

NOTICE OF MEETING

A Regular Meeting of the Leelanau County Planning Commission (LCPC) will be held at **5:30 pm Tuesday, APRIL 23, 2024** in the Leelanau County Government Center – 1st floor.

(Please silence any unnecessary cellular/electronic devices)

DRAFT AGENDA

LCPC Members

Steve Yoder
Casey Noonan
Melvin Black
Craig Brown
Rodney Brush
Brian Fenlon
Melinda Lautner
Tom MacDonald
Robert Miller
Tom Nixon
Francis Criqui

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 FEBRUARY 27, 2024 MEETING MINUTES *pgs.2-5*

NEW BUSINESS

1. PC06-2024-04 -Elmwood Twp.- Text Amendment – Definitions *pgs. 6-36*
2. PC07-2024-04 - Elmwood Twp.- Text Amendment - Multi-Dwelling Requirements *pgs. 37-56*
3. PC08-2024-04 - Elmwood Twp.- Text Amendment -Alcohol Requirements *pgs. 57-81*

REPORTS

1. Housing Action Committee
2. Parks & Recreation Committee

COMMUNICATIONS

PUBLIC COMMENTS

STAFF COMMENTS

COMMISSIONER & CHAIRPERSON COMMENTS

ADJOURN

A REGULAR MEETING OF THE LEELANAU COUNTY PLANNING COMMISSION WAS HELD ON TUESDAY, FEBRUARY 27, 2024, 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.

CALL TO ORDER

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

ROLL CALL

Members Present: S. Yoder, C. Brown, M. Lautner, B. Fenlon, T. Nixon, T. MacDonald, F. Criqui

Members Absent: M. Black, R. Brush, R. Miller, C. Noonan
(prior notice)

Staff Present: G. Myer, Planning Director, J. Herman, Planning Secretary

Public Present: None

CONSIDERATION OF AGENDA

Nixon reminded the board that they agreed to incorporate Reports Item #3, into Commissioner & Chairperson Comments.

Motion by Nixon, seconded by MacDonald, to approve the agenda as amended. Motion carried 7-0.

CONFLICT OF INTEREST- None.

PUBLIC COMMENT – None.

STAFF COMMENTS- None.

CONSIDERATION OF JANUARY 23, 2024 MEETING MINUTES

Brown noted that the first initial for Mr. Brush is ‘R’ not ‘B’.

Motion by Lautner, seconded by Brown, to approve the minutes as amended. Motion carried 7-0.

OLD BUSINESS – None.

NEW BUSINESS

PC04-2024-06 Glen Arbor Twp.- Text Amendment- content neutral language

Myer reminded members that this request was received on December 21, 2023 and that she had reached to the township for a “marked up copy” of what the proposed amendments were and the township could

not provide one because it was too messy. Myer asked the township that this review be pushed back to today's meeting to allow members more time to review the Zoning Ordinance.

Myer continued, saying that the requested action is to review and comment on the proposed text amendments to the Township Zoning Ordinance to reorganize with content neutral changes. Neither the Glen Arbor Township Master Plan nor the Leelanau General Plan, specifically address's this amendment. Myer said that a public hearing was held on December 7, 2023 and that no public comment was received. After the public hearing, a motion was passed to forward the proposed amendment to Leelanau County for review.

Brown made several comments.

Nixon commented on the alignment format of the entire document needing to be straightened out. He suggested the possibility of moving the definitions on page 49 earlier in the document and that there was a separate section for signage which he thought could be incorporated into the definitions section. Nixon was impressed with the history of amendments and changes of the ordinance that were included on page 2. Article V had a very clear graph that the reader could easily see the use permitted and understand what zone it is permitted in or not permitted in. Nixon suggested they move the 'Governmental' category to the very bottom so that footnotes 8-12 will align themselves with the uses permitted above. It would be easier for the reader to see that Governmental was separate from the chart. Nixon lastly commented that there were some formatting, color changes, and characterized signs that could be addressed. Yoder had similar comments.

(Note: a full copy of Brown's comments is also available in the Planning & Community Development Department.)

Motion by Nixon, seconded by MacDonald, to recommend approval, and to forward the staff report and all comments to Glen Arbor Township. Motion carried 7-0.

