

NOTICE OF MEETING

A Regular Meeting of the Leelanau County Planning Commission (LCPC) will be held at **5:30 pm Tuesday, JULY 27, 2021** 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 JUNE 22, 2021 MEETING MINUTES *pgs 2-9*

NEW BUSINESS

- A. PC08-2021-04 Elmwood Township, Text Amendment – Short Term Rentals *pgs 10-32*
- B. PC09-2021-04 Elmwood Township, Text Amendment RE: Wetlands *pgs 33-50*
- C. Capital Improvement Program (CIP) – DRAFT *(sent separately)*

REPORTS

- 1. Education Committee *(no meeting)*
- 2. Housing Action Committee *(no meeting)*
- 3. Parks & Recreation Committee *(Noonan)*
- 4. 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-Chairman
Melvin Black, Chair Pro-Tem
Dan Hubbell
Melinda Lautner
Gail Carlson
Robert Miller
Tom Nixon
Kim Todd
Nathan Griswold
Amy Trumbull

A REGULAR MEETING OF THE LEELANAU COUNTY PLANNING COMMISSION WAS HELD ON TUESDAY, JUNE 22, 2021, 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 and via ZOOM.

ROLL CALL

Members Present: R. Miller (Cleveland Twp.), K. Todd (Leelanau Twp.),
(via ZOOM)

Members Present: S. Yoder, G. Carlson, M. Lautner, A. Trumbull, C. Noonan
(At Government Center)

Members Absent: T. Nixon, D. Hubbell, M. Black, N. Griswold
(prior notice)

Staff Present: T. Galla, Director, G. Myer, Senior Planner
(At Government Center)

Public Present: S. Patmore
(At Government Center)

CONSIDERATION OF AGENDA

Galla suggested pushing “New Business – D. Capital Improvement Program” to next month’s agenda because she is still receiving items that need to be added. Members agreed.

Motion by Lautner, seconded by Noonan, to accept the agenda as amended. Motion carried 7-0.

CONFLICT OF INTEREST – None.

PUBLIC COMMENT

The phone number for public comment was announced.

No comments received.

STAFF COMMENTS

Galla mentioned the issues during last month’s meeting with zoom and noted our connection was knocked out about 4 times. Anyone on zoom or trying to watch the meeting was affected. The high winds caused the problems. Also, after June 30th, we will no longer be holding Zoom meetings. Meetings will be in person. Members will need to have a medical condition or be caring for someone with a medical condition in order to have the option to attend the meeting via Zoom.

CONSIDERATION OF May 25, 2021 MEETING MINUTES

Motion by Noonan, seconded by Trumbull, to accept the minutes as presented. Motion carried 7-0.

NEW BUSINESS

PC04-21-08 Leelanau Township – Text Amendment – Temporary Moratorium.

Galla acknowledged Steve Patmore, Zoning Administrator for Leelanau Township, who was present and available to answer questions on the amendment.

Galla reviewed the staff report, saying the request was received on May 14. The Michigan Zoning Enabling Act (MZEA) provides a 30-day review period for the county to review and report to the township after receiving its amendment. We are past the date; however, the township wishes to have the review and report from the county. Galla continued, saying this is a request to add language to Section 10.9 of the Zoning Ordinance on Temporary Moratorium, and it would apply to the application of certain provisions of the townships Zoning Ordinance. A Public Hearing was held on April 8, 2021, and at that time, a new Public Hearing was scheduled for May 13, 2021. After the public hearing on May 13, 2021, a motion was unanimously passed by the township planning commission to recommend the township board adopt the amendment.

Galla continued with the history, noting there was an ordinance adopted earlier this year to establish a temporary moratorium on any application for a special land use permit for RV Resorts and Campgrounds in the Commercial Resort Zoning District. Galla stated they were not reviewing that ordinance. Township minutes of April 8, 2021 indicate the townships legal counsel determined that the moratorium is enforceable and recommended that there be a second section in the Zoning Ordinance that also addressed temporary moratorium. Galla made note that there are only four pages of minutes posted online for the April 8, 2021 meeting, they seem to be incomplete.

Galla continued, mentioning the following excerpt “A zoning moratorium should only be done with caution”, by Brad Neumann, Michigan State University Extension, April 8, 2020. This explains some language and issues on moratoriums and the court cases that back it up. Also, mentioned was the following court case *Metamora Township v. American Aggregates of Michigan, Inc.*, 349069 which was decided on April 1, 2021. It is an unpublished opinion, but it was included in the staff report. Galla said the procedure that the township is following for establishing a moratorium is consistent with the decision of Judge Philip E. Rodgers, Jr. back in 2003. (*Case No. 02-22228-AZ, Great Northern Broadcasting System, Inc. v. Long Lake Township, Long Lake Township Zoning Board of Appeals, Long Lake Township Board of Trustees, and Long Lake Township Planning Commission (2003).*) The township adopted a moratorium as an amendment to their zoning ordinance. Galla continued, saying the township has worked with its attorney on drafting this document and complied with the requirement to amend its zoning ordinance.

Galla said staff questioned the proposed language “It will allow for moratoriums of 180 days, and will allow for such temporary moratorium to be extended for up to another 180 days by approval of the Township Board. Do the words ‘up to **another**’ mean this will only allow one (1) extension? And, the online version of the zoning ordinance Table of Contents, lists Sections 10.1 through 10.7. It should also list the current Section 10.8 Public Notice, as this amendment would be Section 10.9.

Galla concluded by mentioning the correspondence received from attorney Richard Edmonds, regarding this moratorium. He has provided some background and suggestions as to what the County Planning Commission should do. Galla stated anything regarding the legality of this or how it was

done, or if the wording is correct, needs to be done at the township level with their attorney. Galla stated there is information in the letter that the township should review. It is her understanding that there has been a lawsuit filed against the township with regard to the ordinance that was adopted. Galla said the county review is a planning review, and anything regarding the legality of it, needs to be sent back to the township for their attorney to review.

Yoder asked for discussion by members.

Todd said it appears the amendment has been done correctly, and she agrees that there needs to be clarity regarding the extension. Also, the township mentions "Findings of Fact", as a procedural matter, or advice or direction. It would be most helpful, that when any moratorium is established, those "Finding of Facts" are specific, numerated, and backed up by the written basis as to why they came to those finding of facts for future analysis and review.

Lautner questioned who determines the 180-day extension, it doesn't say just one extension. S. Patmore said he believes the intention was that there only be one extension. If it's not clear, it should be clarified. He will pass this question along to the township. That is something the township board can take care of.

Patmore said the township planning commission did have the MSU Extension Bulletin to use when they had the public hearing. Suttons Bay has a similar section in their zoning ordinance, so this is not something new, it's a zoning tool that you hope you never need to use, but it's there if you need it. Patmore concluded by saying this not about a particular thing, it does coincide with the "other" issue, but it's something our attorney recommended.

Motion by Lautner, seconded by Noonan, to forward staff report, minutes and all comments to Leelanau Township Planning Commission, and the legality of the amendment should be evaluated by the townships legal counsel. Motion carried 7-0.

**Staff Note: Correspondence received from Richard Edmonds was forwarded to all county planning commission members, and the township zoning administrator and Chair of the township planning commission, on June 21. Correspondence is on file at the planning office and available upon request.*

PC05-21-06 Glen Arbor Township -Text Amendment RE: Single Family in Business District.

Galla referenced an email she forwarded to members earlier in the day that contained some lengthy documents, and said she wasn't sure if they all had time to review them or not. Galla said the email was from Kathleen O'Brien, who apologized and said she had some issues which prevented her from getting it sent out sooner. Another email she forwarded to members was from the Glen Lake Chamber of Commerce Board of Directors, and she just received another email before the meeting tonight. This email was from a person who said three of the people listed are not property owners in Glen Arbor Township. Galla continued, saying that Kathleen O'Brien has asked that this item be removed from the agenda tonight. This is the first time she can remember that the county was being asked to remove items from the agenda. Galla said she did receive feedback from the county attorney regarding the proper way to handle these two items (Leelanau and Glen Arbor). The items remained on the agenda tonight and the legal issues (as noted during the Leelanau Township item), are issues that need to be handled by the local township attorney, not by the county. The county is looking at this from a planning perspective.

Galla reviewed the staff report and said this request was received by the Glen Arbor Township

Planning Commission to amend their Business District and add single family residential. This was actually allowed in the Business District several years ago, and then removed. They are now trying to put single family residential back in. A public hearing was held on June 3, 2021. The minutes of June 3 indicate the discussion was opened to participants on Zoom (page 3), comments were received and then the township planning commission passed a motion (aye-4, nay-1) to allow single family dwellings as a use by right in the Business District and to forward the proposed amendment to the County Planning Commission for review.

Galla reviewed the history, saying the reason for removing single family dwellings in 2007 (PC06-07-06), was that the township feared running out of places to put businesses in the Business District. The staff report from 2007 referenced the Glen Arbor Township Master Plan and the recommendations at that time. Galla said township minutes from June 3, 2021 also indicate about 100 phone calls and 18 letters were received stating concerns over this proposed amendment. The May 6 minutes posted online for Glen Arbor Township, as well as the minutes from the Public Hearing, discuss the past history of removing single family dwellings as a permitted use and the consequences of doing so. In 2007, it was noted that there were single family dwellings in the Business district which would become non-conforming. The Public Hearing minutes include a good deal of discussion by the planning commission members and not a lot from the public. Galla pointed out that during a public hearing you want to get the comments and input from the public. The meeting is opened, you get the public input, note them in your minutes, close the public hearing and then if there is any action to be taken, it is taken after the public hearing is closed. The minutes indicate a lot of discussion from the members, not very much from the public. It is also important to follow proper procedure which is to open the public hearing, close the public hearing, and then take action. Galla continued, saying evidently there were a lot of letters received, and although it is not common for the county to get copies of every single letter included in the minutes, it would have been helpful to have a summary of them.

Galla pointed out that the Public Hearing minutes state a planning commission member brought up conflict of interest, and stated he did not feel he had a conflict of interest. Staff questions if the township has a Conflict of Interest Policy. The County Board adopted such a policy in 2005, and has revised it several times through 2013. This policy is on the website at www.leelanau.gov for reference. Also, the county planning commission adopted language in its bylaws several years ago to address potential conflicts of interest, and that language was shared with all of the townships and villages. It is on the agenda and requires a member or staff, to bring forth any potential conflict at the beginning of a meeting. However, they do not decide if there is or is not a conflict. The rest of the members make a decision based on the policies and their decision is documented in the minutes. You have to really take a look at it and decide, is it really a conflict of interest, or are they just uncomfortable voting on the issue. If you have this spelled out in your bylaws then it is very clear when someone has a conflict. This takes the burden off the member on deciding whether there is a conflict or not, and recording that decision in the minutes allows for it to be easily tracked for historical purposes.

Galla reviewed the zoning map showing the business district areas: in Glen Arbor, some by Fisher Lake, and a good size chunk at the Homestead, which is mainly their ski area and golf area. The lots that appear vacant that would be affected by this proposed amendment, appear to be along Oak St. in Glen Arbor. Galla said it might be good to analyze just how many lots might be available for single family use. Galla mentioned the email from the Glen Lake Chamber of Commerce Board of Directors, particularly the sentence which reads “we call your attention particularly to these items and analysis you received from your zoning administrator, that argue against your agreement to the Glen Arbor Planning Commission request”. Galla noted ‘zoning administrator’ should actually be “the county staff” not the “zoning administrator”. They are referencing the county staff report. Kathleen O’Brien’s documents show she submitted a Freedom of Information Act Request (FOIA) request to the township, asking for more information. She noted in her emails some potential conflicts of interest at the

township level. Galla stated that this goes back to the legal issues that could be involved in such a situation, but the county is not dealing with the legal issues. The county looks at this from a planning perspective. Can the township amend their zoning ordinance? Yes. Is it illegal for them to put residential in the Business District? Not that we are aware of. This is a decision they will have to make at the township level and any legal issues will have to be dealt with by their township attorney.

Todd said the Master Plan is very clear that the desire is to have the Business District to be business. Even the concept that dwellings or properties that were not businesses when the Master Plan was created, would segway into business because of the desire to have businesses focused more in one place. Todd continued, saying it was her understanding, that rather than going totally contrary to your Master Plan, you look at other alternatives such as amending your Master Plan if that is what you want to do. Todd stated she also questioned the validity of the vote on this amendment. Mr. Ihme said that he had property in the Business District, but then concluded why he didn't have a conflict. In her opinion, owning property in a district being changed by an amendment is a conflict of interest, unless you can prove otherwise in some compelling way. Obviously, that was not done. Ihme raised a conflict that was not properly dealt with, which impacts the validity of even looking at this amendment.

Miller commented that it seems with all of the recent emails and correspondence, this is very controversial and he hopes the township would resolve this before acting upon this. They may have to revise it again, which would not be beneficial to anybody.

Trumbull stated the conflict of interest issue raised by Todd also concerned her.

