



PLANNING COMMISSION WORKSHOP MEETING

May 9, 2023 | 5:00 PM | Township Hall Board Room

Meeting will be held in-person and available via Zoom at:

<https://us02web.zoom.us/j/83829618116>

- ITEM 1. **CALL TO ORDER**
- ITEM 2. **ROLL CALL**
- ITEM 3. **PUBLIC COMMENTS**
- ITEM 4. **ADOPTION OF MEETING AGENDA**
- ITEM 5. **APPROVAL OF MEETING MINUTES**
 - A. April 25, 2023, Regular Meeting Minutes
- ITEM 6. **NEW BUSINESS**
- ITEM 7. **OLD BUSINESS**
 - A. **Review Draft Miscellaneous Ordinance Amendments**
Request: Continued review and consideration of draft ordinance amendments for Land Divisions, Lot Line Adjustments and Parcel Combinations. Review draft ordinance amendment for attached deck rear yard setback encroachments.
 - B. **Review Draft Subdivision and Site Condominium Ordinance Amendments**
Request: Continued review of draft amendments for highlighted items in preparation of the public hearing scheduled for the May 23, 2023, Planning Commission Regular Meeting.
- ITEM 8. **COMMISSIONER COMMENTS**
- ITEM 9. **PUBLIC COMMENTS**
- ITEM 10. **ADJOURNMENT**



1 **PLANNING COMMISSION REGULAR MEETING MINUTES, APRIL 25, 2023**

2
3 **CALL TO ORDER/ROLL CALL**

4 The Meeting was called to order at 6:00 p.m. and roll was called. The following Commissioners were
5 present: Vice Chair Davis, Secretary Loeks, Commissioners Roberts, Eavey, and Matson. Also present
6 were Zoning Administrator Lovely and Recording Secretary Quemada. Chair Corfman and Commissioner
7 Buckham were absent.

8
9
10 **PUBLIC COMMENTS**

11 There were no public comments.

12
13
14 **ADOPTION OF MEETING AGENDA**

15 The agenda was reviewed. Motion by Eavey, seconded by Loeks, motion carried, to adopt the agenda
16 as presented.

17
18
19 **APPROVAL OF MEETING MINUTES**

20 Spelling corrections were noted within the draft April 11, 2023, Workshop Meeting Minutes.

21 Motion by Roberts, seconded by Matson, motion carried, to approve the minutes of the April 11, 2023,
22 Workshop Meeting Minutes with corrections indicated.

23
24
25 **NEW BUSINESS**

26
27 No new business.

28
29
30 **OLD BUSINESS**

31 Review Draft Land Division Ordinance Amendments

32 Request: Continued review and consideration of draft ordinance amendments for Land Divisions, Lot
33 Line Adjustments and Parcel Combinations.

34 A draft of the Land Division, Lot Line Adjustment and Parcel Combination proposed amendments was
35 presented by Zoning Administrator Lovely. This is a continuation of discussions had during previous
36 meetings. In reviewing the existing regulations, Lovely expressed concern and confusion regarding the
37 lack of language and/or provisions dictating minimum lot width, along with a desire to clarify how the depth
38 to width ratio must be calculated. A diagram was shared to give an example.

39 Amendment to section 36-5.1 was reviewed regarding flag shaped lots and change in direction.
40 Commissioners raised the question being that if a tree or pond was directly in the middle of the proposed
41 lot line, would that be a case where it would be helpful to be able to change direction. Following discussion,
42 commissioners agreed to allow up to two changes in direction, enabling a return to original direction, while
43 clarifying language to ensure it does not allow a 90-degree angle. Concern was expressed that multiple
44 flag shaped lots could be created out of a parcel, not just one. Discussion continued regarding scenarios
45 where a parcel could or could not create one or more flag shaped lots including shared driveways. Zoning
46 Administrator Lovely reminded commissioners that all other dimensional standards for parcels still apply,
47 along with other standards such as access, shared driveways, number of permissible splits, etc. For
48 example, a flag shaped land division naturally creates the flag lot and then the smaller lot with greater
49 frontage. If enough land existed, then a third "land locked" parcel could only be created by the development
50 of a private or public road to provide the minimum required frontage.

