

**A REGULAR MEETING OF THE LEELANAU COUNTY PLANNING COMMISSION WAS HELD ON TUESDAY, NOVEMBER 23, 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:** K. Todd (Leelanau Twp.)  
(via ZOOM)

**Members Present:** S. Yoder, M. Lautner, T. Nixon, A Trumbull  
(At Government Center) M. Black, R. Miller, C. Noonan.

**Members Absent:** G. Carlson, N. Griswold, D. Hubbell  
(prior notice)

**Staff Present:** G. Myer, Senior Planner  
(At Government Center)

**Public Present:** Steve Patmore  
(At Government Center)

**CONSIDERATION OF AGENDA**

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

**CONFLICT OF INTEREST**

Yoder stated he had a conflict of interest regarding “Item B” on the agenda and members agreed. He will abstain from voting.

**PUBLIC COMMENT** – None.

**STAFF COMMENTS** – None.

**CONSIDERATION OF OCTOBER 26, 2021 MEETING MINUTES**

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

**NEW BUSINESS**

**PC13-2021-01 Bingham Township – Rezoning Rural Res. to Commercial**

Myer reviewed the staff report saying that this request was received on November 5, 2021 and

the last day of review under the Michigan Zoning Enabling Act 30-day review period is December 5. The applicant is Sarah Keever of Northview 22, LLC and the owner is the Eric Harding Trust. The requested action is to review and comment on a rezoning request in Bingham Township for approximately 7-acres from Rural Residential to Commercial.

Myer continued, reviewing the surrounding parcel uses and zoning:

North	Land Use: Zoning:	Northwest Michigan Horticultural Research Center Agricultural
South/Southwest	Land Use: Zoning:	Vacant parcel, pole barn w/living Rural Residential & Commercial
East	Land Use: Zoning:	Single family home Rural Residential
West	Land Use: Zoning:	Vacant (proposed future substation for Consumers Energy Rural Residential

Myer continued, reviewing the zoning history, saying that according to the application and township minutes – Sarah Keever of Northview 22, LLC, submitted an application on behalf of Eric Harding, Trustee of the Eric Harding Trust, to rezone the property at E. Bingham Rd. from Rural Residential to Commercial. The application did not include any voluntary offer of conditions. The subject parcel is adjacent to the commercial corridor on Bingham Rd. A Public Hearing was held on November 4, 2021. Public comments were made from several neighbors who supported the rezoning request and it was noted there was also a correspondence received in favor of the request from another adjacent property owner.

It was noted that since the commercial corridor parallels Bingham Rd and does not necessarily follow property lines, there has been a lot of discussion on “squaring up” the commercial district to follow property lines.

In 2016 the Grand Traverse Band of Ottawa and Chippewa Indians applied for and received approval for a rezoning of a sliver of property to commercial at 8595 E. Bingham Rd. (former PDM Lumber property) because that parcel had split zoning.

In 2017 the Planning Commission had a Public Hearing on a proposed Map Amendment that would have squared up the Commercial Zoning District and added parcels to the district, including the subject parcel in this application. The proposal failed by a 4-3 vote of the Planning Commission. When this proposal failed, the affected property owners were encouraged to apply individually if they wanted consideration for a rezoning. The owner of this parcel is now applying for rezoning of their parcel to the Commercial District.

In 2019 Jeff and Amy Sobeck, Hardbeck, LLC applied for and received approval for a rezoning from Rural Residential to Commercial for their property at 8531 E. Bingham Rd.

Myer said the Future Land Use Map of the Bingham Township Comprehensive Plan, calls for Rural Residential for the subject parcel and the Leelanau General Plan does not specifically identify the subject parcel. Rezoning would be consistent with the Commercial zoning district, commercial development and land uses to the south of the subject parcel. Myer continued, saying the Bingham Township Master Plan has not been updated since 1999, although it has gone through several 5-year reviews. The township planning commission has noted that the Plan is due for an update. The Master Plan calls for Rural Residential for this property.

Myer concluded by saying the application and report from the township spell out the reasons the applicant has requested rezoning, and includes the Findings of Fact from the township planning commission and their motion to recommend the property be rezoned.