Lautner said this brought to mind, a situation she heard of from a Glen Arbor business owner some time ago, that spoke to the fact that they need more housing closer to the Business District to retain/gain more employees for the businesses. She agreed with Ihme's conclusion, that he did not have a conflict of interest, because this proposed amendment could go either way for a business owner. It could benefit or not benefit, with a flip of the switch. Lautner continued, saying that just because you are a property owner, doesn't necessarily mean that it is a conflict of interest. Members on a planning commission might live in a residential area, even the same residential area, and if a change comes up, are they all in conflict? She doesn't think so. You have to look at the meaning of the conflict. There has to be a very direct intentional benefit.

Motion by Lautner, seconded by Carlson, to forward staff report, minutes and all comments to Glen Arbor Township Planning Commission, and the legality of the amendment should be evaluated by the townships legal counsel. Motion carried 7-0.

**Staff Note: Correspondence received from Glen Lake Chamber of Commerce was forwarded to all county planning commission members, and the township zoning administrator and Chair of the township planning commission, on June 21. Correspondence received from Kathleen O'Brien was forwarded to all county planning commission members the afternoon of June 22. All documents are on file at the planning office and available upon request.*

PC06-21-04 Elmwood Township – Text Amendment RE: Rural Resort District

Galla said this was just sent to the county planning commission members yesterday, and staff did not have time to prepare a full staff report but did review it and prepare some comments. Staff did check with the township to see if this could be held onto until next month, but the township wished to have this reviewed tonight to keep things moving. The township is proposing changes to the Rural Resort District, which basically lies in three areas in the township: a portion of the Timberlee area, a large tract of land along M-72 that runs north to Hoxie Rd., and then there is about 60-acres on the north side

of Lincoln Rd. west of Bugai Rd.

Galla continued, saying that at the Public Hearing held March 16 at the township planning commission meeting, the township discussed this and Mr. Brock is the one who brought this forward. He is the owner of quite a bit of land in the Timberlee area. Nate Elkins is also mentioned in the minutes, and he is the applicant acting on behalf of the owner. The township has reviewed the language that Elkins worked on and the township's attorney has also reviewed it. Galla said they are making a change to Section 7.23, Standards and Requirements for Approval of a Planned Development. The biggest change is to item number B. 2. which will require a traffic study and some of the items that may be considered are: pedestrian and vehicular traffic conflicts; adequacy of site distances; road surface and character; impacts to the surrounding character of the area based on new trip generated; and impacts to level of service and capacity on existing roads. Galla continued, pointing out minor changes to Section B. 5., and then items "a thru e" which will be added to this section. This section would also allow an increase in the area for the supporting uses of a development from 5% to 8%, if you met at least three of the standards listed in items a thru e. One of the things mentioned is Universal Design Principles, which. Galla noted Universal Design includes:

1. Equitable use.
2. Flexibility in a use.
3. Simple and intuitive use.
4. Perceptible information.
5. Tolerance for error.
6. Low physical effort.
7. Size and space for approach and use.

Galla commented on Universal Design meeting requirements so it is developed to suit all ages, similar to programs that Ms. Esther Greenhouse presented in Leelanau County a few years ago.

Todd stated there are a lot of things that are very loose in the wording, and hard to interpret. Item B. 2. reads in part "A traffic study based on the most recent edition of the Trip Generation Manual published by the Institute of Transportation Engineers shows that the new trips per day as a result of the primary and any supporting or accessory uses will not be unreasonable and will and ensure vehicular and pedestrian safety", which is really a tough standard that is going to cause a lot of disputes. Todd continued, saying 5.c. reads "The project limits the use of chemicals for landscaping and snow removal" which is way too broad. This needs to be much clearer in order for people to be able to follow it.

Miller said the standards in 5.c. limits the use of chemicals - what is that? Organic fertilizer is a chemical, stuff used on ice is a chemical. Standard 5.e. states "Recreational uses open and available to the public free of charge for a minimum of 4 opportunities in a year." He's not sure how a business operates that way with providing something free of charge. And what are the 4 opportunities - 4 hours, 4 days, 4 weeks? Miller concluded by saying all of these criteria are questionable.

Lautner said the recreational use alarmed her. Could a board hold a developer hostage in a sense, forcing them to open it up to the public free of charge? She is curious what exactly is behind this, what it entails, and the legalities of this. This would be good information for them to have for future use.

Motion by Noonan, seconded by Trumbull, to forward staff report, minutes and all comments to Elmwood Township. Motion carried 7-0.

Capital Improvement Program (CIP) – DRAFT.

No discussion held.

Update on Training Session for Fall.

Carlson mentioned she received an outline from Galla, which was from the MSU Extension Land Use regarding both of the topics for the fall training session. About 45-50 minutes presentation for each topic, with a break in between. Very reasonable price, sounded like a great thing to have.

Galla added that the outline was sent by Mary Reilly and there is going to be a lot covered by this session. They now need to pick a date, early in the fall. Galla said they usually try to hold the training session on a Wednesday night, she will get a date set with Mary Reilly. Galla also suggested that they think about having a basic training session for local boards and commissions, sometime in the future, because board members change constantly and education is important.

REPORTS

Education Committee

Update given on fall training session.

Housing Action Committee

Lautner stated the meeting was cancelled for lack of business.

Parks & Recreation Committee

Noonan said they are moving into their budget process to get it turned in to the county. Clean-up at Myles Kimmerly Park is under way to remove massive brush piles caused by the logging. The Poor Farm Barn was awarded barn of the year and kids fishing day at Veronica Valley Park was cancelled due to Covid. Old Settlers Picnic is still being held with food truck supplying the food. The Masonic Lodge does plan to do the meal next year.

Reports from LCPC members of attendance at township/village meetings, or other meetings/trainings.

Yoder mentioned the playground in Cedar is being revised. The old equipment is being torn out and new stuff that is up to code will be installed. A lot of volunteers are making it happen. Lautner said they have a great coffee shop in Cedar now. Yoder also said a motion was made at the last township meeting, to study water and sewer in Cedar.

COMMUNICATIONS

Planning & Zoning News mailed out.

PUBLIC COMMENT

The phone number for public comment was announced.

Ken Jackson, a member of the Glen Arbor community, said it is sad what is going on. Their elected

officials are not representing them in a very transparent manner. It looks to him as though the comments sent to the planning commission, did not include public comment, which were overwhelmingly against the proposed amendment. He wished there was a way to get this information out there prior to the vote, sending it back to the Glen Arbor Township Planning Commission. The county did not get all of the facts they needed to make a decision. Jackson concluded by saying it is a sad state of affairs for the elected officials in Glen Arbor Township.

Paul Holtrop, a resident of Glen Arbor, said he was glad to see staff comments about the conflict of interest, regarding one member of the township planning commission, but there are at least one or two others, who many believe, have conflicts of interest, that did not even bring them up at the meeting. Two people are real estate agents, the other member has a rental property in the district. He wishes that it could be sent back to the township planning commission to address these conflicts of interest. Looking at the comments from the County Planning Commission tonight, there could be some disagreements about what constitutes a conflict of interest, but possible conflicts of interest should at least be brought up at the Glen Arbor Planning Commission meeting. And the rest of the planning commission members should vote on those conflicts of interest.

STAFF COMMENTS

Galla said she read an article about the old Gabes market, in Maple City, and how the new owner is remodeling it to take it back to its historical appearance. Also, the rezoning of the Old Mill property in Glen Arbor went to referendum, and the vote of the citizens will be held in August.

COMMISSIONER & CHAIRPERSON COMMENTS

Carlson and Yoder thanked staff for their work. Lautner mentioned the tire recycling event being held this Friday. Galla stated the HHW Collection scheduled for Saturday is full.

ADJOURN

Meeting adjourned at 6:40 p.m.

TEXT AMENDMENT REVIEW
PC08-2021-04, Elmwood Township – Text Amendment
Article 5-Use Restrictions, Short Term Rentals

Reviewing Entity: Leelanau County Planning Commission
Date of Review: July 27, 2021

SECTION 1: General Information

Date Request Received: July 12, 2021
Last Day of Review Period: August 11, 2021 (The county has 30 days to provide a review back to the Township, according to the Michigan Zoning Enabling Act).

Requested Action: Review and comment on a proposed amendment to the Elmwood Township Zoning Ordinance, ZO 2017-04-13, Short Term Rentals.

Applicant: Elmwood Township Planning Commission
Rick Bechtold, Chairman

SECTION 2: Proposal

See Appendix for a copy of the proposed text amendment.

SECTION 3: History

(Reference: Leelanau County Planning Commission Staff Report PC09-20-04 Elmwood township, Short Term Rentals-October 27, 2020 meeting)

Township minutes indicate the topic of short-term rentals has been discussed for some time. At the January 14, 2019 Elmwood Township Board meeting, a citizen read a prepared statement asking for the township to authorize amendments to the zoning ordinance to prevent short-term rental activities in high density neighborhoods. A motion was passed 6-1 to table this for 3 months. At the February 11, 2019 Township Board meeting, a memo was presented to the Board from the Township Planner/Zoning Administrator, recommending the ZBA provide an interpretation of the Zoning Ordinance to determine if short-term rentals are allowed. The minutes from that meeting state:

On March 20, 2019, the Township Zoning Board of Appeals (ZBA) held a meeting. The purpose of the meeting, as stated in the minutes, was a “request from Township Board for an interpretation of the Elmwood Township Zoning Ordinance to determine if short term rentals are allowed”. After some discussion, the ZBA opened the public hearing and listened to public comments for approximately 30 minutes. After the Public Comment was closed, the following motion was passed:

“Motion by Jeff Aprill, second by Jason Razavi, according to the definition sections as it reads, we allow a Bed and Breakfast, but as to short term rentals it’s not designated specifically within the ordinance and so as to Section 3.4 states that those which are not specifically stated within the ordinance are not currently allowed, they are not currently allowed within Elmwood Township with a recommendation this topic be addressed by the Township Board.” Motion carried 5-0.

At the June 25, 2019 meeting of the ZBA, the agenda was modified to add short term rentals. Discussion was then held on the written transcript from the March 20, 2019 ZBA meeting provided to the Township Board and whether the members were in agreement with the motion. After some discussion, the ZBA made no changes.

On November 6, 2019, the Township Board and Planning Commission held a joint meeting to discuss short term

rentals. The township attorney was present and it is noted he would research and provide legal opinion to the township.

At a special meeting of the Township Board on July 22, 2019, the Board passed a resolution imposing a **moratorium** on the Elmwood Charter Township Zoning Ordinance against non-owner-occupied vacation rentals. The moratorium included a Planning Commission Directive for the township planning commission to begin its study and consideration concerning any appropriate amendments to the current zoning ordinance regulating/addressing non owner-occupied vacation rentals to determine whether it is appropriate to allow such a use within the Township or to continue prohibiting the use along with any language necessary to in the zoning ordinance which may be appropriate with respect to the regulation of non-owner occupied vacation rentals. (The moratorium was for 6 months and was extended in February of 2020, and then extended for 6 months at the May 11, 2020 Township Board meeting).

The Township proposed a Police Power Ordinance for Short Term Rental Licensing. This document was previously sent to the county for reference purposes. The county does NOT review Police Power Ordinances. This ordinance has not been adopted yet. The Police Power Ordinance covers such things as: parking, licensing, trash pickup, special events, quiet hours, capacity limit, guests, a contact person, signs, fire safety, application procedure, issuance of license, violations and penalties, etc. This document is very similar to the document adopted by Suttons Bay Township in 2017.

Staff Report PC09-20-04 was a proposed amendment to the Elmwood Township Zoning Ordinance (ZO 2017-04-08) to allow short term rentals where the owner does **not** reside in the dwelling during the rental period, as a permitted use in the following districts: Residential-3 (R-3), Manufactured Home Park (MHP), Municipal Center (MC), Neighborhood Commercial (NC), General Commercial (GC), Light Industrial (LI), Shoreline Commercial (SC), and Rural Resort (RR). It did not allow them in the Residential-1 (R-1) District. It would allow them in the Agricultural-Rural (A-R) and Residential-2 (R-2) districts **if** they existed in these districts as a short-term rental during the 24 months **prior** to the ZBA March 20, 2019 meeting. It required those in the A-R and R-2 district to obtain a license within 1 year of the effective date of the ordinance or the use shall not be re-established. If the use discontinues, it shall not be re-established. The minutes from the September 15, 2020 township planning commission meeting included comments from the public questioning why short-term rentals were not allowed in the R1 district and much of the waterfront includes the R-1 district. The township planner/zoning administrator informed staff that the number of 40 licenses was based on the number of short-term rentals currently in existence and then removing the number in the R-1 district. The Township contracted with Host Compliance to provide a list of units in the township. Also, the planning commission reviewed Section 11.12.D.1 and felt they could not approve the amendment with the R-1 district included.

Elmwood Township has done a lot of work on this topic. A joint meeting with the Township Board and Planning Commission was held November 6, 2019 and the Planning Commission held a Workshop on June 25, 2020 as well as several subsequent meetings. A survey of residents was also done in 2019.

