

AGENDA

Village of Shelby Planning Commission
Tuesday, August 17, 2021
218 N. Michigan Ave.
Shelby, MI 49455
Regular Meeting – 6:30 P.M.



Agenda Topics:

1. Call to Order:
2. Planning Commission Chairperson Appointment
3. Roll Call:
4. Pledge of Allegiance:
5. Approval of Minutes: June 15, 2021 **AR**
6. Public Hearings:
7. Commission Administrative Business:
 - a. Williams&Works – Zoning Ordinance Audit/Project Kickoff **D**
8. Reports:
 - a. Zoning Administrator Report
9. Public Comment:
10. Member Discussion:
11. Adjournment:

AR- Action Requested
D- Discussion Item

**VILLAGE OF SHELBY
PLANNING COMMISSION
Tuesday, June 15, 2021 at 6:30P.M.
MEETING PROCEEDINGS**



1. CALL TO ORDER:

The Village of Shelby Planning Commission Meeting was called to order at 6:33 P.M. by Planning Commission Chairman John Sutton.

2. ROLL CALL:

Answering Roll Call: John Sutton, Tara Kelley, Tim Horton, Samantha Near, and Ross Field.
Staff Present: Village Administrator, Brady Selner and CEDAM Fellow, Emily Stuhldreher

Absent: Malcolm Carey, Paul Inglis.

3. PLEDGE OF ALLEGIANCE: All stood for the Pledge.

4. MINUTES:

a.) Ross Field moved to approve the minutes of the Regularly Scheduled Planning Commission meeting of May 18, 2021 as presented.
Seconded by: Tim Horton.

Voice Vote.

Motion Carried: 5-0.

Absent: Malcolm Carey and Paul Inglis

5. PUBLIC HEARING:

a.) Section 3.19 Demolition Permits Text Amendment- Public hearing opened at 6:37 PM by Chairman John Sutton. Discussion ensued. There being no public comment, Chairman John Sutton closed the public hearing at 6:43 PM.

Motion by Tim Horton to pass resolution 03-21, to send a favorable recommendation to the Village Council for the text amendment to Section 3.19 of the Village of Shelby Zoning Ordinance.

Seconded by: Tara Kelley

Voice Vote.

Motion Carried: 5-0.

Absent: Malcolm Carey and Paul Inglis

Malcolm Carey joined the meeting at 6:46 PM.

6. CITIZEN PARTICIPATION: None.

7. COMMISSION ADMINISTRATIVE BUSINESS: A new Chairperson will need to be elected at the July 20, 2021 Planning Commission Meeting per the Planning Enabling Act.

8. REPORTS: The Oceana County Planning Commission is requesting the Shelby Village Planning Commission's efforts and cost sharing its Master Plan update for 2022. They are requesting two responses to corresponding questions. The Shelby Village Planning Commission does not see a real benefit in combining with the Oceana County Planning Commission due to a full schedule for the year 2021.

The Shelby Village Planning Commission will be holding eleven in person meetings with Williams&Works for the Ordinance Rewrite.

9. PUBLIC COMMENT: No Public Comment

10.MEMBER DISCUSSION: New member Malcolm Carey was introduced to the Planning Commission members. The options of establishing a Downtown Development Authority and putting a TIFA in place to generate funds in the future was discussed.

11.ADJOURNMENT: Tim Horton made a motion to adjourn the meeting at 7:31 P.M.
Seconded by: Ross Field.

Motion Carried 6-0.
Absent: Paul Inglis

Planning Commission Meeting minutes are not official until approved at the next Regularly Scheduled Planning Commission Meeting of August 17, 2021.

Approved



Minutes Respectfully Submitted by Samantha Near/Secretary

Date



Memorandum

Date: August 2, 2021

To: John Sutton, Chair, Shelby Planning Commission
Planning Commission Members

From: Brady Selner, Village Administrator

Subject: Zoning Ordinance Audit and Project Kickoff

Information:

Andy Moore of Williams&Works will be at the Planning Commission meeting to kick off the zoning ordinance rewrite and to go through the zoning ordinance audit. Please review the audit and come to the meeting with any questions or comments. Getting the Planning Commission's perspective will be important to give Williams&Works a greater understanding of local issues. The memorandum provided will serve as a road map as we work to update the Village Zoning Ordinance over the next year.

