

**Charter Township of Elmwood
Planning Commission Regular Meeting
Elmwood Township Hall (10090 E. Lincoln Rd)
February 20, 2024 at 6:30 PM**

A. Call to Order: Chairman Bechtold called the meeting to order at 6:30 PM.

B. Pledge of Allegiance: The Chair led the Pledge of Allegiance.

C. Roll Call: Present: Chris Mikowski, Kendra Luta, Rick Bechtold, Jeff Aprill, Jonah Kuzma
Excused: Nate McDonald, Doug Roberts

D. Limited Public Comment: None

E. Agenda Modifications/Approval: MOTION BY COMMISSIONER APRILL, SECONDED BY COMMISSIONER KUZMA TO APPROVE THE AGENDA AS PRINTED. MOTION APPROVED 5-0.

F. Minutes-January 16, 2024: MOTION BY COMMISSIONER LUTA, SECONDED BY COMMISSIONER KUZMA TO APPROVE THE MINUTES OF JANUARY 16 2024. MOTION PASSED BY A UNANIMOUS VOTE.

G. Consent Calendar: MOTION BY COMMISSIONER LUTA, SECONDED BY COMMISSIONER APRILL TO APPROVE THE CONSENT CALENDAR AS PRESENTED. MOTION APPROVED UNANIMOUSLY.

H. Declaration of Conflict of Interest: None

I. Old Business: None

J. New Business: (2:19:48)

a. Public Hearing and Deliberations. ZO 2017-04-17-a Zoning Ordinance Amendment to amend Section 2.2 Definitions to add definitions for "Active Farm Operation", "Festival", and "Special Event Facilities"; amend Section 5.4 to allow for special Event Facilities within the Agricultural-Rural Zoning District, with a Special Use Permit and to renumber the subsequent uses within the Land Use and Zoning district Table; amend Section 9.8 H to include standards and regulations specific to Special Event Facilities.

The Chair read the statement to open a public hearing. Public hearing opened at 6:36 p.m. The applicant was not present to comment.

Public comment opened at 6:39 p.m. No public comment was given. Public comment closed at 6:40 p.m.

The Chair noted they have the document in front of them that has the proposed text changes and asked the Commissioners if they had questions regarding the changes. Staff commented that she printed out 2 pages from the original application, the text has changed significantly since that date. When the Gallagher's originally submitted the text amendment, Staff was working with them and the language was revamped, so some of the responses to what's in our Zoning Ordinance and reasons why text amendments should be considered; some of that language may have changed, but it's been almost a year, so she wanted to provide what the Gallagher's had provided regarding their text amendment.

Their consultant could not be there that evening, but had prepared draft Findings of Fact which Staff passed around.

The Chair closed the public hearing at 6:41 p.m.

The Commissioners went through deliberations and discussed the sections for amendment. The Chair asked the Commissioners to review section 1.4 because they had spent quite a bit of time and discussion on it at the last meeting. As previously discussed, the minimum lot size was changed to 40 acres. Also, in 2(d) the special event facility including structures used for the special event, parking area designated for guests or space to be used for special event facility shall not exceed 7.5% of the area used for active farm operation on this parcel.

Commissioner Aprill noted under (g) the only thing he had a problem with in that section is where it says "greenbelt"; he knows the definition of a "greenbelt" in the Ordinance which mentions shrubs around a creek or water body, and he knows in the past they talked about a greenbelt just being grass between a road and a building, and he thinks for clarification they should probably have something more than "greenbelt". The Chair said the way he read it was if the greenbelt wasn't possible, the owner could put up an obscuring fence or masonry wall. Staff said the intent was "shall be screened from view."

The Chair said under (h) there was discussion because the applicant brought up concerns about that, but counsel said this was the language they were strongly recommending they include in this, therefore it appears as counsel suggests.

Commissioner Kuzma said it looks like the text, as written, checks all the boxes they discussed.

The Commissioners proceeded with the Beckett and Raeder document reviewing Section 11.12.D to determine if the guidelines have been met. There was consensus among the Commissioners that (a)-(e) were met, but had lengthy discussion on (f)-(g). Staff noted, not all guidelines need to be met. The Planning Commission is not voting to add this to the Ordinance, they're sending it to the County and then the Township Board who ultimately makes the determination on whether or not to approve the amendment. The Planning Commission should review the guidelines in recommending approval or recommending

denial of the text to the Township Board. The Commission went through the guidelines one by one and found the following:

