

**Town of La Pointe Zoning
Town Plan Commission Work Shop Minutes
Wednesday, December 16, 2009**

Town Plan Commission (TPC) Members Present: Charlie Brummer; Vice-Chair, Larry Whalen C. Baxter, G. Thury, Ron Madich (leaves at 6:07), Suellen Soucek (6)

Town Plan Commission Members Absent: Chair, Ted Pallas (1)

Public Present: None.

Town Staff Members Present: Jennifer Croonborg; ZA, Margaretta Kusch; ZCA (2)

I. Call to Order/Roll Call

C. Brummer calls the meeting to order at 4:00 pm at the Town Hall. Roll call reflected members present or absent as recorded above.

II. Public Comment

None.

III. Zoning Ordinance Revision Project

a. Section 6.0 Regulation of Special Uses

Section 6.2 Quarries and Gravel Pits

- Change title to *Non-metallic Mining*, per Larry Hildebrandt and change references to *Quarries and Gravel Pits* in Section 3.0 to *Non-Metallic Mining* as well, for consistency.
- The Ashland County Ordinance section on Non-Metallic Mining runs to 45 pages. In order not to be less restrictive than the county, delete section and replace with “*Non-metallic mines are regulated by the Ashland County Non-Metallic Mining Reclamation Ordinance and are allowed as conditional uses in zones specified in Section 3.0.*”

New Section: Guest Houses (Accessory Dwellings)

Discussion regarding Attorney Mike Fauerbach’s fax of December 14, 2009 with suggestions regarding the new section on Guest Houses (Accessory Dwellings) that the TPC proposed at the last meeting.

- Replace “*Guest House(s)*” with “*Accessory Dwelling(s)*” throughout Ordinance.
- Delete final sentence of first paragraph in proposed new section (*The term “guest house” and “accessory dwelling” are synonymous for the purposes of this ordinance*).
- Replace “*The guest house shall not exceed 65% of the total enclosed square footage of the principle dwelling, or up to 1,500 square feet, whichever is less*” with “*The building footprint shall not exceed fifteen hundred (1,500) square feet of habitable space, not including decks.*”
- Add an item 6.2 A5 to read “*A principal dwelling may be converted to an accessory dwelling, but a land use permit is required for that conversion and the new principal dwelling and the new accessory dwelling must comply with all requirements of this Section 6.2 and the balance of this zoning ordinance.*”
- Add the following definition of Building Footprint to Section 2.0 Definitions:

“A building footprint is the outline of the total area of a lot or site that is surrounded by the exterior walls of a building or portion of a building, exclusive of courtyards. In the absence of surrounding exterior walls, the building footprint shall be the area under the horizontal projection of the roof.”

6.8 Rental of Single Family Dwellings

- Add “*Asbland County*” to item 6 to read “*Short term rentals must obtain licensure and inspection through the Asbland County Health Department.*”
- Change item 7, “*Where the Zoning Administrator finds a rental does not continue in conformity with the requirements of this Section the Zoning Administrator may forward the matter to the Town Board for action thereon according to Section 8.1(3)(B)*” to read “*Where the Zoning Administrator reasonably believes a rental does not continue in conformity with the requirements of this Section the Zoning Administrator will notify the property owner and/or authorized agent, upon receipt of such notification, shall abate such action or inaction so as to comply with this Ordinance as soon as reasonably possible under the circumstances. It shall be rebuttably presumed this Section can be complied with immediately. The Zoning Administrator shall thereafter forward the matter to the Town Board for action thereon according to Section 8.1(3)(B) including but not limited to revocation of the Land Use Permit for rental of a principal and/or single family dwelling.*”
- Replace “*If*” with “*Where*” as the first word of item 8.

New Section: Rental of Guest Houses (Accessory Dwellings)

- Delete the sentence “*The term “guest house” and “accessory dwelling” are synonymous for the purposes of this ordinance*” from the first paragraph.
- In item 2 B, add the word “*single*” to read “*In all other Zoning Districts except W-P short term rental of an accessory dwelling may be permitted only in conjunction with the rental of the principal single family dwelling to the same party.*”
- In item 3, add “*and L-Z*” to title, to read “*Long term rental of a guest house may be permitted in all Zoning Districts except the W-P and L-Z Districts.*”

New Section: Adult-Oriented Entertainment businesses

Discussion. Agreement that this needs to be addressed in the Ordinance, as this sort of business has to be allowed somewhere legally and to allotted a certain percentage of local property in order for the La Pointe Ordinance not to be unconstitutional. Cases regarding the subject have come before the Supreme Court multiple times. The TPC looks over the City of Bayfield’s Ordinance article regarding Adult-Oriented Entertainment businesses. A decision is made to adopt language of the Bayfield ordinance (although the figure of 500 feet may have to be changed) to read as follows:

6.5 ADULT-ORIENTED ENTERTAINMENT BUSINESSES

A. Findings and Purpose

The Town Board finds that the unregulated location and operation of adult-oriented entertainment businesses, as defined in Section 2.0 Definitions, in the Town of La Pointe may have significant adverse impacts upon the areas surrounding them, including contributing to the deterioration of nearby residential neighborhoods and impairing the values of nearby residential housing; adversely influencing children frequenting nearby facilities such as schools, churches, recreational facilities and parks, and the Town’s main shopping area; increasing the risk of illegal activities in the vicinity of such businesses, thereby increasing demands upon the Town’s law enforcement personnel; and adversely affecting the Town’s tourism economy in that the location of such businesses in the Town’s main business area would be detrimental to its distinctive charm, upon which its tourism economy is based. The purpose of this article is to protect the health, safety, and welfare of the Town and its citizens by minimizing such adverse impacts upon nearby lands and land uses.