51 Commissioners agreed that Zoning Administrator Lovely should clarify the definitions and confirmed
52 that a finalized diagram will be included with the proposed amendment prior to adoption.
53

54 Review Draft Site Condominium and Subdivision Ordinance Amendments

55 Request: Review draft amendments for highlighted items and discuss scheduling of a public hearing
56 for the May 23, 2023, Planning Commission Regular Meeting.

57 A draft of Site Condominium and Subdivision Ordinance was introduced by Zoning Administrator
58 Lovely with new regulations highlighted in yellow and corresponding staff comments in red.

59 Commissioners discussed Section 3C: Approval Prior to Development and agreed that this section
60 should remain and can be removed at a later date if it becomes an issue. Zoning Administrator Lovely will
61 look into potential ramifications and enforcement options if this section is not adhered to.

62 Zoning Administrator Lovely indicated that he will fill in the adoption date in Section 6 when the potential
63 second reading date of the ordinance becomes clear.

64 Commissioners discussed Section 7B: Public Utilities and agreed to keep the requirement for public
65 utilities if public utilities are within one-half mile (2,640-feet) of the development site based on a
66 recommendation from the Township Engineer.

67 Commissioners discussed Section 7.C.ii regarding public sanitary sewer easement widths and agreed
68 with Zoning Administrator Lovely's recommendation to require a minimum width of 20-feet for sewers up
69 to 10-feet in depth, with the option to require up to a 30-foot-wide easement for sewer with a depth greater
70 than 10-feet.

71 Commissioners discussed Section 7.D.i regarding free form basins and agreed that this should be
72 modified to encourage but not require this if site conditions will not allow. Zoning Administrator Lovely
73 indicated that he will work on language to replace "should" with more clear language encouraging free form
74 basins.

75 Commissioners discussed Section 7.D.ii regarding side slopes and agreed with Zoning Administrator
76 Lovely' recommendation to remove "must be varied to imitate natural conditions".

77 Commissioners discussed Section 7.D.vii regarding retention basin setbacks adjacent to properties
78 without public sewer and agreed that the language needs to be clarified to indicate "without public sanitary
79 sewer available".

80 Commissioners discussed Section 7.D.viii regarding naturalized planting themes for retention basins
81 and agreed to remove the mention of "evergreen" trees and replace with "large" trees.

82 Commissioners discussed Sections 7.E.Viii, 7.G.ii and 7.L.ii and agreed that the 50-foot buffer is
83 intended for all site boundaries with frontage along a county primary or secondary road. This will prevent
84 direct individual lot/unit access along county primary or secondary roads. The 20-foot preservation buffer
85 is intended to be included within the 50-foot buffer. Zoning Administrator Lovely indicated that he will work
86 to clarify the language as such.

87 Commissioners discussed Section 7.I.iii regarding required lighting along the roadway. Zoning
88 Administrator Lovely indicated that he was not a fan of the language enabling commissioners to require
89 lighting in "all other areas requiring lighting as may be recommended by the Township Planning
90 Commission". Commissioners agreed that more guidance needs to be added to language to indicate
91 factors such as curvature of the road and safety concerns and directed Zoning Administrator Lovely to
92 modify the language accordingly.

93 Review of the remainder of the draft ordinance was tabled until the workshop meeting on May 9, 2023.

94
95 Riparian Ordinance Amendment Updates

96 Request: Review draft survey questions prepared by CIB Planning.

97 Draft riparian survey questions comprised by CIB were provided to the committee. After much
98 discussion, commissioners agreed to eliminate questions 4, 7 and 10. A request was made to add a
99 question to the survey regarding short-term rentals. Commissioners were asked to come to the next
100 meeting with any additional questions they think should be added to the survey. For question number 5,
101 "20-feet" will be added to the end to read, "would you like to see the maximum allowable height for
102 accessory structures like garages be increased from 20-feet"? It was also suggested to break the survey
103 into an environmental section and a zoning section. The survey will be mailed only to riparian lots but will

104 also be available on the Township website and noted in the newsletter in case the general public wants to
105 respond to the survey questions as well.

106
107

108 **COMMISSIONER COMMENTS**

109 Commissioner Roberts provided several Township Board updates. A veterans' milage proposal will be
110 on the ballot for the November election. Bosch Architecture has been chosen to design the restrooms for
111 the 6th street park and there is hope for a bid-out and to break ground this year. She also shared several
112 updates related to the flood mitigation project.