Changing the zoning designation on any property can have far reaching consequences. Therefore, a careful evaluation of a proposed rezoning is essential. As with any zoning decision, the use of standards is essential to reaching fair and consistent decisions - a number of court decisions and professional and legal writings have resulted in some common evaluation tools such as: what is allowed under current zoning, what is allowed under the proposed zoning, what is designated in the Master Plan(s), are uses consistent with adjoining uses?

Noonan commented that he was on the Zoning Board of Appeals for Empire Township, and it is always a slippery slope when you start rezoning properties. You want to make sure they have good ground to stand on and good justification if the township does decide to move along with the zoning.

Black said his only concern was that someone might complain about spot zoning because there is nothing adjoining this parcel that is commercial. It does appear however, that the neighbors are not opposed to the rezoning which is critical.

Nixon questioned Patmore regarding the zoning history. In 2017 the township Planning Commission addressed rezoning this entire area and it came to a 4-3 vote to oppose it. What reasons were advanced to not approve it at that time? Patmore stated that it was a broader review of the district at that time which included others parcels. It was a bigger parcel across the road that was the issue, not any of these four parcels. Nixon continued, then why not amend the plan at that time so that the controversy would roll right into the property across the street and these properties would all be considered part of the commercial are? Patmore responded that they did have community meetings and talked about uses and areas prior to that 4-3 vote, so they felt they covered the Master Plan. They are however, in the process of updating the Master Plan at this time. Back in 2017 the township attorney recommended that individual property owners should apply for rezoning. In 2020 one of the owners of a neighboring parcel did apply for and receive a rezoning. Patmore continued, saying that the township Planning Commission did look at the spot zoning question this month and it was a little bothersome because of the one parcel in between, but the owner was present via Zoom at the township meeting and didn't have a problem with this rezoning request.

Lautner questioned if the prior failed rezoning request came before the County Planning Commission for review. Patmore said no, because the township planning commission was looking at a blanket squaring up of the zoning lines for this district, it wasn't an actual request.

Patmore reviewed the zoning of the surrounding parcels, and said that the Wheelock parcel is residential, they want to build a house. They are also okay with the rezoning of this parcel. Black commented that when it goes commercial, sometimes you run into conflicts insuring a house. Patmore continued, saying that one of the factors considered by the township planning commission was that anything commercial has to go back to the planning commission for site plan review to look at buffering, screening and mitigation. The fact that the owners were aware of the rezoning request and were in favor of it, was taken into consideration. The fact is that the owners will probably be quite limited with what they can do on this parcel because of its size and the access, which is not a very good access road. Also factored into the decision by the planning commission, was that you have to go through a commercial area to get back to the subject parcel.

Lautner said she really likes the idea of Bingham Township looking at this as a block of parcels, because this whole area makes sense as commercial. Her only concern was the residential parcel in between. Patmore said that was a concern of the township planning commission also, but the fact that the owner came in and supported the rezoning made a difference. A representative of the Northwest Michigan Horticultural Research Center, located on the parcel to the north, was present via Zoom at the township meeting and understood that a buffer would be required.

Todd said she is concerned about the piecemeal aspect of this and the fact that the township planning commission earlier didn't want to approve this. She can see their reasons though. It is obviously a problematic issue and she would be happier if the Master Plan were changed, but that would take too long. Patmore said they are in the process of updating the Master Plan, but it won't be done for another year or so.

Lautner asked what some of the commercial uses are and if there are restrictions for noise, odor, height, etc. Patmore responded that because it would be a change of use, almost everything would have to go through site plan review and anything with more than 10 parking spaces or a 3,000 square foot building, requires a special use permit which involves further discretion by the planning commission. They will look at noise and there is a provision already for buffering. Lautner questioned what the owner was planning on doing with the property. Patmore concluded by saying that when the planning commission looks at it, they will look at traffic, the access road, screening and buffering.

Yoder commented that spot zoning sounds like it was discussed, and everyone is aware of what is going on. Property can always be sold and you don't know what will go in there. Sounds like the neighbors were all made aware of what was going on and they are all in agreement.

***Motion by Black, seconded by Noonan, to forward staff report, minutes and all comments to Bingham Township Planning Commission. Motion carried 8-0.***

## **PC14-2021-10 Solon Township -Zoning Ordinance.**

Myer reviewed the staff report saying that this request was received on November 13, 2021 and that the last day of review under the Michigan Zoning Enabling Act 30-day review period is December 13. The applicant is the Solon Township Planning Commission and the requested action is to review and comment on the 9/13/21 draft Solon Township Zoning Ordinance. According to the township, these amendments are driven by the community's values as expressed in the Master Planning process. A public hearing was held on October 5, 2021 and the township planning commission acted to forward the document to the county.