Guideline (a): The proposed text amendment would clarify the intent of the Ordinance. *A majority (4-1) of the Commission finds that the proposed amendment clarifies the general intent of the zoning ordinance and the districts in which the use is allowed. The Intent section of the A-R zoning district as stated in the Ordinance is "1. The A-R zoning district encourages continued agricultural pursuits and recognizes the historic importance of agriculture to the region and the need for productive and unique farmland to sustain the food production needs of the region and the nation. 2. The A-R zoning district encourages an open and rural character for the majority of Elmwood Township. 3. Without unduly limiting private property rights, the A-R zoning district preserves scenic vistas, retains contiguous greenways for natural habitat, limits impacts to the natural environment, and to the extent possible and practical protects significant woodlands, sloped areas, wetlands, and other sensitive lands in the zoning district. 4. Lastly, the use restrictions and dimensional requirements of this zoning district directly or indirectly discourage and limit a sprawling land use pattern and encourage responsible development practices.*

Guideline (b): The proposed text amendment would correct an error in the Ordinance. *The Commission unanimously finds that This amendment adds a use and regulations to the Ordinance it does not correct an error in the Ordinance.*

Guideline (c): The proposed text amendment would address changes to State legislation, recent case law or opinions from the Attorney General of the State of Michigan. *The Commission unanimously finds that the proposed text amendment does not address any changes to legislation or case law. This is a voluntary amendment that the Township received an application for consideration.*

Guideline (d): The proposed text amendment would promote compliance with changes in other county, state or federal regulations. *The Commission unanimously finds that the proposed amendment is not intended to promote compliance with changes in regulations. There have been no changes to county, state, or federal regulations regarding this use.*

Guideline (e): The proposed text amendment would be consistent with the goals, policies, and future land use map of the Elmwood Township Master Plan, or if conditions have changed significantly since the Master Plan was adopted, consistent with recent development trends in the area. *The Commission unanimously finds that the proposed amendment is consistent with the goals and policies of the Master Plan. This amendment is intend to conserve agricultural lands and protect existing farms from the cost of development (MP pg 9), complies with the Planning and Growth Management goal and objectives (MP pg 23), protects natural resources goals, objectives, and strategies (MP pg 24), and advances the commercial land use goals and objectives (MP pg 27).*

Guideline (f): In the event the amendment will add a use to a district, that use shall be consistent with the character of the range of uses provided within the district.

A majority of the Commission (3-2) finds that the proposed amendment adds a use to the district and this new use is not consistent with other uses allowed by right and special use in Section 5.4 Land Use and Zoning District Table of the Elmwood Township Zoning Ordinance.

Guideline (g): The amendment shall not create incompatible land uses within a zoning district, or between adjacent districts.

The Commission unanimously finds that the proposed amendment does create incompatible land uses as the uses are not similar to the uses listed in Section 5.4 Land Use and Zoning District Table of the Elmwood Township Zoning Ordinance.

Guideline (h): The proposed text amendment is supported by the findings of reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements, and similar technical items.

The Commission unanimously finds that they have not received reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements, and similar technical items pertaining the request.

Guideline (i): As applicable, the proposed text amendment shall be consistent with the Township's ability to provide adequate public facilities and services.

The Commission unanimously finds that the regulations that are provided in the amendment create a use that is consistent with the Township's ability to provide adequate public facilities and services including fire, water, sewer, and medical services.

Guideline (j): The proposed text amendment shall be consistent with the Township's desire to protect the public health, safety, and welfare of the community.

A majority of the Commission (4-1) finds that the proposed text amendment is consistent with the Township's desire to protect the public health, safety and welfare of the community as the amendment provides additional regulations to ensure that this use continues to protect the public health, safety and welfare of the community.

MOTION BY COMMISSIONER APRILL, SECONDED BY COMMISSIONER MIKOWSKI TO RECOMMEND APPROVAL OF ZO 2017-04-17, TEXT AMENDMENT TO THE TOWNSHIP BOARD AND FORWARD ON TO THE COUNTY. MOTION APPROVED UNANIMOUSLY.

b. Introduction, continued. Planning Commission Discussion on ZO 2017-04-22-a Zoning Ordinance Amendment to amend Section 2.2 to add a definition for Dwelling, Multi and Lot Area, Gross and to modify the existing definitions for Parcel, Lot Area and Net Lot Area; create Section 3.14 to include development requirements for Multi-Dwelling developments; add Note "I" to Section 5.6 to reference residential density requirements to Section 3.14; modify Section 7.1.2 so residential base

density is determined using net acreage; modify Section 7.2.2 so residential density is based off of net lot area; modify Section 8.4.12 to have Site Plan Review applicants submit the gross lot area and net lot area.