The Elmwood Township Planning Commission held a Special Meeting via ZOOM, on September 22, 2020. Following the Special Meeting, the township planning commission passed the following motion:

MOTION BY COMMISSIONER TREVAS, SECOND BY COMMISSIONER KUZMA TO RECOMMEND TO ADOPT ZO 2017-04-08 TO THE TOWNSHIP BOARD FOLLOWING THE REVIEW OF THE GUIDELINES IN THE ORDINANCE.

ROLL CALL: AYE-KYLE TREVAS, JONAH KUZMA, DOUG ROBERTS, JEFF APRILL, NATE MCDONALD, RICK BECHTOLD. NAY-KENDRA LUTA. MOTION PASSED 6-1.

The county planning commission reviewed the request at its October 27, 2020 meeting and sent its review and comments to the township for consideration.

Since January 2021, the Township Board has had special meetings, a public hearing, and a work session regarding short term rentals, and the proposed amendment ZO 2017-04-08. Changes have been proposed to the Police Power Ordinance. Neither the Police Power Ordinance or ZO 2017-04-08 have been acted on yet, by the Township Board. ZO 2017-04-13 is a new request from the Elmwood Township Planning Commission.

SECTION 4: Other Planning Input

Township Plan: The Elmwood Township Master Plan (2018) does not specifically address short-term rentals.

Leelanau General Plan: The Leelanau General Plan (2019) does not specifically address short-term rentals.

Township Planning Commission:

A public hearing was held via ZOOM, on June 3, 2021 regarding ZO 2017-04-13. Following the public hearing, the township planning commission passed the following motions:

MOTION BY COMMISSIONER APRILL, SECOND BY COMMISSIONER MCDONALD TO REMOVE R3 FROM PROPOSED ZO 2017-04-13. ROLL CALL: AYE-DOUG ROBERTS, NATE MCDONALD, JEFF APRILL, CHRIS MIKOWSKI, RICK BECHTOLD. MOTION PASSED 5-0.

MOTION BY COMMISSIONER ROBERTS, SECOND BY COMMISSIONER MCDONALD TO ALLOW SHORT TERM RENTALS IN THE GENERAL COMMERCIAL DISTRICT IN THE PROPOSED ZONING AMENDMENT. ROLL CALL: AYE-DOUG ROBERTS, NATE MCDONALD, JEFF APRILL, CHRIS MIKOWSKI, RICK BECHTOLD. MOTION APPROVED.

MOTION BY COMMISSIONER APRILL, SECOND BY COMMISSIONER MCDONALD TO REMOVE SHORT TERM RENTALS IN MOBILE HOME PARKS IN THE PROPOSED ZONING AMENDMENT. ROLL CALL VOTE: AYE-JEFF APRILL, NATE MCDONALD, DOUG ROBERTS, CHRIS MIKOWSKI, RICK BECHTOLD. MOTION PASSED UNANIMOUSLY.

MOTION BY CHAIRMAN BECHTOLD, SECOND BY COMMISSIONER MCDONALD TO RECOMMEND DENIAL OF THE AMENDMENT AS PROPOSED TO THE TOWNSHIP BOARD BASED ON THE CONSIDERATION OF SECTION 11.12D. (Emphasis added. See Section 6 for the wording of Section 11.12D)

ROLL CALL: AYE-DOUG ROBERTS, NATE MCDONALD, CHRIS MIKOWSKI, JONAH KUZMA, JEFF APRILL, RICK BECHTOLD. MOTION PASSED 6-0.

SECTION 5: Analysis

Compatibility

- A. Is the proposed text compatible with other language in the zoning ordinance?
See Section 6.
- B. Are there any issues with the proposed text (such as poor wording, confusing text, unenforceable language, etc.)?
See Section 6.
- C. Do the land uses or other related dimensional standards (height, bulk, area, setback, etc.) in the proposed text amendment(s) conflict with the existing zoning ordinance?
No

Issues of Greater Than Local Concern

- A. Does the proposed text amendment(s) include any issues of greater than local concern? Please list.
Short term rentals exist in all townships in the county. Each township has its own zoning ordinance and determines the regulations for uses in their township.

Comparison with Local Plans or Ordinances

- A. Do the contents in the proposed text amendment(s) conflict with the community’s plan? Please list.
Short-term rentals are not specifically listed in the township plan.

Comparison with County Plans or Ordinances

- A. Do the contents in the proposed text amendment(s) conflict with the General Plan? Please list.
Short-term rentals are not specifically listed in the General Plan.

Current Zoning District: For Current text: <https://www.leelanau.cc/elmwoodtwpord.asp>

SECTION 6: Staff Comments

The amendment before the county planning commission to review on July 27, is ZO 2017-04-13. The township planning commission reviewed this amendment at its meeting and public hearing held June 3, 2021. The minutes from several meetings of the township board indicate an option for the township to adopt ZO 2017-04-08 which would allow short term rentals in all districts except Residential I (some restrictions in other districts), and then adopt ZO 2017-04-13 shortly after that which would only allow short term rentals in the General Commercial District, Neighborhood Commercial District and Shoreline Commercial district; thus making the use an existing “non-conforming” use in all the other districts. Another option noted in the township board minutes, is to limit the number of short-term rentals through the Policy Power Ordinance and licensing.

What is a nonconforming use? ¹

Nonconforming uses are most often created when a property is rezoned or changes are made to the uses allowed in a district. This can be a problem when residentially developed areas are rezoned to commercial. Most municipal zoning ordinances will not permit a nonconforming use to increase its area of nonconformity. Unlike nonconforming buildings, which may be restricted once destroyed to some degree, the only way nonconforming uses can be eliminated (absent a purchase by the community) is if the owner intentionally abandons the use.

What does nonconforming mean?

A nonconforming building or use is one that, when created, met the requirements of the zoning ordinance in effect at that time, but, as a result of a situation beyond the control of the owner, does not comply with the current ordinance. The basic rule regarding nonconformities is that if the use or building was legal when constructed, it must be allowed to continue to exist.

The township has the right to amend its zoning ordinance. The township planning commission held meetings to discuss this topic and prepared a draft amendment (ZO 2017-04-08) for the Township Board to consider, which also included a definition for short term rentals. The Police Power Ordinance also includes a definition. The definition states that the owner of the dwelling does not reside in the dwelling during the rental period. (Owner-occupied short-term rentals are permitted in the township). ZO 2017-04-08 and the Police Power Ordinance were done in 2020 and they addressed the non-owner-occupied rentals. ZO 2017-04-08 would allow short term rentals in the A-R, R-1 and R-2 districts (allowed if existed prior to the ZBA 3/20/19 meeting and with a license). Neither the ZO 2017-04-08 or the Police Power Ordinance have been acted on yet by the Township Board. The amendment in this staff report is ZO 2017-04-13 which is another amendment.

House Bill 4722 is legislation that would preempt township authority to regulate short-term rentals. The legislation would mandate short-term rentals be permitted in all residential zones and remove any local authority such as a special use or conditional use permit, or any procedure different from those required for other dwellings in the same zone. The bill also eliminates the ability to inspect short-term rentals unless your township inspects all dwellings in that zone, including owner-occupied units. This preemption of local authority eliminates all local zoning control of these uses and exempts short-term rentals from reasonable local land use regulations. A statewide survey, released by the Michigan Restaurant & Lodging Association, revealed — 89% of voters are concerned that taking away local control of short-term rentals would result in increased housing costs, more crime and fewer homes for residents, and 82% of voters agree that local governments in Michigan are better equipped to protect their neighborhoods from the negative impact of short-term rentals than the state government in Lansing. Organizations such as the Michigan Townships Association (MTA) have been very active in opposing House Bill 4722. Activity on HB 4722 can be followed at www.legislature.mi.gov ²

Elmwood Township has proposed changes to Article 5- Use Restrictions, Section 5.4 Land Use and Zoning district Table. The proposed text is listed in the Appendix and **amends** Section 5.4 by making Short Term Rentals a use **allowed** in the following districts and **removed** from the districts that are stricken:

¹ Michigan Municipal League I October 2016 Fact Sheet

² Michigan Townships Association, Township Insights 7-2-2021

Commerical Related Uses	A-R	R-1	R-2	R-3	MHP	MC	NC	GC	LI	SC	RR
71. Short Term Rentals*	P	P	P	P	P	P	P	P	P	P	P
P=Zoning Administrator approval, Psp=Site Plan Review with Planning Commission approval, SUP=Special Use Permit *See Section 5.5											

If amendment ZO 2017-04-08 is adopted, and then amendment ZO 2017-04-13 is adopted, the township would allow short term rentals in the districts for a very limited time (such as a day or so), and then ZO 2017-04-13 would ONLY allow them in the Neighborhood Commercial, General Commercial and Shoreline Commercial districts, making the use in the other districts a ‘non-conforming’ use. Generally, municipalities try not to create “non-conforming” uses.

At the June 3, 2021 meeting of the township planning commission, the commission passed two (2) motions regarding which districts listed above should have or not have short term rentals allowed. Following these motions, the township planning commission then unanimously passed a motion on a vote of 6-0, to recommend DENIAL of the amendment as proposed to the township board, based on the consideration of Section 11.12D. Section 11.12D reads as follows:

D. The following guidelines shall be used by the Planning Commission, and may be used by the Township Board in consideration of amendments to the Zoning Ordinance:

1. Text Amendment.

- a. The proposed text amendment would clarify the intent of the Ordinance.
- b. The proposed text amendment would correct an error in the Ordinance.
- c. The proposed text amendment would address changes to State legislation, recent case law or opinions from the Attorney General of the State of Michigan.
- d. The proposed text amendment would promote compliance with changes in other county, state or federal regulations.
- e. The proposed text amendment would be consistent with the goals, policies, and future land use map of the Elmwood Township Master Plan, or if conditions have changed significantly since the Master Plan was adopted, consistent with recent development trends in the area.
- f. In the event the amendment will add a use to a district, that use shall be consistent with the character of the range of uses provided within the district.
- g. The amendment shall not create incompatible land uses within a zoning district, or between adjacent districts.
- h. The proposed text amendment is supported by the findings of reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements, and similar technical items.
- i. As applicable, the proposed text amendment shall be consistent with the Township’s ability to provide adequate public facilities and services.
- j. The proposed text amendment shall be consistent with the Township’s desire to protect the public health, safety, and welfare of the community.

2. Map Amendment (Rezoning).

- a. The proposed map amendment shall be consistent with the goals, policies, and future land use map of the Elmwood Township Master Plan.
- b. The proposed district and the uses allowed shall be compatible with the site’s physical, geological, hydrological and other environmental features. The potential uses allowed in the proposed zoning district shall also be compatible with surrounding uses in terms of land suitability, impacts on the community, density, and potential influence on property values and traffic impacts.
- c. If rezoned, the site is capable of accommodating the uses allowed, considering existing or planned infrastructure including roads, sanitary sewers, storm sewers, water, sidewalks, and road lighting.
- d. Other factors authorized by law.

3. Consideration of Amendment by Township Board. Upon receipt of a report and summary of hearing comments from the Planning Commission as provided for in the Zoning Act, the Township Board may modify the proposed amendment or adopt it as presented by the Planning Commission. The modified language may be referred by the Township Board back to the Planning Commission for additional comment.

Comments / suggestions:

“Commercial” is spelled wrong on the top of the chart in Section 5.4 Land Use and Zoning District Table. This should be corrected.

The R-1 district includes most of the shoreline in the township and is most likely one of the most sought-after locations for short term rentals, but this use is not allowed in the R-1 district, under the proposed amendment.

From the material supplied to the county by Elmwood Township and meeting minutes and materials listed on the website, the Township Planning Commission and Township Board have discussed the topic of short-term rentals for some time and gathered public input from a survey, public meetings and correspondence. The township attorney’s input has also been obtained throughout the process. (For reference, staff has attached a 2-page document from the American Planning Association on Regulating Short Term Rentals. It includes information on new zoning or licensing standards, such as a maximum of 90 days per year rentals for ‘unhosted rentals’. This information is included in the staff report for reference purposes).

The township is apparently considering adopting the Police Power ordinance and ZO 2017-04-08, and then shortly after that adopt the proposed amendment (ZO 2017-04-13) which would then remove the short-term rentals from several zoning districts and make them “non-conforming” uses. Staff finds it an unusual approach for the township to consider making the use ‘non-conforming’ in many districts in the township. Who is going to identify where these ‘non-conforming’ uses are located? That should be done for future reference.

Another option the township may be considering is to limit the number of short-term rentals through the Police Power Ordinance and licensing. This step will require additional time and effort by staff to administer. Elmwood Township has to decide what direction they want to take with regard to short term rentals and whether or not they want to limit them, restrict them to certain districts, or not address the issue at all. Each community is handling it a little differently. A quick review of the zoning ordinances in Leelanau County revealed the following with regard to short term rentals:

- Short term rentals not specifically addressed in the zoning ordinances for Centerville, Cleveland, Glen Arbor, Kasson and Solon Townships and Empire Village. Leland allows them in the Fishtown historic district but otherwise it is not specifically addressed.
- Some restrictions on short term rentals in Bingham and Empire townships.
- Allowed in the Ag district and defined for use by members of the family, non-paying guests, or persons employed on the premises in Leelanau Township. (May not be used as short-term rental).
- Short term rental ordinance and application/permit process in Northport Village, Suttons Bay Village and Suttons Bay Township.