Supporting Documents:

Zoning Ordinance Audit



MEMORANDUM

To: Village of Shelby Planning Commission
Date: July 14, 2021
From: Andy Moore, AICP
Whitney Newberry
RE: **Zoning Ordinance Audit**

We have reviewed the Village of Shelby zoning ordinance for its content and organizational structure. The zoning ordinance rewrite is intended to ensure effective land use and development standards are established to regulate the built environment, while also providing flexibility and clear standards for the village. Therefore, the intent of this initial review (or “audit”) is to highlight key policy issues and structural elements that may be revised to provide a more comprehensive and user-friendly document. While this report may be viewed as an initial critique of the ordinance, more local input will be needed to effectively represent the concerns and desires of the Village as we move forward with the update process.

Overall, the current zoning ordinance provides many customary regulations normally found in a Michigan ordinance. However, since the ordinance was originally intended to regulate both the Village and Township of Shelby, it has become somewhat cumbersome over time and contains many regulations that do not apply to the Village. Given the Village’s size and the fact that the Village and Township no longer share a single zoning ordinance (the Shelby Community Zoning Ordinance has been amended separately by both entities over the years), a shorter document containing only Village regulations is proposed.

As a general note, the overall organizational structure of some chapters could be improved. Development standards are located in numerous places throughout the document, including general provisions (Chapter 3), district chapters (Chapters 5-9), and the site development chapter (Chapter 12). While it is normal to reference standards throughout the ordinance during a review, the current ordinance requires a user to jump between several locations to find all applicable standards. User-friendliness would be enhanced by combining all related standards in one section. For example, all sign standards should be contained in one sign section or chapter and all parking standards should be in a single parking section or chapter.

Lastly, an updated zoning map and improved graphics will significantly enhance the understanding of definitions and regulations. The zoning map should be updated to provide clear district boundaries within the Village and should include parcel boundaries. Graphics will be updated for clarity and new graphics will make the ordinance easier to understand. New graphics could include depictions of sign types, district setbacks, parking arrangements, and landscaping requirements, among others.

Many of the comments and critiques in this memorandum are not to be considered requirements, but instead should be taken as suggestions that may assist the public and development community in using and navigating the document with ease.

The balance of this memorandum will review the ordinance chapter by chapter with our impressions reviewing the document, informed by our experience in other communities and working for Shelby for the last eight years.

Chapter 1 – Title and Purpose

The current language of Chapter 1 is generally appropriate, establishing the title and referencing the Michigan Zoning Enabling Act (MZEA). Section 1.04 may be modified to move subsections B and C to Section 3.26 pertaining to nonconformities. A new subsection may address the governing provisions in the event of a conflict between ordinances or standards.

Chapter 2 – Definitions

Definitions are of primary importance in the effective use of the Zoning Ordinance. The Village's ordinance appears to contain many applicable definitions and is relatively comprehensive in scope; however, there are many references to the Township that are no longer applicable and should be removed. Further, some definitions could be clarified to reference applicable acts and enhance understanding of the text.

We provide the following additional comments:

1. The definition of "agriculture" should be removed.
2. The definition for personal service establishments should be clarified to generally define the type of services performed. Currently, any business that performs any service (which is not defined) would be permitted by this designation, which seems too broad.
3. Some signage definitions should be revised to be content-neutral, as determined necessary by the Supreme Court ruling in *Reed v. Town of Gilbert*.
4. The definition of a structure should be clarified and expanded to include examples. Further, the Village may wish to exclude parking lots, patios, and driveways from this definition.
5. Graphics should be improved and modernized for clarity and ease of interpretation. Where feasible, additional graphics should be incorporated throughout this chapter.

Chapter 3 – General Provisions

Chapter 3 contains provisions generally applying to all properties in Shelby. Most development proposals, permit applications, and land use activities will need to comply with these requirements. For this reason, general provisions are significant, as they relate generally to the entire Village. Following are our comments on the Village's general provisions chapter:

1. Similar to Chapter 2, this chapter contains many references to the Township that do not apply to the Village. These should be removed or modified to address only the Village,

increasing clarity and efficiency in the Village's ordinance. Regulations that only apply to the Township include: Clearing of Land (3.02), Keeping of Animals (3.23), Roadside Stands (3.25), and Temporary Camping (3.30).