PC05-2024-41 Village of Empire- Text Amendment- Permitted Uses

Myer reviewed the staff report saying that the request was received on February 15, 2024 and the last day for review is March 16, 2024. Myer stated that the Village of Empire Master Plan states the following on page 51, Future Land Use Recommendations: "The intent of the Light Industrial district is to accommodate existing light industrial uses, and to encourage and provide opportunities for additional light industry, including wholesale and warehousing uses as well as activities like research laboratories, high-tech industries, light assembly operation, office space, and commercial uses that support light industrial activities." The Leelanau General Plan does not specifically address this amendment.

Myer continued, saying that the township held a public hearing on February 6, 2024 and that several comments and questions were made. After the public hearing, a motion was passed to approve the proposed text amendments and then another motion was passed to forward the proposed amendments to the county for review.

Myer said the purposed amendment will add the following to Article 4: Zoning Districts and Map, Section 4.06.2- Permitted Uses:

6. Combination of uses, subject to Section 4.06.5

And add the following new subsection 5 to Article 4: Zoning Districts and Map:

Section 4.065 COMBINATION OF USES

In the review of site plans, and/or special land use permit applications for uses involving combinations of uses otherwise permitted by right or by special land use approval in the LI district, the planning commission shall find that all such uses be mutually compatible with one another and the all-special use standards applicable to any such component use in a combined land use shall be met for that component use. However, recognizing the potential unnecessary duplication of parking requirements for each use, the planning commission may reduce the overall parking requirements for each use, the planning commission may reduce the overall parking requirement on the parcel by up to 25% if they are satisfied with the sufficiency of the parking at the reduced amount proposed by the applicant.

Myer said the proposed amendment was made by Marc McKeller II of Kuhn Rogers PLC, who represents TC Vision LLC (Cherry Republic). They are seeking to amend the zoning ordinance in the LI District, to allow for a mix of uses permitted by right or special use permit. Myer concluded that this is in preparation for the combination of two parcels for enhanced efficiency, job creation, and improved storage solutions for the community.

Brown commented that he had no issues since that is the only area with light industrial use in the Village and combining the parcels allowing the use of what the zoning ordinance allows. Nixon said on page 4-15 of the zoning ordinance, it lists all of the uses that are subject to special use as well as the permitted uses. He said if something else is added in these sites, they have to make a determination to see if it is compatible with other uses on that property.

Motion by Fenlon, seconded by Brown, to recommend approval, and to forward the staff report and all comments to the Village of Empire. Motion carried 7-0.

Discussion Annual Planning Session

Yoder suggested the Annual Planning Session be in the fall this year to allow staff time to prepare. They are still short staffed. The Annual Planning Session will be held on Wednesday, September 25. More information to come as the date approaches.

Discussion ensued on possible topics for the session such as:

1. Taxation
2. Assessed Value of properties
3. Accessory Dwelling Units
4. Short Term Rentals

REPORTS

Housing Action Committee

Lautner said that they have not met and the next meeting is on March 11. She said she read an article in *The Ticker* about Cory Flaska's housing development in Cedar, and that he made it as affordable as possible.

Parks & Recreation

Lautner gave a brief update that they are working on the update to the Parks & Recreation Park Plan. They need to have a park plan in order to get grant dollars from the state. The plan is becoming costly and the issue right now is that the firm that did the last plan kept the copy rights so they are unable to make changes to it. They are looking at what the best option for them is.

COMMUNICATIONS- None.

PUBLIC COMMENT- None.

STAFF COMMENTS

Myer thanked members for the letter of support that Yoder presented to the Board of Commissioners.

COMMISSIONER & CHAIRPERSON COMMENTS

Fenlon said he attended a regular Leland Township meeting and that they are working on getting sidewalks done in Lake Leelanau, but they are working out some issues with the cost of construction. He also mentioned that the Sewer Commission Board only has two members. Lautner said three or five members would be ideal.

MacDonald said that last Wednesday the Northport Planning Commission completed a review of their redraft Zoning Ordinance. They are also going to start working on their Master Plan.

Nixon said the Suttons Bay Planning Commission is in the process of selecting a consultant to get them through the ordinance revisions that they have been working on for over five years. They have found that external help is valuable. They are looking for assistance from a consultant to develop the Master Plan as well.

Brown said the Leelanau County Road Commission received their bids a couple weeks ago and all of their bids were under budget. They will be able to do all of their projects as planned and possibly add another bid or two. They will be working to stabilize the bridge over Victoria Creek in Cedar in late March and there will be expected lane closures.