Following the July 27 meeting of the county planning commission, the review will be sent to the Township. The Township Board takes final action on any amendments to the zoning ordinance. The decision of the Township Board is final, unless a Notice of Intent and a Petition are properly filed according to the Michigan Zoning Enabling Act (MZEA – Public Act Act 110 of 2006), requesting the submission of the ordinance to the electors for their approval. If properly petitioned, the township will be required to hold an election for the voters on the amendment or amendments that have been challenged by petition. If both are challenged and one of the amendments is voted down and one upheld – it could create more problems for the township. All the options, as well as ramifications of any challenges by petition to the proposed amendments should be thoroughly reviewed by the township before a final decision is made.

NOTE: The powerpoint and handouts from the December 2019 presentation on short-term rentals is available in the Planning office, upon request. Additional minutes from the Elmwood Township Planning Commission meetings or Elmwood Township Board meetings can be viewed online at: <https://www.leelanau.gov/elmwoodtwpmtg.asp>

QUICKNOTES

Regulating Short-Term Rentals

The concept of renting rooms or homes on a short-term basis is not new. Many cities have boarding houses that rent rooms by the week or month, just as many small towns and rural areas host bed and breakfasts. And in some tourist hotspots, dedicated vacation rentals are common. However, new online services that facilitate short-term rentals have led to a rapid proliferation of home sharing as an alternative to more traditional visitor lodging arrangements in communities across the country. In many places, this trend has sparked debates about whether or not new regulatory or enforcement mechanisms are necessary to mitigate potential effects on host communities. While different localities are likely to draw varying conclusions about the necessity of new standards or procedures, the following sections provide some context and recommendations for local policy.

Background

In many communities, home sharing is one facet of a larger trend commonly referred to as the “sharing economy.” This phrase often encompasses a wide range of transactions mediated by websites or mobile technology related to sharing property or services. Because home sharing has the potential to change the character of established residential areas, many communities are taking a closer look at how best to accommodate the demand for new types of lodging without undermining goals related to housing, land use, or transportation.

There are three basic varieties of short-term rentals: (1) hosted sharing, where the primary occupants of a residence remain on-site with guests; (2) unhosted sharing, where the primary occupants of a residence vacate the unit while it is rented to short-term guests; and (3) dedicated vacation rentals, where there are no primary occupants. Home sharing and vacation rental services can provide residents and landlords an easy way to make some extra income and, in some cases, offering residences exclusively as short-term rentals can be far more lucrative than traditional leases. Meanwhile, the properties marketed through home sharing and vacation rental sites often appeal to travelers looking for a more authentic local experience or affordable alternatives to downtown hotels and motels.

For communities with a mature short-term rental market, new regulations or enforcement mechanisms may seem unnecessary. Many of these cities and counties either already have standards and procedures addressing short-term rentals on the books or have decided, based on experience, that such provisions are unnecessary. Similarly, communities with an abundance of affordable rental housing and relatively inelastic demand for conventional short-term lodging space may not feel the need to add new standards or procedures to their codes. This is because home sharing is unlikely to create housing shortages or provide direct competition for hotels and motels. However, in places with a surge in home sharing combined with a shortage of affordable rental housing or unmet demand for rooms in hotels or motels, new standards and procedures may be appropriate.

Clarify Use Definitions

Many localities explicitly prohibit the rental of rooms or dwelling units for periods shorter than one month, unless owners comply with all applicable local regulations for boarding houses, hotels, motels, or bed and breakfasts. Meanwhile, many other cities and counties explicitly permit the short-term rental of dwelling units, subject to specific operational or location restrictions. However, few localities address short-term rentals in instances where a unit is occupied as a primary residence for the majority of the year. Often this means hosted or unhosted home sharing is either explicitly or implicitly prohibited. Given the prevalence of home sharing, it may make sense to consider adding new definitions for different types of sharing situations, such as hosted or unhosted accessory home sharing and vacation rentals as a primary use.



In some communities with especially high demand for short-term rentals, landlords may be tempted to take units out of the long-term rental market.



American Planning Association

Making Great Communities Happen

Identify Appropriate Locations

Some cities and counties with mature short-term rental markets permit full-time sharing in zoning districts that include a mix of primary residences and vacation rentals. Others restrict vacation rentals to tourist-oriented districts. One potential risk of permitting home sharing in residential districts is that it may incentivize landlords to take rental properties off the market, creating a shortage of affordable rental housing. Another potential risk is that frequent unhosted sharing and vacation rentals may lead to increased complaints related to noise, traffic, or parking. In areas with high concentrations of home-sharing or vacation rentals, there is also a chance that the fundamental character may change from residential to quasi-commercial.

Consider New Zoning or Licensing Standards

While some cities and counties have elected to explicitly prohibit home sharing altogether, several others have made recent code amendments to accommodate short-term rentals in residential districts, subject to specific zoning or licensing standards intended to mitigate community impacts. These standards address topics such as registration and record keeping, advertising, fees or taxes, annual limits on the total number of short-term rental nights, spatial concentration, inspections, and insurance coverage.

For example, San Francisco prohibits dedicated vacation rentals and requires residents or landlords to register all hosted and unhosted short-term rental units. It limits unhosted rentals to 90 days per year and requires registrants to pay hotel taxes and carry liability insurance for claims up to \$500,000 (§41A.5.g).

Meanwhile, Portland, Oregon, recently added new standards for accessory short-term rentals to address hosted and unhosted home sharing. For units where no more than two bedrooms are offered as short-term rentals, residents or landlords must obtain an administrative permit and limit unhosted sharing to a maximum of 95 days per year. Accessory short-term rentals offering more than two bedrooms are subject to a conditional use approval process. In both cases, no more than 25 percent of units in multifamily buildings can be used as short-term rentals (§33.207).

In Aspen, Colorado, short-term vacation rentals are permitted by right in most residential districts, provided owners obtain a business license and a vacation rental permit, designate a local property manager, notify any affected home owners association, and pay sales and lodging taxes (§26.575.220).

Evaluate Enforcement Alternatives

Without data from home-sharing and vacation rental services, communities may be dependent on complaint-driven enforcement of regulations for short-term rentals. Instead, cities and counties may find it beneficial to establish a proactive enforcement system to ensure that registered properties are complying with applicable standards. This may involve routine monitoring of listings on home-sharing service websites. In communities with short-term rental regulations, violators are typically subject to fines or the revocation of registrations or permits.

Summary

Home-sharing and vacation rental services are growing trends that show no sign of slowing down. While some communities may ultimately decide that short-term rentals do not have a place in established residential districts, there may be no effective enforcement mechanism for a blanket prohibition. Practically speaking, the key is making regulations that are clear, easily enforced, and do not make residents or landlords out to be scofflaws unnecessarily.

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FURTHER READING

1. Published by the American Planning Association

Hutchinson, Nate. 2002. "Short-Term Vacation Rentals: Residential or Commercial Use?" *Zoning News*, March.

2. Other Resources

City Policies for Short-Term Rentals. 2015. Oakland, California: Sustainable Economies Law Center. Available at theselc.org/str_discussion.

Garvin, Elizabeth. 2015. "RMLUI Corner: Thinking About Regulating the Sharing Economy." *Western Planner*, February. Available at <http://tinyurl.com/q4x3zhq>.

National Association of Realtors. 2015. "Field Guide to Short-Term Rental Restrictions." Available at <http://tinyurl.com/pxcdwwc>.

Appendix - Submittal from Elmwood Township

From: planner@elmwoodtownship.net <planner@elmwoodtownship.net>
Sent: Monday, July 12, 2021 3:30 PM
To: Trudy Galla <tgalla@leelanau.gov>
Subject: RE: Amendment for County PC

Trudy,

Just wanted to say a quick hello: I'm Sarah Clarren and I'm Elmwood Township's new Planner / Zoning Administrator.

As requested, please see attached for the amendments and minutes. If you require anything further, please do not hesitate to ask.

Stay safe and well,

Sarah

Sarah Clarren
Planner / Zoning Administrator
Elmwood Township
(231)946-0921

Township Office Hours
Monday - Friday
9:00 am - 5:00 pm

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CHARTER TOWNSHIP OF ELMWOOD
Leelanau County, Michigan

Ordinance No. _____
ZO 2017-04-13

AN ORDINANCE TO AMEND THE TOWNSHIP ZONING ORDINANCE, IN ACCORDANCE WITH THE PROVISIONS OF THE MICHIGAN ZONING ENABLING ACT, ACT 110 OF THE PUBLIC ACTS OF 2006, AS AMENDED [MCL 125.3101 ET SEQ.], TO REMOVE SHORT TERM RENTALS AS A USE TO THE ZONING ORDINANCE.

The Charter Township of Elmwood Ordains:

Section 1: Amendment.

The following sections of the Elmwood Township Zoning Ordinance shall be amended to read as follows:

SECTION 5.4 LAND USE AND ZONING DISTRICT TABLE

Short Term Rentals shall be a use allowed in the following districts and removed from the districts that are stricken:

Commerical Related Uses	A-R	R-1	R-2	R-3	MHP	MC	NC	GC	LI	SC	RR
71. Short Term Rentals*	P	P	P	P	P	P	P	P	P	P	P
P=Zoning Administrator approval, Psp=Site Plan Review with Planning Commission approval, SUP=Special Use Permit *See Section 5.5											

Section 2: Severability.

If any sections, clause, or provision of this Ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the remainder of the Ordinance. The Township Board hereby declares that it would have passed this Ordinance and each part, section, subsection, phrase, sentence and clause irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences or clauses be declared invalid.

Section 3: Effective Date.

This Ordinance shall become effective one (1) day following the effect date of Ordinance 2021-03.

**Charter Township of Elmwood
Planning Commission
Special Meeting
June 3, 2021
7:00 PM
Approved July 7, 2021**

This meeting was held remotely due to Covid-19.

A. CALL TO ORDER: Chairman Bechtold called the meeting to order at 7:01 PM.

B. PLEDGE OF ALLEGIANCE: Chairman Bechtold led the Pledge of Allegiance.

C. ROLL CALL: Jeff Aprill-Elmwood Township, Leelanau County, Doug Roberts-Greilickville, Leelanau Co., Nate McDonald-Lake Ann, MI, Chris Mikowski, Elmwood Township, Leelanau Co., Rick Bechtold-Sewickley, PA
Jonah Kuzma, Elmwood Township, MI-8:02 p.m.

D. PUBLIC COMMENT: (1:53) Karyl Moore

E. AGENDA MODIFICATIONS/APPROVAL: (4:58) MOTION BY COMMISSIONER ROBERTS, SECONDED BY COMMISSIONER APRILL TO ACCEPT AGENDA AS PRESENTED.

ROLL CALL VOTE: AYE- NATE MCDONALD, DOUG ROBERTS, JEFF APRILL, CHRIS MIKOWSI, RICK BECHTOLD. MOTION APPROVED.

F. DECLARATION OF CONFLICT OF INTEREST: (6:06) None

G. 1. Public Hearing ZO 2017-04-13 Removal of Short Term Rentals from Certain Zoning Districts (6:30)

The Chair read the statement to open the Public Hearing.

The Public Hearing opened at 7:07 p.m.

Staff stated this was an amendment they talked about at the beginning of May related to STR's so at the time the Township Board was looking to make STR's a non-conforming use in zoning districts so they have an amendment they changed to allow them in all zoning districts and then needed the second amendment to remove that use from the districts and at that meeting, the Planning Commission discussed that and decided to take them out of

most districts accept R3, NC, Manufactured housing, and the Shoreline District. At that meeting, they scheduled the Public Hearing and last week the Board did meet and talked about STR's and how to move forward and they're not so sure they want to go the non-conforming use route, they're looking to go back to a number and allowing them in some districts. She thought it was important they followed through with this Public Hearing. This can also reiterate to the Board the Planning Commission's position on which districts they are ok with STR's in. After the Planning Commission's decision it will go to the County and then to the Board.

Public Comment opened at 7:15 p.m.

Rod Jones does not support removing STR's as a use from some zoning districts to be effective one day after they are allowed. The process of allowing STR use then removing the use seems like spot zoning. He suggests an overlay on the lakeside parcels.

Sue Jones 12684 S. Cedar Ln. after 2 ½ years and last week's Township Board meeting, it feels like they're back at square one on STR's. Removing the STR's as a use from zoning and creating 40-60 non-conforming properties will have unintended consequences.

Karyl Moore understands the theory of what is in front of them, however, it appears under several provisions of the Michigan Zoning Enabling Act all of the Township's proposed zoning amendments are unnecessary because the existing zoning already addresses the commercial transient activity allowing for them in the general commercial, the shoreline commercial, under 5.4 #60 and the special use requirements of 5.5f, and under the motel definition.