2. The setback measurements should be kept consistent for the front, rear, and side yards in Section 3.07. Currently, the ordinance requires front yard setbacks to be measured to the building foundation line and side setbacks to the building's drip line. We recommend all setbacks be measured to the building foundation. Further, these provisions could be relocated to the definitions. An updated graphic should depict all types of lot configurations and setbacks.
3. Section 3.11(H) prohibits the use of accessory buildings for residential purposes, sometimes referred to as "mother-in-law housing" or "granny flats." This is also prohibited in Section 3.17 ("Illegal Dwellings"). Many communities are revising their policies related to such housing, and the Village should discuss whether or not this present prohibition should continue.
4. The Village should consider whether a maximum accessory building size should be defined for nonresidential uses in section 3.11, as there is currently no maximum size for nonresidential uses.
5. Section 3.11(M) permits accessory buildings to be 24 feet tall. In some cases, this would be taller than the house (assuming a one-story house). The Village should discuss if this is desired.
6. The language regulating satellite dishes in Section 3.12 is antiquated and could likely be removed.
7. Section 3.13 requires a fence around all pools. The International Pool and Spa Code was revised in 2015 to state that fences are not required if a properly installed powered safety cover is installed over a pool. The Village could defer to the International Pool and Spa Code and adopt the same policy if desired.
8. Section 3.14 pertaining to fencing could be expanded to address appropriate fencing materials. The method of measuring fence height should also be included so artificial raising of land to increase fence height is not allowed.
9. Section 3.17 allows tents or recreational vehicles to be an accessory use to a main building. The Village should consider whether this provision should continue to be permitted. If still desired, this standard should be clarified and contain standards related to utility connections, duration, and other occupancy issues.
10. Most of the provisions of Sections 3.21 and 3.22 pertaining to waste and storage of inoperable vehicles may be best administered and enforced through a police power ordinance instead of the Zoning Ordinance. This would eliminate the potential for the accumulation of garbage to be continued as a nonconformity.

11. Section 3.23 pertaining to animals may be modified to address only animals in the Village.
12. The Village may consider registration of home occupations in Section 3.24. This would allow the Zoning Administrator to maintain records of home occupations in the Village.
13. Section 3.26 pertaining to nonconformities is generally well organized. We offer the following comments for consideration:
 - a. A provision may be added to Subsection C that prohibits nonconforming structures from being re-established after they are removed. Under the current provisions, a non-conforming building could be removed and then rebuilt.
 - b. Additional provisions could be added to this section to address repairs and maintenance of nonconforming buildings/structures and the effect of a change in ownership to any nonconforming lots, buildings, or uses.
14. The current provisions for site condominiums in Section 3.28 are limited in scope, essentially evaluating them as other uses requiring site plan review. These provisions may be expanded to address typical condominium requirements, such as road access, master deed, open space, and limited/general common elements.
15. Section 3.29 contains various design standards applicable to most developments. These may be most effectively located in certain district chapters. Further, it was felt at one time that these requirements were too onerous and not appropriate for Shelby. This should be discussed.

Chapters 4-9 – District Chapters

The organizational structure of these chapters is unique in that each district individually addresses standards for parking, signs, and review procedures. There are other sections in the ordinance also devoted to parking standards, sign standards, and review procedures. In our opinion, this information would be most easily accessible and concise if combined into single sections devoted to each topic, rather than being spread throughout the district chapters. District chapters would then be shortened to address permitted and special uses, dimensional requirements, and any other appropriate standards

We offer the following comments on district chapters:

1. The AG, RR, and C-3 districts should be removed from this section, as they are not located in the Village.
2. We find it helpful to organize each zoning district within its own chapter for clarity and distinction of each district's uses and dimensional requirements. These can also include graphic representations of setbacks, lot width, etc. for each district.
3. The single-family and two-family minimum required floor areas are relatively large. Many communities are reducing the minimum floor requirements to allow smaller, more

affordable housing. The Village may also consider reducing these minimum requirements.

4. The R-3 district, although allowing the densest residential uses, requires the largest front and side yard building setbacks. Typically, smaller setbacks are permitted in denser residential areas to allow adequate buildable area on smaller lots. A separate setback can still be included for multiple-family developments to ensure larger developments do not negatively impact other residential uses. The Village may consider modifying the R-3 dimensional requirements to allow a greater buildable area for single and two-family homes.
5. Including a usable open space requirement is uncommon in residential district dimensional standards, considering that the Village also has a maximum lot coverage requirement. Usable open space is often addressed under PUD or clustered development standards. The Village may consider moving these requirements to the PUD chapter.
6. The Village should consider adding residential above retail and/or live/work establishments as permitted uses in the C-1 district to allow housing variety in commercial areas.
7. The Industrial district is located in both the Village and Township and therefore allows uses that may apply to a variety of urban and rural settings. The Village should review permitted and special land uses and remove any uses that do not apply to the Village. Similarly, dimensional standards may be adjusted to better fit properties in the Village.

