

NOTICE OF MEETING

A Regular Meeting of the Leelanau County Planning Commission (LCPC) will be held
at **5:30 pm Tuesday, DECEMBER 20, 2022**
in the Leelanau County Government Center – 1st floor.

(Please silence any unnecessary cellular/electronic devices)

DRAFT AGENDA

CALL TO ORDER & PLEDGE OF ALLEGIANCE

ROLL CALL

CONSIDERATION OF AGENDA

CONFLICT OF INTEREST (*refer to Section 3.7 of the Bylaws*)

PUBLIC COMMENT

STAFF COMMENTS

CONSIDERATION OF OCTOBER 25, 2022 MEETING MINUTES *pgs 2-5*

OLD BUSINESS

NEW BUSINESS

1. PC10-2022 Benzonia & Platte Township - Master Plan Review *pgs 6-23*
2. PC11-2022-08 Leelanau Twp. – Rezone Agricultural to R1 *pgs 24-125*

REPORTS

1. Housing Action Committee (*Lautner*)
2. Parks & Recreation Committee (*Noonan*)
3. Report from LCPC members of attendance at township/village meetings, or Other Meetings/Trainings

COMMUNICATIONS

PUBLIC COMMENTS

STAFF COMMENTS

COMMISSIONER & CHAIRPERSON COMMENTS

ADJOURN

LCPC Members

Steve Yoder, Chairman
Casey Noonan, Vice-Chair
Melvin Black, Chair Pro-Tem
Dan Hubbell
Melinda Lautner
Gail Carlson
Robert Miller
Tom Nixon
Amy Trumbull

2 Open Positions

A REGULAR MEETING OF THE LEELANAU COUNTY PLANNING COMMISSION WAS HELD ON TUESDAY, SEPTEMBER 27, 2022, AT THE LEELANAU COUNTY GOVERNMENT CENTER.

Proceedings of the meeting were recorded and are not the official record of the meeting. The formally approved written copy of the minutes will be the official record of the meeting.

Meeting was called to order at 5:30 p.m. by Chairman Yoder who led the Pledge of Allegiance. The Meeting was held at the Leelanau County Government Center, 8527 E. Government Center Dr., Suttons Bay, MI.

ROLL CALL

Members Present: S. Yoder, R. Miller, T. Nixon, G. Carlson, M. Black, A. Trumbull, C. Noonan, M. Lautner

Members Absent: D. Hubbell

Staff Present: T. Galla, Director, G. Myer, Senior Planner

Public Present: None.

CONSIDERATION OF AGENDA

Motion by Noonan, seconded by Carlson, to accept the agenda as presented. Motion carried 8-0.

CONFLICT OF INTEREST – None.

PUBLIC COMMENT – None.

STAFF COMMENTS

Galla mentioned the Michigan Association of Planning Conference being held next month on Mackinac Island. She and Myer will be attending and will report back to the commission afterwards. Galla also talked with Zack Hillyer who is the new Housing Ready Program Director for Leelanau County. Hillier will be at the Housing Summit in Traverse City and is also interested in attending a Planning Commission meeting in the future and introducing himself to everyone.

CONSIDERATION OF JULY 26, 2022 MEETING MINUTES

Lautner apologized and explained that she missed the last meeting due to her six-month check-up appointment at University of Michigan Hospital.

Motion by Nixon, seconded by Noonan, to accept the minutes as presented. Motion carried 8-0.

OLD BUSINESS – None.

NEW BUSINESS

PC07-2022-07 Kasson Twp. Text Amendment – RE: Public Facilities and Government Buildings

Myer reviewed the staff report saying this request was received on August 17 and the last day of review was September 16. However, the township agreed to wait until tonight's meeting for the review. Myer continued, saying the Kasson Township Master Plan does not specifically address this amendment and neither does the Leelanau General Plan. The township held a public hearing on May 16, at which time, no public comments were received and the planning commission unanimously passed a motion to forward the amendment to the county for review, given that there are no changes, and upon counsel's recommendation.

Myer said the township minutes from March 21, 2022 indicate there are potential projects in the township that would involve changes to municipal structures and the township is looking for a path so that these projects may be completed as necessary in the future, but no projects are pending immediate approval. The motion passed at the May 16, 2022 public hearing, included a review by the township legal council, before sending the amendment to the county for review. The draft minutes of July 18, 2022 indicate the townships legal council recommended "tweaking" some of the language and that another public hearing was not needed before sending the amendment to the county for review.

Myer continued, saying the proposed amendment will add the following to Section 4.5 Agricultural District (AG) Section 4.5.2 Special Land Uses and Section 4.7 Forested District (FR), Section 4.7.2 Special Land Use:

Public facilities, including fire stations, community meeting halls, parking lots, cemeteries, parks, schools, libraries, and other structures associated with public entities, including enclosures or shelters for service equipment and maintenance depots.

The proposed amendment will change Section 4.8 High Density Village (HDV), Section 4.8.1 Permitted Uses reads as follows:

- B. Public and semi-public uses, including community meeting halls, public or private schools, athletic clubs, museums, libraries, parks and playgrounds and structures or parking lots typically constructed as part of these types of facilities, including enclosures or shelter for service equipment and maintenance depots, are allowed in both Mixed-Use Commercial Core and Medium and Small Lot sub-districts.
- C. Fire stations, including enclosures or shelters for service equipment and related parking lots, are allowed in all sub-districts.

The proposed amendment will also change Section 4.9.1 Permitted Uses (A) to read as follows:

- A. Public and semi-public uses, including community meeting halls, public or private schools, athletic clubs, museums, libraries, fire stations, parks and playgrounds and structures or parking lots typically constructed as part of these types of facilities, including enclosures or shelters for service equipment and maintenance depots.

Myer continued, saying Section 5.8 Essential Services will be replaced with the following:

Section 5.8 Essential Services & Government Buildings

Section 5.8.1- Essential services means the erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface or overhead gas, electrical, steam, fuel or water transmission or distribution system, collection, communication, supply or disposal system, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment in connection herewith, but not including buildings which are necessary for the furnishing of adequate service by such facilities or governmental departments for the general health, safety, or welfare. Radio broadcasting and receiving towers and equipment structures used in cellular telephone systems are specifically excluded from the definition of essential services.

Buildings accessory to such services, however, require a Special Use Permit and are subject to the requirements set forth in Chapter 7 and Chapter 8 and all other aspects of this Ordinance, including the development standards of the zoning district in which they are located.

Myer said the proposed amendment would open up the listed districts to these uses. The majority of the township property is zoned for either agricultural or forested so that is a lot of land in the township where these uses would now be allowed, subject to special land use requirements.

Myer said staff questions whether the proposed amendment is adding the bullet point or replacing the existing text with the new bullet point in Section 4.5 Agricultural District (AG) Section 4.5.2 Special Land Uses and Section 4.7 Forested District (FR), Section 4.7.2 Special Land Use. If this bullet point is being added, some of the uses mentioned are already listed separately. Staff also questions if the proposed amendment is deleting the commercial uses currently listed in Section 4.8 High Density Village (HDV) Section 4.8.1 Permitted Uses, C., or adding another bullet point.

Myer continued, saying the township approached the county about purchasing a portion of Myles Kimmerly Park (on the north side of Co. Rd. 616) for a new fire station. The County Parks and Recreation Committee made a recommendation to the County Board, and earlier this month, the County Board denied the request from the township to purchase a portion of the Myles Kimmerly Park for a fire station. If another fire station is needed in the future, this amendment would allow such a use to be located nearly anywhere in the township, subject to the zoning ordinance requirements. In conclusion, Myer said some other townships have a separate Government or Municipal Center District in their zoning ordinance, while others list some of these uses proposed by the amendment as allowed in all districts, subject to site plan and/or special land use approval.

Black stated he liked that the County Board denied the request to purchase park land. There are a lot of other places to put the fire department.

Lautner clarified that the County Board actually took the request to purchase the land off the agenda for their regular meeting because Kasson Township and Cleveland Township hadn't had the opportunity to make a power point presentation to the full board. They had been to the Parks & Recreation Committee, but not the full board, so it has not officially been denied.

Lautner questioned whether some of these uses are already allowed uses in the Agricultural District by state law. Would things such as schools, churches and golf courses now require a special use permit?

Yoder said that is his understanding from his experience reviewing the Solon Township Zoning Ordinance. A government building, school, or church, can't be designated to a certain area, they are allowed anyplace. They must follow the protocol because it is a way to alert the public. Galla responded that they have talked about public hearings at some training sessions and it was brought up that having a public hearing on a use that is allowed gives the public the perception that they can have an impact if they show up and speak out at these public hearings. You want them to be heard but it can give the wrong impression to the public.

Lautner said she didn't think a township had to follow local zoning. Yoder said they do still have to abide by setbacks and things. Yoder said he read the proposed amendment as any other use not listed still requires a special use permit. Noonan stated they are basically trying to cover their bases so they can put a fire station anywhere. Galla said opening up this district in this way allows them the ability to look for a similar property that could work for such a site. Miller said yes, but they don't need zoning or a special use permit because they can go anywhere as long as they comply with setbacks and such.

Galla commented that the township's attorney did review this. Miller thought the amendment should be sent back asking if they really need to do this. If the County Planning Commission is confused as to the intent, the general public will certainly be. Nixon agreed. Regardless of what they construct on any site, they would have to abide by the zoning ordinance itself. Setbacks, lighting, buffering, driveways, accessibility - all those factors would still be regulated by the zoning ordinance. Miller said where they put it is not restricted, what they put there and how it is constructed is. You don't need a special inclusion of these functions in the zoning ordinance because they are already covered.

Lautner wanted clarification on whether these things now require a special use permit. She questioned if townships have to follow local zoning for their own facilities. The county doesn't, so she would be surprised if a township is required to. If that is the case, they wouldn't want their things to fall under a special use permit. She doesn't understand why some things are included and others are not, such as churches and golf courses.

Nixon questioned if the county has to abide by local zoning. Galla said the county does not have to, but they did work with the township on some things when the government complex was being constructed. Galla will look up some more information and send back to the county planning commission, for reference.

Motion by Noonan, seconded by Miller, to forward the staff report, minutes and all comments to the Kasson Township Planning Commission. Motion carried 8-0.

PC08-2022-04 Elmwood Twp. Rezoning – R1 to NC

Galla stated this request was received on September 8 and the requested action is to review and comment on a rezoning request for two subdivision lots and another parcel along E. Grandview Rd. from Residential 1 (R1) to Neighborhood Commercial (NC). The property owner lives in the subdivision, just a few lots north of the subject parcels.

Galla continued, reviewing the surrounding land use and zoning and said the application states that the applicant would like to expand his indoor/outdoor boat and trailer storage. The township held a public hearing on August 16, there were not public comments made at this time, however, it was noted in the minutes that one complaint was received from a neighbor. Galla said the Elmwood Township Master Plan states the following: Existing Land Use, General Pattern and Land Use, Greilickville, page 8 states: *"The majority of Greilickville is serviced with public sewer and water and is also the portion of*

the township that is most densely populated with many single-family subdivisions clustered between E. Grandview and Cherry bend Roads.”

The Future Land Use Map of the Elmwood Township Master Plan, calls for High Density Residential for both of the lots and the third parcel is part of the Greilickville Service Center. According to the Elmwood Township Zoning Ordinance, the intent of the R-1 District is to accommodate single-family residential and related uses in semi-rural-residential areas of the township.

The uses permitted by right in the Residential District 1 include the following:

- Single Family Dwelling
- AFC Family Home
- Family Child Care Homes
- Bed and Breakfast
- Foster Family Group Home
- Wind Energy Conversion System, Non-commercial
- Livestock and poultry on 4 or more acres in a fenced enclosure
- Short-Term Rentals

Galla continued, saying according to the Elmwood Township Zoning Ordinance intent of the NC District shall be as a seamless blend of commercial, public, and residential uses. NC zoning district uses shall be designated with pedestrian accessibility in mind to minimize auto dependency. The uses permitted in Neighborhood Commercial with a special use permit include the following:

- Planned developments
- Cluster residential developments
- Group child care home
- Kennels
- Seasonal outdoor storage of boats and recreation vehicles
- Veterinary clinics

Galla said there is a use that has been going on here and it appears the commercial use (perhaps a former well driller?) was on the site pre-dating the zoning ordinance. Information provided by the township indicates an undetermined portion of the property had been used for storage of boats predating zoning, and the owner now wishes to expand on this use. Per the township zoning ordinance, a pre-existing nonconforming use cannot be expanded. The township needs to determine if they will approve the rezoning request to allow the commercial use. While the 2 lots in the subdivision north of this are currently vacant, at some point it would be expected they would be developed for residential homes. Will they expect to have commercial use on these two adjoining lots in the subdivision? It is also important to note that even though this is currently for boat storage, if rezoned, any of the uses allowed in the new district could be possible on these parcels. Staff checked with the Register of Deeds Office and could not find any recorded subdivision restrictions that would prohibit the proposed use on the subdivision lots, although it is odd for lots in a subdivision to be rezoned to a commercial district, as subdivisions are established for residential use, not commercial. Two parcels located to the east along E. Grandview Rd. were rezoned in 2016 from R1 to NC and are now the Grandview Townhomes.

Galla addressed the owners concern with being assessed as a commercial property by explaining commercial use (as classified by an assessor) is different than a commercial zoning district. As an

example, a property can be assessed as a residential property, but be located within the Agricultural Zoning District.

In conclusion, Galla said any rezoning or amendment to a zoning ordinance is final with the township board action, unless it is petitioned to go to a referendum. If it is petitioned to go to a referendum, then it is up to a vote of the registered voters.

Miller commented on the fact that it has been used for boat storage for many years, it makes sense to make the change.

Nixon said it would seem by the township's action they need to revisit their Master Plan. It does not indicate those lots are not high density residential, but it has been used in such a way for a long time. Nixon said he also questioned the lots being part of a subdivision and if that had any impact.

Lautner questioned since it is already in existence, would an expansion be that much of a hardship for the neighbors especially if high density housing could be built there.

Black said he is surprised by the growth of the commercial district in this area. He doesn't see why anyone would want to build a home there. They have almost no backyard and commercial use is expanding through that whole area. He agrees that the Master Plan needs to be addressed. Black concluded by questioning why this has been a nonconforming use after all these years?

Motion by Nixon, seconded by Black, to forward the staff report, minutes and all comments to the Elmwood Township Planning Commission. Motion carried 8-0.

PC09-2022-07 Kasson Twp. Text Amendment – Mixed Uses

Myer briefly reviewed the staff report saying this request was received on September 16 and the requested action is to review and comment on the proposed amendment to the Kasson Township Zoning Ordinance, Section 4.9.2a. The Kasson Township Master Plan states "Commercial land uses anticipated and desired by township residents include office, professional, retail, and restaurant establishments. Currently, small-scale business activity is scattered throughout the township with a small congregation of business and public facilities centered in the Village of Maple City."

Myer continued, saying the township held a public hearing on August 15, and during the public hearing, the township planning commission unanimously passed a motion to forward the proposed amendment to the county for review. The proposed text is compatible with other language in the zoning ordinance and does not include any issues of greater than local concern. The proposed text does not conflict with the community's plan or the General Plan. Myer said Jennifer and Mark Patterson submitted an application to amend the zoning ordinance to add a definition of Mixed Use and insert Mixed Use to the Commercial District as a Special Use. The Patterson's own property located at W. Empire Hwy. and want to have a home-based business at this location.

Myer continued, saying the proposed amendment will add the following definition to Section 2.2 Definitions:

Mixed Land Use means the multiple use of land is allowed to co-exist. This covers two distinct forms of mixed land use viz. commercial mix: areas where residential, commercial and some other uses except polluting industry may co-exist within a single building.

The proposed amendment will also add “Mixed Use” to Section 4.9.2 Special Land Uses

Myer said staff questions the word “polluting” in the definition. What would be considered a polluting industry? Who makes this determination - the township, the zoning administrator, the citizens?

Myer mentioned that the Glen Arbor Zoning Ordinance defines Mixed Use as: A balance of commercial and residential uses contributing to a development’s success, as well as supporting the local economy. Typically, this is a multi-story building with retail, service, or office space on the ground floor and residence above. In conclusion Myer made reference to the proper procedures for all Public Hearings.

Miller commented that mixed used shouldn’t be limited to upper floor as residential and lower floors as commercial. What about having the front commercial and the back of a building residential. It shouldn’t be a zoning question where the use is inside the building.

Motion by Miller, seconded by Lautner, to forward the staff report, minutes and all comments to the Kasson Township Planning Commission. Motion carried 8-0.

REPORTS

Housing Action Committee

Galla reported that the Housing Action Committee meeting is October 10th and the Housing Summit will be the 27th and 28th at the Great Wolfe Lodge in Traverse City.

Parks & Recreation Committee

Noonan reported on the fire department, saying he contacted Greg Julian to see where things were at with regard to purchasing property. Noonan said the Parks & Recreation Committee created a motion to see what the will of the board was and then forwarded it on to the County Board. Noonan said he thought the County Board had voted against the purchase; they will now prepare to make a presentation. There isn’t a whole lot of support from the Parks & Recreation Committee to sell park land which is understandable.