Yoder said that Solon Township is finalizing their Master Plan and they also have a text amendment in their Zoning Ordinance that will come to the board for review. He also mentioned that the township Zoning Administrator, Tim Cypher, resigned and they hope to have the vacancy filled by April.

Members congratulated Myer in her Director position.

ADJOURN

Meeting adjourned by consensus at 6:26 p.m.

TEXT AMENDMENT REVIEW
PC06-2024-04 Elmwood Township
Text Amendment – Definitions, Sections 5.4, 6.1.3 and 9.8H

Reviewing Entity: Leelanau County Planning Commission
Date of Review: April 23, 2024

General Information

Date Request Received: March 20, 2024

Last Day of Review Period: April 19, 2024 (30 days in which to review and comment on the application and provide comments to the township. After the 30-day period, the township can proceed with or without comments from reviewing agencies).

Applicant: Elmwood Township Planning Commission
Rick Bechtold, Chairman

Section 2: Proposal

See Appendix for a copy of the proposed text amendments.

Section 3: Other Planning Input

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

Leelanau General Plan: The Leelanau General Plan (2020) does not specifically address the amendment.

Township Planning Commission:

A public hearing was held on December 19, 2023, after much deliberation, the public hearing was closed and more information was requested by the commission. Discussion continued at the January 16, 2024 Planning Commission meeting and a second Public Hearing was scheduled due to changes made to the proposed amendment. The second Public Hearing was held on February 20, 2024, and no public comment was received. Following the public hearing, the planning commission unanimously passed the following motion:

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

Section 4: Analysis

Compatibility

A. Is the proposed text compatible with other language in the zoning ordinance?

Yes

B. Are there any issues with the proposed text (such as poor wording, confusing text, unenforceable language, etc.)?

No.

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.

No

Comparison with County Plans or Ordinances

A. Do the contents in the proposed text amendment(s) conflict with the General Plan? Please list.

No

Current Zoning District: For Current text, Link to the Township Zoning Ordinance at:

<https://www.leelanau.gov/elmwoodtpord.asp>

Section 5: Staff Comments

The proposed amendment will **add** the following definitions to **Article 2, Definitions, Section 2.2:**

Active Farm Operation: A farm operation within which any of the following are occurring: (1) for crops such as fruits, vegetables, hay , corn, soybeans, wheat, etc. where the crops are grown, harvested and historically commercially marketed; (2) for dairy farms, the cows are raised, regularly milked, and the milk has historically been commercially sold; (3) for beef cattle farms, the cows are raised, and historically either commercially sold or slaughtered, and (4) for other types of specialty farms, such as deer, elk, or pheasant farms, the animals are raised and historically been commercially harvested by private hunting or other means.

Festival: A recreational, social, educational, or cultural activity, generally open to the public or a designated part of the public.

Special Event Facilities: An establishment which is rented by individuals or groups by paying a fee or other compensation to accommodate private functions, typically involving family and close friends of the individual renting the facility, including, but not limited to, banquets, weddings, anniversaries, and other similar celebrations involving more than 50 people.

The proposed amendment will also **amend Article 5 – Use Restrictions, SECTION 5.4 LAND USE AND ZONING DISTRICT** to **add** a new number **#74** as shown below:

Commercial Related Uses	A-R	R-1	R-2	R-3	MHP	MC	NC	GC	L1	SC	RR
74. Special Event Facility	SUP										

P=Zoning Administrator approval, Psp=Site Plan Review with Planning Commission approval, SUP=Special Use Permit

Amend **Article 6 – Site Development, SECTION 6.1.3 Spaces Required**, to **add** minimum required parking spaces for **Special Event Facilities** to the existing table as follows:

USE	MINIMUM NUMER OF SPACE REQUIRED
Special Event Facility	1 space for every 3 people allowed by occupancy permit

Amend **Article 9 – Special Land Uses, SECTION 9.8., ADDITIONAL REQUIREMENTS FOR CERTAIN SPECIAL LAND USES, H.,** to **add** requirements for **Special Event Facilities** as follows:

H. Special Event Facilities

1. This section is intended to allow special event facilities as a part of active farm operations in the Township in order to promote the following:
 - a. Preservation of agricultural uses and the agricultural sector in the Township and in the region.
 - b. Retention of large tracts of land for land preservation and to sustain current-day and future farming opportunities.
 - c. Allow for business opportunities to make agricultural pursuits economically viable.
 - d. Protecting adjacent property owners from any potential nuisance factors related to these special events.