Chapter 10 – Planned Unit Development District

1. Typically, PUDs allow all permitted and special land uses in the underlying zoning district, or a combination of such uses, as long as they are harmonious with each other and surrounding land uses. In some cases, PUDs allow any use, whether permitted in the underlying district or not. The Village should discuss the degree to which this type of flexibility should be allowable.
2. In our experience, it is helpful for the PUD rezoning to occur along with the Preliminary Sketch Plan review. At this point, the development would be proposed in accordance with the appropriate zoning district and a public hearing could accommodate both aspects of the review at one time. Further, if phases are proposed, a final site plan review may be necessary for each phase and occur over several years, which could complicate the rezoning process. The Village may consider adjusting the review process to allow rezoning earlier.
3. The Village may consider adding the option for a pre-application conference, during which the applicant and Planning Commission could discuss the viability of PUD plans.
4. Under current Michigan law, the Village Council, but not the Planning Commission, is required to hold a public hearing for a PUD rezoning. At a minimum, Section 10.05 C

should be amended to require a public hearing by the Village Council. The Planning Commission hearing could be required or made optional.

5. The Village prohibits the creation of private streets in Section 3.27. Section 10.05 C(5) addresses street arrangement within PUDs, and PUDs often contain private roads to accommodate various aspects of the development. The Village may discuss whether private roads should be allowed in the Village, or if the Village will be responsible for maintaining public streets in a PUD.
6. This chapter could be amended to address performance guarantees, time limits for approval, extensions, and other administrative items.

Chapter 11 – Special Land Uses

1. The Village may expand Section 11.02 to address abandonment of special land uses, transfers to a new owner, and/or appeals.
2. The general standards in Section 11.03 could be reworked somewhat. At a minimum, they should include general conformance with the Village Master Plan.
3. Section 11.04 pertaining to specific special land use requirements should be reviewed for applicability to the Village and to ensure they remain appropriate for the use to which they pertain.
4. There are some special land uses listed in district chapters that do not have any use-specific requirements in this section. In our view, if there are no unique aspects to a land use that warrant special regulation in Section 11.04, then the Village should consider permitting these uses by right.

Chapter 12 – Site Plan Review

1. Section 12.02 could be made more concise by requiring a site plan review for construction of buildings or structures in any districts, unless made an exception in Subsection B.
2. We question whether all items required for the optional preliminary plan are necessary. In our experience, preliminary reviews are relatively informal and do not contain binding decisions. The Village may wish to offer greater flexibility for this optional review by requesting a more generalized sketch plan.
3. Sections 12.03 and 12.04 seem to overlap in outlining both application procedures and requirements. These sections may be combined into a single, more concise section or may be re-arranged for clarity of process and requirements.
4. Section 12.06 provides a lengthy list of review standards for all site plans. Some of these standards could be relocated to district chapters as site design standards, or addressed in general provisions. Additionally, these standards could be generalized to allow a more efficient review of the proposed development and its impacts.

Chapter 13 – Site Development Requirements

Landscaping

1. Section 13.01 B requires landscaping along front, rear, and side yards. Typically, municipalities will only require landscaping along road frontages, unless additional screening is necessary to buffer uses between different zoning districts. The Village may consider a similar method so applicants are not burdened with additional landscape costs if they are not necessary.
2. Section 12.01 C pertaining to screening should require a nonresidential use install a buffer whenever it abuts a residential district or use. Specific landscape standards should be included to define an appropriate minimum screen between incompatible uses.

Parking

3. Section 13.02 pertaining to parking should be reorganized to group similar provisions under common headings and in an easily navigable order. We recommend relocating all parking requirements and standards from the district chapters to this section so all parking information is consolidated into one location in the ordinance.
4. A subsection may be added to Section 13.02 to define the applicability of parking provisions, such as when a site plan is submitted or there is an expansion of an existing building.
5. The Village may consider expanding the shared parking provisions of Section 13.02 D to also allow shared parking lots if sufficient spaces are provided for each use individually.
6. Some communities allow the Planning Commission to approval similarly dustless and durable materials besides asphalt and concrete such as asphalt millings or types of pervious pavement. Section 13.02 E(6) could be revised to include alternative materials if desired.
7. The Village could also consider adding supplemental bicycle parking that may be allowed to replace a certain number of vehicle parking spaces. Considering the downtown environment and proximity of the Hart-Montague trail, this may encourage supporting infrastructure for bicyclists.
8. Section 13.02(F) doesn't have anything to do with parking and should be moved or eliminated.
9. Flexibility should be added to the loading standards in Section 13.03. Many small shops and facilities do not receive large deliveries, so a designated loading space may be unnecessary. Language could be added to excuse applicants from adding loading spaces, where appropriate.