Lautner said most people are against it up front, but then when they think about it, there are a lot of facets about it that make sense. The location is ideal for fire and rescue because it is a four-township fire department. Solon and Centerville townships have the only building right now in a really good spot to cover Solon and Centerville Townships. Response times are slower for Kasson and Cleveland Townships from Cedar. In that area you have Maple Valley Nursing Home, kids playing soccer at Myles Kimmerly Park, and Glen Lake School, so it does make sense to locate the fire department there. Could they make good neighbors on 5 acres of the hayfield? The County Board is allowing them the opportunity to present to the full board of commissioners who has the ultimate decision, even though the Parks & Recreation Committee said they were not really interested. Lautner continued, saying around 20 years ago when they put all of the parks into perpetuity, they left that piece out. The thought at that time was you never know what the future is going to bring, and if they were ever going to sell a piece of their park, that would be the piece that would make the most sense. Lautner said they have now found out that perpetuity is only as good as the term of the Board of Commissioners. This means that perpetuity will stand until December 31, 2022, at which time the decision will have to be made again as to whether they will keep it in perpetuity.

Noonan stated that it has been interesting to see everyone's reaction. The neighbors that came to the meeting spoke in opposition, but he has had several phone calls from people in favor of it. Empire Township has been thinking about a new fire station also. Noonan concluded by saying the old Grub Shack was torn down at Myles Kimmerly Park and there is new playground equipment at Old Settlers Park.

Lautner added that the Parks & Recreation Committee did send a \$200,000.00 request to the County Board for a paved loop at Myles Kimmerly Park. Since it is time four times the normal annual budget for parks, they have asked the Board of Commissioners to consider gifting them the money. This project has all kinds of support from residents.

Report from LCPC members of attendance at township/village meetings, or other meeting/trainings

Noonan said at the Empire Township meeting they were approached by the Gateway to Sleeping Bear Organization, because there is a piece of National Park land on Benzonia Tr. that the park doesn't really want. They approached the township asking if they would like to partner with them to acquire the land and possibly use part of it for a fire hall and the other part for mixed housing: workforce/affordable housing, tiny homes, camper pads, etc.

Nixon said Suttons Bay Township is in the process of dedicating money for the ice-skating rink, and shanty. They approved funding for at least two more additional pickle ball courts, and approved volunteers to begin funding for a dog park at Herman Park. Nixon continued, saying By the Bay Garden Club constructed the Blue Star Memorial Garden at Herman Park, and were finally able to hold a dedication last weekend. Nixon said it is a beautiful garden with bricks dedicated to war heroes. The township is reviewing their Short-Term Rental Ordinance. They were one of the first in the county to start regulating them and it has been about five years. It's time to reexamine some issues that are ongoing. They are also scheduling a joint meeting, which is unusual for them, between the township board and Parks & Recreation Committee. The township is on the brink of starting a five-year plan and they need input from the committee and they are going to review roles and responsibilities with the Parks & Recreation Committee. They want to continue working closely with this group because parks are a big thing Suttons Bay Township seems to be dealing with. The township has a building they take care of, roads to improve and a nice little cemetery they are starting to put some effort into, but parks are a big part of the township.

Black asked about the tower in Northport. Discussion ensued on towers.

Black said he looks at this county as a destination and short-term rentals are critical. They need to be allowed, with restrictions. It's critical we address it and come to a conclusion everyone can agree on.

Yoder said Solon Township is working on their master plan, and they will probably be sending some things on to the county for review soon.

COMMUNICATIONS – None.

PUBLIC COMMENT – None.

STAFF COMMENTS

Galla updated members on giving an informal staff report. In the past, staff has done informal staff reviews. This is when a community asks staff for an informal review before they get too far along on an amendment or something they are working on. This way they can see staff's comments and decide if they want to incorporate them into the amendment. Galla said she was asked by the Solon Township Zoning Administrator to give an informal review of the master plan maps. It was submitted to be reviewed by the county and Galla sent back the checklist of what steps need to be done before the county can review it. The informal review will be done and sent back for the township to review. It will still need to go to the County Planning Commission for review once the township is ready. At that time, a staff report will be completed and presented to the County Planning Commission.

COMMISSIONER & CHAIRPERSON COMMENTS

Carlson said S. Shore Dr. got paved, and it's nice.

Nixon said they should commend and support Galla on her recent appointment to the board of Michigan Association of Planners. It is quite an honor and he wishes her well.

ADJOURN

Meeting adjourned at 6:35 p.m.

MASTER PLAN REVIEW

PC10-2022 Benzonia & Platte Township

Reviewing Entity: Leelanau County Planning Commission
Date of Review: December 20, 2022

Section 1: General Information

Date Request Received: November 1, 2022
Last Day of Review Period: There is a 63-day review period under the Michigan Zoning Enabling Act.

Requested Action: Review and comment on the proposed West Benzie Joint Master Plan including the 5-year park & recreation plan. The Plan is out for public review through the end of December, 2022.

Applicant: Benzonia & Platte Township

Section 2: Benzonia & Platte Township Action

Planning and Zoning

From the Platte Township website: Benzonia Township was one of the first townships in Benzie County to adopt a Zoning Ordinance in the mid-1970's and since then had three different ordinances until joining the County Planning and Zoning system in 1994. However, that relationship ended with the major budget cuts at the county in 2010 resulting in creation of the West Benzie Joint Planning Commission (WBJPC) by the Benzonia and Platte Township Boards in 2010. Since then, the two township boards adopted the WBJPC Zoning Ordinance covering both townships. The WBJPC was also formed as a five-person board with adoption of a Planning Commission Ordinance having all the powers and duties of a Planning Commission in the State of Michigan. Both townships have also adopted by reference the **Benzie County Comprehensive Plan** (found on this Web page), as amended, as the basis for zoning and planning within the WBJPC jurisdictional area.

There is also a Joint Zoning Ordinance covering both townships, which was adopted by the Board of Trustees of the Townships of Benzonia and Platte.

The Notice of Intent to Plan was released by the West Benzie Joint Planning Commission (WBJPC), as well as the Notice of Release of Draft Plan for public review. The latter was posted in the newspaper on October 19, 2022. Minutes from Benzonia Township Board meeting October 12, 2022 and the Platte Township Board meeting of October 11, 2022 are included in the Appendix. (Note: The motion of the Benzonia Township Board at the October 12 meeting does not specifically state they released the document for public review.)

Section 3: Basis for Plan Review

Section 41 of the Michigan Planning Enabling Act (MPEA) (PA 33 of 2008, as amended), requires a copy of a Plan or extension, addition, revision or other amendment of a Plan to be submitted to the county planning commission for review and comment. The review period for a Plan is 63 days.

Section 41.

3. If the county planning commission or the county board of commissioners that receives a copy of a proposed master plan under subsection (2)(e) submits comments, the comments shall include, but need not be limited to, both of the following, as applicable:

(a) A statement whether the county planning commission or county board of commissioners considers the proposed master plan to be inconsistent with the master plan of any municipality or region described in subsection (2)(a) or (d).

(b) If the county has a county master plan, a statement whether the county planning commission considers the proposed master plan to be inconsistent with the county master plan.

(4) The statements provided for in subsection (3)(a) and (b) are advisory only.

Section 4: Analysis

The Principal Goal of the Leelanau General Plan is to establish a strategy for meaningful growth that protects, and where possible, enhances the unique character and quality of life by focusing on the balance of environmental protection, resource management and economic development so as to provide a foundation for a sustainable economy that permits long term prosperity for all present and future Leelanau County residents. The proposed Plan has been reviewed for consistency with these policies.

A. Intergovernmental and Regional Context

A partnership founded on mutual respect and mutual support in achievement of the common goals of the General Plan should guide the development and implementation of new relationships between the County and local units of government in the County and between the County and adjoining counties in the region.

1. Does the proposed Plan strive for greater cooperation between neighboring units of government?
Yes.

B. Preservation of County Character

The existing natural and people-made features in the county that make up its rural character are interdependent with the activities that comprise its economic base. It is important therefore, that future land use change in the County enhance, not undermine, the character of the area around it, and in so doing contribute to protection of the unique rural character of the entire County.

1. Does the proposed Plan include strategies for the preservation of rural and small-town character?
Yes.

C. Working with Nature

Extensive and diverse sensitive natural features found throughout the County provide the foundation for the present and the future quality of life in the County. They should be protected where pristine, restored where damaged, and have access and use managed for long term sustainability.

1. Does the proposed Plan include strategies for environmental protection, restoration, and management?
Yes.

D. Balanced Growth

Local land use or comprehensive plans and local development regulations should be updated and thereafter maintained to include goals, objectives, policies and strategies for managed future growth consistent with the Leelanau General Plan. Local plans should include more specific land use and density proposals at the parcel specific level. Local regulations should focus on design and other issues of local significance. Public facilities should all be constructed according to local capital improvement programs that are coordinated at all governmental levels.

1. Does the proposed Plan include parcel-specific future land use recommendations (map)?
Yes. See pages 96-105.

Section 5: Staff Comments

This request is for review and comments on a new Master Plan for Benzonia and Platte Townships in Benzie County.

The Recreation Plan has been incorporated into the Master Plan. In order to qualify for grants from the Michigan Department of Natural Resources, a municipality must adopt a local recreation plan. A DNR-approved recreation plan includes many items which are standard elements of a community's master plan. Inclusion of a Recreation Plan within the Master Plan requires the Master Plan be amended any time changes are needed to the Recreation Plan – even a change to meet requirements for grant submissions. However, the Michigan Planning Enabling Act states that a Plan must be 'reviewed' at least every five years to determine whether to commence the procedure to amend the master plan or adopt a new master plan. The DNR requires an approved five-year plan on file by Feb. 1 of the year in which you intend to apply for a grant. Benzonia and Platte Townships may wish to consider separating these two (2) documents. Otherwise, the Master Plan will have to be amended every 5 years in order to keep the Recreation Plan up to date in order to be eligible for grant applications with the DNR.

Section 43 of the Planning Enabling Act allows for the legislative body to have final approval of the Plan, provided the legislative body passes a resolution to that effect. If no resolution is passed, then final approval will lie with the planning commissions.

Resolutions adopting the Plan must be included in the front cover or back cover, per Section 43 (2) of the MPEA.

The Plan includes a Community Profile, including previous planning history, physical conditions (natural resources, transportation, etc.), existing land use and zoning, parks & recreation facilities, information on public participation in the process, goals and objectives, and future land use and zoning plans, as well as implementation.

Staff usually lists out proposed changes, including any typos, formatting, or grammar issues that should be corrected. Reading through this Plan was difficult, due to the number of errors such as misspelled words, extra punctuation, no spacing after periods (should be one space), grammar, and lengthy sentences that could be clearer if broken into multiple sentences. Rather than post all these corrections in this staff report, staff has scanned the marked-up document (not including the Appendix) and will send a scanned copy back to Benzonia and Platte Townships for their review. Many of these errors could have been cleaned up with another proofreading before the Plan was released for the public comment period.

Community Profile on page 12 includes population and demographics but does not include the 2020 Census data. This is important data to include. On page 17, 2020 data is included for the Housing Value-comparison (Table 2.2) but 2020 data is not included in Tables 2.4 or 2.5. Using consistent years for comparisons in the Tables would be helpful. The 2000 and 2010 data are included in all 3 Tables.

Page 21 – spell out the acronym ALICE – Asset Limited, Income Constrained, Employed.

Maps – starting on page 23 – the 'green' colors used in the maps are very close to each other and hard to determine some of the boundaries. Use of a couple additional colors, or hashmarks for some areas, would make it easier to read the maps. The use of yellow in the Existing Land Use map on page 35 and page 36 make is a lot easier to depict the different districts and boundaries.

Page 48 includes 2 sections in red for 'Administrative Structure' and 'Funding Summary' and references that this is information that still needs to be added. This information should have already been included in the Plan prior to it being released for public review and comment.

The use of charts, maps and graphics throughout the Plan makes it easier to read and breaks up the sections.

Page 62 – under ‘Previously Grant Assisted Facilities Summary – this information should already be in the Plan prior to it being released for public review and comment.

The Public Participation section is well documented and includes good information on the process to gather input on the development of the Plan. There are repeated sections throughout that say ‘...all the responses can be found in the appendix.’ This statement could be inserted at the top of the section on Public Participation to reference the appendix, and then delete all other statements.

On page 80 under Demographics, it stated that no one under the age of 18 filled out the survey. Leelanau County opened its survey up several years ago to high school students. The public and private schools were given the survey and high school students were asked to complete the survey. The county planning commission felt very strongly that the younger responses were needed as these are the residents who will live in the community or move back some day with their families and their voices should be heard. Government teachers in the high schools were excited to get the survey and have their students provide answers for our Plan amendment. This is something that could be repeated in other communities.

The Plan includes Goals and Objectives in the ‘Looking Forward’ section of the Plan.

Chapter 8 - Future Land Use & Zoning Plan – staff suggests including language for Accessory Dwelling Units (ADUs). These units can be added to existing residential uses without lot splits and help to decrease the cost of land and construction due to their smaller size. There are many benefits to ADUs such as housing for adult children, seniors wishing to downsize but stay in their communities, housing for caregivers, etc. Housing North (housingnorth.org) has many examples of ADUs and other types of resources to assist communities in their goal to increase housing options for residents. Also, the Michigan Association of Planning created the Zoning Reform Toolkit which can be found at: https://www.planningmi.org/assets/images/ZoningReformToolkit/MAP_ZoningReformToolkit_2022%2008%2002_Gradient.pdf This document includes information on ADUs, collapsing zoning districts, expanding allowable uses, and other methods to assist local communities as they try to increase housing options. The Toolkit can be downloaded for free, and each Chapter can be used as a stand-alone document.

Benzonia and Platte Townships have included the entire Public Survey in the Appendix. This could also be done as a separate document from the Plan.

Overall, the Plan appears to meet the requirements as outlined in the Michigan Planning Enabling Act (MPEA), and does not appear to conflict with the Leelanau County General Plan.

Following the December 20th meeting of the Leelanau County Planning Commission, this staff report, a scanned copy of the marked-up document, and the minutes from the December 20th meeting will be forwarded to Benzonia and Platte Township for their review and consideration.

Appendix

WEST BENZIE JOINT MASTER PLAN 2022

Benzonia Township & Platte Township, Benzie County, Michigan

PUBLIC NOTICE FOR WEST BENZIE JOINT PLANNING COMMISSION BENZONIA AND PLATTE TOWNSHIPS OF BENZIE COUNTY NOTICE OF INTENT TO CONDUCT MASTER PLANNING

On January 13, 2022, the West Benzie Joint Planning Commission made a motion to approve the issuance of a Notice of Intent to Conduct Master Planning as required under the Michigan Planning Enabling Act (Act 33 of 2008).

In accordance with the requirements of Michigan's PA 33 of 2008 and related amendments, this is to notify you that Benzonia Township and Platte Township, under the West Benzie Joint Planning Commission is completing a new Master Plan. In accordance with the Michigan Planning Enabling Act (Act 33 of 2008), and related amendments, when a Township is intending to prepare a Master Plan (new or update), it must notify by first class mail any City, Village, Township located within or contiguous to the township and to the County Planning Commission. The same notice must also be sent to any railroad companies or public utility that registers for such a notice with the township(s). The notice of intent to plan should note that the township is beginning a planning process and encourage and request cooperation and comments from adjacent communities.

This notice has been posted with the Township Clerk's office in Benzonia and Platte Townships and is also being posted on the Township's website. The Township is asking for your cooperation and assistance in this process. Specifically, we would like to know if you have any thoughts, concerns, or issues you feel should be addressed in this effort that would allow us to plan more cooperatively for our area.

Later in the process, the Township will be issuing a draft copy of the Master Plan for public review and comment, as required by statute. At that time, we would appreciate all comments regarding the Plan's content and how you feel it may affect planning efforts in your community. PLEASE BE NOTIFIED that you are invited to send a letter and/or email stating your opinions, position, or questions to the Benzonia Township / West Benzie Joint Planning Commission, PO Box 224, 1020 Michigan Ave, Benzonia, MI 49616 or send an email to supervisor@benzoniatownship.org

The Planning Commission thanks your for your cooperation and assistance in this effort!

Dated January 18, 2022

Submitted by Consultant:



Sara Kirk, ASLA, LEED AP
SRP Design Studio, LLC

WEST BENZIE JOINT MASTER PLAN 2022

Benzonia Township & Platte Township, Benzie County, Michigan

PUBLIC NOTICE FOR WEST BENZIE JOINT PLANNING COMMISSION BENZONIA AND PLATTE TOWNSHIPS OF BENZIE COUNTY RELEASE OF DRAFT PLAN

In accordance with the requirements of Michigan's PA 33 of 2008 and related amendments, this is to notify you that Benzonia and Platte Townships, under the West Benzie Joint Planning Commission have undergone a planning process since January and have prepared a draft of the Master Plan document that is ready for public review. Previously, on January 18, 2022 a notification plan letter was sent to this address and posted with the Benzonia and Platte Township Clerks regarding the motion to approve the issuance of a Notice of Intent to Conduct Master Planning.

Notice is now hereby given to any and all interested parties that the "West Benzie Joint Master Plan; including the 5-year Park & Recreation Plan, 2022" will be available for public review and comment for 63 days beginning October 19, 2022. The plan is available on the Benzonia Township website at <http://www.benzoniatownship.org/>. A hard copy is also available to view by appointment at the Benzonia Township offices and at the Platte Township Offices.

Benzonia Township Hall

1020 Michigan Avenue, P.O. Box 224

Benzonia, MI 49616

Phone: 231-882-4411

Email: supervisor@benzoniatownship.org

Platte Township Hall

11935 Fowler Rd

Honor, MI 49640

Phone: (231) 325-2459

Email: plattetownship@gmail.com

In combination with the Master Plan, the West Benzie Joint Planning Commission is updating the five-year Parks and Recreation Plan in accordance with Michigan Department of Natural Resources guidelines. When completed, the plan will serve as a guide for the acquisition and development of parks and recreation facilities over the next five (5) years.