Myer continued, saying listed below are comments and suggestions from staff on the 140 page, 9/13/2021 draft Solon Township Zoning Ordinance. Most of the items listed below are minor things: grammar, punctuation, and corrections. However, a few sections staff have pointed out could use some more work before the ordinance is adopted. In addition, staff found the regulations for developments (such as proposed housing developments) to be quite extensive. Housing developments which might be proposed for workforce housing or for those falling in the ALICE category (Asset Limited, Income Constrained, and Employed) would need to submit engineered drawings, plot plans, and develop according to sections in the ordinance regulating roads, landscaping, etc. If the zoning ordinance is adopted by the township, these requirements would apply to other developments, as well. However, it should be noted that the more the regulations and cost to complete these steps, the higher the cost for the development and eventually, for the buyer. The Leelanau County Housing Action Committee (HAC) put together a checklist to assist townships and villages in their review of zoning ordinances and plans, and to encourage language which would allow for quicker reviews, processing, and fewer restrictions in order to encourage housing developments. The state (Michigan Economic Development Corporation) has a program for Redevelopment Ready Communities. Northport is the only community in the county that has completed the RRC evaluation and is one of 236 communities in the state to reach this goal. The HAC and the regional non-profit Housing North, have taken a spin on this evaluation and promoted 'Housing Ready Communities'. The checklist helps communities try to become Housing Ready and increase opportunities to attract housing developments for existing and new residents. The draft zoning ordinance from Solon Township, with its requirements for landscaping, road and street design, condominium subdivisions, site plan review, and planned unit development (PUD), may be too restrictive for developers looking to construct housing projects. Time will tell.

Myer continued, saying staff commends the township on the work done to prepare a new zoning ordinance. The township has been working on a new ordinance for several years – a task that takes time, effort, and countless reviews. With this much work involved in the document, it would be worthwhile to take a little more time to clean it up and address issues staff have pointed out. Once the county planning commission reviews the ordinance and staff report, their action and a copy of their minutes will be sent to the township for consideration.

Myer reviewed Page 82, Article XVIII Zoning Board of Appeals and said this section is listed as Article XXI in the current zoning district. Section 18.09 Appeals has been changed to remove the wording that 'Any individual, corporation, association officer, department, board or bureau of the Federal, State, county or Township may appeal any determination of the Administrator for review by the Board of Appeals'. The language in Section 18.09 states 'Any applicant may appeal any determination of the Administrator for review by the Board of Appeals'. This is not consistent with other language in the zoning ordinance which uses the words 'aggrieved party'. It is also not consistent with the Michigan Zoning Enabling Act (MZEA) Section 604, (1) which states 'An appeal to the zoning board of appeals may be taken by a person aggrieved or by an officer, department, board or

bureau of this state or the local unit of government'. The township needs to correct this language prior to the zoning ordinance being adopted.

Myer continued saying Article XIX Landscape Standards is very extensive with a lot of requirements that will apply to any site plans. Since the township is proposing to move many Permitted Principal Uses in numerous districts to Special Land Uses, that is a lot of uses that will be required to meet the requirements of Article XIX Landscape Standards, (as well as Site Plan Review) even for some existing uses that may be expanding. How will a business in Cedar be able to meet these requirements if they wish to expand? Or business uses along M-72? Also, enforcement and follow-up on violations will be important and is additional work for township staff.

Myer moved on to Page 96, Section 19.12 – it's a little unclear who has the authority to approve the Landscaping Plans. Will the Planning Commission and Township Board both be required to approve, or approve any alternate landscape plans? Page 97, Section 19.13 Compliance for Pre-Existing Sites – what if a property owner cannot meet these requirements for the Landscaping? What is their option?

In conclusion, Myer said there are some definitions for signs that are not content neutral and should be corrected. There are also several districts which do not have any permitted uses listed and it says it is preserved for future use. Some of the former uses in several districts were moved to special land uses. Are the owners of businesses aware their use is now a special land use if this ordinance is adopted? While there are quite a few comments/suggestions listed by staff, the majority of these would not take much time to correct. Cleaning up the ordinance now will help eliminate future problems for the township.