Lighting

10. Section 13.04 related to exterior lighting could be expanded to require lighting on a site plan, that all features be downward facing with fully cutoff, and prevent trespass on adjacent properties. Having a standard for light intensity at property boundaries can be useful when a photometric plan is submitted.
11. Section 13.04 C allows light poles to reach 30 feet in height. In our experience, this is taller than what is permitted in many communities, and it may result in excessive light pollution. The Village may reduce this height, if desired.
12. This section should except certain types of lights, such as holiday decorations, low-level lawn lights, etc.

Signs

13. Section 13.05 pertaining is generally well-organized; however, we recommend relocating the sign standards in district chapters to this section in order to consolidate all standards in one area. These standards can remain organized by district, but available for reference within a single area.
14. This section may be expanded to address the illumination of signs and maintenance provisions. Section 8.03 D(1) pertaining to electronic message boards should be included with the general sign standards.
15. This section and district chapters contain numerous “content-based” regulations, such as the following:
 - a. Construction sign
 - b. Political sign
 - c. Real estate sign
 - d. Residential entrance way signs
 - e. Trespassing, safety, direction, caution, or announcement signs

These types of signs should be redefined and revised to be content-neutral to comply with the US Supreme Court majority opinion in *Reed v. Town of Gilbert*, which prohibits municipalities from regulating signs based on their content.

13. Many sign types and placement regulations could be graphically illustrated for clarity.

Chapter 14 – Board of Appeals

1. Section 14.04 outlines the public hearing procedures. These procedures may be moved to Chapter 15 and a reference included in this section.
2. Use variances are currently allowed in section 14.08 B. Many communities prohibit use variances, as it is very difficult for the property owner to prove an unnecessary hardship during such variances, and functions as a workaround of the preferred legislative

process (rezoning). The Village may consider prohibiting use variances, although they have been utilized in the recent past.

Chapter 15 – Administration and Enforcement

1. A new section could be created to outline public hearing and notice procedures in accordance with the MZEA.
2. Standards for reviewing amendments in Section 15.04 should be reviewed for their effectiveness. Some standards for the text amendment could likely be made more concise, while those for the map amendment could be expanded. Further, Sections 15.03 and 15.04 should be combined.
3. Section 15.05 provides a lengthy process for considering conditional rezoning requests. This process could be significantly condensed. The current process also appears to allow the Planning Commission to recommend changes, which is generally discouraged.
4. Sections 15.06 and 15.07 pertaining to enforcement and public nuisance may be combined.
5. Sections 15.08 and 15.10 pertaining to fees may be combined.
6. Section 15.11 relating to zoning permits could be expanded to prohibit any major excavation, site work, change in use, topographic change, or other land use changes without a zoning permit.
7. Section 15.14 should be expanded to include the limitations of the zoning administrator.

Conclusion

Our notes discussed above are intended as a place to begin a discussion on revisions to the Zoning Ordinance. They are intended to generate thought and discussion as we work to create effective, clear, and purposeful regulations for Village residents, business owners, developers, and staff. At our next meeting, we will review the comments in this memorandum and seek input on our perspective. Additional matters of local importance should be discussed to provide us with a greater understanding of local issues. Subject to those comments, this memorandum will serve as a road map as we work to update the Village Zoning Ordinance over the next 12 months.

We look forward to discussing this with you. As always, please feel free to contact me with questions or comments.



Memorandum

Date: August 2, 2021

To: John Sutton, Chair, Shelby Planning Commission
Planning Commission Members

From: Brady Selner, Village Administrator

Subject: Zoning Administrator Update

Uncle Mike's Mechanic Shop recently closed, and I was approached by a potential buyer. The interested party would refurbish the building to design and manufacture circuit boards for LED based lighting solutions as well as other contract assembly services.

Since 106 S. State Street is zoned R-2, Medium Density Residential, and the property has existed as a legal non-conforming use, Section 3.26(B) of the Village of Shelby Zoning Ordinance is the applicable provision to determine the process for the potential new use mentioned above. 3.26(B)(3) states that a nonconforming use shall not be changed to another use that is also nonconforming unless it is more conforming than the previous use. I would consider the business described above as more conforming than the previous auto mechanic use because there would be less impact on the surrounding area. There would no longer be several cars requiring repairs in the parking lot, potential ground contamination, etc.

If the owner moves forward with the purchase of the building, a zoning permit for an administrative review will be required. Section 12.02(B) allows for administrative review for interior remodeling that does not change the building footprint or parking requirements. This process includes a \$25 zoning permit with a plot plan sketch of the property, building layout, and explanation of use (number of employees, hours of operation, anticipated traffic, etc.).

I will keep the Planning Commission updated regarding this property. There is also interest from others to maintain the existing non-conforming auto mechanic use.

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