicant should send anything found in other municipal ordinances regarding this type of mixed use, or other examples of this mixed use type of activity, to Township Planner Frey. Are there existing ordinances for other communities that manage similar situations?
- "Mixed use" in this context needs to be defined.
- Township Planner Frey will reach out to the Michigan Association of Planning and to Township consultants for any case studies or examples of the type of mixed use being proposed this evening.
- The Commission will need to decide how such a text amendment would fit into the ordinance. For instance, if defined as mixed use, the mixed use could be layered via a special land use.
- The applicants need to clearly define what parts of the proposed use(s) they are doing, and what parts are being done by other companies/vendors for the benefit of Imagine Peace Park guests.

Chair Zawodny asked Commissioners and applicants to return to the March 23 meeting with further ideas and clarifications. At that time a timeline for completing the process can be outlined. Any research should be sent to Township Planner Frey prior to the meeting.

In response to questions from the applicants, Chair Zawodny explained that this request could not be rushed. The Commission was responsible to the community to perform due diligence. He reiterated the Commission's support and acknowledgement of the efforts made by the applicants to come up with a creative solution while operating under COVID, their commitment to the community, and also complimented them on the beauty of Imagine Peace Park.

Township Planner Frey further outlined process. Amending the ordinance required discussion of draft language, holding a noticed public hearing, and making a recommendation to the Board of Trustees, who then also have to act on this matter. Any positive recommendation to the Board of Trustees must show that the draft language has been carefully vetted by the Planning Commission and endorsed by the Township Attorney.

Chair Zawodny added that the Planning Commission did not have the ability to circumvent the ordinance. In this instance, an ordinance change would have ramifications beyond the property being discussed.

Commissioner Lark suggested contacting the Township Attorney regarding this request.

Jack and Carly Kelly thanked the Commission for their time and positive comments this evening.

Chair Zawodny closed discussion on this item.

Department Reports:

Jennifer Frey, Township Planner

- Next Planning Commission meeting March 23.
- Planning Commission training, sponsored by Michigan Association of Planning: *Planning and Zoning essentials*, March 3 and 4 from 6-8 pm, and March 23 and 24 1-3 pm.
- Township is in process of seeking a vendor to help update the website.
- Board of Trustees subcommittees are active, including Legacy Park and Pathways.
- Welcome new Planning Commission members Edward McCall and Matthew Wilk

Eric Lark, Zoning Board of Appeals

- No February ZBA meeting

Mindy Herrmann, Board of Trustees

- No report

Bob Belair, Department of Public Works

- Pathway committee and 7 Mile Legacy Park Property committee are seeking two more members from the community.

Chair Zawodny thanked the new Planning Commissioners for being willing to serve, and also thanked those who had recently left the Commission: Tim Guerriero, George McCarthy, and Lisa Anderson.

EXTENDED PUBLIC COMMENTS: None.

ADJOURNMENT:

Motion by Wilk , support by Lark, to adjourn the meeting at 9:28 pm.

Roll call vote: Ayes: Lark, McCall, Watson, Wilk, Yang, Zawodny

(Commissioner Herrmann left the meeting at 9:22, due to connectivity issues.)

Nays: None

Motion approved 6-0.