We would appreciate all comments regarding the Plan's content and how you feel it may affect planning efforts in your community. PLEASE BE NOTIFIED that you are invited to send a letter and/or email stating your opinions, position, or questions to Benzonia Township / West Benzie Joint Planning Commission, PO Box 224, 1020 Michigan Ave, Benzonia, MI 49616 or send an email to supervisor@benzoniatownship.org.

A public hearing will be scheduled and advertised, in accordance with the requirements of Michigan's PA 33 of 2008 and related amendments, after the 63-day review period. The Planning Commission thanks you for your cooperation and assistance in this effort!

Dated October 14, 2022

Submitted by Consultant:



Sara Kirk, ASLA, LEED AP
SRP Design Studio, LLC

**PUBLIC NOTICE FOR
WEST BENZIE JOINT
PLANNING COMMISSION
BENZONIA AND PLATTE
TOWNSHIPS
RELEASE OF DRAFT PLAN**

Notice is hereby given to any and all interested parties that the "West Benzie Joint Master Plan; including the 5-year Park & Recreation Plan, 2022" will be available for public review and comment for 63 days beginning October 19, 2022. The plan is available on the Benzonia Township website at <http://www.benzoniatownship.org/>

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supervisor@benzoniatownship.org

Platte Township Hall
11935 Fowler Rd
Honor, MI 49640
Phone: (231) 325-2459
E m a i l :
plattetownship@gmail.com

The Master Plan will include the updated five-year Parks and Recreation Plan in accordance with Michigan Department of Natural Resources guidelines. When completed, the plan will serve as a guide for the acquisition and development of parks and recreation facilities over the next five (5) years. **A public hearing will be scheduled and advertised after the 63-day review period.**

All comments regarding the Plan's content and how you feel it may affect planning efforts in your community are welcome. **PLEASE BE NOTIFIED** that you are invited to send a letter and/or email stating your opinions, position, or questions to Benzonia Township / West Benzie Joint Planning Commission, PO Box 224, 1020 Michigan Ave, Benzonia, MI 49616 or send an email to supervisor@benzoniatownship.org.

Oct. 19, 2022

BENZONIA TOWNSHIP BOARD

Approved:

REGULAR MEETING

October 12, 2022

Meeting called to order by Supervisor Barnard at 3:01 PM.

Present: Barnard, Burns, Sheets, Priest and Heller

Absent: none

Staff: Nye, Adams, Haase

Absent: Hahn, Wilkinson

Guests: 2

Supervisor led the Pledge of Allegiance.

Motion by Sheets to approve agenda as presented, Burns seconded. All ayes, motion carried.

Motion by Burns to approve the minutes from regular meeting of September 14th, 2022, supported by Priest, all ayes, motion carried.

TREASURERS REPORT: Report submitted by Burns. Priest made a motion with support of Sheets to accept the report. All ayes.

CLERKS'S REPORT:

The Clerk presented a Profit and Loss statement for both the General and Fire Funds for the month of September 2022 along with payables. Motion by Sheets to accept report and pay the bills, seconded by Priest. Roll call vote, all ayes, motion carried.

SUPERVISOR'S REPORT: Tree planting was a success, 20 trees planted around the park with help of approx. 20 volunteers. Match for the tree cost is \$1923.50. Report of water leak in the cemetery, village was asked to shut off temporarily. Fact sheet presented for the fire department Operations milage. Barnard mentioned potential new ZBA member Steve Stephen, **Burns made motion to accept Stephens to the ZBA with Priest supporting. Roll call vote, all ayes motion carried.** Supervisor received a website design quote from Revise for \$8600 with a \$2000 annual subscription fee which includes maintenance, host, storage and training.

STAFF REPORTS:

1. FIRE CHIEF: Chief Adams reports for the month of September a total of 37 calls for service. Of which 10 were Fire, 27 for Medical, bringing YTD total to 409. The Fire Fighter Association is hosting a Trunk or Treat on Oct 31st from 5-8pm. Chief Adams gave costs estimates for future equipment/gear purchases. \$3500 ID maker, \$3500 thermal image camera, \$4000 for RDC-Boat for river rescue, \$6000 for rescue jacks.
2. Cemetery Sexton: No report.
3. Township Attorney: No report.
4. Commissioners Report: Commissioner Nye reported that the Benzie Senior resources had a record year and has a need for home health aides. The number of medical rides has also increased. Animal control is hiring part time clerk. School officer has been hired and has 19 yrs experience. Requests for ARPA funds are being chosen, two of which are Frankfort Housing Council and Frankfort Land rust. Memorandum on understanding signed with Graceland for a housing development on property they own. County master plan update to be an addendum for this cycle with full update next cycle. Cherry Hut celebrates 100yrs!
5. Zoning Administrator: 47 permits issued to date, handful pending. **Barnard stated that the draft update of the Master Plan is ready for public review for the required 60 days. Sheets made motion to accept draft status of the master plan update, Burns second. Roll call taken, all ayes, motion passed.**

BRIEF PUBLIC COMMENT: None

COMMUNICATION: Email from Benzie Senior Resource office regarding a property on Case Rd that has an ongoing issue with water runoff in the yard from the road. Supervisor will look into the issue.

PENDING BUSINESS: Website updates, BS&A, FOIA rates.

COMMITTEE REPORTS:

- Cemetery: Sheets stated the sexton has done a great job.
- Parks: Water will be shut off by end of October. Walking trail is still slated to start this fall.
- Building and Grounds: No report
- Fire Department: No report
- Township Roads: No report
- Community Activities: No report
- Finance: No report
- Personnel: No report
- Policy: No report
- ZBA: No report
- Blight: 3 letters to go in the mail Smith, Johnson and Nelson.

NEW BUSINESS: Heller mentioned that all AV ballots requested had been sent out. Also stated that the Public Accuracy test is set for Oct 26th 2022 at 10am and read the list of election workers for the General Election.

EXTENDED PUBLIC COMMENT: Citizens asked if the new rulings were in place to allow the township to count ballots early. Clerk replied stating that that rule is for precincts with 10,000 or more voters.

Motion to adjourn made by Sheets, supported by Burns.
Supervisor adjourned the meeting at 3:53 P.M.

Submitted by:

Diana L. Heller, Clerk

MEETING HIGHLIGHTS:

- Motion by Burns to appoint Steve Stephens to the ZBA board. Supported by Priest. Roll call taken, all ayes. Motion passed.
- Motion by Sheets second by Burns to accept the draft status of the master plan update. Roll call taken, all ayes, motion passed.
- Clerk reported names of the election workers for November.

**PLATTE TOWNSHIP
BENZIE COUNTY
11935 FOWLER ROAD
HONOR, MICHIGAN 49640**

**PLATTE TOWNSHIP QUARTERLY METING
October 11, 2022 7 P.M.
2022-2023**

The meeting was called to order by Supervisor Solem at 7:00 p.m., followed by the Pledge of Allegiance.

BOARD PRESENT: Supervisor Solem, Trustee Bollenberg, Treasurer Gottschalk, Trustee Haswell; excused- Michalak (ill)

PUBLIC PRESENT: 11 residents; County Commissioner Art Jeannot.

MINUTES

A MOTION by Gottschalk, support by Solem to accept minutes from 1st quarter; motion carried all ayes.

PUBLIC INPUT

COMMISSIONER'S REPORT

Art Jeannot gave his quarterly report to all present. A copy of his report is available on file at the hall.

COMMUNICATIONS-

1. Audit- was held on July 25, 2022. The audit copies were given to the board. The township's finances have been managed according to State of Michigan treasury laws.
2. Charter Communication- The treasurer reports that a dividend has been received of \$118.00.

REPORTS-

Well and Septic- (2) holding tank-Gudemoos, well-Oviatt

Fire report- Supervisor read report from Chef Markey.

WBJPC- Trustee Bollenberg gave an update of the planning commission activities. The draft of the Master plan was available to the members. The next step is a 63-day public input period to allow for feedback from the residents and general public. The adoption of the master plan should be in January, 2023. A MOTION by Solem, SUPPORT by Haswell to approve the master plan as written and proceed with the public notice for the mandated 63-day public review; MOTION carried, all ayes-voice vote.

Road Commission- Supervisor reports that the 2nd brine has been completed on all gravel roads and Esch Road pavement project is complete.

OLD BUSINESS-

1. Clean up day- The cost for clean-up day was 800.00. 4 American Waste trucks, over 120 tires, a trailer of electronics, 3 loads of scrap metal and batteries were disposed of.
2. Generator service- Graham Electric has serviced the Township Hall generator.
3. Township Septic service- Septic tank has been pumped and is in good operating condition.

NEW BUSINESS

1. Election- 12 inspectors are certified for the 2022-2023 election cycle and the State general election is being held on Tuesday, November 8, 2022. 76 absentee ballots have been mailed.
2. Parking lot update- Supervisor reports still waiting on survey. Supervisor will look for another surveyor.
3. Wild Things Farm- Supervisor read letter from Wild Things stating their plans for development as an "Event" venue, including weddings. Supervisor states that commercial events are not allowed in the RP 20 Rural Preservation districts. Resident Marcia Davis is collecting petition signatures against any commercial activity which are not permitted zoning uses on that property. Resident Shaffer asked what recourse is available if the commercial uses are implemented. Commissioner Jeannot stated the court would become involved.

BOARD ROUNDTABLE -

CLERK'S OPERATING STATEMENT

A **motion** by Haswell, support by Bollenberg to accept the clerk's operating statement as presented. Voice vote, motion carried, all ayes.

TREASURER'S OPERATING STATEMENT

A **motion** by Haswell, second by Solem to accept the Treasurer's operating statement as presented. Voice vote, motion carried, all ayes.

APPROVAL OF BILLS

A **motion** by Gottschalk, support by Haswell to approve the bills for the 2nd quarter as presented. Voice vote, motion carried, all ayes.

PUBLIC INPUT

Motion to adjourn by Trustee Bollenberg, support by Haswell
All ayes, motion carried. Meeting adjourned at 8:40 pm

*Respectfully submitted by:

Alison Michalak, clerk

*Compiled from Treasurer's notes

REZONING REQUEST
PC11-2022-08 Leelanau Township
Rezoning Request Agricultural to
Residential 1

Reviewing Entity: Leelanau County Planning Commission
Date of Review: December 20, 2022
Date Request Received: December 13, 2022
Last Day of Review Period: January 12, 2022 (30-day review period under the Michigan Zoning Enabling Act)
Requested Action: Review and comment on a rezoning request in Leelanau Township for approximately 27.92 acres from Agricultural to Residential 1.

Applicant: The Amann Group, LLC
611 Knoch Knolls Rd.
Naperville, IL 60565

Owner: Christopher Amann

General Location:

The subject parcel, property tax number **45-008-232-014-00**, is situated on the west side of N. Old Farm Rd., with a Lake Michigan ridgeline along the west side of the parcel.

A copy of the application is included in the Appendix.

Existing Land Use: Vacant.

Adjacent Land Use and Zoning¹

NORTH	Land Use:	Vacant.
	Zoning:	Agricultural
SOUTH	Land Use:	Residential single-family dwellings, orchard
	Zoning:	Residential 1, Residential Conservation, Agricultural
EAST	Land Use:	Vacant
	Zoning:	Agricultural
WEST	Land Use:	Lake Michigan

Property Description:

The subject parcel is approximately 27.92 acres in size according to county records and located on the west side of N. Old Farm Rd. Section 32, Town 32 North, Range 11 West, Leelanau Township.

¹ 2021 Spring Aerials, Land Use Data, and Leelanau Township Maps.

Significant Elements of the Master Plan:

Leelanau Township Master Plan: (adopted 8-26-2010 and reviewed in 2016)

The Leelanau Township Future Land Use Map calls for Residential Conservation in this area. Link to the Township Master Plan: <https://drive.google.com/file/d/1ukjZn-WjUYWzGm4t-iKW3II51btIumb/view>

The Plan states the following:

Residential Conservation (page 59)

The intent of the Residential Conservation future land use category is to provide for the low density residential development (one dwelling unit per ten acres) of rural lands that are not suitable for agricultural or horticultural production on a large scale because they include large areas of environmentally sensitive lands or are comprised of soils that limit agricultural production. Additionally, they may be problematic to develop in conventional patterns because of the location of the environmentally sensitive features or because the landowner desires to maintain large portions free from development.

Low Density Residential (page 60)

This future land use category is designated for low density residential development at densities no higher than one dwelling unit per two acres. The Low-Density Residential category is, in general, located remotely from urban and other intense uses. Most of the mainland shoreline perimeter area is included in this category. Uses are limited to single family residences and appropriate accessory uses.

Leelanau General Plan: The Leelanau General Plan Future Land Use Maps notes the Northern Hardwoods in this area, and agricultural lands but does not specifically identify any community types or densities for the area.

Relevant Sections of the Zoning Ordinance:

Current and Proposed Zoning District – Link to the Township Zoning Ordinance at: <https://drive.google.com/file/d/10oPOTNTbS2gCrf4HoGeYou-Km7lruNe/view>

OTHER AGENCY INPUT

Township Planning Commission:

A public hearing was held on August 25, 2022 and adjourned to September 8, 2022, and then October 13, 2022. On October 11, the township received a written offer of conditions and republished the Public Hearing notice for November 10, 2022. Public comment is posted online under Documents for the township planning commission meetings. Most of the public comment that has been received on this rezoning request has been opposition to the rezoning.

At the November 10, 2022 township planning commission meeting, the commission reviewed Findings of Fact and then passed the following motion:

Motion by Mitchell to recommend approval of the Application submitted by Chris Amman to rezone property no. 45-008-232-014-00 on Seth Road from Agricultural to R-1 Residential subject to the voluntary conditions submitted by the Applicant including the voluntary amendments to the conditions discussed tonight. This decision is based upon the Rezoning Criteria Findings of Fact, and considering the Application and Public Hearing. Seconded by: Harder

*Discussion: Rebori would like to see a clean copy of the voluntary conditions before voting.
Roll Call Vote: Weber – Yes*

Mitchell – Yes
Rebori – No
Harder – Yes
Hart – Yes
Kalchik – Yes
Fischer – absent
Motion Carried 5-1

HISTORY:

In 2004, two rezoning requests were reviewed by the county planning commission for property directly to the south of the subject parcel: PC10-04-08 and PC11-04-08.

Staff report PC10-04-08 was a request from Clifford Hale to rezone 9.6 acres of land with one existing house, from the Agricultural District to the Residential 1 district. Due to the steep slopes and soils unsuitable for development, it was noted only one additional split could be made for this parcel. The rezoning would remove the nonconforming status (less than 10 acre size), and allow the applicant to make one additional parcel split. The parcel was rezoned by the township.

Staff report PC11-04-08 was a request from Barbara Yearn to rezone 10.4 acres of land with one existing house, from Agricultural to Residential Conservation. The applicant had originally requested rezoning to Residential 1 and later changed it to Residential Conservation. In 2004 the Residential Conservation had the same minimum lot size as the Agricultural district but allowed the option of Planned Site Option to increase the density. The Yearn parcel previously included 7 acres to the immediate north which was rezoned in 2000 and split off from the parent parcel. The township board approved rezoning of the Yearn parcel to Residential Conservation.

STAFF ANALYSIS AND FINDINGS

Would rezoning be consistent with other zones and land uses in the area? According to the Leelanau Township Zoning Map, parcels directly to the south of this parcel are zoned Residential 1 and Residential Conservation. There is residential development along the shoreline/bluff, and agricultural use to the east.

Would rezoning be consistent with development in the area:

Rezoning would be consistent with the residential development along the shoreline.

Will the proposed use be consistent with both the policies and uses proposed for the area in the Leelanau Township Master Plan? The Leelanau Township Master Plan designates this entire shoreline area as Residential Conservation with a 10 acre minimum lot size. Several of the parcels along the shoreline in this designated Residential Conservation area are less than 10 acres in size.

Are uses in the existing zone reasonable? Yes.

Do current regulations leave the applicant without economically beneficial or productive options?

No. The applicant can use the property as currently zoned. There is a 10-acre minimum lot size in the Agricultural district which would allow the applicant to develop 2 homes on 2 separate parcels.

STAFF COMMENTS

Leelanau Township received an application from the owner, Chris Amann to rezone his property located on N. Old Farm Rd. from Agricultural Zoning to R-1 Zoning. The applicant purchased the property March 9, 2022.

NEW BUSINESS ITEM B

The attached application and report from the township spell out the reasons the applicant has requested rezoning, and includes the Findings of Fact from the township planning commission.

The original application did not include any voluntary offer of conditions. According to information provided by the township, the Public Hearing was started on August 25, 2022 and adjourned until September 8, 2022. On September 8, the Public Hearing was re-opened and adjourned to October 13, 2022. During these public hearings, there were a lot of concerns raised regarding the private road used to access the subject parcel, stormwater run-off, potential development density and the shoreline bluff.

The township received a list of voluntary conditions on October 11, 2022. The October 13 meeting was cancelled and a new Public Hearing on the Conditional Rezoning was scheduled for November 10, 2022. After the Public Hearing on November 10, the Leelanau Township Planning Commission recommended the approval of the conditional rezoning with suggested typographical changes to the conditions.

It is important when reviewing rezoning requests to look at the current uses, the uses allowed in the proposed zoning district, the Master Plan (noted above), and the surrounding uses and zoning districts.