113 Zoning Administrator Lovely shared the April ZBA meeting has been cancelled and there will possibly
114 be no May meeting as well due to the deadline quickly approaching with no submissions.

115 Zoning Administrator Lovely asked to discuss the following items that have be recurring points of
116 conflicts for zoning reviews completed thus far in 2023:

- 117 • Attached deck setbacks following rear yard principal building setbacks: commissioners
118 expressed conflicting views on consideration of allowing encroachments of 10 to 15-feet in to
119 the rear setback. Zoning Administrator Lovely agreed to bring some examples of residents who
120 have been unable to build a deck due to the current setback requirements.
- 121 • Preserved right-of-way setbacks for buildings and signs: Zoning Administrator Lovely shared
122 with commissioners that a recent ZBA case and numerous sign cases thus far in 2023 may
123 warrant a closer look at where preserved rights-of-way should be required. Commissioners felt
124 that the intent was to apply these setbacks to buildings and that sign setbacks may not need to
125 be measured from the preserved right of way. Lovely shared that the ordinance currently
126 requires that all setbacks be measured from the preserved right of way along all county primary
127 roads and that he would soon propose language that would allow for reasonable
128 encroachments by signs on the required preserved right-of-way for the Planning Commission's
129 consideration.
- 130 • Clarification on Section 36-5.1.3 that states "every dwelling structure shall be built upon a lot
131 with frontage": Zoning Administrator Lovely shared that he was recently asked by a potential
132 buyer of land adjacent to an existing plat if they could purchase the property and build on it. All
133 other requirements are met aside from the minimum frontage requirement of 200-feet (66-feet
134 provided) and access could be obtained from the end of the public county road cul-de-sac.
135 Zoning Administrator Lovely cited Section 36-5.2.3 in addition to the above section and felt that
136 he could determine this to be a buildable lot only if 66-feet of frontage was enough for this to
137 be considered a buildable lot at the time that the lot was originally created.

138
139

140 **PUBLIC COMMENT**

141 There were no public comments.
142

143

144 **ADJOURNMENT**

145 Motion by Eavey, seconded by Matson, motion carried to adjourn the meeting. The meeting was
146 adjourned at 8:50 p.m.

147

148 Submitted: May 1, 2023

Approved:

149

150 Recording Secretary Quemada



7110 West Q Avenue
Kalamazoo, MI 49009
P: 269.375.1591
www.texastownship.org

STAFF MEMO

Meeting Date: May 9, 2023

Date: May 4, 2023

To: Planning Commission

From: John Lovely
Zoning Administrator

Regarding: Miscellaneous Amendments

Agenda Item: 7A

Planning Commissioners reviewed updates to the proposed Zoning Ordinance Amendments as it relates to land divisions, lot line adjustments and parcel combinations at the April 25, 2023, Planning Commission Regular Meeting. Modifications to the draft amendments reviewed at the Regular Meeting are reflected in the attached draft amendments. Notably, lot width and lot depth definitions have been amended, a draft figure has been added for clarity on how widths and depths are to be measured and modifications have been made to the flag shaped lot requirements to allow for two changes in direction to traverse challenging natural features and topography, so long as the access portion of the lot returns to its original direction before or as it meets with the flag portion of the lot.

In addition, staff presented concerns with decks attached to the principal building for single family dwellings at the April 25, 2023, Planning Commission Regular Meeting. These concerns stem from numerous denied deck permits thus far in 2023 due to challenges meeting the minimum rear yard setbacks. To further this discussion, a draft amendment to Section 36-3.4 is included for your review.

If the amendments are acceptable, I would like to include this along with the site condominium/subdivision ordinance amendments and other miscellaneous amendments already discussed this winter/spring in a public hearing now scheduled for the May 23, 2023, Planning Commission Regular Meeting.

Thank You.