2. All special event facilities are subject to the following requirements as applicable:
 - a. The Property shall be an active farm operation as defined by this ordinance during the use of the property for special events.
 - b. The minimum lot size shall be 40 acres.
 - c. All structures and activities related to the special event facility, including parking, shall be located 200 feet from all property lines.
 - d. The special event facility, including structures used for the special event, parking, and area designated for guests or space to be used for the special event facility, shall not exceed 7.5% of the area used for the active farm operation of the parcel.
 - e. No guest lodging shall be permitted on site.
 - f. Applicable requirements pursuant to Article 6 of this Zoning Ordinance shall be met, with the exception that parking, maneuvering lanes, and driveways may be gravel and shall be maintained to control dust. Parking and maneuvering lanes may be grass so long as the grass is maintained from wear.
 - g. All parking areas, dumpsters, and loading areas shall be screened from view of an abutting parcel containing a residential use by either a greenbelt, obscuring fence, or masonry wall.
 - h. No sounds shall be heard that annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of any reasonable person of normal sensitivities on any property that is not described in the zoning permit at any time during the special event.
 - i. Music or entertainment shall not be the primary purpose for the special event.
 - j. The duration of the special event shall not last longer than 12 hours and occur on one day. The Planning Commission may reduce the duration of the special event based on the location of the property, adjoining land uses, terrain features, noise dissemination, and the avoidance of adverse impact on other lands. Hours of operation shall not exceed the following:

- i. Sunday through Thursday: 9:00 am to 10:00 pm
 - ii. Friday, Saturday, and federal holidays: 9:00 am to 11:00 pm
 - iii. Tear down shall not occur after 1 hour following the above hours of operation or begin more than 1 hour prior to the above hours of operation.
 - iv. All guest shall be off the site within 1 hour of the end of the special event
- k. The Planning Commission shall determine the maximum number of special events after consideration of its location, whether this is a reasonable likelihood of an adverse impact on neighbors, traffic, access, and nearby land uses as well as the standards in Section 9.3. At no time shall the Planning Commission allow more than the following special events:
- i. Maximum of 52 special events in a calendar year.
 - ii. Maximum of 2 special events in a week unless there is a federal holiday in the week, then up to 3 special events may be held in that week. For this section of the Ordinance, a week shall be a calendar week, Sunday to Saturday.
- l. A management plan meeting the following shall be provided:
- i. General description of the special event facility including operational calendar.
 - ii. Specific details on where the special events will be conducted (building, tent, outdoors, etc.) and number of guests permitted. Occupancy for outdoor area shall be calculated in the same manner as indoor (building or tent) space is calculated.
 - iii. Information pertaining to provisions for catering facilities, restrooms, and utilities.
 - iv. A traffic management plan approved by the Fire Department to ensure adequate ingress and egress for guests and emergency vehicles.
 - v. Contact information for onsite special event manager, if different from owner.

Section 5: History

At the May 23, 2023 township planning commission meeting, John Gallagher Jr. submitted a request for a Zoning Ordinance Amendment, to reintroduce Special Event Facilities as a Special Use within Agricultural-Rural (A-R) Zoning District. In October of 2019, the County Planning Commission reviewed a proposed amendment to remove Special Event and Special Event Facility. (PC12-19-04) It was noted in this prior Staff Report that the township had talked about special events quite a bit in the past 5 years and based on recommendation from the township attorney, changes needed to be made. The township attorney recommended removing the language from the ordinance while they worked on the changes.

Subsequent meeting minutes indicate the size of the parcel was a concern and that they would like the use to be supplemental to AG and to be submitted as a Special Use Permit. Most of the township is zoned Agricultural and they want to preserve the agricultural and rural heritage of the township.

At the September 26, 2023 township planning commission meeting, JML Design Group Ltd. presented an application on behalf of Gallagher Farms LLC, for a distillery located on an 80acre parcel in the A-R Zoning District. It was noted that the cherry and fruit production of the Gallagher Farms is what will be used for the production of the product. The application was approved with 11 conditions.

The discussion at the public hearing on December 19, 2023 revolved around the square footage requirements and it was decided that more research and information was needed. It was determined at the January 16th meeting that another public hearing was needed due to the changes made to the proposed text amendment. After the second Public Hearing on February 20th, was closed, there was a lengthy discussion, after which it was recommended to approve the proposed text amendment and forward to the county for review.