Todd Space said the amendment under consideration that evening sounded like it may be totally moot but said please follow the lead of the current board rather than the former supervisor to reach a fair compromise on the STR issue like the neighboring townships have done.

Jack Kelly was surprised they were having a public hearing that evening because as Todd Space said it's somewhat moot. The Township Board was looking to create legal conforming uses out of STR's and then wanted the PC to make them illegal so eventually they would become legal non-conforming status. The problem with non-conforming status is it stays with the use forever.

Ann Marie Wigton 10825 S. Orchard Way was listening to stay on top of things and appreciates the time being put into STR's by the Commission who will take the lead from the Board who is trying to do something that is balanced for the community.

Public comment closed at 7:28 p.m.

The Chair said they were proceeding with the public hearing because at the time they had their meeting, the Township Board had not met and had come up with proposals so they had to treat this item separate and apart from their most recent direction.

Staff added, the Board did not make a motion or direct the Planning Commission to stop considering this amendment. It's as if you had an application and the applicant came in and wanted to withdraw their application, you continue to work on the application until you receive a letter to withdraw the application. The Board directed them and they have the amendment the PC has to act on.

The Chair said there was the request/application to examine this. So, as it stands, the current proposal is to allow STR's in R3, manufactured home parks, neighborhood commercial, and shoreline commercial.

The Commissioners discussed the amendment.

Commissioner Aprill knows the Township attorney said it would be ok to open the STR's for one day and then shut it back down but he thought that would be a mistake and he'd like to get another opinion on that. He would rather they not take any action or deny the Ordinance as printed.

The Chair said the one day bothered him too. He said if the Township Board wanted to go in a different direction than the PC if they as a result were to take no action on it; they have to thoroughly discuss it and deliberate, but if no action is taken then there would be nothing in the current Zoning Ordinance to address STR's other than whatever proposal happens to be before the Board.

Staff stated if they took no action, which she highly recommended against, if they want to recommend denial of the amendment that's also an option, but if they don't pass the amendment up, then the amendment is to allow them in all districts as the Board has it drafted. Even the denial, to deny removing them, the Board still has an amendment to allow them in all districts. She doesn't believe not taking action or denying them is the result they are looking for at the PC level.

The Commissioners discussed the zoning districts.

Commissioner Roberts had problems with R3 because it affects the housing stock, also the lack of housing for workers, and the effect on housing prices.

MOTION BY COMMISSIONER APRILL, SECOND BY COMMISSIONER MCDONALD TO REMOVE R3 FROM PROPOSED ZO 2017-04-13. ROLL CALL: AYE-DOUG ROBERTS, NATE MCDONALD, JEFF APRILL, CHRIS MIKOWSKI, RICK BECHTOLD. MOTION PASSED 5-0.

The Commissioners discussed the zoning districts.

MOTION BY COMMISSIONER ROBERTS, SECOND BY COMMISSIONER MCDONALD TO ALLOW SHORT TERM RENTALS IN THE GENERAL COMMERCIAL DISTRICT IN THE PROPOSED ZONING AMENDMENT.

DISCUSSION.

ROLL CALL: AYE-DOUG ROBERTS, NATE MCDONALD, JEFF APRILL, CHRIS MIKOWSKI, RICK BECHTOLD. MOTION APPROVED.

MOTION BY COMMISSIONER APRILL, SECOND BY COMMISSIONER MCDONALD TO REMOVE SHORT TERM RENTALS IN MOBILE HOME PARKS IN THE PROPOSED ZONING AMENDMENT. ROLL CALL VOTE: AYE-JEFF APRILL, NATE MCDONALD, DOUG ROBERTS, CHRIS MIKOWSKI, RICK BECHTOLD. MOTION PASSED UNANIMOUSLY.

The Chair clarified, if the proposed zoning amendment passes, the Commission is recommending STR's in neighborhood commercial, general commercial, and shoreline commercial.

The Commissioners deliberated and went through section 11.12d 1a-j.

MOTION BY CHAIRMAN BECHTOLD, SECOND BY COMMISSIONER MCDONALD TO RECOMMEND DENIAL OF THE AMENDMENT AS PROPOSED TO THE TOWNSHIP BOARD BASED ON THE CONSIDERATION OF SECTION 11.12D.

ROLL CALL: AYE-DOUG ROBERTS, NATE MCDONALD, CHRIS MIKOWSKI, JONAH KUZMA, JEFF APRILL, RICK BECHTOLD. MOTION PASSED 6-0.

H. COMMENTS FROM THE CHAIR: Commissioner Bechtold gave his deepest thanks to all the Commissioner's for their hard work.

I. COMMENTS FROM PLANNING COMMISSIONERS: Commissioner McDonald has lived in the township for several years and pointed out what Commissioner Roberts said earlier, it is very difficult to find affordable housing anywhere, but especially in the township.

Commissioner Roberts hopes the Board of Trustees looks very carefully at this and the consequences both intended and unintended of what this will do to the complexion of Elmwood Township.

Commissioner Kuzma echoed Commissioners Roberts and McDonald and Chairman Bechtold.

J. COMMENTS FROM STAFF: Staff noted they have a regular meeting scheduled for June 15th and the packets will be out next week and it will still be on Zoom due to lack of capacity in the township hall.

K. PUBLIC COMMENT: (1:50:04) Ann Marie Wigton, Jack Kelly, Rod Jones, Karyl Moore

L. ADJOURNMENT: MOTION BY COMMISSIONER ROBERTS, SECOND BY COMMISSIONER KUZMA TO ADJOURN MEETING AT 8:58 PM. ROLL CALL VOTE: AYE- DOUG ROBERTS, JEFF APRILL, CHRIS MIKOWSKI, JONAH KUZMA, NATE MCDONALD, RICK BECHTOLD. MOTION PASSED.

**Charter Township of Elmwood
Planning Commission
Special Meeting**

May 26, 2021

7:00 PM

Approved June 15, 2021

This meeting was held remotely due to Covid-19.

A. CALL TO ORDER: Chairman Bechtold called the meeting to order at 7:02 PM.

B. PLEDGE OF ALLEGIANCE: Chairman Bechtold led the Pledge of Allegiance.

C. ROLL CALL: Jeff Aprill-Elmwood Township, Leelanau County, Doug Roberts-Greilickville, Nate McDonald-Lake Ann, MI, Kendra Luta-Greilickville, MI, Jonah Kuzma-Elmwood Township, Chris Mikowski-Elmwood Township, Leelanau County, Rick Bechtold-Elmwood Township

D. PUBLIC COMMENT: (1:30) Kelsey 10484 S. Timberlee Dr., Reverend Lucy Walker Webb- Bingham Twp., Heather Smith-Watershed Center

E. AGENDA MODIFICATIONS/APPROVAL: (10:38) MOTION BY COMMISSIONER LUTA, SECOND BY COMMISSIONER MCDONALD TO APPROVE AGENDA AS PRESENTED. ROLL CALL VOTE: AYE- KENDRA LUTA, NATE MCDONALD, CHRIS MIKOWSKI, DOUG ROBERTS, JONAH KUZMA, JEFF APRILL, RICK BECHTOLD. MOTION APPROVED.

F. DECLARATION OF CONFLICT OF INTEREST: (11:40) None

G. Purpose of Special Meeting: (12:12)

1. PUBLIC HEARING ZO 2017-04-11 Brock, Rural Resort Zoning District Amendment (opened at 7:14 p.m.)

The Chair stated Mr. Elkins has done an eloquent job of presenting the request for an amendment in the Zoning Ordinance. He has generously entered into discussion with the Planning Commission and offered constructive suggestions for their consideration. They have a draft of a Zoning Ordinance amendment they can work with and use as a basis for the Public Hearing.

The Chair read the statement prior to the Public Hearing. The statement covered all three Public Hearings for the evening.

Public comment opened at 7:21 p.m.

No comment given

Public comment closed at 7:22 p.m.

The Chair reiterated tonight's action is only on the Zoning Ordinance, they have no project before them at this point. The only action is to look at making a change in the zoning amendment.

Commissioner Aprill had concerns with the road and also wondered what the difference is between the rural resort district and the commercial district if it's just going to be another commercial district, why not call it that.

Scott Howard, Township Attorney, stated this language attempts to address the issue of surrounding road ways in the proposed amendment and that specifically refers to "will have limited impact on adjacent roadways and highways, drives, and neighboring uses". There will be a review period when each one of these new projects comes before the Planning Commission and they will evaluate with specificity the number of trips generated by the proposed use based on their traffic study and what the potential impact is going to be at that time. As far as the districts, typically a commercial district tends to be more intensive in use, doesn't require as much open space when you talk about percentages of impervious surface area that are impacted in a commercial district, usually you see numbers that are substantially higher than what you see in rural resort districts 5% and 8%. There is a real distinction between what a commercial district usually looks like and what a rural resort district looks like.

The Commissioners went through section 11.12 related to text amendments.

MOTION BY COMMISSIONER ROBERTS TO FORWARD THE PROPOSED ZONING AMENDMENT ZO 2017-04-11 BROCK RURAL RESORT ZONING DISTRICT AMENDMENT SECTION 7.2.3 STANDARDS AND REQUIREMENTS FOR APPROVAL B1-5 TO THE LEELANAU COUNTY PLANNING COMMISSION.

DISCUSSION

MOTION AMENDED BY COMMISSIONER ROBERTS, SECOND BY COMMISSIONER LUTA TO FORWARD THE PROPOSED ZONING AMENDMENT ZO 2017-04-11 BROCK RURAL

RESORT ZONING DISTRICT AMENDMENT SECTION 7.2.3 STANDARDS AND REQUIREMENTS FOR APPROVAL B1-5 TO THE TOWNSHIP BOARD.

ROLL CALL: AYE-DOUG ROBERTS, KENDRA LUTA, NATE MCDONALD, CHRIS MIKOWSKI, JONAH KUZMA, JEFF APRILL, RICK BECHTOLD. MOTION APPROVED BY A UNANIMOUS VOTE.

PUBLIC HEARING CLOSED AT 8:06 PM.

2. PUBLIC HEARING ZO 2017-04-12 Setback and Special Use Standards Amendment (Opened at 8:06 p.m.) (1:04:28)

Staff noted they have talked about this amendment a couple of times, they added in a wetland setback into the table of setbacks, amended the water's edge definition to include setback from all streams and rivers, added every parking lot or parking area shall be constructed so no water shall drain into a body of water, and they rearranged the special use standards to flow better.

Public comment opened at 8:08 p.m.

Heather-Watershed-thanked Commissioners for addressing this important topic.

Public comment closed at 8:09 p.m.

The Commissioners deliberated and went through the standards in Section 11.12.

MOTION BY COMMISSIONER LUTA SECOND BY COMMISSIONER ROBERTS TO RECOMMEND APPROVAL OF ZO 2017-04-12 SETBACK AND SPECIAL USE STANDARDS AMENDMENT TO THE TOWNSHIP BOARD AND FORWARD ON TO THE COUNTY.

DISCUSSION

ROLL CALL: AYE-KENDRA LUTA, DOUG ROBERTS, CHRIS MIKOWSKI, JONAH KUZMA, JEFF APRILL, NATE MCDONALD, RICK BECHTOLD. MOTION PASSED UNANIMOUSLY.

PUBLIC HEARING CLOSED AT 8:19 PM.

3. PUBLIC HEARING SUP 2021-02, New Waves, Clustered Residential Development, Bugai Rd. between m 72 and Hoxie, 45-004-136-015-30 (Opened at 8:20 p.m.) (1:18:12)

Dusty Christensen, applicant, noted they talked in depth on the proposed project at last month's meeting, but he gave an overview of the project. The subject site for the project is a 20 acre property on Bugai Rd. just north of M-72. The property is zoned Rural Ag and has been vacant but used for agricultural purposes for decades and is surrounded primarily by agricultural uses. The proposal for the clustered residential development takes place on 11.5 acres of the overall 20 acres and includes 14 proposed condominium lots surrounding a loop private road system that has 2 points of access on Bugai Rd. Each lot will have individual septic and then a shared well. The homes will be roughly 1,000 sq. feet of living area, 3 beds, and 1 bath. Habitat for Humanity will be deeded 6 of the 14 lots. The remaining 8 lots will be maintained by New Waves Church of Christ to be offered as affordable rental properties.

Staff said she received public input from a neighboring property owner related to the project who inquired about a fence requirement or setback from agricultural property. The current ordinance 3.15 is an agricultural setback requirement and it's a setback with a setback buffer of 100 feet when a residential development is developed adjacent to a land in active agricultural use and in the AG district. This buffer area is to be planted and maintained as a way to mitigate noise and spray drift from pesticides and herbicides. The Planning Commission can decrease the setback and the planting when it determines if one or more of the following conditions exist; topography, the properties are sufficiently separated, a conservation easement is used in the 100 ft. setback, or there is a planting buffer established that's equal to or more than the 100 ft. setback. 3.16 is fencing adjacent to certain agricultural lands where there's any residential development in the Ag district, a fence shall be installed on the boundary to help limit trespass onto the agricultural land. The developer is responsible for it, alternate fencing can be approved by the Planning Commission, and the fence can be removed if the neighboring property is rezoned or developed into a residential use.