Nixon commended the township and said he fully understands the diligence, patience and energy required to amend a zoning ordinance. Looking at some of the public comments, there were concerns with the landscaping language. Nixon said he read it as a residential person and got confused. It seems most of this language is pertaining to developments and multi-housing areas. This may not speak to the residential and it might be helpful to clue that in for the reader early on. Also, he recommends that every Article is identified by a Roman Numeral, the first subsection alphabetical, the next subset numerical and the third subset alphabetical lower-case letters. This tends to be the case for most outlines. He is encouraged by seeing this and hopefully Suttons Bay Township will keep forging ahead on their zoning ordinance amendment.

Miller stated that generally it is a well-done document. There were a few things that he was surprised to see in a zoning ordinance. Things that are enforced by the fire marshal or the Building Safety Department. There is a section referencing fire department regulation and requirements. Zoning boards don't review fire safety codes, that is up to the fire marshal. Egress windows are also mentioned, this is not a zoning issue. If the fire safety rules change, the zoning ordinance will need to be amended. Miller said that you don't address safety issues in a zoning ordinance. Addressing more than you need to leads to the document being in error sometime in the future. Miller continued, referencing the 2 ½ inch caliper trees required and the significant landscaping requirements. It is safer to say "2 ½ inch at five years" so that they don't have to put such a big item, which is not so much of a hardship. It's the ultimate design that you are concerned with, not the initial design. Placement yes, but he thinks they are going overboard on the size. This will cost the developer a lot of money, probably to the detriment of the community, because they will choose to build elsewhere. Too much of their budget will have to go towards landscaping for islands and parking lots because there are pretty significant islands required for parking lots.

Miller continued, he doesn't understand the definition of family and doesn't think it will stand up. The definition brings into question whether or not two families could have a joint ownership in a property.

It is beyond what the scope of a zoning ordinance should do. The submittals wanted for the Computer Aided Design (CAD) drawings require a certain number of drawings plus a transparency. The vast majority of design firms in the state are now doing it on Xerox quality paper. Most plotters don't want to use transparency paper. This is referencing and old technology and if this is enforced, it will be putting an undue hardship on the applicant. Miller continued, pointing out that the topography increments are different. One section mentions five foot and another section mentions five- and ten-foot increments. Miller said the document also mentions fire walls, this is a Building Safety Code, not zoning. There is also a six-foot high wall requirement for storage areas. If this is 100 feet back with a 20-foot rise, you have a 26-foot-high wall. There are a number of places where the term "customary" is used. Miller said what might be customary in his neighborhood might not be in another. This is an abstract term, and not firm ground to stand on. Miller concluded by saying the minimum site width of thirty feet and not less than one-half acre for campgrounds is really big. At one-half acre this would be 726 feet deep. He doesn't think they want each campsite to be one-half acre, unless they don't want campgrounds.

Lautner said she did speak regarding her concerns at the township level. One being the burden of the landscaping requirements in the ordinance and the effect it could have on developing future affordable housing. The 18 pages for landscaping are way overboard for what Solon Township needs. The concern with maximum height for agricultural buildings: silos can easily be 60 feet, barns 40 to 50 feet. She hates to see the temporary buildings in the agricultural district being limited to 100 days because you could easily need more than that in agriculture. Churches and library were removed under the Residential and Agricultural District, can this be done? Isn't that a use by state law? Lautner continued, mentioning the non-conforming structures and uses, what would fall under those changes? She also agrees with staff, regarding Section 18.09 Appeals, and the "aggrieved party" verbiage. The landscaping section was written by a landscape architect and is very lengthy and comprehensive. How will a person know what the landscape standards are? Cedar already has such a small area that you can build a business on, and limited parking. To be required to meet these standards would create such a burden it might just not work. Some of the businesses don't even have parking. Lautner concluded by saying she also wondered who would police the landscape section of the ordinance.

Trumbull agreed with the landscaping concerns raised. Todd stated that staff did an incredible job with their report.

Black mentioned the housing project on the corner of Gray Rd. and M-72, and said that it will impact us. Multi-family units, rental units as well as for-sale units. It doesn't hurt to be over-the-top on some of the things in the zoning ordinance. He likes what the township is doing and hopes they can clean it up.