Appendix - Correspondence from Elmwood Township

Gail Myer

From: Sarah Clarren <planner@elmwoodmi.gov>
Sent: Wednesday, March 20, 2024 4:08 PM
To: Gail Myer
Subject: Elmwood ZO Text Amendment for County PC
Attachments: 2024-01.16_SEF Text.pdf; 2023-12.19_PC Minutes.pdf; 2024-01.16_PC Minutes.pdf; 2024-02.20_PC Minutes.pdf

Gail,

Attached you will find a Zoning Amendment for County Planning Commission review and comment.

This is a text amendment that has been discussed before the Planning Commission for quite some time. As the text has changed greatly over the months of discussion, I've only included the following for the County Planning Commission:

- 1) The text recommended for approval by the Planning Commission
- 2) Minutes from 12/19/23 (first public hearing where the Commission open/closed the public hearing and public comment; requested further information from Planning Consultant)
- 3) Minutes from 1/16/24 (meeting containing discussion on elements raised at the hearing)
- 4) Minutes from 2/20/24 (meeting containing second public hearing containing Commission's findings on the text as well as the motion to recommend approval to Township Board and forward to County for comment).

Let me know if you have any questions or require anything further from me.

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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Gail Myer

From: Sarah Clarren <planner@elmwoodmi.gov>
Sent: Thursday, March 21, 2024 12:32 PM
To: Gail Myer
Cc: Steve Yoder
Subject: RE: Elmwood ZO Text Amendment for County PC

Gail,

April 23rd should suffice. Apologies for missing the deadline; it's the day of our PC meetings. Given the deliberations that occurred on the text, I wanted the Commission to take action on the drafted minutes prior to sending it along.

Sarah

Sarah Clarren | Planner / Zoning Administrator | Elmwood Township | 231-946-0921 | www.elmwoodmi.gov |

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From: Gail Myer <gmyer@leelanau.gov>
Sent: Thursday, March 21, 2024 11:48 AM
To: Sarah Clarren <planner@elmwoodmi.gov>
Cc: Steve Yoder <stephen7yoder@gmail.com>
Subject: RE: Elmwood ZO Text Amendment for County PC

Hi Sarah,
The next scheduled Planning Commission meeting is scheduled for April 23rd. The March meeting was cancelled yesterday due to no new business items being received by the due date of March 19th. Would a review at our April meeting be okay?

Thanks

Gail Myer
Planning Director
Planning & Community Development
8527 E. Government Center Dr. Ste. 108
Suttons Bay, MI 49682
231-256-9812



From: Sarah Clarren <planner@elmwoodmi.gov>
Sent: Wednesday, March 20, 2024 4:08 PM
To: Gail Myer <gmyer@leelanau.gov>
Subject: Elmwood ZO Text Amendment for County PC

Gail,

Attached you will find a Zoning Amendment for County Planning Commission review and comment.

This is a text amendment that has been discussed before the Planning Commission for quite some time. As the text has changed greatly over the months of discussion, I've only included the following for the County Planning Commission:

- 1) The text recommended for approval by the Planning Commission
- 2) Minutes from 12/19/23 (first public hearing where the Commission open/closed the public hearing and public comment; requested further information from Planning Consultant)
- 3) Minutes from 1/16/24 (meeting containing discussion on elements raised at the hearing)
- 4) Minutes from 2/20/24 (meeting containing second public hearing containing Commission's findings on the text as well as the motion to recommend approval to Township Board and forward to County for comment).

Let me know if you have any questions or require anything further from me.

Sarah

Sarah Clarren
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CHARTER TOWNSHIP OF ELMWOOD
 Leelanau County, Michigan

Ordinance No. 2024-_____
ZO 2017-04-17

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 SECTION 2.2 DEFINITIONS TO ADD DEFINITIONS FOR ‘ACTIVE FARM OPERATION,’ ‘FESTIVAL,’ AND ‘SPECIAL EVENT FACILITIES;’ AMEND SECTION 5.4 TO ALLOW FOR SPECIAL EVENT FACILITIES WITHIN THE AGRICULTURAL-RURAL ZONING DISTRICT, WITH A SPECIAL USE PERMIT AND TO RENUMBER THE SUBSEQUENT USES WITHIN THE LAND USE AND ZONING DISTRICT TABLE; AMEND SECTION 6.1.3 TO ADD MINIMUM REQUIRED PARKING SPACES FOR SPECIAL EVENT FACILITIES; AMEND SECTION 9.8.H TO INCLUDE STANDARDS AND REGULATIONS SPECIFIC TO SPECIAL EVENT FACILITIES.