The Current Agricultural District allows the following Permitted Uses:

SECTION 4.2 PERMITTED USES

- One single family dwelling per ten (10) acre parcel or legal lot. (See Section 3.5 – Schedule of Regulations)
- Agricultural activities such as field crops, horticulture, horticultural nurseries, forestry, vineyards, truck gardens, and beekeeping.
- Non-intensive livestock operations including poultry and egg production, milk production, and animal husbandry.
- New and/or expanding operations with 50 animal units or greater must be located on minimum parcels of eighty (80) acres or greater and must comply with all applicable requirements of the Michigan Department of Agriculture GAAMPS (Generally Accepted Agricultural and Management Practices) for
- determining acceptable locations, site analysis plan, manure management system plan process for
- approval, and manure management and utilization.

Some of the current Permitted Accessory Uses include:

- Any use customarily incidental to the permitted principal uses, including barns, sheds, and processing operations incidental to the harvesting, packing, storage, and transporting of agricultural products.
- Home occupations and businesses as regulated in Article 16.
- Bed and Breakfast operations with a maximum of five rental rooms and with provisions for one off-street parking space for each guest room and for each of the regular occupants' vehicles.
- Roadside stands.
- State of Michigan licensed housing for 5 or more agricultural workers.

The Proposed Residential 1 district allows the following Permitted Uses:

- Single-family detached (Table 3.5 Schedule of Regulations, states a 2-acre minimum size in the R1 district)

- Home occupations
- Home business
- Bed and Breakfast (maximum of 3 rental rooms)
- Guest House
- Planned Unit Development (Under Article 14)
- Passive Recreational Facilities

Conditional Rezoning:

**MICHIGAN ZONING ENABLING ACT (EXCERPT)
Act 110 of 2006**

125.3405 Use and development of land as condition to rezoning.

Sec. 405.

(1) An owner of land may voluntarily offer in writing, and the local unit of government may approve, certain use and development of the land as a condition to a rezoning of the land or an amendment to a zoning map.

(2) In approving the conditions under subsection (1), the local unit of government may establish a time period during which the conditions apply to the land. Except for an extension under subsection (4), if the conditions are not satisfied within the time specified under this subsection, the land shall revert to its former zoning classification.

(3) The local government shall not add to or alter the conditions approved under subsection (1) during the time period specified under subsection (2) of this section.

(4) The time period specified under subsection (2) may be extended upon the application of the landowner and approval of the local unit of government.

(5) A local unit of government shall not require a landowner to offer conditions as a requirement for rezoning. The lack of an offer under subsection (1) shall not otherwise affect a landowner's rights under this act, the ordinances of the local unit of government, or any other laws of this state.

History: 2006, Act 110, Eff. July 1, 2006

Conditional rezonings are different from other approvals in that the commission or legislative body cannot impose conditions, the application must offer them. Conditional rezoning is where an applicant wishes to petition to change zoning of a parcel(s). To reduce controversy or concerns, the applicant might volunteer to condition the zoning to restrict the use of the parcel(s) to only a specific certain land use. For example, an ice cream store rather than all the possible land uses in a commercial district.² The offered conditions must relate to the rezoning itself and can not vary any of the requirements of the district or the zoning ordinance.

Article 21 of the Leelanau Township Zoning Ordinance spells out the requirements for Conditional Rezoning including: Intent, Application and Offer of Conditions, Planning Commission Review, Township Board Review, Approval, Compliance with Conditions, Time Period, Reversion of Zoning, Subsequent Rezoning of Land, Amendment of Conditions, Township Right to Rezone and Failure to offer Conditions. If approved, a document is established and recorded with the Leelanau County Register of Deeds. The conditions run with the land. The Township has the right to approve or deny the conditional rezoning request.

² All zoning does not have to include everything in the Michigan Zoning Enabling Act, MSU Extension.

The applicant offered the following Conditions:

1. Place all portions of the parent parcel (i.e., 18 acres) lakeward of the steep slope ridge line in a conservation easement (CE) to be held by the Leelanau Conservancy, Leelanau Township or another qualified third party. CE to be tailored to allow for a future walkway, stairway access lakeward of the ridge line for pedestrian shoreline access.
2. No more than four (4) total lot splits to be applied for/taken from the entire 27.9-acre parent parcel.
3. Compliance with the Leelanau Township Private Road Ordinance to the four (4) new lots.
4. Any and all stormwater generated from the site to be retained/disposed of on-site and to not generate any additional post-development stormwater than pre-development conditions, as required by the Leelanau County stormwater ordinance.
5. Compliance with all other relevant and applicable agency permits, and requirements of the Township, County and State regulations - including voluntary compliance with the Township steep slope setback, etc.
6. Provide proof of State of Michigan EGLE finding that the hazard erosion line (HEL) is lakeward of the prominent ridge line and thereby EGLE has no jurisdiction other than at the lakeshore. Sent to S. Patmore, Zoning Administrator, Leelanau Township on May 6 and September 9, 2022.

Some of these conditions appear to be requirements that would already have to be followed for local and/or state review/approvals for development. If it is already a requirement that an applicant/developer would have to comply with, there's no reason to include it as an Offer of Condition. With regard to #1 – would the pedestrian access be for the public? If it is only for the property owners, what benefit does it serve the township to accept this Condition? Does the township want to take on the responsibility of a conservation easement on a private piece of property? If there is no access to the shore due to steep slopes and the ridgeline and that portion of the property is not buildable, what benefit does the conservation easement provide? If it will be used by the public as an access to the shoreline, then there is increased traffic to consider to get to this access.

If the Conditional Rezoning is approved, any of the uses in the Residential 1 district are available to the applicant, provided all requirements of the zoning ordinance are met.

The main Condition listed above is #2 which the applicant has offered for a maximum of 4 parcels. It is noted in some of the documentation sent from the township that the applicant wanted to have additional parcels due to the initial cost of the property (over \$1 million dollars). The last couple of years have seen a dramatic increase in the price of properties and homes in this region, with some being sold sight unseen, well above appraised or asking price, and sometimes without inspections. The applicant purchased the property in March of 2022 and was aware of the zoning and the minimum lot size at that time. A municipality is not required to rezone a property to its highest and best use. The parcel can be split into 2 parcels, at least 10 acres in size and use it for any of the uses listed in the Agricultural District. There are other parcels along the shoreline that are more than 10 acres in size. If this Conditional Rezoning is approved, will the township receive similar requests for additional splits?

Staff noted earlier in this report the rezonings that were done in 2004 just to the south of the subject parcel: one rezoning removed a non-conformance on a parcel and allowed 1 additional split, and the other was to the RC district and the applicant used the Planned Site Option to create four parcels of approximately 2.5 acres each. There are 4 parcels to the south of the subject parcel zoned Residential 1 and four parcels zoned Residential Conservation.³

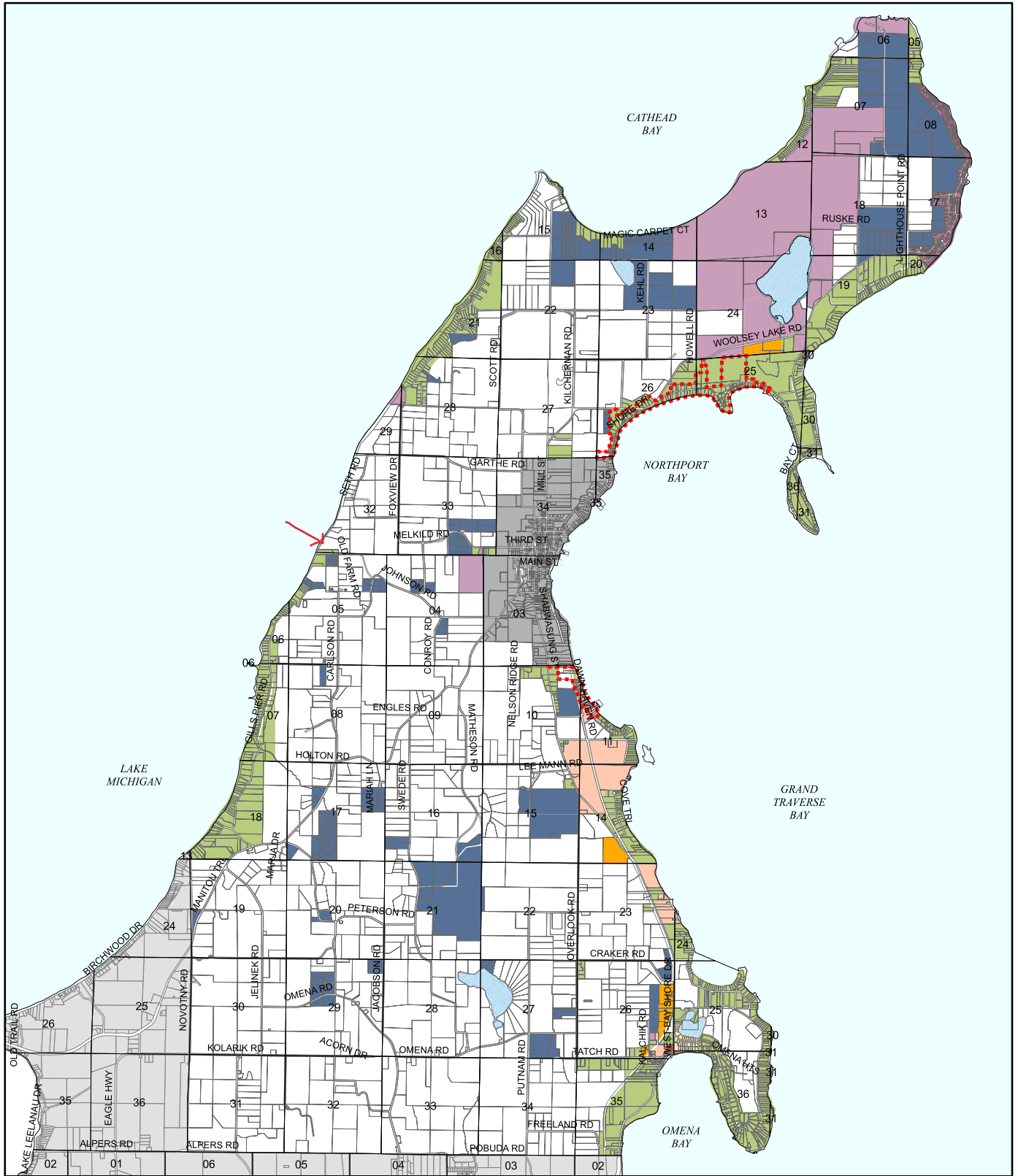
³ Leelanau Township Zoning Map.

NEW BUSINESS ITEM B



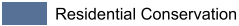
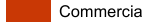
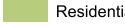
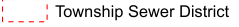

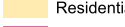
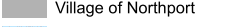
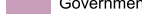
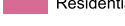

The concerns with the road and road improvements need to be addressed by the property owners that have legal access, along with any township requirements.

It is important to note that current conditions do not leave the applicant without options – the applicant can build on the parcel or request a division for a maximum of 2 parcels of at least 10 acres in size. Since these areas along the shoreline are steep and will most likely not be used for any of the uses in the Agricultural district except for single family homes, and many of the parcels along the shoreline are already less than 10 acres in size but zoned for Agricultural, perhaps the township should take a look at the zoning along the whole shoreline. Does it make sense to keep these properties in Agricultural? Is there another district that could be considered? There are several parcels that are greater than 10 acres in size along the shoreline, as well as parcels around 2 acres in size. Would a minimum size between these work better for this area? And, is the Planned Site Option in the zoning ordinance being used, or should that be reconsidered?

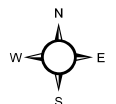
LEELANAU TOWNSHIP



Zoning Districts

- | | | |
|---|---|---|
|  |  |  |
| Agricultural | Industrial | Residential Conservation |
|  |  |  |
| Commercial | Residential 1 | Township Sewer District |
|  |  |  |
| Commercial Resort | Residential 2 | Village of Northport |
|  |  |  |
| Governmental | Residential 4 | Lakes |

0 0.25 0.5 1 Miles



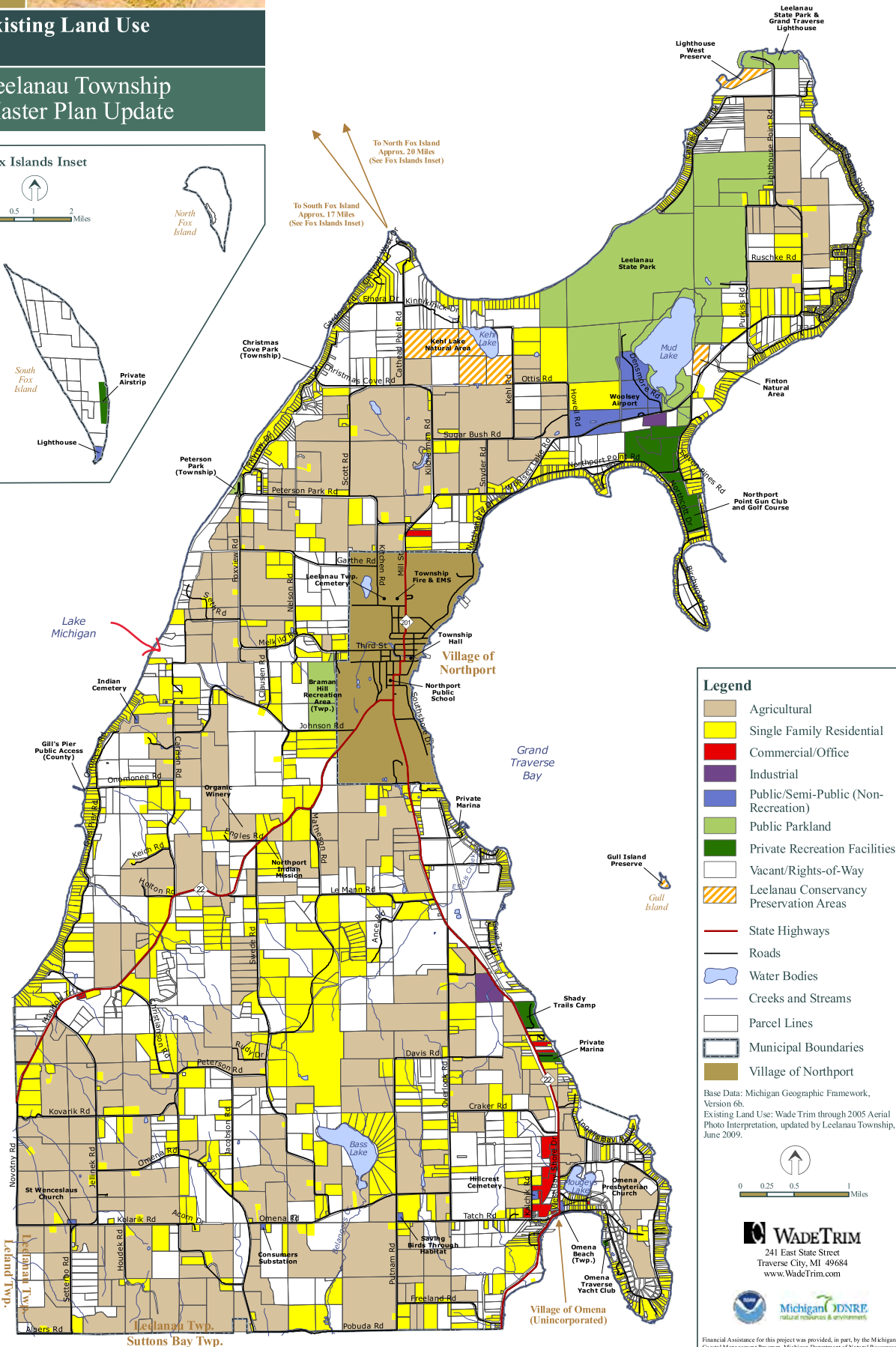
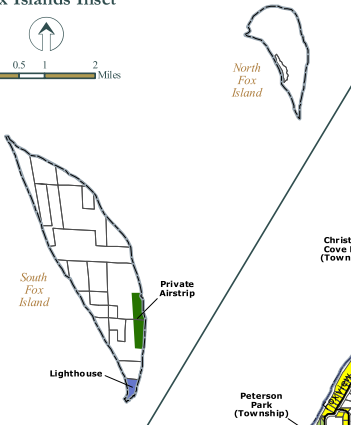
MAP FOR REFERENCE PURPOSES ONLY
 Data from Leelanau Township
 Prepared by Leelanau County Planning & Community Development
 Updated & Printed May 2010



Existing Land Use

Leelanau Township Master Plan Update

Fox Islands Inset



Legend

- Agricultural
- Single Family Residential
- Commercial/Office
- Industrial
- Public/Semi-Public (Non-Recreation)
- Public Parkland
- Private Recreation Facilities
- Vacant/Rights-of-Way
- Leelanau Conservancy Preservation Areas
- State Highways
- Roads
- Water Bodies
- Creeks and Streams
- Parcel Lines
- Municipal Boundaries
- Village of Northport

Base Data: Michigan Geographic Framework, Version 6b.
 Existing Land Use: Wade Trim through 2005 Aerial Photo Interpretation, updated by Leelanau Township, June 2009.

0 0.25 0.5 1 Miles

WADETRIM
 241 East State Street
 Traverse City, MI 49684
 www.WadeTrim.com

Michigan DNR
 natural resources & environment

Financial Assistance for this project was provided, in part, by the Michigan Coastal Management Program, Michigan Department of Natural Resources and Environment (MDNRE), through a grant from the National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce.