The applicant is happy to comply with 3.16 and requested they be able to add that to the plans for approval by staff as a condition for potential approval. Regarding 3.15 staff mentioned item C gives the Planning Commission the ability to decrease the setback or planting requirements given 4 conditions, if you meet one of those which he believes they meet 2 of the conditions and said the 100 ft. setback would present some significant problems for their design as it's laid out, it essentially eliminates buildability on the northern lots and significantly impacts buildability on the south lots.

The Commissioners discussed the setbacks and fencing.

Public comment opened at 8:55 p.m.

Sue Jones 12684 S. Cedar Ln. with the region experiencing a housing crisis, she thinks the project offers really interesting and innovating ways to use the property and supports the project.

Public comment closed at 8:57 p.m.

The Commissioners deliberated and went through standards for approval.

Tina Allen, applicant, replied to the question of what the rent might be for the affordable housing. She stated what their goal is, is to get enough funding, donations, and a loan with a low enough interest rate, so they can use the FMR (Fair Market Rate). Their mission is to have them so people can afford them.

Dusty echoed Tina's sentiments saying the reason they're seeing this proposed development in front of them is it is a mission of the church to provide these housing opportunities at an affordable rate otherwise the church doesn't have reason to undertake a project like this.

MOTION BY COMMISSIONER KUZMA, SECOND BY COMMISSIONER MCDONALD TO APPROVE THE APPLICATION AS IT MEETS THE STANDARDS FOR APPROVAL IN THE ZONING ORDINANCE WITH CONDITIONS. ROLL CALL: AYE-JONAH KUZMA, NATE MCDONALD, JEFF APRILL, CHRIS MIKOWSKI, KENDRA LUTA, DOUG ROBERTS, RICK BECHTOLD. MOTION APPROVED BY A UNANIMOUS VOTE.

K. COMMENTS FROM THE CHAIR: Commissioner Bechtold appreciates the Commissioner's hard work.

L. COMMENTS FROM PLANNING COMMISSIONERS: None

M. COMMENTS FROM STAFF: Staff noted upcoming meetings of Thursday June 3rd for the public hearing on short term rentals and the regular meeting of June 15th.

N. PUBLIC COMMENT: None

O. ADJOURNMENT: MOTION BY COMMISSIONER MCDONALD, SECOND BY COMMISSIONER MIKOWSKI TO ADJOURN MEETING AT 9:57 PM. ROLL CALL VOTE: AYE-DOUG ROBERTS, JEFF APRILL, CHRIS MIKOWSKI, JONAH KUZMA, KENDRA LUTA, NATE MCDONALD, RICK BECHTOLD. MOTION PASSED.

**Charter Township of Elmwood
Board Special Meeting
May 27, 2021
ELECTRONIC REMOTE ACCESS**

1. CALL TO ORDER: Supervisor Shaw called the meeting to order at 6:00 PM.

2. PLEDGE OF ALLEGIANCE: Supervisor Shaw led the Pledge of Allegiance.

3. ROLL CALL: Present: Chris Mikowski- Greilickville, MI, Deb Allen-Leelanau Co., Elmwood Township, MI, Jim O'Rourke-Elmwood Township, Dave Darga-Elmwood Township, Leelanau Co., MI, Terry Lautner-Elmwood Township, Leelanau Co., MI, Jeff Shaw-Elmwood Township, Leelanau Co., MI

Excused: Connie Preston

4. DECLARATION OF CONFLICT OF INTEREST: Supervisor Shaw stated he has an owner-occupied short-term rental in Elmwood Township and said if any Board member would like to make a motion to have him recused, he would entertain that motion. No motion made.

5. BRIEF PUBLIC COMMENT: Ann Marie Wigton, Rod Jones, Jack Kelly, Sue Jones, Harry Borovik, Mark Breederland, Joe Testa, Del Moore, Todd Space, Emmet Mulligan, Karyl Moore

6. AGENDA APPROVAL: MOTION BY DEB ALLEN, SECONDED BY TERRY LAUTNER TO APPROVE THE AGENDA AS PRESENTED. ROLL CALL: AYE-DEB ALLEN, TERRY LAUTNER, CHRIS MIKOWSKI, JIM O'ROURKE, JEFF SHAW. MOTION PASSED UNANIMOUSLY.

7. OLD BUSINESS:

a. Discussion/Consideration of Ordinance 2021-2 Short Term Rental Licensing Ordinance

Staff said the Township Board decided they would like to make STR's a non-conforming use in the Zoning Ordinance. In order to make a non-conforming use, you have to allow that use in your ordinance first. Currently STR's are not allowed in the ordinance. So, there's an amendment that was subject to the public hearing last week and is also for consideration on this agenda that would authorize them in the Zoning Ordinance. To make them non-conforming, you have to remove it from the Ordinance, make it a use that's not allowed, that non-conforming status, then allows that use to continue, as long as it is continuing until it ceases to exist. That's the amendment the Planning Commission is working on that will eventually catch up to the first amendment that allows them. What that looks like, whether it's a day or a week that they're allowed, then not allowed they'll have to wait to get it to the Township Board. Essentially, they have the first amendment that's going to allow them, second amendment is going to come along and not allow them and that's what makes them non-conforming. They also have the Licensing Ordinance which is on the agenda for consideration. They didn't have the public hearing on the Licensing Ordinance at the last

meeting because there are some changes that need to be talked about at the Board based on the new direction of non-conforming section. The Licensing Ordinance would say anyone who has an STR would be required to get a license and that license would have to be renewed annually. It also talks about noise, numbers, and parking, what happens if you violate it, as well as how you're eligible to receive a license.

Peter Wendling, attorney, said staff was correct, the only way to create a lawful non-conforming use under zoning is to make the use lawful and then later on the use becomes unlawful as a result of either a new Zoning Ordinance or an amendment, that's the only way possible to do that. The other Board policy, the Licensing Ordinance, was desirable on the part of the Board, that the Licensing Ordinance have a provision that states once you transfer the property, you lose your license and that would end the lawful non-conforming use. His concern is because of the methodology of amending the Ordinance to create a lawful non-conforming use. A Licensing Ordinance is a Police Power Ordinance. It cannot be a substitute for a Zoning Ordinance. The concept of a lawful non-conforming use is still a zoning concept and a zoning right. In order to eliminate a lawful non-conforming use, there has to be a voluntary relinquishment of that use, it cannot be arbitrary. He mentioned in the past is they pass the ordinance allowing for vacation rentals in whatever districts they choose and then have a Licensing Ordinance which in turn would regulate the number of STR's either by district or under the Zoning Ordinance. He used Charlevoix as an example, they did not regulate STR's and determined differently than Elmwood Township, had different language, that in fact they weren't regulated and therefore were allowed and so they passed a moratorium, but their moratorium was to put the brakes on everything until they came up with some regulations which took quite a bit of time. Under their Zoning Ordinance, they do have some restrictions as to the number. Their Licensing Ordinance also has a provision stating once the property is transferred you lose your license. They don't have a lottery; they basically have a waiting list and the difference there is not eliminating them or regulating lawful non-conforming uses so in that case that issue doesn't arise therefore the Licensing Ordinance with a provision stating you lose your license upon the sale of the property works.

The Board discussed the proposed ordinance and decided a work session with the attorney was needed.

b. Discussion/Consideration of Ordinance 2021-3 Zoning Ordinance Amendment/Short Term Rentals

The Board decided to discuss the Zoning Ordinance Amendment at the work session with a date to be determined.

8. EXTENDED PUBLIC COMMENT: Ann Marie Wigton, Jack Kelly, Karyl Moore, Fred Kilbourne

9. ADJOURNMENT: MOTION BY CHRIS MIKOWSKI, SECONDED BY DEB ALLEN TO ADJOURN MEETING. ROLL CALL: AYE-CHRIS MIKWOSKI, DEB ALLEN, JIM O'ROURKE, DAVE DARGA, TERRY LAUTNER, JEFF SHAW. MOTION PASSED.

TEXT AMENDMENT REVIEW
PC09-2021-04, Elmwood Township-Wetlands Setback
and Special Use Standards

Reviewing Entity: Leelanau County Planning Commission
Date of Review: July 27, 2021

SECTION 1: General Information

Date Request Received: July 12, 2021
Last Day of Review Period: August 11, 2021 (The county has 30 days to provide a review back to the Township, according to the Michigan Zoning Enabling Act).

Requested Action: Review and comment on a proposed amendment to the Elmwood Township Zoning Ordinance, ZO 2017-04-12, Setback and Special Use Standards.

Applicant: Elmwood Township Planning Commission

SECTION 2: Proposal

See Appendix for a copy of the proposed text amendment.

SECTION 3: Other Planning Input

Township Plan: The Elmwood Township Master Plan (2018) does not specifically address this issue.

Leelanau General Plan: The Leelanau General Plan (2019) does not specifically address this issue.

Township Planning Commission:

A public hearing was held via ZOOM, on May 26, 2021. Following the public hearing, the township planning commission passed the following motion:

Motion by commissioner Luta, second by commissioner Roberts, to recommend approval of ZO 2017-04-12 Setback and Special Use Standards amendment to the township board and forward on to the county.

Roll Call: aye-Kendra Luta, Doug Roberts, Chris Mikowski, Jonah Kuzma, Jeff April, Nate McDonald, Rich Bechtold. Motion passed unanimously.

SECTION 4: Analysis

Compatibility

- A. Is the proposed text compatible with other language in the zoning ordinance?
See Section 5.
- B. Are there any issues with the proposed text (such as poor wording, confusing text, unenforceable language, etc.)?
See Section 5.
- C. Do the land uses or other related dimensional standards (height, bulk, area, setback, etc.) in the proposed text amendment(s) conflict with the existing zoning ordinance?
No

Issues of Greater Than Local Concern

- A. Does the proposed text amendment(s) include any issues of greater than local concern? Please list.
No.

Comparison with Local Plans or Ordinances

A. Do the contents in the proposed text amendment(s) conflict with the community’s plan? Please list.
Not addressed.

Comparison with County Plans or Ordinances

A. Do the contents in the proposed text amendment(s) conflict with the General Plan? Please list.
Not addressed.

Current Zoning District: For Current text: <https://www.leelanau.cc/elmwoodtwpord.asp>

SECTION 5: Staff Comments

Elmwood Township has proposed changes to Article 5 – Use Restrictions, Article 2 – Definitions, Article 6 – Site Development, Article 9 – Special Land Uses, and Article 13 – Severability and Effective Date.

Article 5 – Use Restrictions, Section 5.6 Table of Dimensional Requirements will be amended by **adding** a Wetlands Column with a 30ft setback in all districts. (see below)

The following table of the Elmwood Township Zoning Ordinance shall be amended to read as follows:

A. Table 5.6 shall be amended to add a Wetlands Column with a 30 ft setback in all districts.

District	Minimum Lot Requirements (See Note A)		Minimum Setback (ft.) (See Notes A, B, C)					Max. Height (ft.) (See Notes D, E)	
	Minimum Area	Width (ft.)	Wetlands	Water’s Edge	Front	Sides	Rear		
A-R	1 acre–	125	30	30	50	10	25	35	
R1	12,500 sq. ft.	100	30	30	30	10	25	35	
R-2	12,500 sq. ft.	100	30	30	30	10	25	35	
R-3	6,250 sq. ft.	100	30	30	30	10	25	35	
MHP	See Note F								
NC	W/public water or sewer***	20,000 sq. ft.	100	30	30	30	10	25	3 Stories
	W/out public water or sewer***	40,000 sq. ft. minimum	100	30	30	30	10	25	3 Stories
GC	12,500 sq. ft.	100	30	30*	30*	10	20	3 Stories	
LI	20,000 sq. ft.	100	30	30*	30*	10**	20	3 Stories	
SC	12,500 sq. ft.	100	30	30*	30*	10	30	35	
RR	Single Family Dwelling	5 acre	235	30	30	50	10	25	35
MC	12,500 sq ft	100	30	30	30	10	20	35	

Article 2 – Definitions currently reads as follows:

Water’s Edge, also Waterfront. See Ordinary High Water Mark.

Definition for Ordinary High Water Mark- For the purposes of this ordinance the ordinary high water mark of Cedar Lake shall be 592.6 feet above mean sea level, Lake Leelanau shall be 589.21 feet above mean sea level, and West Grand Traverse Bay shall be 580.5 feet above mean sea level, IGLD 1985.

The **proposed** Water's Edge definition shall be amended to read:

Water's Edge, also Waterfront. The ordinary high water mark or where an ordinary high water mark has not been established, the line between the upland and bottomland which persists through successive changes in water levels, below which the presence of action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation. For a stream, river or creek, the top of the bank of the channel. In the case of the presence of bluff, the shoreline setback shall be measured from the edge of the bluff.