The Chair noted these are text amendments that would deal with some definitions. Staff stated this is a continued introduction, no decisions or modifications were made at the last meeting. The Commission wanted more time with the language. Last time there was a question on how it would impact how many dwelling units could be on a parcel with cluster developments; staff prepared an Excel sheet that shows what could be allowed. Staff stated again that the draft text has not changed, the only new information is the table.

The Commissioners discussed “lot” versus “parcel”, private road, easement, and utility easements.

MOTION BY COMMISSIONER KUZMA, SECONDED BY COMMISSIONER LUTA TO SCHEDULE A PUBLIC HEARING ON ZO 2017-04-22 AT THE NEXT REGULARLY SCHEDULED MEETING. DISCUSSION. MOTION PASSED UNANIMOUSLY.

c. Introduction, continued. Planning Commission discussion on ZO 2017-04-23, a Zoning Ordinance Amendment to amend Section 2.2 to add a definition for alcohol, beer, brewer, brewery, distiller, micro brewer, small distiller, small wine maker, spirits, tasting room, and wine maker. Revise definitions for distillery, wine, winery, and eliminate definitions for distillery tasting room, wine, brandy, wine drink, mixed, wine related beverages, and wine tasting room. Amend Section 5.4 to eliminate distillery tasting rooms, microbreweries/distilleries, and wine tasting room, add distillery and/or brewery and tasting room as permitted uses under site plan review or industrial districts under site plan review, renumber uses, amend Section 5.5 K to eliminate two requirements for temporary produce stands and renumber subsequent requirements, add Section 5.5 N to contain requirements for wineries, distilleries, and breweries; amend Section 6.1.3 to list parking requirements for wineries, distilleries, and breweries; amend Section 9.8 J to contain requirements for tasting rooms for wineries, distilleries, and breweries, eliminate Section 9.8 L distillery tasting room and its requirements and reserve Section 9.8 L for future use.

Staff reported the text in front of the Commissioners has not changed since their last meeting; she included the clean version and the red line version. The Ordinance currently allows for wine tasting rooms and distillery tasting rooms, but they have different requirements; the intent is to streamline their requirements and to ensure that the use is tied to agricultural use of the property. At the last meeting there was lengthy discussion on commercial uses so she provided a copy of Section 5.4 of the Ordinance which is all of the currently allowed uses. Staff pointed out that quite a few commercial activities are currently allowed in the Ag District, but they are restricted and regulated, generally speaking. An exception is microbreweries as it is allowed, but there are no requirements

other than it is regulated by the state and it meets all the requirements of the Site Plan Review; there is not even a definition currently. The prepared text does add quite a few definitions and many were recommended by counsel and align with state law.

Commissioner Aprill commented on utility scale solar energy systems saying he's seen a lot of those on commercial structures and it far exceeds their usage. He asked if they should allow utility scale solar energy systems within the commercial district. Staff replied they could look at that, but tonight's focus should be on the prepared text.

Commissioner Mikowski noted on pages 7 & 9 under 6a.ii, the sale of food shall not exceed 10% etc., she asked if they ever require that and if not, should they review that on a regular basis. Commissioner Aprill thought they should either not require it, or enforce it. Commissioner Kuzma thought it was important to have in there. Staff said it comes from the current Ordinance under distillery tasting room, so if she received a complaint, she would put in a request to view their receipts. They could change it to, "annually" or "monthly". The Commissioners discussed the topic further then continued on with the proposed text amendments then agreed to add "monthly" review of food sales.

MOTION BY COMMISSIONER MIKOWSKI, SECONDED BY COMMISSIONER LUTA TO MOVE 2017-04-03 TO A PUBLIC HEARING AT THE NEXT REGULARLY SCHEDULED MEETING. MOTION APPROVED 4-1.

K. Discussion on Zoning Ordinance: None

L. Comments from the Chair: Commissioner Bechtold thanked the Commissioners for their diligence in reviewing the materials and the good discussion.

M. Comments from Planning Commissioners: Commissioner Mikowski recommended the classes at the Grand Traverse Resort.

N. Comments from Staff: Staff added, if any Commissioners wanted to take the classes which she also recommended, they can let her know for the early bird rate. Also, she sent around a survey monkey for a special meeting and asked the Commissioners to let her know after the meeting which date works for them. Furthermore, they'll need to change their November meeting date because the Board is already scheduled for that date.

O. Public Comment: None

O. Adjourn: MOTION BY COMMISSIONER KUZMA, SECONDED BY COMMISSIONER LUTA TO ADJOURN THE MEETING AT 8:55 PM. MOTION PASSED UNANIMOUSLY.