©2010 Wade Trim, Inc. All Rights Reserved. This is a Draft Project. Existing Land Use



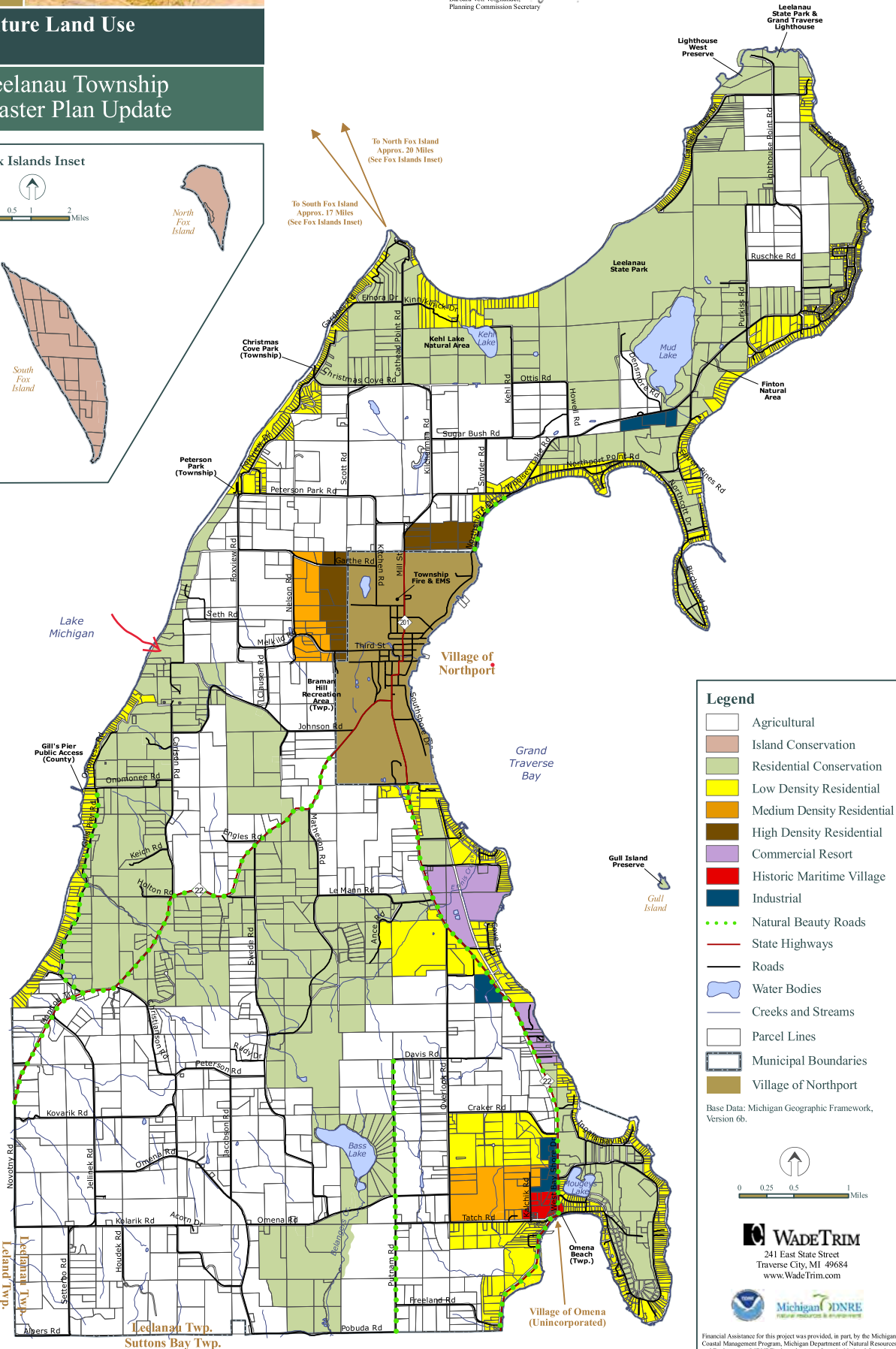
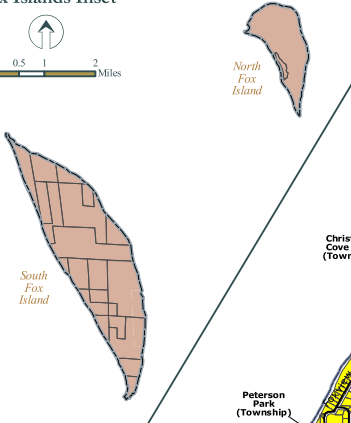
Future Land Use

Leelanau Township Master Plan Update

This is to certify that this is the official Future Land Use Map of Leelanau Township, Adopted by the Leelanau Township Planning Commission on August 26, 2010.

Barbara Von Voigtlander
Barbara Von Voigtlander,
Planning Commission Secretary

Fox Islands Inset



Legend

- Agricultural
- Island Conservation
- Residential Conservation
- Low Density Residential
- Medium Density Residential
- High Density Residential
- Commercial Resort
- Historic Maritime Village
- Industrial
- Natural Beauty Roads
- State Highways
- Roads
- Water Bodies
- Creeks and Streams
- Parcel Lines
- Municipal Boundaries
- Village of Northport

Base Data: Michigan Geographic Framework, Version 6b.



WADETRIM
241 East State Street
Traverse City, MI 49684
www.WadeTrim.com



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Gail Myer

From: Marsha Buehler <marshabuehler@gmail.com>
Sent: Wednesday, December 14, 2022 12:20 PM
To: Trudy Galla; Gail Myer; Jenny Herman
Cc: Steve Patmore
Subject: Leelanau Township Seth Road rezoning
Attachments: Seth Road rezoning analysis.pdf

Good afternoon, Trudy and all. Though the agenda for the LCPC meeting December 20 is not yet posted, I am sending you the attached analysis as information and public comment regarding the Seth Road matter.

Thank you.

Marsha Buehler

PO Box 196 Omena

231-386-9139 (voice and text)

To: The Leelanau County Planning Commission
From: Marsha Buehler, Omena 12/14/22

*My comments were first sent to the Leelanau Township Board and Zoning Administrator on 11/16/22. At that meeting the LTPC voted to recommend rezoning to R-1. I was surprised at that recommendation. I believe that it is in error, as I state below.
Thank you for your attention.*

I listened on Zoom to the November 10 LTPC discussion about the Seth Road conditional rezoning application. It seems that there is a general misunderstanding about the requirement for dedicated open space under Article 13 Residential Open Space Developments. It seemed that all involved thought that Article 13 requires that the open space be a common area, which would preclude the larger-lot "farmette" option desired by the applicant. That is not the case. Perhaps a little background information will help to clarify. I was involved in the original discussion and adoption of Article 13.

LTZO Article 13, Open Space Residential Developments, section 13.5.A .5. allows dedicated open space to be owned by individual owners within the development. When this article was written this option was included specifically so that large lots that included environmentally sensitive areas or productive farmland could be owned privately and did not require common ownership and access. There is no requirement In Article 13 that the dedicated open space be "common

area" with access to all (though that is an option) within the open space residential development; just that the dedicated open space be restricted as unbuildable.

Section A.5 was added intentionally when Article 13 was adopted, as most parcels over 10 acres are zoned Agricultural. It was a mechanism by which agricultural landowners could develop/split/sell unproductive areas into residential parcels while choosing to retain private ownership of the residentially restricted land for farming, hunting, or conservation purposes.

Section 13.4.7 shows this intention with its language "and land suitable for farming".

The understanding of this option may or may not have affected the application or decision by the Planning Commission, but it should be part of the consideration in such applications.

Three additional LTZO points should be noted that are pertinent to the Seth Road parcel:

1. R1 zoning, (including conditional R1) at 5.7.A does not permit agricultural uses (such as the desired "farmettes")
2. RC zoning at 5.7.A footnote 15 does permit agricultural uses
3. RC zoning at 3.5.A footnote 11 states "lot sizes may be reduced if development conforms to Article 13".

An analysis of the pertinent sections of the LTZO direct that the appropriate course of action that would legally

accomplish the owner's stated objectives would be rezoning to Residential Conservation (RC) and application for an Article 13 Residential Open Space development. Article 21 Conditional Zoning to R1 does not do so; it creates violations for agricultural "farmette" uses.

Thank you for your attention.

Marsha Buehler 11.16.22 (to the LTB & Steve Patmore, with a request it be shared with the LTPC)

Appendix
Submittal from Township

SUBMITTAL TO LEELANAU COUNTY PLANNING COMMISSION

FROM THE LEELANAU TOWNSHIP PLANNING COMMISSION

Zoning Amendment for Conditional Rezoning of Property **E. Seth Rd., Northport, MI** **From Agricultural to the R-1 Residential Zoning District** **DECEMBER 2022**

Content of Packet:

- **Cover Sheet with Background Information**
- **Application and Supplemental Information Submitted by the Applicant.**
- **Original Offer of Voluntary Conditions received on 10/11/2022.**
- **Revised Offer of Voluntary Conditions received on 11/14/2022.**
- **Staff Reports and Rezoning Standards**
- **Article 21 – Conditional Rezoning from Leelanau Township Zoning Ordinance.**
- **Written Public Comment received by Leelanau Township.**
- **Draft Leelanau Township Meeting Minutes from August 25, 2022**
- **Draft Leelanau Township Meeting Minutes from September 8, 2022**
- **Draft Leelanau Township Meeting Minutes from November 10, 2022**

Background:

Chris Amann, 611 Knoch Knolls Rd., Naperville, IL, submitted an application to rezone his property at 00 E. Seth Road (Property No. 45-008-232-014-00) from Agricultural Zoning to R-1 or R-2 Residential Zoning. The original Application did not include any voluntary offer of conditions. The subject property is currently vacant, is located on the shoreline of Lake Michigan, and is currently zoned Agricultural.

Although the property is listed as being located on E. Seth Road in the Leelanau County Tax Parcel Viewer, the parcel map shows that this parcel is actually located on Old Farm Road.

It should be noted that the proposed lot lines shown on the Application have not been reviewed or approved by the Leelanau Township Land Division Committee, and was not part of the re-zoning consideration.

The Public Hearing was started on August 25, 2022.

Christopher Grobbel, the Applicant's representative made some comments, the floor was opened to the Planning Commission (PC) for questions, then the public comment was held. There were a lot of concerns expressed about potential development density, the private road, stormwater run-off, and the shoreline bluff. The Public Hearing was adjourned until September 8, 2022.

On September 8, 2022, the Public Hearing was re-opened and there was considerable discussion from the PC and public regarding the private road, shoreline bluff, density, and stormwater run-off. Mr. Grobbel stated that the Applicant may consider offering voluntary conditions. The Public Hearing was adjourned to October 13, 2022.

On October 11, 2022, Leelanau Township received a list of voluntary conditions from Mr. Grobbel.

The October 13, 2022 PC Meeting was cancelled due to Covid-19 exposures, and the revised application was re-published for a new Public Hearing as a Conditional Rezoning for November 10, 2022.

On November 10, 2022, a Public Hearing was held on the conditional rezoning. After the Hearing, the PC reviewed Findings of Fact, Rezoning Standards, and the voluntary conditions. The PC recommended approval of the rezoning amendment with suggested typographical changes to the conditions.

After review by the County Planning Commission, the township board will consider the amendment, and possibly have the township attorneys prepare the appropriate documents for execution as referenced in Article 21 of the zoning ordinance.

Compliance with Master Plan:

The Future Land Use Map in the 2010 Leelanau Township Master Plan Update (reviewed in 2016) shows the subject parcel as Residential Conservation.

In reviewing this Application, the PC found that the proposed limit of four total parcels would be fewer than what could be developed under the current RC District guidelines for an Open Space Residential Development.

It was also noted that the Leelanau Township Planning Commission is currently working on an update to the Master Plan.

Private Road Issues:

In reviewing this Application, the PC found that the provisions for pre-existing private roads contained in the Leelanau Township Private Road Ordinance would apply to Seth Road and Old Farm Road, regardless if the parcel was developed under Agricultural, Residential Conservation, or R-1 Residential.

Further, the Leelanau County Road Commission would be required to review any application for Land Division that would access the public portion of Seth Road.

Shoreline Bluff Issues:

The subject property is located in a designated State of Michigan High Risk Erosion Area. Michigan EGLE is required to review and approve all development in these areas. The included email from Robyn Schmidt indicates that EGLE permits are required for any structures constructed on the subject parcel.

The bluff setbacks contained in Article 15 – Environmental Standards in the Leelanau Township Zoning Ordinance do not apply in a designated High Risk Erosion Area, however, the voluntary conditions state that they will comply with township steep slope setbacks.

APPLICATION FOR REZONING AMENDMENT

LEELANAU TOWNSHIP OFFICE OF PLANNING & ZONING

P O Box 338, 119 E Nagonaba, Northport, Michigan, 49670

Phone (231) 386-5138x4 FAX (231) 386-7909

Date 7-14-22	Fee 350.⁰⁰	Parcel I.D. Number 008-232-014-00
Property Owner(s) Name Chris Amann		Agent's Name, if any Christopher Grobbel
Mailing Address 611 Knoch Knolls Rd. Naperville, IL 60565		Agent's Mailing Address PO Box 58 Lake Leelanau, MI 49653
Phone 203-274-1702 camann1@yahoo.com		Agent's Phone grobbelenvironmental@gmail.com 231-499-7165
Current Zoning of Property Agricultural		Location & address of property Sec. 32, T32N R11W @ N-end of Old Farm Rd., S-end of Seth Rd.
Proposed Zoning of Property Residential - 1		NE Side of E. Seth Rd / Old Farm Rd. Road
Master Plan Designation of Property Residential Conservation		Total Acreage of Parcel 27.9 acres

1. All rezoning requests must be accompanied by a site diagram, drawn to scale. The following information must be included or the application will be determined incomplete and returned to you.
 - A. Dimensions of parcel with North directional arrow
 - B. All dimensions and setbacks of existing and proposed structures on site (including decks, porches, overhangs)
 - C. Indicate location of existing and proposed well, septic tank, and drain field
 - D. Indicate all existing and proposed driveways and/or easements
 - E. Location and names of existing and proposed public and/or private roads
 - F. Attach the legal description of property involved
2. Property lines must be flagged at the site.
3. Provide copies of other regulatory agency permits, if applicable, ie - health department permit, driveway permit, etc.
4. All rezoning applications must be accompanied by a written explanation of the request.
5. If the applicant is an agent for the property owner, a signed letter from the property owner designating such agent is required to be submitted with this application.
6. A map indicating all adjacent parcels including parcel numbers with the zoning district of each adjacent parcel indicated.

Application is hereby made for a request to rezone the subject property. I certify that I am familiar with the information contained in the application, and that to the best of my knowledge and belief such information is true and accurate. I certify that I have the authority to request the proposed action. By signing this application, I understand to allow representatives of Leelanau Township to enter upon said property in order to inspect the proposed request. Application must be signed by property owner or his/her designated agent to be valid. Fee must accompany application and be made payable to Leelanau Township.

SIGNED *Christopher Grobbel (for C. Amann)* Date *7-14-22*



July 14, 2022

Leelanau Township
c/o Steve Patmore, Zoning Administrator
119 E. Nagonaba St.
P.O. Box 338
Northport, MI 49670

RE: Petition to Rezone - 000 Seth Rd., (27.92 acres), Northport, Section 32, Parcel No. 45-008-232-014-00, T32N, R11W, Sec. 32, Leelanau Township, Leelanau County, Michigan.

Dear Leelanau Township,

Landowner/applicant The Amann Group, LLC Series 000 E. Seth Rd (a.k.a. Christopher Amann) respectfully requests the rezoning of the above-referenced parcel in accordance with Section 10.7.A. of the Leelanau Township Zoning Ordinance (adopted August 2012, amended through April 2022).

The subject parcel is currently zoned Agricultural (Ag), and given this parcel's character, unique physical/environmental characteristics, and proximity to other Residential-1 (R-1) zoned parcels, this request is to rezone the subject parcel to Residential-1 (R-1). Please find the below narrative justifying and detailing the rationale for this rezoning.

Section 10.7. A. Rezoning Criteria of the Leelanau Township Zoning Ordinance states that the Planning Commission shall consider the following criteria in evaluating a petition to rezone property within the Township prior to making its recommendation to the Township Board in accordance with Article IV of Act 110 of the Public Acts of Michigan of 2006, as amended.

- 1. The Planning Commission should first consider whether or not the map change is appropriate; that is, whether the proposed use could be better accommodated by amending the zoning ordinance text itself to allow the use as permitted use or as a special condition land use.**

The requested zoning map amendment is appropriate in this case given the subject parcel's unique physical characteristics and regulatory conditions. Specifically, the parcel is 27.92 acres in size, below the the 10 acre minimum lot size that would allowing more than two lot splits under the Agricultural District designation.¹ Existing land uses to the north and south of the subject parcel are residential. Sixty (60%) percent of the parcel, i.e., ~18 acres within its western portion, is non-developable and inaccessible due to very steep slopes up to 45%. The parcel is also subject to the Michigan Department of Environment, Great Lakes and Energy (EGLE) high risk erosion regulations pursuant to Part 323: Shorelands Management/High Risk Erosion Control Act of Michigan's P.A. 451 of 1994, as amended, and Leelanau Township's Environmentally Sensitive Lands (Article 15, Section 15.5G an H) steep slopes regulations further controlling residential development. *Given these unique conditions, the Applicant is following Leelanau Township Zoning Administrator Steve Patmore's June 2022 recommendation to request a rezoning from Ag to R-1.*

¹ Section 4.5, Article 4, Agricultural District of the Leelanau Township Zoning Ordinance.