Article 6 – Site Development Requirements, shall be amendment to add Section 6.1.2 B. 6:

Section 6.1.2

- B. 6. Every parking lot or parking area shall be so constructed that no surface water shall shed into or towards such body of water unless such surface water is first treated or filtered to remove any silt, grease or oil, salt or other matter which would deteriorate the water quality of said body of water. Snow removal from parking lot or parking area shall not be stored within the water edge setback unless contained to the parking area.

Article 9 – Special Land Uses, Section 9.3 B shall be removed in its entirety and Section 9.3 #9 shall be amended to read as follows:

- 9. The following specific requirements shall be met to the extent applicable to the proposed special land use:
 - a. Ingress and egress for the special land use shall be controlled to ensure maximum vehicular and pedestrian safety, convenience, and minimum traffic impact on adjacent roads and highways, drives, and nearby uses including, but not limited to:
 - i. Minimization of the number of ingress and egress points through elimination, minimization, and consolidation of drives and curb cuts;
 - ii. Proximity and relation of driveway to intersections;
 - iii. Minimization of pedestrian and vehicular traffic conflicts;
 - iv. Adequacy of sight distances between road and driveway intersections as specified in Section 6.2, Access Management.
 - v. Location and accessibility of off-street parking, loading, and unloading for automotive vehicles, including buses and trucks;
 - vi. Location and potential use of ingress and egress drives to access special land use parcels for the purpose of possibly reducing the number of access points necessary to serve the parcels.
 - vii. Adequate maneuverability and circulation for emergency vehicles.
 - b. Screening shall be provided along all sides and rear property lines by a buffer area, and along the front property line by a greenbelt in accordance with Section 6.4, unless it can be demonstrated that the proposed special land use can be adequately controlled through some other means, such as restrictions on the hours of operation, or reducing the impact by the type and level of activity to be conducted on the site.

Article 13 – Severability and Effective Date will be amended to read as follows:

Severability.

If any sections, clause, or provision of this Ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the remainder of the Ordinance. The Township Board hereby declares that it would have passed this Ordinance and each part, section, subsection, phrase, sentence and clause irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences or clauses be declared invalid.

Effective Date.

This Ordinance shall become effective eight (8) days following publication.

Section 6.1.2 General Requirements of Article 6 Site Development Requirements. Section 6.1.2B (Non-Residential Off-Street Parking) is being amended to add a new item 6 to address surface water and snow removal. Under Article 9, Special Land Uses, the township is proposing to remove Section 9.3. B. Specific Requirements. They are proposing a new Section 9.3 #9 which staff finds to be the exact wording of what is being removed from Section 9.3.B. Is #9 referring to #9 in Section 9.3A. General Standards? That is unclear.

The township is proposing a change to the setback chart, definitions, and Article 6 Site Development Requirements and Article 9 Special Land Uses. The proposed changes are minor and do not appear to affect the intent of the ordinance.

Appendix - Submittal from Elmwood Township

Trudy Galla

From: planner@elmwoodtownship.net
Sent: Monday, July 12, 2021 3:30 PM
To: Trudy Galla
Subject: RE: Amendment for County PC
Attachments: Ordinance 2017-04-13 County Review.docx; Ordinance 2017-04-12 County Review.docx; June 3 Special PC_approved.pdf; May 26 2021 PC Minutes.pdf

Trudy,

Just wanted to say a quick hello: I'm Sarah Clarren and I'm Elmwood Township's new Planner / Zoning Administrator.

As requested, please see attached for the amendments and minutes. If you require anything further, please do not hesitate to ask.

Stay safe and well,

Sarah

Sarah Clarren
Planner / Zoning Administrator
Elmwood Township
(231)946-0921

Township Office Hours
Monday - Friday
9:00 am - 5:00 pm

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CHARTER TOWNSHIP OF ELMWOOD
Leelanau County, Michigan

Ordinance No. _____
ZO 2017-04-12

AN ORDINANCE TO AMEND THE TOWNSHIP ZONING ORDINANCE, IN ACCORDANCE WITH THE PROVISIONS OF THE MICHIGAN ZONING ENABLING ACT, ACT 110 OF THE PUBLIC ACTS OF 2006, AS AMENDED [MCL 125.3101 ET SEQ.], TO AMEND TABLE 5.6, ARTICLE 2, ARTICLE 6, AND ARTICLE 9.

The Charter Township of Elmwood Ordains:

Section 1: Amendment.

The following sections of the Elmwood Township Zoning Ordinance shall be amended to read as follows:

A. Table 5.6 shall be amended to add a Wetlands Column with a 30 ft setback in all districts.

District	Minimum Lot Requirements (See Note A)		Minimum Setback (ft.) (See Notes A, B, C)					Max. Height (ft.) (See Notes D, E)	
	Minimum Area	Width (ft.)	Wetlands	Water's Edge	Front	Sides	Rear		
A-R	1 acre	125	30	30	50	10	25	35	
R1	12,500 sq. ft.	100	30	30	30	10	25	35	
R-2	12,500 sq. ft.	100	30	30	30	10	25	35	
R-3	6,250 sq. ft.	100	30	30	30	10	25	35	
MHP	See Note F								
NC	W/public water or sewer***	20,000 sq. ft.	100	30	30	30	10	25	3 Stories
	W/out public water or sewer***	40,000 sq. ft. minimum	100	30	30	30	10	25	3 Stories
GC	12,500 sq. ft.	100	30	30*	30*	10	20	3 Stories	
LI	20,000 sq. ft.	100	30	30*	30*	10**	20	3 Stories	
SC	12,500 sq. ft.	100	30	30*	30*	10	30	35	
RR	Single Family Dwelling	5 acre	235	30	30	50	10	25	35
MC		12,500 sq ft	100	30	30	30	10	20	35

B. Article 2 Water's Edge definition shall be amended to read:

Water's Edge, also Waterfront. The ordinary high water mark or where an ordinary high water mark has not been established, the line between the upland and bottomland which persists through successive changes in water levels, below which the presence of action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation. For a stream, river or creek, the top of the bank of the channel. In the case of the presence of bluff, the shoreline setback shall be measured from the edge of the bluff.

C. Article 6 shall be amendment to add Section 6.1.2 B. 6:

Section 6.1.2

B. 6. Every parking lot or parking area shall be so constructed that no surface water shall shed into or towards such body of water unless such surface water is first treated or filtered to remove any silt, grease or oil, salt or other matter which would deteriorate the water quality of said body of water. Snow removal from parking lot or parking area shall not be stored within the water edge setback unless contained to the parking area.

D. Section 9.3 B shall be removed in its entirety and Section 9.3 #9 shall be amended to read as follows:

9. The following specific requirements shall be met to the extent applicable to the proposed special land use:

- a. Ingress and egress for the special land use shall be controlled to ensure maximum vehicular and pedestrian safety, convenience, and minimum traffic impact on adjacent roads and highways, drives, and nearby uses including, but not limited to:
 - i. Minimization of the number of ingress and egress points through elimination, minimization, and consolidation of drives and curb cuts;
 - ii. Proximity and relation of driveway to intersections;
 - iii. Minimization of pedestrian and vehicular traffic conflicts;
 - iv. Adequacy of sight distances between road and driveway intersections as specified in Section 6.2, Access Management.
 - v. Location and accessibility of off-street parking, loading, and unloading for automotive vehicles, including buses and trucks;
 - vi. Location and potential use of ingress and egress drives to access special land use parcels for the purpose of possibly reducing the number of access points necessary to serve the parcels.
 - vii. Adequate maneuverability and circulation for emergency vehicles.
- b. Screening shall be provided along all sides and rear property lines by a buffer area, and along the front property line by a greenbelt in accordance with Section 6.4, unless it can be demonstrated that the proposed special land use can be adequately controlled through some other means, such as restrictions on the hours of operation, or reducing the impact by the type and level of activity to be conducted on the site.

If any sections, clause, or provision of this Ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the remainder of the Ordinance. The Township Board hereby declares that it would have passed this Ordinance and each part, section, subsection, phrase, sentence and clause irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences or clauses be declared invalid.

Section 3: Effective Date.

This Ordinance shall become effective eight (8) days following publication.

**Charter Township of Elmwood
Planning Commission
Special Meeting**

May 26, 2021

7:00 PM

Approved June 15, 2021

This meeting was held remotely due to Covid-19.

A. CALL TO ORDER: Chairman Bechtold called the meeting to order at 7:02 PM.

B. PLEDGE OF ALLEGIANCE: Chairman Bechtold led the Pledge of Allegiance.

C. ROLL CALL: Jeff Aprill-Elmwood Township, Leelanau County, Doug Roberts-Greilickville, Nate McDonald-Lake Ann, MI, Kendra Luta-Greilickville, MI, Jonah Kuzma-Elmwood Township, Chris Mikowski-Elmwood Township, Leelanau County, Rick Bechtold-Elmwood Township

D. PUBLIC COMMENT: (1:30) Kelsey 10484 S. Timberlee Dr., Reverend Lucy Walker Webb- Bingham Twp., Heather Smith-Watershed Center

E. AGENDA MODIFICATIONS/APPROVAL: (10:38) MOTION BY COMMISSIONER LUTA, SECOND BY COMMISSIONER MCDONALD TO APPROVE AGENDA AS PRESENTED. ROLL CALL VOTE: AYE- KENDRA LUTA, NATE MCDONALD, CHRIS MIKOWSKI, DOUG ROBERTS, JONAH KUZMA, JEFF APRILL, RICK BECHTOLD. MOTION APPROVED.

F. DECLARATION OF CONFLICT OF INTEREST: (11:40) None

G. Purpose of Special Meeting: (12:12)

1. PUBLIC HEARING ZO 2017-04-11 Brock, Rural Resort Zoning District Amendment (opened at 7:14 p.m.)

The Chair stated Mr. Elkins has done an eloquent job of presenting the request for an amendment in the Zoning Ordinance. He has generously entered into discussion with the Planning Commission and offered constructive suggestions for their consideration. They have a draft of a Zoning Ordinance amendment they can work with and use as a basis for the Public Hearing.

The Chair read the statement prior to the Public Hearing. The statement covered all three Public Hearings for the evening.

Public comment opened at 7:21 p.m.

No comment given

Public comment closed at 7:22 p.m.

The Chair reiterated tonight's action is only on the Zoning Ordinance, they have no project before them at this point. The only action is to look at making a change in the zoning amendment.

Commissioner Aprill had concerns with the road and also wondered what the difference is between the rural resort district and the commercial district if it's just going to be another commercial district, why not call it that.

Scott Howard, Township Attorney, stated this language attempts to address the issue of surrounding road ways in the proposed amendment and that specifically refers to "will have limited impact on adjacent roadways and highways, drives, and neighboring uses". There will be a review period when each one of these new projects comes before the Planning Commission and they will evaluate with specificity the number of trips generated by the proposed use based on their traffic study and what the potential impact is going to be at that time. As far as the districts, typically a commercial district tends to be more intensive in use, doesn't require as much open space when you talk about percentages of impervious surface area that are impacted in a commercial district, usually you see numbers that are substantially higher than what you see in rural resort districts 5% and 8%. There is a real distinction between what a commercial district usually looks like and what a rural resort district looks like.

The Commissioners went through section 11.12 related to text amendments.

MOTION BY COMMISSIONER ROBERTS TO FORWARD THE PROPOSED ZONING AMENDMENT ZO 2017-04-11 BROCK RURAL RESORT ZONING DISTRICT AMENDMENT SECTION 7.2.3 STANDARDS AND REQUIREMENTS FOR APPROVAL B1-5 TO THE LEELANAU COUNTY PLANNING COMMISSION.

DISCUSSION

MOTION AMENDED BY COMMISSIONER ROBERTS, SECOND BY COMMISSIONER LUTA TO FORWARD THE PROPOSED ZONING AMENDMENT ZO 2017-04-11 BROCK RURAL

RESORT ZONING DISTRICT AMENDMENT SECTION 7.2.3 STANDARDS AND REQUIREMENTS FOR APPROVAL B1-5 TO THE TOWNSHIP BOARD.

ROLL CALL: AYE-DOUG ROBERTS, KENDRA LUTA, NATE MCDONALD, CHRIS MIKOWSKI, JONAH KUZMA, JEFF APRILL, RICK BECHTOLD. MOTION APPROVED BY A UNANIMOUS VOTE.

PUBLIC HEARING CLOSED AT 8:06 PM.

2. PUBLIC HEARING ZO 2017-04-12 Setback and Special Use Standards Amendment (Opened at 8:06 p.m.) (1:04:28)

Staff noted they have talked about this amendment a couple of times, they added in a wetland setback into the table of setbacks, amended the water's edge definition to include setback from all streams and rivers, added every parking lot or parking area shall be constructed so no water shall drain into a body of water, and they rearranged the special use standards to flow better.

Public comment opened at 8:08 p.m.

Heather-Watershed-thanked Commissioners for addressing this important topic.

Public comment closed at 8:09 p.m.