Town of La Pointe Zoning
Town Plan Commission Minutes
Workshop ~ Wednesday, December 16, 2009

B. Zoning district limitations

Adult-oriented entertainment businesses may be operated or maintained only within the Commercial Zoning District.

C. Distance limitations

No adult-oriented businesses shall be operated or maintained:

- 1. Within five hundred (500) feet of the boundary of any Residential District (R-1, R-2, R-3, W-1, W-2, S-1, S-2);*
- 2. Within five hundred (500) feet of a church, public recreational facility or park, licensed daycare facility, public library, public or private school or educational facility serving persons under 18 years of age.*

D. Operating Standards

All adult-oriented entertainment businesses shall operate in accordance with the following:

- 1. No employee shall solicit business outside the building in which the business is located;*
- 2. No person, while on the premises, shall expose to public view his or her genitals, pubic area, anus, or anal cleft.*
- 3. No person on the premises shall engage in sexual conduct, sadomasochistic abuse, or fondle his or her genitals.*

The terms defined in Bayfield's ordinance within this article are to be adopted as well and added to section 2.0 Definitions. The definitions are as follows:

- **ADULT ORIENTED ENTERTAINMENT BUSINESS:**
An adult bookstore, adult theater, adult massage parlor, adult sauna, adult entertainment center, adult cabaret, adult health/sport center, adult steam room/bathhouse facility, or any other business whose primary business activity is characterized by emphasis on matters depicting, describing, or relating to nudity, sexual conduct, sexual excitement, or sadomasochistic abuse as defined herein.
- **NUDITY**
The showing of the human male or female genitals or pubic area with less than a fully opaque covering or the depiction of covered male genitals in a discernibly turgid state and/or the appearance of bare buttocks, anus, or female breast.
- **SEXUAL CONDUCT**
Acts of masturbation, sexual intercourse, or physical contact with a person's unclothed genitals, pubic area, buttocks, or, if such person be female, her breast.
- **SEXUAL EXCITEMENT**
The condition of the human male or female genitals when in a state of sexual stimulation or arousal.

b. Section 9.0 Nonconforming Uses

General Code was not content with the current language of Section 9.0 and sent the TPC examples of other ordinances to look at. Consensus to revisit Section 9.0 at next meeting.

c. Section 11.0 Amendments

- Tentatively change "Section 60.62" to "Section 62.23," although this change must be double checked with an attorney.
- Add "after first submitting proposed amendment to the Town Plan Commission" to read "The Town Board may amend this Ordinance in accordance with the procedures prescribed by Wisconsin Statutes, Section 62.23, and any other applicable sections after first submitting proposed amendments to the Town Plan Commission."
- Add the following two sentences:
*"The Town Plan Commission shall hold the hearing per Section 11.0 Public Hearings and shall consider any comments made or submitted."
Amendments shall be made to maintain the internal consistency of the entire ordinance."*

d. Section 12.0 Public Hearings

- Correct typo: change “mailto” to “mail to.”
- Change “amending ordinance” to “ordinance amendment.”
- Recording secretary asks about the proper phrase to use regarding mail in the Ordinance. It is variously referred to as U.S. mail, U.S First Class mail, and First Class mail. The TPC agrees that the term used throughout the Ordinance shall be “First Class mail.”

e. Section 14.0 Validity

At last meeting, Section 13.4 Complaints was moved to Section 14.0 Validity. TPC changes 13.4 to it’s own section, 15.0 Complaints. In this new section, change the first sentence from “*Any person who reasonably believes that a person or entity owning, using, or occupying real property in the Town is, by act of omission, violating a land use or conditional use permit, may file a written complaint with the Town Zoning Administrator*” to read “*Any person who reasonably believes that a person or entity owning, using or occupying real property in the Town is, by act or omission, violating a land use permit, conditional use permit, or lacks a required permit, may file a written complaint with the Town Zoning Administrator.*”

f. Review and Possibly Revise Zoning Map and District Boundaries

A comparison of the Zoning Map district boundaries and the Comprehensive Plan Map’s zoning district boundaries is made. The maps are not consistent in regards to the Commercial District. J. Croonborg, ZA points out that the Comprehensive Plan has two different types of districts, Town Center and Commercial. The Town Center district extends out into the current Zoning Map’s Residential District. The Town of La Pointe is required to make decisions according to the Comprehensive Plan. Either one map or the other should be changed so that the two maps are consistent. Lengthy discussion ensues, resulting in four proposals for changes:

- Propose a Conservancy Overlay on the Zoning Map to match that of the Comprehensive Plan’s future land use map.
- Propose amending the Zoning Map to combine the Commercial District and the Town Center District as reflected on the Comprehensive Plan’s future land use map.
- Propose to change the Zoning Map to include Marina District as shown in the Comprehensive Plan
- Propose not including a Mixed Use District in the Zoning Map but rather recommending amending the Comprehensive Plan future land use map.

Ron Madich states for the record that he is in favor of the proposed map changes and then leaves the workshop at 6:07 pm.

Agreement to continue reviewing Zoning Map at a later meeting.

IV. Future Agenda Items

V. Schedule Next Meeting

To be scheduled at Regular Monthly Meeting immediately following this workshop.

VI. Adjournment

G. Thury moves to adjourn. S. Soucek seconds. All in favor, 5 aye. Motion Carries. Meeting ends at 6:10 pm.

Draft Town Plan Commission Minutes respectfully submitted by Zoning Clerical Assistant, Margaretta Kusch on Tuesday, December 29, 2009.

Town Plan Commission Minutes are approved as submitted by Margaretta Kusch; ZCA on Wednesday, January 06, 2010.