Attachments: Draft Miscellaneous Ordinance Amendments
Attorney Memo regarding Land Divisions/Land Division Act

Proposed Zoning Ordinance Amendments:

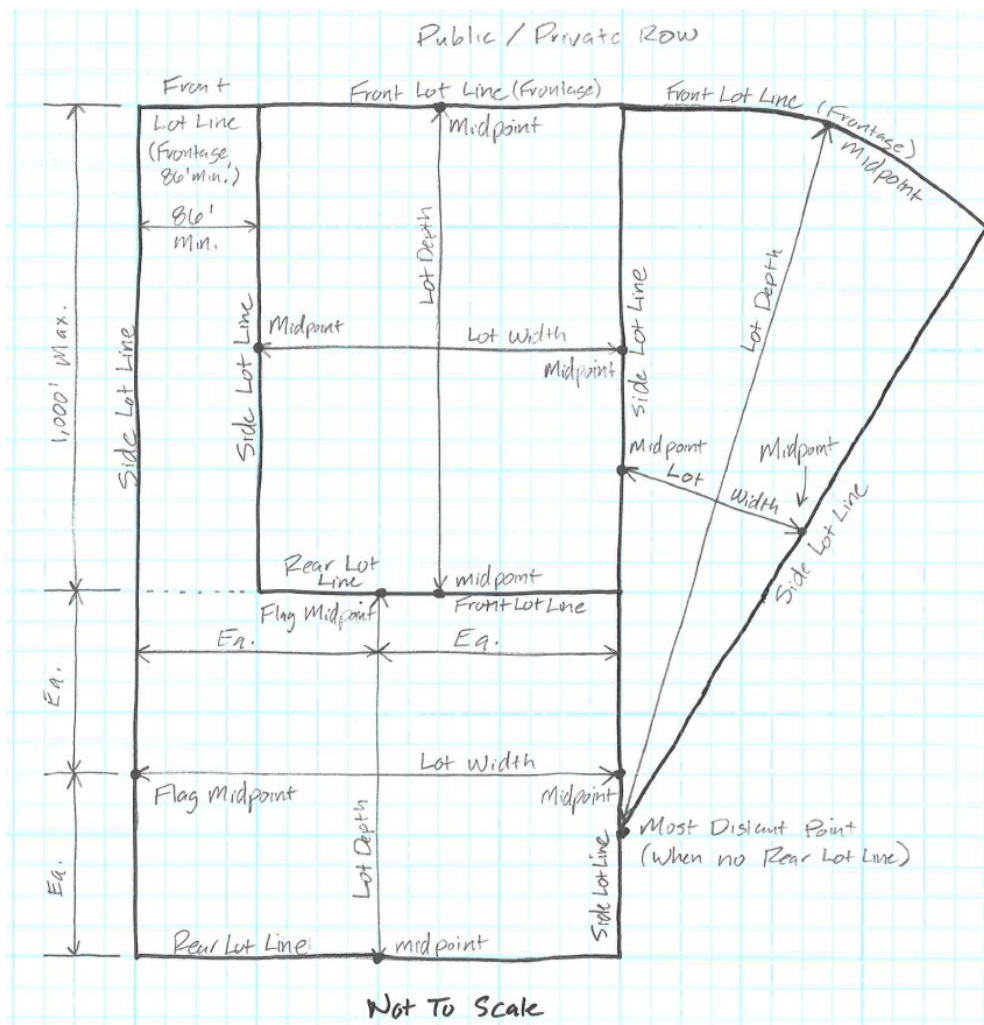
Changes for Section 36-2.0: Definitions

Amendment to Section 36-2.2 (Add/Amend Definitions) as follows:

Lot width means the horizontal distance between the side property lines of a lot as measured from the midpoint of each side lot line. Lot width for a flag shaped lot shall be measured in the same manner using only the flag portion of the lot to determine midpoints as illustrated in the below image.

Lot depth means the horizontal distance between the front lot line and the rear lot line as measured from the midpoint of the front lot line to the midpoint of the rear lot line. Lot depth for a flag shaped lot shall be measured in the same manner using only the flag portion of the lot to determine midpoints as illustrated in the below image. Unique lots without a rear lot line shall be measured from the midpoint of the front lot line to the most distant point as also illustrated in the image below.

Add figure consistent with the following sketch (Zoning Administrator working with Giffels Webster to create figure):



Changes for **Section 36-3.4: Notes to District Standards**

Amendment to Section 36-3.4.2.D.ii (Add 36-3.4.2.D.ii.e) as follows:

- e. Decks attached to a principal building for single family, two-family or multiple family dwellings provided a 20-foot rear setback is maintained. Such encroachments on the side setback are not permitted.