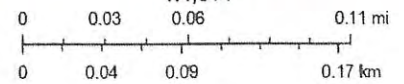
Leelanau Parcel Viewer



12/10/2021, 8:55:00 AM

1:4,514

- Override 1
- Roads
- Municipalities
- Sections
- Government Lots
- Tax Parcels



This map is prepared by Leelanau County for reference purposes only. Leelanau County is not liable for any errors that may be found in this map.

- 2. The applicant should demonstrate that there is evidence of a changed condition. This evidence can be provided in terms of an evaluation of land use trends in the vicinity or through the submittal of a marketing study.**

In 2021 the subject parcel was offered for sale at \$1.25 million U.S. dollars, and given its soil types (i.e., 53% soils unsuitable) and significant steep slopes, i.e., East and West, the parcel does not possess significant agricultural value. The applicant seeks to split the 27.92 acre parent parcel into four (4) new lots to enable large lot residential development of the parcel consistent with existing residential development in the vicinity and neighborhood. The changed condition is the market-value offering of the parcel for sale after long-term holding (i.e., more than 20 years) of the parcel from the real estate market.

- 3. The rezoning request should be evaluated for consistency with the adopted master plan. This includes the future land use plan map, any adopted sub-area development plan, as well as for consistency with the master plan narrative.**

The proposed zoning change is consistent with the Leelanau Township Future Land Use Map and 2010 Master Plan Update which identifies the subject parcel as Residential Conservation. The intent of the Residential Conservation future land use category is “to provide for low density residential development ...of rural lands that are not suited to agriculture or horticultural production on a large scale because they include large areas of environmentally sensitive lands or are comprised of soils that limit agricultural production”.² As detailed and demonstrated above, given site soil types and significant steep slope areas, the subject parcel is not suitable for large-scale agricultural or horticultural production.

- 4. The proposed zoning should be evaluated for its compatibility with the existing land use pattern. The community should ask itself if uses in the proposed zone are equally, less, or better suited to the area.**

The proposed rezoning is consistent with the existing land use pattern in this neighborhood/ vicinity relative to adjacent parcel size, existing development density, future land use map, and zoning classification. The below table details these adjacent parcel and the compatibility of the proposed rezoning with these parcels, and demonstrates the proposed rezoning and use are better suited to the subject parcel than the Ag District designation.

² Page 59, Future Land Uses Categories: Residential Conservation, 2010 Leelanau Township Master Plan Update, and 4: Future Land Use Map.

Parcel No. (Owner)	Parcel Size	Zoning District	Existing Land Use
008-232-017-01 (Arnt)	7.4 acres	R-1	Residential
008-232-017-02 (Arnt)	2.1 acres	R-1	Residential
008-105-020-00 (Fales)	2.4 acres	RC	Residential
008-105-020-01 (Fales)	2.5 acres	RC	Residential/Vacant
008-105-020-02 (Arnt)	2.5 acres	RC	Residential/Vacant
008-105-020-03 (Arnt)	2.5 acres	RC	Residential
008-105-020-11 (Hale)	2.1 acres	R-1	Residential/Vacant

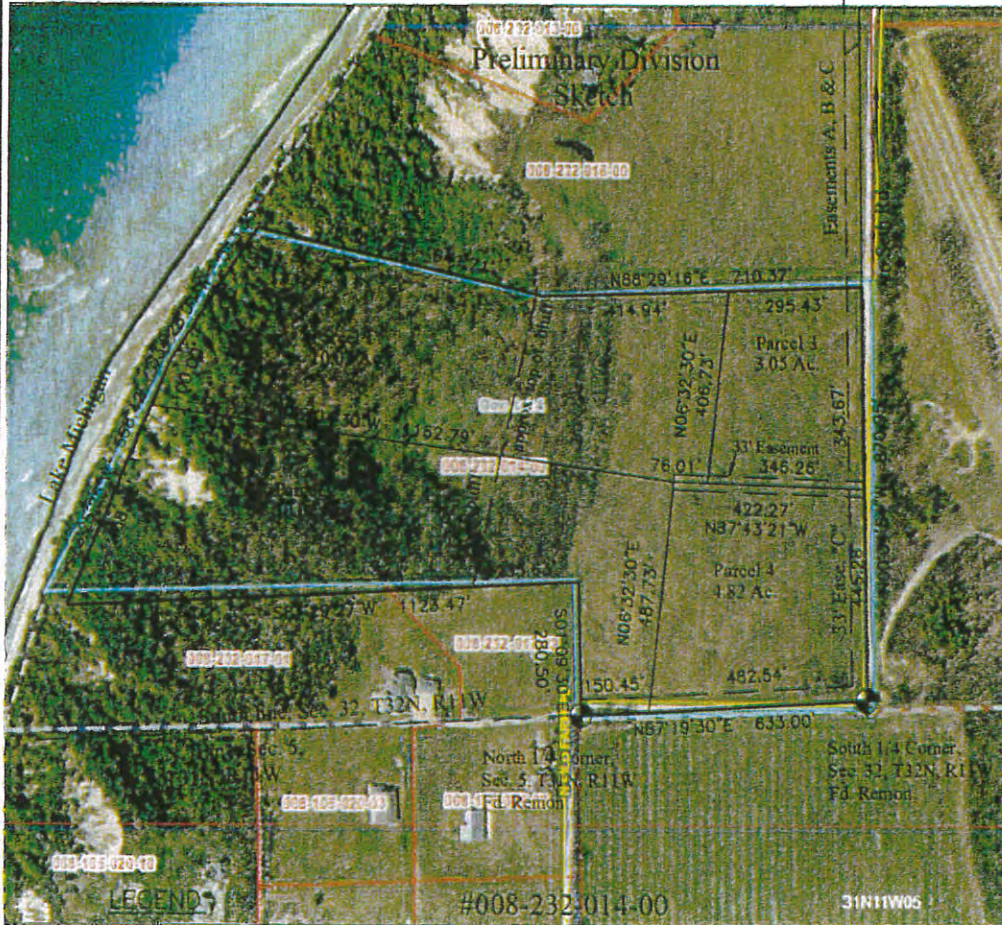
5. **The evaluation of the rezoning should also consider if the proposed use could be built on the subject site if it were to be rezoned. Is the parcel size sufficient? Are there environmental restrictions (i.e., soils, wetlands, floodplains, etc.) that would make the site non-buildable or are they showing that the property cannot be used as presently zoned due to these limitations?**

The proposed residential use can be established and adequately built on four (4) proposed future residential lot splits in compliance with R-1 dimensional requirements (i.e., sufficient parcel sizes) and should the rezoning be granted. See #1 above for details regarding steep slopes, soil types and high risk erosion designation of the subject parcel by EGLE make 60% of the subject parcel non-buildable and not development of those area are intended, planned or proposed.

SURVEY SKETCH



SCALE: 1"=300'



#008-232-014-00
27.92 Acres Total

- = IRON (SET)
 ● = IRON (FND)
 R = RECORD
 M = MEASURED
 C = COMPUTED

REVISIONS:

Part of Gov't Lot 4, Sec. 32, T32N, R11W, Leelanau Twp., Leelanau Co., Michigan.

LEELANAU LAND SURVEYING
 P.O. BOX 701
 LELAND, MI. 49654
 (231) 256-7352

CLIENT:
Chris Amann

DRAWN:
 VAB

DATE:
 3/22/22

SHEET:
 1 OF 1

JOB No:
 22005

6. Is the site served by adequate public facilities or is the petitioner able to provide them?

The low density residential development intended at the subject parcel will be adequately serviced as existing residential parcels/development consisting of on-site well and septic, utility electric, satellite internet, natural gas/propane, and county road network.

7. Are there sites nearby already properly zoned that can be used for the intended purposes?

Yes, as detailed in the above table, seven of the adjoining and nearby parcels are going as R-1 or RC for the intended low density residential development.

8. Is the proposal consistent with the established zoning pattern or does it represent spot zoning? For purposes of this Ordinance, spot zoning shall be defined as the assignment of a zoning classification different from the surrounding zoning classifications to a relatively small land parcel, intended to benefit a particular property owner, which is incompatible with the surrounding area and is also in violation of the community's master plan.

As detailed in the above table, seven (7) of the adjoining and nearby parcels are zoned as R-1 or RC for the intended low density residential development. The proposed rezoning of the subject parcel is thereby consistent with the established zoning pattern and does not represent "spot zoning" or a zoning designation of a small parcel that is incompatible with its surroundings or inconsistent with the development type, density or pattern within the Master Plan.

9. Would a lesser district classification be more appropriate? The petitioner may want a R-3 district; however, a R-2 district may permit the proposed use.

The R-1 zoning district has a 2 acre minimum lot size, whereas R-3A & R-3S are 1 acre minimum lot sizes and R3M possesses a 3/4 acre density. The proposed R-1 is thereby most appropriate for this parcel its setting, and a lesser district classification is not more appropriate.


10. The community should evaluate whether other local remedies are available which are better suited to the circumstances of the petition.

The Applicant has considered other remedies to achieve his goals including but not limited to: a) doing nothing (rejected due to parcel market value/required development goals); b) Open Space or Planned Unit Development (rejected due to parcel's unique physical character, regulatory status and low density residential development goals of the Applicant); and c) Special Lot Split Option - Agricultural District (rejected due to parent parcel size, unique physical characteristics and Applicant's goals).³ Leelanau Township is encouraged to consider and approve the proposed R-1 rezoning.

³ Articles 13, 14 and 4, Section 4.5, respectively of the Leelanau Township Zoning Ordinance.

If you have any questions regarding this zoning assessment, please contact me at 231-499-7165 or grobbeenvironmental@gmail.com. Thank you.

Sincerely,
Grobbe Environmental & Planning Associates



Christopher P. Grobbel, Ph.D.
Sr. Project Manager

enclosures

cc Christopher Amann, The Amann Group LLC



Photograph #1: 000 E. Seth Rd., looking West from the subject property's ridgeline showing unbuildable/inaccessible area along Lake Michigan. Parcel No. 45-008-232-014-00, 27.9 acres, Leelanau Township, Section 32, T32N, R11W, Leelanau County, Michigan. Taken by Christopher Grobbel, Grobbel Environmental & Planning Associates, July 14, 2022.



Photograph #2: 000 E. Seth Rd., looking North along Seth Road from the subject parcel Parcel No. 45-008-232-014-00, 27.9 acres, Leelanau Township, Section 32, T32N, R11W, Leelanau County, Michigan. Taken by Christopher Grobbel, Grobbel Environmental & Planning Associates, July 14, 2022.



Photograph #3: 000 E. Seth Rd., looking South from the subject property to adjacent residential land uses on Old Farm Rd. Parcel No. 45-008-232-014-00, 27.9 acres, Leelanau Township, Section 32, T32N, R11W, Leelanau County, Michigan. Taken by Christopher Grobbel, Grobbel Environmental & Planning Associates, July 14, 2022.



Photograph #4: 000 E. Seth Rd., looking Northwest from the Old Farm Rd. to adjacent residential land uses. Parcel No. 45-008-232-014-00, 27.9 acres, Leelanau Township, Section 32, T32N, R11W, Leelanau County, Michigan. Taken by Christopher Grobbel, Grobbel Environmental & Planning Associates, July 14, 2022.



Photograph #5: 000 E. Seth Rd., looking West from the Old Farm Rd. to adjacent residential land uses. Parcel No. 45-008-232-014-00, 27.9 acres, Leelanau Township, Section 32, T32N, R11W, Leelanau County, Michigan. Taken by Christopher Grobbel, Grobbel Environmental & Planning Associates, July 14, 2022.

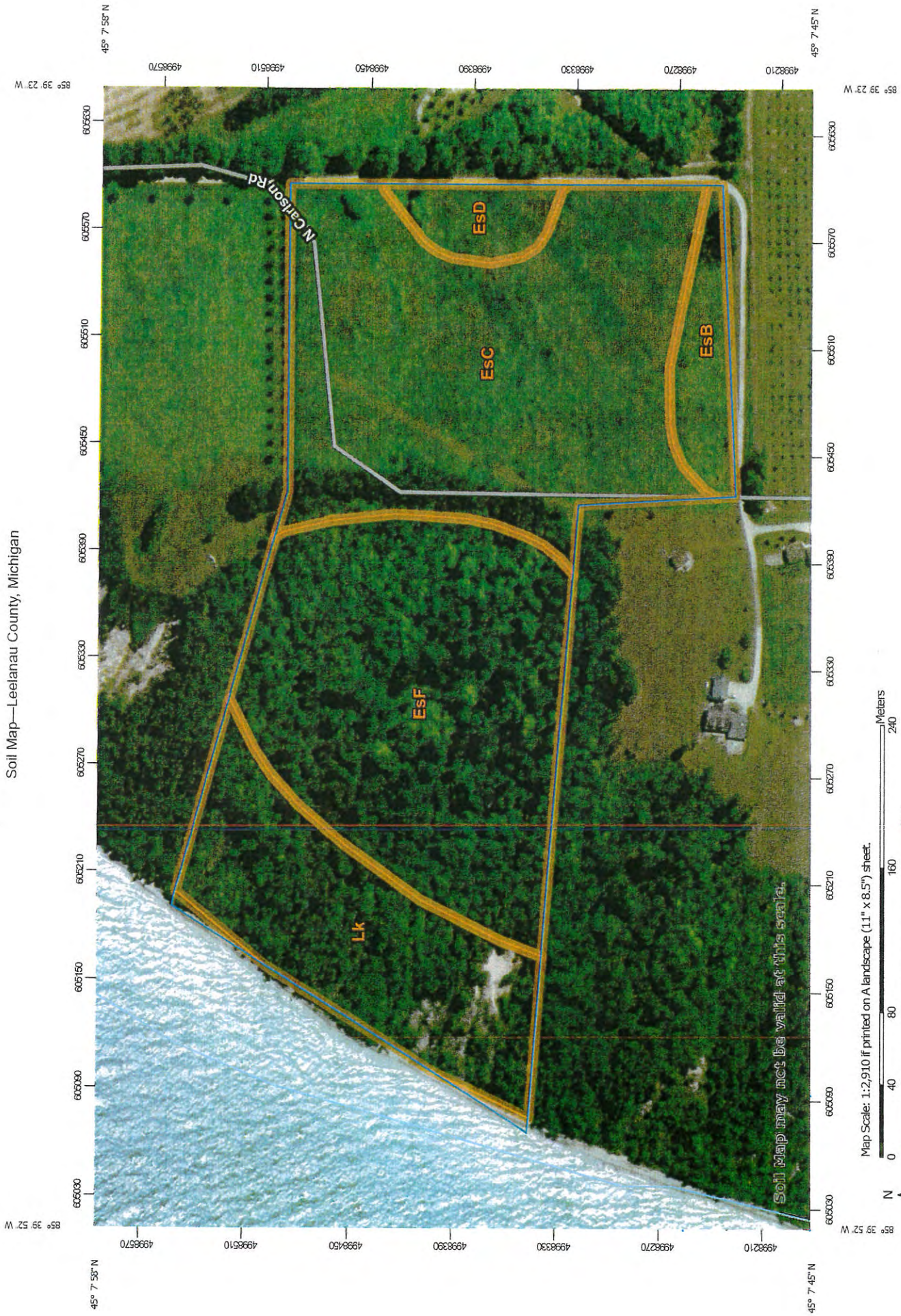


Photograph #6: 000 E. Seth Rd., looking West-southwest from the Old Farm Rd. to adjacent residential land uses. Parcel No. 45-008-232-014-00, 27.9 acres, Leelanau Township, Section 32, T32N, R11W, Leelanau County, Michigan. Taken by Christopher Grobbel, Grobbel Environmental & Planning Associates, July 14, 2022.



Photograph #7: 000 E. Seth Rd., looking North from the subject property to adjacent residential land uses. Parcel No. 45-008-232-014-00, 27.9 acres, Leelanau Township, Section 32, T32N, R11W, Leelanau County, Michigan. Taken by Christopher Grobbel, Grobbel Environmental & Planning Associates, July 14, 2022.

Soil Map—Leelanau County, Michigan



Map Scale: 1:2,910 if printed on A landscape (11" x 8.5") sheet.



Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 16N WGS84



MAP LEGEND

- Area of Interest (AOI)
- Area of Interest (AOI)
- Soils
- Soil Map Unit Polygons
- Soil Map Unit Lines
- Soil Map Unit Points
- Special Point Features**
 - Blowout
 - Borrow Pit
 - Clay Spot
 - Closed Depression
 - Gravel Pit
 - Gravelly Spot
 - Landfill
 - Lava Flow
 - Marsh or swamp
 - Mine or Quarry
 - Miscellaneous Water
 - Perennial Water
 - Rock Outcrop
 - Saline Spot
 - Sandy Spot
 - Severely Eroded Spot
 - Sinkhole
 - Slide or Slip
 - Sodic Spot
- Water Features
 - Streams and Canals
- Transportation**
 - RAILS
 - Interstate Highways
 - US Routes
 - Major Roads
 - Local Roads
- Background**
 - Aerial Photography
- Spoil Area
- Stony Spot
- Very Stony Spot
- Wet Spot
- Other
- Special Line Features

MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:20,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL:

Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Leelanau County, Michigan
Survey Area Data: Version 15, Sep 1, 2021

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Dec 31, 2009—Jun 19, 2016

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Map Unit Legend

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
EsB	Emmet-Omena sandy loams, 2 to 6 percent slopes	1.1	4.5%
EsC	Emmet-Omena sandy loams, 6 to 12 percent slopes	9.9	38.7%
EsD	Emmet-Omena sandy loams, 12 to 18 percent slopes	0.9	3.3%
EsF	Emmet-Omena sandy loams, 25 to 50 percent slopes	8.7	34.2%
Lk	Lake bluffs	4.8	18.8%
Totals for Area of Interest		25.5	100.0%

Fwd: FW: 00 E. Seth Rd. (Old Farm Rd.), Northport, Parcel No. 008-232-014-00 (27.97 acres) - C. Amann

Chris Grobbel <cgrobbel@grobbelenvironmental.com>

Fri 9/9/2022 1:50 PM

To: Steve Patmore <zoning@leelanautownshipmi.gov>; chris amann <camann1@yahoo.com>; John Watkins <watkinstc@gmail.com>; Schmidt, Robyn (EGLE) <SCHMIDTR1@michigan.gov>

📎 2 attachments (1 MB)

List of Common Activities regulated under Part 323 or Part 353.pdf; Amaan Parcel Aerial with EGLE note.pdf;

Hi Steve,

As presented 2 weeks ago and last night, Robyn Schmidt, EGLE sent the below to you, Chris Amann, surveyor Vicki Brown and me on 5/6/22.

Please confirm your receipt, and please distribute Robyn's letter to the Leelanau Township PC.

Thank you.

Christopher P Grobbel, PhD

GROBBEL ENVIRONMENTAL & PLANNING ASSOCIATES

PO BOX 58

Lake Leelanau, MI 49653

231-499-7165

EGLE reviewed the above-referenced parcel yesterday (5/5/22) to determine the general location of the Erosion Hazard Line (EHL), as defined under Part 323, Shorelands Protection and Management, of NREPA (Part 323; High Risk Erosion Areas = HREA). This property: 45-008-232-014-00 E Seth Road is regulated under Part 323 HREA, with a setback requirement of 50 feet for readily moveable structures and 85 feet for non-readily moveable structures, including septic systems. Construction and septic system work anywhere on this parcel will require an EGLE permit under Part 323.

Attached is a list of common activities and whether they require a permit from EGLE. Information on Part 323 is available on-line at <https://www.michigan.gov/egle/about/organization/water-resources/shoreland-management>

Based on our site review, the first bluff line, west from Old Farm Road would not be considered the EHL, as defined under Part 323, see attached map. The EHL is defined as "the line along the shoreland that is the landward edge of the zone of active erosion" or the elevation contour, which is a set-elevation of 583.7 IGLD85 on Lake Michigan; whichever is the most landward. The EHL for this site would be in the area identified on the attached map.

This parcel is not within the mapped Critical Dune Area. In addition, while the building site reviewed was upland (= non-wetland), the Wetland Map Viewer statewide mapping indicates the potential presence of wetland on-site: <https://www.mcgi.state.mi.us/wetlands/mcgiMap.html?bkmk=49f4165a10232846ae9b48a2352ac198>, lakeward of the first bluff, west of Old Farm Road.

Let me know if you have any questions, or if I can provide any additional information. Thank you.

Robyn Schmidt

Water Resources Division-Cadillac District Office

Michigan Department of Environment, Great Lakes, and Energy (EGLE)

231-383-5952 | SchmidtR1@Michigan.gov

Follow Us | Michigan.gov/EGLE

MiWaters help: EGLE-WRD-MiWaters@michigan.gov ; egle-assist@michigan.gov ; 800.662.9278

----- Forwarded message -----

From: **Schmidt, Robyn (EGLE)** <SCHMIDTR1@michigan.gov>

Date: Fri, Sep 9, 2022 at 12:32 PM

Subject: FW: 00 E. Seth Rd. (Old Farm Rd.), Northport, Parcel No. 008-232-014-00 (27.97 acres) - C.

Amann

To: Chris Grobbel <grobbeenvironmental@gmail.com>

Resending to gmail address. Thank you.

Robyn Schmidt

Water Resources Division-Cadillac District Office

Michigan Department of Environment, Great Lakes, and Energy (EGLE)

231-383-5952 | SchmidtR1@Michigan.gov

Let me know if you have any questions, or if I can provide any additional information. Thank you.

Robyn Schmidt

Water Resources Division-Cadillac District Office

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Follow Us | Michigan.gov/EGLE

MiWaters help: EGLE-WRD-MiWaters@michigan.gov ; egle-assist@michigan.gov ; 800.662.9278

From: Chris Grobbel <cgrobbel@grobbelenvironmental.com>

Sent: Friday, May 6, 2022 10:11 AM

To: Schmidt, Robyn (EGLE) <SCHMIDTR1@michigan.gov>; chris amann <camann1@yahoo.com>;
John Watkins <watkinstc@gmail.com>

Cc: Vickie Brown <vickie@leelanaulandsurveying.com>; zoning@leelanautownshipmi.gov

Subject: 00 E. Seth Rd. (Old Farm Rd.), Northport, Parcel No. 008-232-014-00 (27.97 acres) - C.
Amann

CAUTION: This is an External email. Please send suspicious emails to abuse@michigan.gov

Hi Robyn,

Thank you for meeting me on-site yesterday at the above-referenced parcel. This note is to document your determination from that meeting that the Hazard Risk Erosion Line (HEL) for this parcel is at and along the shoreline portion of this parcel pursuant to Michigan's High Risk Erosion Control Program of the Shoreland Protection and Management Act, PA 323 as amended.

It is acknowledged that building setbacks from the landward bluff crest are subject to Section 15.5

MiWaters help: EGLE-WRD-MiWaters@michigan.gov ; egle-assist@michigan.gov ; 800.662.9278

**** FYI- MiWaters will be renamed MiEnviron, later this fall****

From: Schmidt, Robyn (EGLE)

Sent: Friday, May 6, 2022 1:24 PM

To: Chris Grobbel <cgrobbel@grobbelenvironmental.com>; chris amann <camann1@yahoo.com>; John Watkins <watkinstc@gmail.com>

Cc: Vickie Brown <vickie@leelanaulandsurveying.com>; zoning@leelanautownshipmi.gov

Subject: RE: 00 E. Seth Rd. (Old Farm Rd.), Northport, Parcel No. 008-232-014-00 (27.97 acres) - C. Amann

Chris,

EGLE reviewed the above-referenced parcel yesterday (5/5/22) to determine the general location of the Erosion Hazard Line (EHL), as defined under Part 323, Shorelands Protection and Management, of NREPA (Part 323; High Risk Erosion Areas = HREA). This property: 45-008-232-014-00 E Seth Road is regulated under Part 323 HREA, with a setback requirement of 50 feet for readily moveable structures and 85 feet for non-readily moveable structures, including septic systems. Construction and septic system work anywhere on this parcel will require an EGLE permit under Part 323. Attached is a list of common activities and whether they require a permit from EGLE. Information on Part 323 is available on-line at <https://www.michigan.gov/egle/about/organization/water-resources/shoreland-management>

Based on our site review, the first bluff line, west from Old Farm Road would not be considered the EHL, as defined under Part 323, see attached map. The EHL is defined as "the line along the shoreland that is the landward edge of the zone of active erosion" or the elevation contour, which is a set-elevation of 583.7 IGLD85 on Lake Michigan; whichever is the most landward. The EHL for this site would be in the area identified on the attached map.

This parcel is not within the mapped Critical Dune Area. In addition, while the building site reviewed was upland (= non-wetland), the Wetland Map Viewer statewide mapping indicates the potential presence of wetland on-site: <https://www.mcgi.state.mi.us/wetlands/mcgiMap.html?bkmk=49f4165a10232846ae9b48a2352ac198>, lakeward of the first bluff, west of Old Farm Road.

Special Requirements, Subsection H: Regulated Shoreline Bluffs of the Leelanau Township Zoning Ordinance. Please confirm your finding in writing, and thank you again for your help with this matter.

Thank you.

Christopher P Grobbel, PhD

GROBBEL ENVIRONMENTAL & PLANNING ASSOCIATES

PO BOX 58

Lake Leelanau, MI 49653

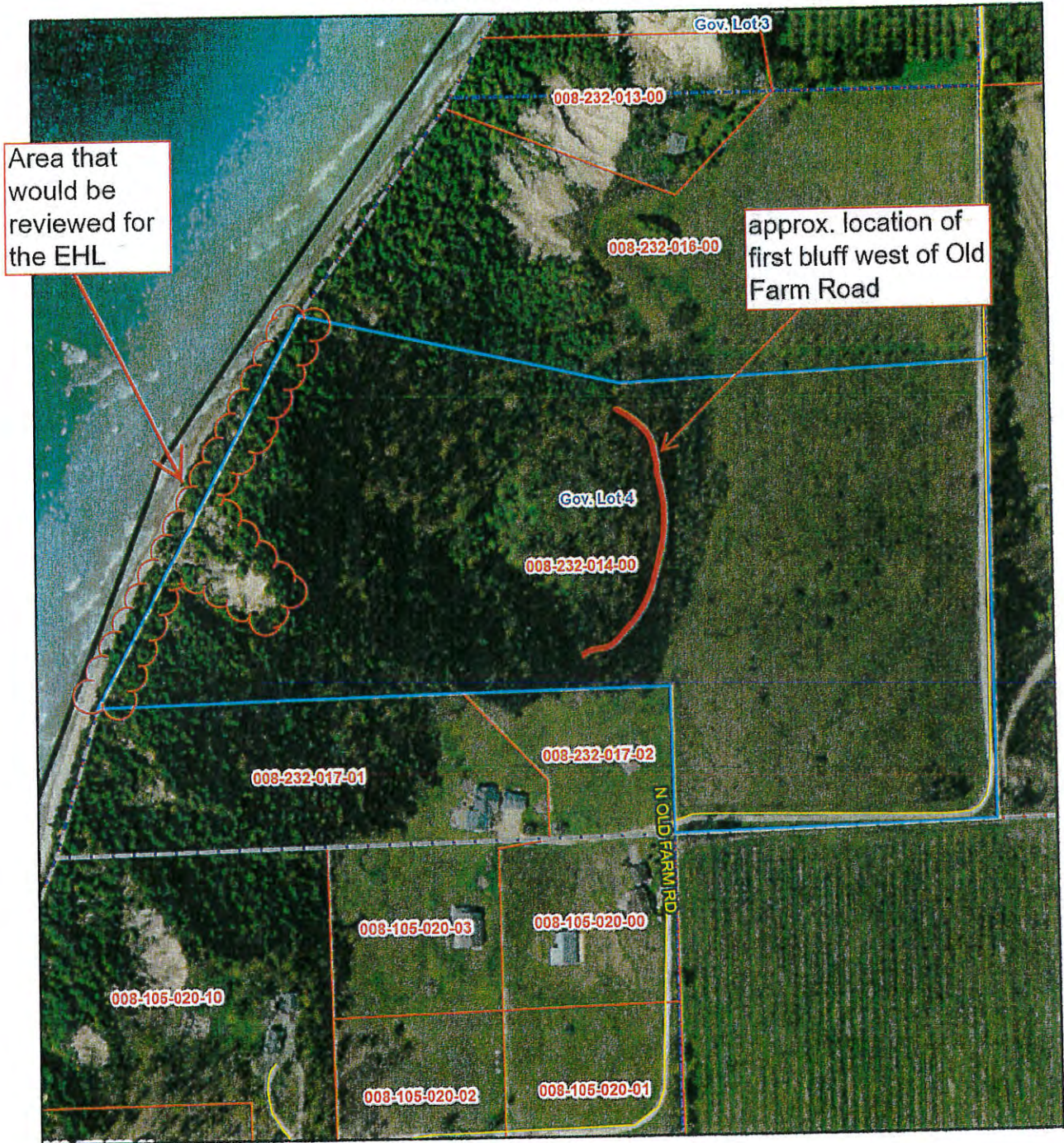
231-499-7165

**A List of Common Activities Needing an Individual Permit
in High Risk Erosion Areas (Part 323) and Critical Dune Areas (Part 353) of NREPA***

Additional activities may be regulated. Contact EGLE.

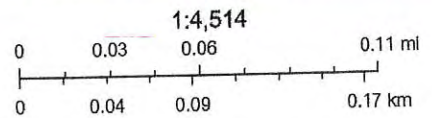
EGLE High Risk Erosion Area Website - Michigan.gov/Shorelands Critical Dune Area (CDA) Website - Michigan.gov/CriticalDunes			
<u>Activity in MiWaters</u>	<u>Examples</u>	<u>High-Risk Erosion Areas</u>	<u>Critical Dune Areas</u>
Boardwalk	Boardwalk	No	Yes**
Bridge	Bridge	No	Yes
Building - accessory structure	Garage, gazebos, storage buildings	Yes, unless under 225 square feet with no permanent foundation.	Yes
Building - addition	Addition to existing building	Yes	Yes
Building - non-residential new (Commercial/Industrial/Public)	Non-residential new building	Yes	Yes
Building - residential new	Single family home	Yes	Yes
Building/Structure Relocation	Relocate a single family home	Yes	Yes
Condominium/Subdivision/Residential Development	Condominium	Yes	Yes
Culvert	Culvert	No	Yes
Deck/Platform	Deck - no roof or walls	No	Yes**
Driveway	Driveway or driveway expansion	No	Yes
Excavation landward of OHWM/wetlands	Removal of blow sand	No	Yes**
Fence	Fence	No	Yes**
Fill (except spoil disposal or swim areas)	Landscaping; sand or soil fill	No	Yes
Grading	Recontouring of sand	No	Yes
Other Structure	e.g. Swimming pool	No, if unenclosed	Yes
Other Structure	e.g. Stairs or tram, post	No	Yes**
Other Use	e.g. Athletic court	No	Yes
Parking Area	Parking Area	No	Yes
Path/Sidewalk	Path	No	Yes
Restoration	Site restoration due to violation	No	Yes, if contour changes proposed
Retaining Wall	Retaining walls	No	Yes**
Riprap	Shore protection	No	Yes, Special Exception
Road - New	New road	No	Yes
Road - Upgrade	Road, expansion of existing	No	Yes
Seawall	Shore protection	No	Yes, Special Exception
Septic System	Septic system, new single family residence; and maint or replacement for single and non-single family homes not meeting 35306(4)	Yes	Yes
Spoils Disposal	disposing of spoils in a CDA	No	Yes
Structure Removal	Demolition within existing footprint, including foundation.	No	Yes
Surveying Activities and Scientific Measuring Devices	Survey activities: temporary and minor impacts from sampling holes, test wells	No	Yes
Temporary Access (Use or Structure)	Temporary construction access with approved restoration plan.	No	Yes
Utility - Electrical, fiber optic, other	Utilities, new for single family residence; replacement, repair	No	Yes**
Utility - Sewer/Water Line	Utilities, new for single family residence; replacement, repair	No	Yes**
Vegetation Removal	removal of trees, shrubs, grasses	No	Yes**
Well	Well	No	Yes**

Leelanau Parcel Viewer

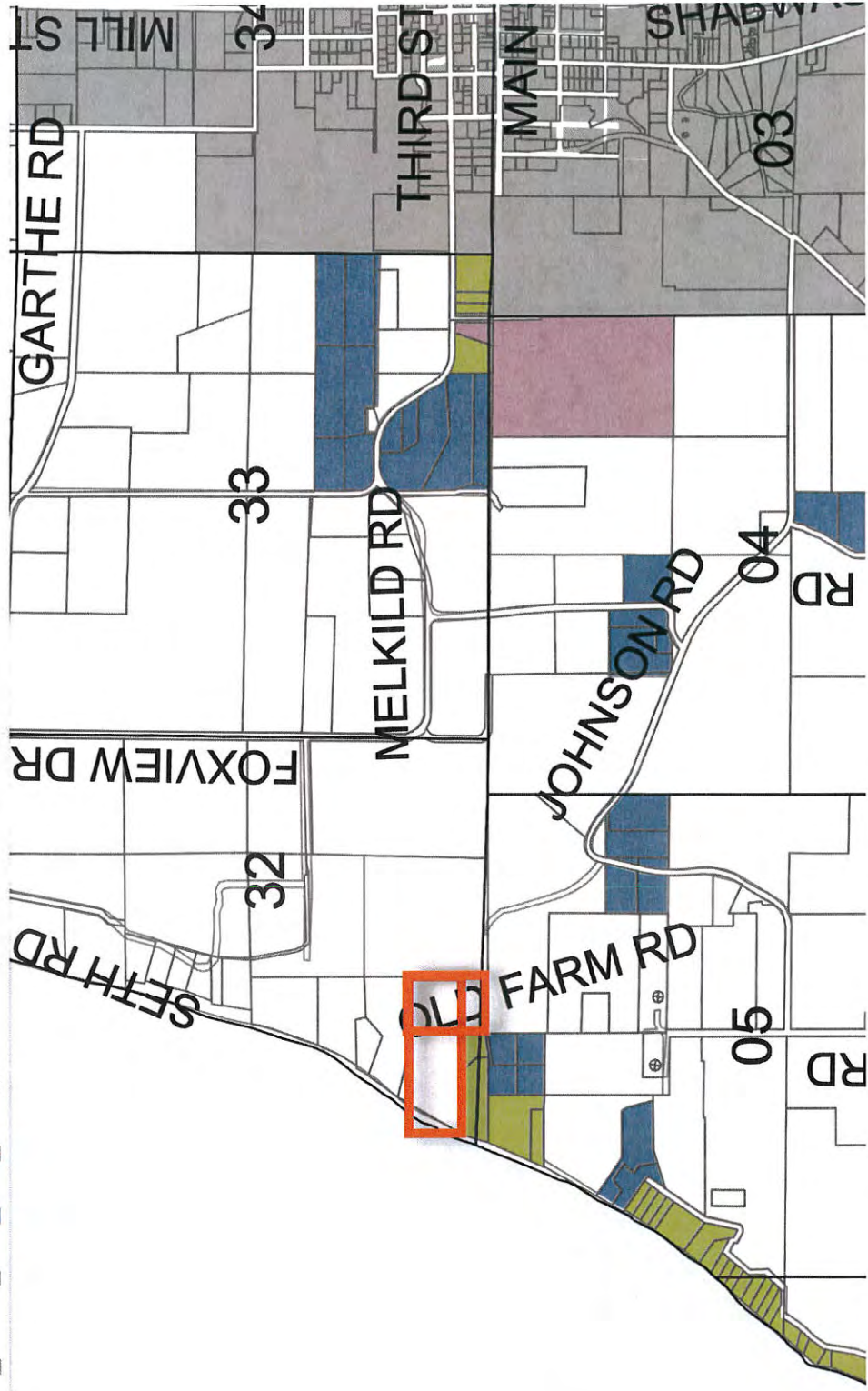


12/10/2021, 8:55:00 AM

- Override 1
- Roads
- Municipalities
- Sections
- Government Lots
- Tax Parcels



This map is prepared by Leelanau County for reference purposes only. Leelanau County is not liable for any errors that may be found in this map.