The Commissioners deliberated and went through the standards in Section 11.12.

MOTION BY COMMISSIONER LUTA SECOND BY COMMISSIONER ROBERTS TO RECOMMEND APPROVAL OF ZO 2017-04-12 SETBACK AND SPECIAL USE STANDARDS AMENDMENT TO THE TOWNSHIP BOARD AND FORWARD ON TO THE COUNTY.

DISCUSSION

ROLL CALL: AYE-KENDRA LUTA, DOUG ROBERTS, CHRIS MIKOWSKI, JONAH KUZMA, JEFF APRILL, NATE MCDONALD, RICK BECHTOLD. MOTION PASSED UNANIMOUSLY.

PUBLIC HEARING CLOSED AT 8:19 PM.

3. PUBLIC HEARING SUP 2021-02, New Waves, Clustered Residential Development, Bugai Rd. between m 72 and Hoxie, 45-004-136-015-30 (Opened at 8:20 p.m.) (1:18:12)

Dusty Christensen, applicant, noted they talked in depth on the proposed project at last month's meeting, but he gave an overview of the project. The subject site for the project is a 20 acre property on Bugai Rd. just north of M-72. The property is zoned Rural Ag and has been vacant but used for agricultural purposes for decades and is surrounded primarily by agricultural uses. The proposal for the clustered residential development takes place on 11.5 acres of the overall 20 acres and includes 14 proposed condominium lots surrounding a loop private road system that has 2 points of access on Bugai Rd. Each lot will have individual septic and then a shared well. The homes will be roughly 1,000 sq. feet of living area, 3 beds, and 1 bath. Habitat for Humanity will be deeded 6 of the 14 lots. The remaining 8 lots will be maintained by New Waves Church of Christ to be offered as affordable rental properties.

Staff said she received public input from a neighboring property owner related to the project who inquired about a fence requirement or setback from agricultural property. The current ordinance 3.15 is an agricultural setback requirement and it's a setback with a setback buffer of 100 feet when a residential development is developed adjacent to a land in active agricultural use and in the AG district. This buffer area is to be planted and maintained as a way to mitigate noise and spray drift from pesticides and herbicides. The Planning Commission can decrease the setback and the planting when it determines if one or more of the following conditions exist; topography, the properties are sufficiently separated, a conservation easement is used in the 100 ft. setback, or there is a planting buffer established that's equal to or more than the 100 ft. setback. 3.16 is fencing adjacent to certain agricultural lands where there's any residential development in the Ag district, a fence shall be installed on the boundary to help limit trespass onto the agricultural land. The developer is responsible for it, alternate fencing can be approved by the Planning Commission, and the fence can be removed if the neighboring property is rezoned or developed into a residential use.

The applicant is happy to comply with 3.16 and requested they be able to add that to the plans for approval by staff as a condition for potential approval. Regarding 3.15 staff mentioned item C gives the Planning Commission the ability to decrease the setback or planting requirements given 4 conditions, if you meet one of those which he believes they meet 2 of the conditions and said the 100 ft. setback would present some significant problems for their design as it's laid out, it essentially eliminates buildability on the northern lots and significantly impacts buildability on the south lots.

The Commissioners discussed the setbacks and fencing.

Public comment opened at 8:55 p.m.

Sue Jones 12684 S. Cedar Ln. with the region experiencing a housing crisis, she thinks the project offers really interesting and innovating ways to use the property and supports the project.

Public comment closed at 8:57 p.m.

The Commissioners deliberated and went through standards for approval.

Tina Allen, applicant, replied to the question of what the rent might be for the affordable housing. She stated what their goal is, is to get enough funding, donations, and a loan with a low enough interest rate, so they can use the FMR (Fair Market Rate). Their mission is to have them so people can afford them.

Dusty echoed Tina's sentiments saying the reason they're seeing this proposed development in front of them is it is a mission of the church to provide these housing opportunities at an affordable rate otherwise the church doesn't have reason to undertake a project like this.

MOTION BY COMMISSIONER KUZMA, SECOND BY COMMISSIONER MCDONALD TO APPROVE THE APPLICATION AS IT MEETS THE STANDARDS FOR APPROVAL IN THE ZONING ORDINANCE WITH CONDITIONS. ROLL CALL: AYE-JONAH KUZMA, NATE MCDONALD, JEFF APRILL, CHRIS MIKOWSKI, KENDRA LUTA, DOUG ROBERTS, RICK BECHTOLD. MOTION APPROVED BY A UNANIMOUS VOTE.

K. COMMENTS FROM THE CHAIR: Commissioner Bechtold appreciates the Commissioner's hard work.

L. COMMENTS FROM PLANNING COMMISSIONERS: None

M. COMMENTS FROM STAFF: Staff noted upcoming meetings of Thursday June 3rd for the public hearing on short term rentals and the regular meeting of June 15th.

N. PUBLIC COMMENT: None

O. ADJOURNMENT: MOTION BY COMMISSIONER MCDONALD, SECOND BY COMMISSIONER MIKOWSKI TO ADJOURN MEETING AT 9:57 PM. ROLL CALL VOTE: AYE-DOUG ROBERTS, JEFF APRILL, CHRIS MIKOWSKI, JONAH KUZMA, KENDRA LUTA, NATE MCDONALD, RICK BECHTOLD. MOTION PASSED.

**Charter Township of Elmwood
Planning Commission
Regular Meeting**

March 16, 2021

7:00 PM

Approved April 27, 2021

This meeting was held remotely due to Covid-19.

A. CALL TO ORDER: Chairman Bechtold called the meeting to order at 7:00 PM.

B. PLEDGE OF ALLEGIANCE: Chairman Bechtold led the Pledge of Allegiance.

C. ROLL CALL: Jeff Aprill-Elmwood Township, Leelanau County, Doug Roberts-Greilickville, Nate McDonald-Lake Ann, Kendra Luta-Greilickville, MI, Jonah Kuzma-Elmwood Township, Rick Bechtold-Elmwood Township, Chris Mikowski-Greilickville, Leelanau Co.

D. PUBLIC COMMENT: (2:30) None

E. AGENDA MODIFICATIONS/APPROVAL: (3:17) MOTION BY COMMISSIONER LUTA, SECOND BY COMMISSIONER ROBERTS TO ACCEPT AGENDA AS PRESENTED. ROLL CALL VOTE: AYE- CHRIS MIKOWSKI, NATE MCDONALD, JONAH KUZMA, KENDRA LUTA, DOUG ROBERTS, JEFF APRILL, RICK BECHTOLD. MOTION APPROVED.

F. MINUTES-FEBRUARY 16, 2021: (4:14)

MOTION BY COMMISSIONER ROBERTS, SECOND BY COMMISSIONER APRILL TO ACCEPT THE MINUTES OF FEBRUARY 16, 2021 PENDING THE ADDITION OF THE TIME OF THE TABLING OF THE HEARING ON BRENGMAN BROTHERS.

ROLL CALL VOTE: AYE-DOUG ROBERTS, JEFF APRILL, NATE MCDONALD, CHRIS MIKOWSKI, JONAH KUZMA, KENDRA LUTA, RICK BECHTOLD. MOTION APPROVED BY A UNANIMOUS VOTE.

G. CONSENT CALENDAR: (6:24) APPROVE/RECEIVE AND FILE

1. Planner's Report

2. Public Comment Received

MOTION BY COMMISSIONER APRILL, SECOND BY COMMISSIONER LUTA TO FILE THE CONSENT CALENDAR AS RECEIVED. ROLL CALL VOTE: AYE-JEFF APRILL, CHRIS MIKOWSKI, JONAH KUZMA, DOUG ROBERTS, KENDRA LUTA, NATE MCDONALD, RICK BECHTOLD. MOTION PASSED.

H. DECLARATION OF CONFLICT OF INTEREST: None

I. OLD BUSINESS:

1. ZO 2017-04-11 Brock-Rural Resort Zoning District Amendment (8:38)

Chairman Bechtold asked Staff if she heard back from the attorney.

Staff said she spoke to him this afternoon about the amendment and he had two thoughts on it. One was to be really specific about the plans, which she told him they were having difficulties with, and the other was a more broad approach, which is what Nate drafted. The attorney in general liked the draft, and she thought he would have documents for that evening's meeting, but hadn't received them. She thought the Planning Commissioners could comment on the general direction of the plan and whether or not they liked it.

Nate Elkins worked with his attorney to draft the language, and thought it was language that could be adopted into the ordinance.

The Commissioner's discussed the project and asked Nate questions.

Chairman Bechtold noted that once the attorney gives his review, they will schedule a special meeting if there is time before the next regularly scheduled meeting.

2. ZO 2017-04-12 Setback and Special Use Standards Amendment (53:00)

Staff reported the language is the same language that was before them at last month's meeting and it has to do with adding in the wetlands setback and the water's edge definition amendment so it includes banks of streams, bluffs, etc. She also talked about parking lots, surface water, and snow removal. There was a conversation that Steve Christensen does the enforcement, so she talked with Steve and he said he doesn't have any required setbacks, it's just what you're required to do as you get closer to the water. He'll also reference Township Zoning.

The Commissioner's discussed existing parking lots, curbing, and setbacks.

3. Continuation of Public Hearing SU/SPR 2021-01 Brengman Brothers Vineyards Distillery and Associated Tasting Room (1:13:57)

The Chair stated at the last meeting they recessed the Hearing. The statement he read at the beginning of the Hearing is still in effect. They have opened and closed the public comment period and they are back in deliberation.

Staff noted the Commission received additional information from the applicant related to their food service and what is going to happen in relation to the GAAMP standards and an updated site plan that includes the additional parking that was discussed at last month's meeting. She also forwarded the Commissioners a copy of the Fire Department's review of the site where they said the design is acceptable with stipulations. She felt that everything missing from the previous application was included. She did address the GAAMPS and said she talked with Mike from GAAMPS and he is willing to do an educational session before a meeting via Zoom.

Public Comment opened at 8:21 p.m.

No public comment was made.

Public comment closed at 8:22 p.m.

Public hearing closed at 8:24 p.m.

The Commissioners deliberated and went through standards for approval.

MOTION BY COMMISSIONER APRILL, SECOND BY COMMISSIONER MCDONALDS TO APPROVE SU/SPR 2021-01 BRENGMAN BROTHERS VINEYARDS DISTILLERY AND ASSOCIATED TASTING ROOM BASED ON FINDINGS OF FACT AND CONDITIONAL APPROVALS IDENTIFIED. ROLL CALL: AYE-JEFF APRILL, NATE MCDONALDS, JONAH KUZMA, DOUG ROBERTS, KENDRA LUTA, CHRIS MIKOWSKI, RICK BECHTOLD. MOTION PASSED BY A UNANIMOUS VOTE.

Chairman Bechtold thanked the applicant for their patience, diligence, and thoroughness of the documents they provided and wished them good luck with their new venture.

J. NEW BUSINESS: (1:37:34) None

K. COMMENTS FROM THE CHAIR: Commissioner Bechtold said he would be interested in having a tutorial on the MAEAP side of what the Dept. of Ag does in conjunction of how that fits in with the GAAMPS. Also, he completed the online course put on by the Michigan Association of Planners. He thanked the Commissioners for their diligence and for being prepared for the meeting.

L. COMMENTS FROM PLANNING COMMISSIONERS: Commissioner Aprill thanked Staff again for her time and appreciates her sticking with them until they find someone new. He also thanked her for the definition of why they are still meeting through Zoom, he hadn't thought of that aspect of having too many people. He also apologized to Nate and Mr. Brock saying he's not trying to give them a hard time, he just wants everyone to think about the difference between Resort Commercial and Commercial, and whether they want any sort of

commercial up there or if it needs to be related to a resort or recreational activity. He thought maybe they need to look at that zoning district as a whole.

M. COMMENTS FROM STAFF: Staff said if they do a special meeting, they may add on some of the other amendments they talked about in February because they haven't had time to discuss them. Also the Township Board is having a Public Hearing on Short Term Rentals on April 19th at 6:00 p.m. and it's to be determined if it will be online or in person depending on what happens with the Open Meetings Act.

Staff asked if the Commissioners would be able to meet April 21st for the next regular meeting instead of April 20th.

MOTION BY COMMISSIONER KUZMA, SECOND BY COMMISSIONER APRILL TO MOVE THE APRIL 20ST MEETING TO WEDNESDAY, APRIL 21ND. ROLL CALL: AYE-JONAH KUZMA, JEFF APRILL, NATE MCDONALD, KENDRA LUTA, DOUG ROBERTS, CHRIS MIKOWSKI, RICK BECHTOLD. MOTION APPROVED.

N. PUBLIC COMMENT: (1:52:18) Rod Jones

O. ADJOURNMENT: ADJOURN MEETING AT 8:55 PM. ROLL CALL VOTE: AYE-DOUG ROBERTS, JEFF APRILL, CHRIS MIKOWSKI, JONAH KUZMA, KENDRA LUTA, NATE MCDONALD, RICK BECHTOLD. MOTION PASSED.