Changes for **Section 36-5.1: Limitations on all Land and Structures**

Amendment to Section 36-5.1 (Add 36-5.1.5 & 36-5.1.6) as follows:

5. Lot frontage along a public road or approved private road containing marginally less than the minimum required frontage in accordance with the district standards may be reduced by a maximum of 1.5-percent in the R-1A, R-2, R-3, R-4 and R-5 districts. The frontage may be reduced by a maximum of 2-percent in the A and R-1 districts. Such lot frontage reductions shall not be applied to multiple family developments in the R-4 district.
6. Lot frontage along a public or approved private road may be reduced to a minimum of 86-feet for the purpose of access if the lot complies with all other district standards. The depth to width ratio calculation of each parcel created by a permitted land division, parcel combination or property line adjustment for a flag shaped lot shall exclude the long strip of land providing access to the flag portion of the lot so long as the access portion of the land is a minimum of 86-feet wide, does not exceed 1,000-feet in length, and contains two or fewer changes in direction, each creating an interior angle of not less than 135 degrees. Permitted changes in direction are for the purpose of traversing challenging natural features and topography but shall not be permitted if the access portion of the land does not return to the original direction as it meets with the flag portion of the lot. Flag shaped lots shall have setbacks for respective lot lines as illustrated in the below figure. The flag portion of the lot must meet all minimum dimensional standards. The long strip of land shall not be included in the minimum required lot area unless the land can be built upon while maintaining the minimum setback standards. Other flag shaped lots not meeting the criteria of this section shall not be permitted.

Add the figure shown above for lot width and lot depth definitions.

MEMO

TO: John Lovely, Zoning Administrator for Texas Charter Township
FROM: Michael D. Homier & Scott H. Hogan
DATE: March 8, 2023
RE: Township Authority to Adopt Land Division Ordinance

You asked for an explanation of the authority that local governments have to adopt land division ordinances as it relates to frontages, access and lot depth to width ratios.

Land division in Michigan is governed by the Land Division Act, MCL 560.101 *et seq.* (the “Act”). MCL 560.109(1) provides to divisions:

(b) Each resulting parcel has a depth of not more than 4 times the width or, if an ordinance referred to in subsection (5) requires a smaller depth to width ratio, a depth to width ratio as required by the ordinance. The municipality or county having authority to review proposed divisions may allow a greater depth to width ratio than that otherwise required by this subdivision or an ordinance referred to in subsection (5). The greater depth to width ratio shall be based on standards set forth in the ordinance referred to in subsection (5). The standards may include, but need not be limited to, exceptional topographic or physical conditions with respect to the parcel and compatibility with surrounding lands. The depth to width ratio requirements of this subdivision do not apply to a parcel larger than 10 acres, unless an ordinance referred to in subsection (5) provides otherwise, and do not apply to the remainder of the parent parcel or parent tract retained by the proprietor.

(c) Each resulting parcel has a width not less than that required by an ordinance referred to in subsection (5).

(d) Each resulting parcel has an area not less than that required by an ordinance referred to in subsection (5).

(e) Each resulting parcel is accessible.

MCL 560.109(5) provides that “[t]he governing body of a municipality or the county board of commissioners of a county having authority to approve or disapprove a division may adopt an ordinance setting forth the standards authorized in subsection (1)(b), (c), and (d).”

MCL 560.109(6) provides that “[a]pproval of a division is not a determination that the resulting parcels comply with other ordinances or regulations.” According to a Michigan Attorney

General Opinion, this last section “specifically contemplates that the parcels resulting from a division of land must comply with other ordinances and regulations[.]” OAG, 2014, No. 7276, 2014 WL 986029 at *1.

In other words, the Act explicitly permits a municipality to adopt an ordinance governing parcel depth to width ratios, and it explicitly allows a municipality to apply its normal zoning powers under the Michigan zoning enabling act, MCL 125.3101 *et seq.*, to land divisions, allowing the municipality to govern access and frontage, among other things.

Please let us know if you have further questions.

:KTB

83393:00001:6964718-1