Yoder explained that the landscape standards all started with the rezoning request for a parcel at the corner of Lautner Rd. and M-72, from Agricultural to Commercial. The majority of the public were upset that the township didn't have a better landscape ordinance. A lot of them didn't realize what a landscape ordinance involves. The majority of the Planning Commission had concerns with it, but wanted to hear comments made by the County Planning Commission. The comments made will definitely be taken into consideration and hopefully be ironed out.

Yoder continued, addressing the fire marshal safety standards mentioned by Miller. Instead of the owner having to go to the fire chief and meet those regulations, they decided to put them in the ordinance. The fire marshal has a set of standards that they will not give or cave on, so that is why those were added. Yoder said the definition of family is very complex, he was not aware that was in there. It will be looked at. The maximum height in the Agricultural District got brought up at their public hearing and the township zoning administrator said that anything that falls under the RTFA, this

does not apply. Miller said the way the ordinance indicates it's measured to the peak. Some ordinances will say to a point halfway between the eave and the peak. If the gradient around the house is different, which is common, it becomes average.

Miller continued; the draft ordinance also says that nursing homes require one parking space for every 300 square feet. He recommends changing the "300 square feet" to "per licensed bed." A luxury nursing home with larger rooms, you don't need much parking. Yoder said churches and libraries were moved from permitted principle uses to special land uses because under permitted principal use, they don't require a public hearing, but it is required under special uses. Yoder stated that he had a problem with this because even if you have a public hearing, you still can't stop something from being put in that's a governmental use. There has been public out-cry in the past, this way the public can be notified of what's being built.

***Motion by Miller, seconded by Nixon, to forward staff report, minutes and all comments to Solon Township Planning Commission. Motion carried 7-0. Yoder abstained.***

***Staff Note: Mr. Miller submitted a copy of the zoning ordinance to staff with all his written comments. It is available if the township would like a copy.***

### **Recommendation to County Board RE: Appointments**

Members agreed they were satisfied with their prior recommendations for appointments.

### **Educational opportunities**

Yoder mentioned the education opportunities and said to let staff know if anyone was interested in signing up.

### **REPORTS**

Education Committee - Nothing to report.

Housing Action Committee

Lautner mentioned that the development on the corner of Gray Rd. and M-72, in Long Lake Township, will have two 36-unit apartment buildings and several townhouses which will be a benefit to workers in Leelanau County, if they are at all affordable.

Lautner continued, saying a concept that was being used now and might come to Leelanau County involving assessor dwelling units was discussed. The idea is that a "pot" of money will be used to build these assessor dwellings near your home, and for ten years you rent it to a qualified person such as a veteran or someone in the ALICE category. The homeowner retains 20% of the rent during those ten years and after the ten years the property owner will own the dwelling outright. This is a way of relieving some of the housing issues. Also, as the property owner ages, they may wish to move into the smaller assessor dwelling which opens up a house for a larger family. Lautner said this is a concept that could be brought to the township zoning administrators, making them aware of this program and all of the details involved. This would have to fit into a townships zoning ordinance.



Parks & Recreation Committee

Noonan said they approved the purchase of a new playground structure for Old Settler's Park, and nominated new members. They are also putting a committee together to look at uses for the Poor Farm Barn. Part of the lease agreement is to come up with uses for that structure. They had a brief meeting with the Historic Preservation Society to get things in motion.

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

Noonan stated that Empire Township decided to no longer allow hunting on township property. It was never an issue before, but with all of these apps on phones now, people look for public land to hunt on. With the liability involved, their attorney advised them to not allow it anymore.

Yoder said Solon Township is working on their Master Plan and will be sending out a survey to all tax payers. One of the questions will be regarding whether to allow accessory dwelling into their township to help with housing. Also, their Parks and Recreation Plan will be finalized.

**COMMUNICATIONS** – Planning and Zoning News made available.

**PUBLIC COMMENT** – None.

**STAFF COMMENTS**

**COMMISSIONER & CHAIRPERSON COMMENTS**

Noonan said Happy Thanksgiving!

Nixon commended staff for their work and Miller for all of his insightful comments.

Yoder mentioned the “Light Up Cedar” event happening on Friday from 6-8p.m. and Santa will be there.

**ADJOURN**

*Meeting adjourned at 6:44 p.m.*