RECEIVED

10/11/2022

Leelanau Township

Conditions Offered by the Applicant
Rezoning of Parcel #45-008-232-014-00 from Ag to R-1
Chris Amann, landowner
10-10-22

1. Place all portions of the parent parcel (i.e., acres) lakeward of the steep slope ridge in a conservation easement (CE) to be held by the Leelanau Conservancy, Leland Township or another qualified third party. CE to be tailored to allow for a future walkway, stairway access to lakeward of the ridge line for pedestrian access.
2. No more than four (4) total lot splits to be applied for/taken from the entire 27.9 acre parent parcel.
3. Compliance with the Leelanau Township Private Road Ordinance to the four (4) new lots.
4. Any and all stormwater generated from the site to be retained/disposed of on-site to not generate any additional post-development stormwater than pre-development conditions, as required by the Leelanau County stormwater ordinance.
5. Compliance with all other relevant and applicable agency permits, and requirements of the Township, County and State regulations - including Township steep slope setback, etc.
6. Provide proof of State of Michigan EGLE finding that the erosion hazard line (EHL) is lakeward of the prominent ridge line and thereby EGLE has no jurisdiction other than at the lakeshore. Sent to S. Patmore, Zoning Administrator, on May 6 and September 9, 2022.

ORIGINAL OFFER OF CONDITIONS SUBMITTED

BY APPLICANT TO LEEELANAU TWP ON 10/11/2022

SP

RECVd 11/14/2022
SP

Rezoning Conditions Voluntarily Offered by the Applicant
Rezoning of Parcel #45-008-232-014-00 from Ag to R-1
Chris Amann, landowner
10-10-22 (revised 11-11-22 per PC review & recommendation for Township Board approval)

1. Place all portions of the parent parcel (i.e., 18 acres) lakeward of the steep slope ridge line in a conservation easement (CE) to be held by the Leelanau Conservancy, Leelanau Township or another qualified third party. CE to be tailored to allow for a future walkway, stairway access lakeward of the ridge line for pedestrian shoreline access.
2. No more than four (4) total lot splits to be applied for/taken from the entire 27.9 acre parent parcel.
3. Compliance with the Leelanau Township Private Road Ordinance to the four (4) new lots.
4. Any and all stormwater generated from the site to be retained/disposed of on-site and to not generate any additional post-development stormwater than pre-development conditions, as required by the Leelanau County stormwater ordinance.
5. Compliance with all other relevant and applicable agency permits, and requirements of the Township, County and State regulations - including voluntary compliance with the Township steep slope setback, etc.
6. Provide proof of State of Michigan EGLE finding that the hazard erosion line (HEL) is lakeward of the prominent ridge line and thereby EGLE has no jurisdiction other than at the lakeshore. Sent to S. Patmore, Zoning Administrator, Leelanau Township on May 6 and September 9, 2022.

REVISED OFFER OF CONDITIONS SUBMITTED
BY APPLICANT TO LEELANAU TOWNSHIP
ON 11/14/2022 SP

LEELANAU TOWNSHIP PLANNING COMMISSION

Zoning Amendment for Conditional Rezoning of Property **00 Seth Rd., Northport, MI** **From Agricultural to the R-1 Residential Zoning District** **with voluntary conditions.** **Chris Amann**

NOVEMBER 10, 2022 PC Meeting

Attachments to this Report:

- **Written offer of Conditions by Applicant.**
- **Correspondence from Michigan EGLE regarding the High-Risk Erosion designation.**
- **Article 21 - Conditional Rezoning from the Leelanau Township Zoning Ordinance.**

Process:

- A rezoning is a Zoning Map Amendment to the Official Zoning Ordinance, and is covered in the Michigan Zoning Enabling Act and the Leelanau Township Zoning Ordinance.
- The Planning Commission reviews applications for Map and Text Amendments, conducts a Public Hearing, and makes a recommendation to the Township Board.
- By statute, the recommendation is reviewed by the County Planning Commission.
- The Township Board then considers the formal amendment to the zoning ordinance.
- The Michigan Statute provides for the voluntary offering of conditions for a rezoning by an applicant. These must be voluntary and must be submitted in writing.
- The Michigan Statute and Article 21 of the Leelanau Township Zoning Ordinance contain provisions for the review of Conditional Rezonings, which are in addition to the regular standards for rezonings contained in Article 10 of the zoning ordinance.

Background:

- Chris Amann submitted an application to rezone the subject property on Seth Road from Agricultural Zoning to R-1 Residential Zoning.
- The original application did not originally include any voluntary offer of conditions.
- A Public Hearing was commenced on August 25, 2022. The Hearing was adjourned to September 8, 2022, and October 13, 2022.
- On October 11, 2022 we received the attached written offer of conditions.
- This offer of conditions constitutes a change to the application, and we re-published the Public Hearing and sent out new Public Notices for the November 10th Hearing.

Conditional Rezoning:

- Conditional rezonings are reviewed under Article 21 of the Zoning Ordinance.
- Refer to Article 21 for the review process.

High Risk Erosion / Bluff Considerations:

- This property is within an area designated by the State of Michigan as a High Risk Erosion Area.
- Article 15 of the Leelanau Township Zoning Ordinance defers to the State of Michigan when it comes to bluff setbacks in these areas.
- According to the email from Robyn Schmidt, Michigan EGLE, all structures constructed on this property will require a permit from EGLE.

Private Road Standards:

- The subject parcel is accessed through two private roads, Seth Road and Old Farm Road.
- Leelanau Township has a Private Road Ordinance, which will apply to further development on these roads. There is a section in the ordinance on pre-existing roads.
- The Leelanau County Road Commission (LCRC) maintains part of Seth Road as shown on their Certification Maps. The LCRC, by Land Division statute, must approve any request to divide the property and add parcels that will access the public road. The LCRC will determine any improvements to Seth Road that would be required

Rezoning Criteria – Section 10.7.A of the Zoning Ordinance

The Planning Commission shall consider not less than the following criteria in its evaluation of a petition to rezone property within the Township prior to making its recommendation to the Township

Board in accordance with Article IV of Act 110 of the Public Acts of Michigan of 2006, as amended.

(Note: This does not necessarily state that all of these criteria have to be met – just that they must be considered by the Planning Commission)

1. The Planning Commission should first consider whether or not the map change is appropriate; that is, whether the proposed use could be better accommodated by amending the zoning ordinance text itself to allow the use as permitted use or as a special condition land use.

According to the Application and Conditions, the proposed use is 4 residential lots.

Applicants Comments: See Application

Zoning Comments:

- ***The Applicant’s representatives have stated that their goal is to get 4 lots on this property.***
- ***It appears with the formula in Article 14, Open Space Residential Development, that four lots could be created.***
- ***Is the map change is necessary to accommodate the requested use?***

Public Comments:

2. The applicant should demonstrate that there is evidence of a changed condition. This evidence can be provided in terms of an evaluation of land use trends in the vicinity or through the submittal of a marketing study.

Applicants Comments: See Application

Zoning Comments:

- ***Housing study shows the need for additional housing in the area.***
- ***A prior Map Amendment in Leelanau Township acknowledged the changed conditions of housing needs.***

Public Comments:

3. The rezoning request should be evaluated for consistency with the adopted master plan. This includes the future land use plan map, any adopted sub-area development plan, as well as for consistency with the master plan narrative.

The Leelanau Township Master Plan Future Land Use Map delineates this parcel as Residential Conservation.

4. The proposed zoning should be evaluated for its compatibility with the existing land use pattern. The community should ask itself if uses in the proposed zone are equally, less, or better suited to the area.

The Leelanau Township Planning Commission finds:

5. The evaluation of the rezoning should also consider if the proposed use could be built on the subject site if it were to be rezoned. Is the parcel size sufficient? Are there environmental restrictions (i.e., soils, wetlands, floodplains, etc.) that would make the site nonbuildable or are they showing that the property cannot be used as presently zoned due to these limitations?

Four single-family homes subject property could be built on the property if the property remains as Agricultural.

The property is designated High-Risk Erosion by the State of Michigan, and Michigan EGLE indicated that wetlands could be present.

6. Is the site served by adequate public facilities or is the petitioner able to provide them?

The private roads would need improvement whether the four lots were created under Agricultural Zoning or R-1 Residential.

7. Are there sites nearby already properly zoned that can be used for the intended purposes?

The Leelanau Township Planning Commission finds:

8. Is the proposal consistent with the established zoning pattern or does it represent spot zoning? For purposes of this Ordinance, spot zoning shall be defined as the assignment of a zoning classification different from the surrounding zoning classifications to a relatively small land

parcel, intended to benefit a particular property owner, which is incompatible with the surrounding area and is also in violation of the community's master plan.

This request is not considered spot zoning.

9. Would a lesser district classification be more appropriate? The petitioner may want a R-3 district; however, a R-2 district may permit the proposed use.

It appears that four single-family residential lots could be created under Agricultural Zoning in accordance with Article 14 of the zoning ordinance.

10. The community should evaluate whether other local remedies are available which are better suited to the circumstances of the petition.

The Leelanau Township Planning Commission finds:

SECTION 10.7.A REZONING CRITERIA

The Planning Commission shall consider not less than the following criteria in its evaluation of a petition to rezone property within the Township prior to making its recommendation to the Township Board in accordance with Article IV of Act 110 of the Public Acts of Michigan of 2006, as amended.

(Note: This does not necessarily state that all of these criteria have to be met – just that they must be considered by the Planning Commission)

1. The Planning Commission should first consider whether or not the map change is appropriate; that is, whether the proposed use could be better accommodated by amending the zoning ordinance text itself to allow the use as permitted use or as a special condition land use.

According to the Application and Conditions, the proposed use is 4 residential lots.

Applicants Comments: See Application

Zoning Comments:

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- *It appears with the formula in Article 14, Open Space Residential Development, that four lots could be created.*
- *Is the map change is necessary to accommodate the requested use?*

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2. The applicant should demonstrate that there is evidence of a changed condition. This evidence can be provided in terms of an evaluation of land use trends in the vicinity or through the submittal of a marketing study.

Applicants Comments: See Application

Zoning Comments:

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- *A prior Map Amendment in Leelanau Township acknowledged the changed conditions of housing needs.*

Public Comments:

3. The rezoning request should be evaluated for consistency with the adopted master plan. This includes the future land use plan map, any adopted sub-area development plan, as well as for consistency with the master plan narrative.

The Leelanau Township Master Plan Future Land Use Map delineates this parcel as Residential Conservation.

4. The proposed zoning should be evaluated for its compatibility with the existing land use pattern. The community should ask itself if uses in the proposed zone are equally, less, or better suited to the area.

The Leelanau Township Planning Commission finds:

5. The evaluation of the rezoning should also consider if the proposed use could be built on the subject site if it were to be rezoned. Is the parcel size sufficient? Are there environmental restrictions (i.e., soils, wetlands, floodplains, etc.) that would make the site nonbuildable or are they showing that the property cannot be used as presently zoned due to these limitations?

Four single-family homes subject property could be built on the property if the property remains as Agricultural.

The property is designated High-Risk Erosion by the State of Michigan, and Michigan EGLE indicated that wetlands could be present.

6. Is the site served by adequate public facilities or is the petitioner able to provide them?

The private roads would need improvement whether the four lots were created under Agricultural Zoning or R-1 Residential.

7. Are there sites nearby already properly zoned that can be used for the intended purposes?
8. Is the proposal consistent with the established zoning pattern or does it represent spot zoning? For purposes of this Ordinance, spot zoning shall be defined as the assignment of a zoning classification different from the surrounding zoning classifications to a relatively small land parcel, intended to benefit a particular property owner, which is incompatible with the surrounding area and is also in violation of the community's master plan.

This request is not considered spot zoning.

9. Would a lesser district classification be more appropriate? The petitioner may want a R-3 district; however, a R-2 district may permit the proposed use.

It appears that four single-family residential lots could be created under Agricultural Zoning in accordance with Article 14 of the zoning ordinance.

10. The community should evaluate whether other local remedies are available which are better suited to the circumstances of the petition.

ARTICLE 21 CONDITIONAL REZONING

SECTION 21.1 INTENT

It is recognized that there are certain instances where it would be in the best interests of the Township, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this Section to provide a process consistent with the provisions of the PA 110 of 2006, as amended, by which an owner seeking a rezoning may voluntarily propose conditions or limitations regarding the use and/or development of land as part of the rezoning request.

SECTION 21.2 APPLICATION AND OFFER OF CONDITIONS

- A. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
- B. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.
- C. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
- D. Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this Ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
- E. Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this Ordinance may only be commenced if a variance for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
- F. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this Ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
- G. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the Township Board provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.
- H. The Township may not consider an offer of conditions for property subject to a decree of a court of competent jurisdiction unless such authorization is expressly permitted by such court decree.

SECTION 21.3 PLANNING COMMISSION REVIEW

The Planning Commission, after a public hearing and based on its written findings of fact, and in consideration of the factors for rezoning set forth in Article 10 of this Ordinance, may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

SECTION 21.4 TOWNSHIP BOARD REVIEW

Following its public hearing, the Planning Commission shall transmit to the Leelanau County Planning Commission for review and recommendation, and ultimately the Leelanau Township Board: a summary of the comments received at the public hearing; its finding of fact and supporting materials; its recommendation on the proposed change to a zone classification or zoning district boundary for one or more properties upon the zoning districts map; and its recommendation on any offer of conditions. After receipt of the Planning Commission's recommendations, the Township Board shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The Township Board's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in Article 10 of this Ordinance. Should the Township Board consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the Township Board shall, in accordance with PA 110 of 2006, as amended, refer such amendments to the Planning Commission for a report thereon within a time specified by the Township Board and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

SECTION 21.4 APPROVAL

- A. If the Township Board finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Township Board to accomplish the requested rezoning.
- B. The Statement of Conditions shall:
 1. Be in a form recordable with the Leelanau County Register of Deeds or, in the alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the Township Board.
 2. Contain a legal description of the land to which it pertains.
 3. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
 4. Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
 5. Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be recorded by the applicant with the Leelanau County Register of Deeds.
 6. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.
- C. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The Zoning Administrator shall file a copy of the Statement of Conditions in the corresponding permanent property file.
- D. The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the applicant with the Leelanau County Register of Deeds. The Township Board shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the

time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the Township or to any subsequent owner of the land.

- E. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

SECTION 21.6 COMPLIANCE WITH CONDITIONS

- A. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Zoning Ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.
- B. No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.

SECTION 21.7 TIME PERIOD FOR ESTABLISHING DEVELOPMENT OR USE

Unless another time period is specified in the Ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the Township Board if:

- A. It is demonstrated to the Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion, and
- B. The Township Board finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

SECTION 21.8 REVERSION OF ZONING

If an approved development and/or use of the rezoned land does not occur within the time frame specified under Section 21.7 above, then the land shall revert to its former zoning classification. The reversion process shall be initiated by the Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

SECTION 21.9 SUBSEQUENT REZONING OF LAND

When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to Section 21.8 above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the Zoning Administrator, at the owner's expense, shall record with the Leelanau County Register of Deeds that the Statement of Conditions is no longer in effect.

SECTION 21.10 AMENDMENT OF CONDITIONS

- A. During the time period for commencement of an approved development or use specified pursuant to Section 21.7 above or during any extension thereof granted by the Township Board, the Township shall not add to or alter the conditions in the Statement of Conditions.
- B. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.

SECTION 21.11 TOWNSHIP RIGHT TO REZONE

Nothing in the Statement of Conditions nor in the provisions of this Section shall be deemed to prohibit the Township from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the Michigan Zoning Enabling Act, PA 110 of 2006, as amended.

SECTION 21.12 FAILURE TO OFFER CONDITIONS

The Township shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

Adopted by Board 08/10/10, Ord. 4 of 2010; Pub.08/19/10; Eff. 08/27/10