The Charter Township of Elmwood Ordains:

Section 1: Amendment.

1. Amend Section 2.2., specifically to add the following definitions:

Active Farm Operation: A farm operation within which any of the following are occurring: (1) for crops such as fruits, vegetables, hay, corn, soybeans, wheat, etc. where the crops are grown, harvested, and historically commercially marketed; (2) for dairy farms, the cows are raised, regularly milked, and the milk has historically been commercially sold; (3) for beef cattle farms, the cows are raised, and historically either commercially sold or slaughtered, and (4) for other types of specialty farms, such as deer, elk, or pheasant farms, the animals are raised and historically been commercially harvested by private hunting or other means.

Festival: A recreational, social, educational, or cultural activity, generally open to the public or a designated part of the public.

Special Event Facilities: An establishment which is rented by individuals or groups by paying a fee or other compensation to accommodate private functions, typically involving family and close friends of the individual renting the facility, including, but not limited to, banquets, weddings, anniversaries, and other similar celebrations involving more than 50 people.

2. Amend Section 5.4 to add a new number 74 as shown below and to renumber subsequent uses.

Commercial Related Uses	A-R	R-1	R-2	R-3	MHP	MC	NC	GC	LI	SC	RR
74. Special Event Facility	SUP										
P=Zoning Administrator approval, Psp=Site Plan Review with Planning Commission approval, SUP=Special Use Permit											

3. Amend Section 6.1.3, specifically to add minimum required parking spaces for Special Event Facilities to the existing table as follows:

USE	MINIMUM NUMBER OF SPACES REQUIRED
Special Event Facility	1 space for every 3 people allowed by occupancy permit

4. Amend Section 9.8.H to add requirements for Special Event Facilities as follows:
SECTION 9.8 ADDITIONAL REQUIREMENTS FOR CERTAIN SPECIAL LAND USES

H. Special Event Facilities

1. This section is intended to allow special event facilities as a part of active farm operations in the Township in order to promote the following:
 - a. Preservation of agricultural uses and the agricultural sector in the Township and in the region.
 - b. Retention of large tracts of land for land preservation and to sustain current-day and future farming opportunities.
 - c. Allow for business opportunities to make agricultural pursuits economically viable.
 - d. Protecting adjacent property owners from any potential nuisance factors related to these special events.

2. All special event facilities are subject to the following requirements as applicable:
 - a. The property shall be an active farm operation as defined by this ordinance during the use of the property for special events.
 - b. The minimum lot size shall be 40 acres.
 - c. All structures and activities related to the special event facility, including parking, shall be located 200 feet from all property lines.
 - d. The special event facility, including structures used for the special event, parking, and area designated for guests or space to be used for the special event facility, shall not exceed 7.5% of the area used for the active farm operation of the parcel.
 - e. No guest lodging shall be permitted on site.
 - f. Applicable requirements pursuant to Article 6 of this Zoning Ordinance shall be met, with the exception that parking, maneuvering lanes, and driveways may be gravel and shall be maintained to control dust. Parking and maneuvering lanes may be grass so long as the grass is maintained from wear.
 - g. All parking areas, dumpsters, and loading areas shall be screened from view of an abutting parcel containing a residential use by either a greenbelt, obscuring fence, or masonry wall.
 - h. No sounds shall be heard that annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of any reasonable person of normal sensitivities on any property that is not described in the zoning permit at any time during the special event.
 - i. Music or entertainment shall not be the primary purpose for the special event.
 - j. The duration of the special event shall not last longer than 12 hours and occur on one day. The Planning Commission may reduce the duration of the special event based on the location of the property, adjoining land uses, terrain features, noise dissemination, and the avoidance of adverse impact on other lands. Hours of operation

shall not exceed the following:

- i. Sunday through Thursday: 9:00 am to 10:00 pm
 - ii. Friday, Saturday, and federal holidays: 9:00 am to 11:00 pm
 - iii. Tear down shall not occur after 1 hour following the above hours of operation nor begin more than 1 hour prior to the above hours of operation
 - iv. All guest shall be off the site within 1 hour of the end of the special event
- k. The Planning Commission shall determine the maximum number of special events after consideration of its location, whether this is a reasonable likelihood of an adverse impact on neighbors, traffic, access, and nearby land uses as well as the standards in Section 9.3. At no time shall the Planning Commission allow more than the following special events:
- i. Maximum of 52 special events in a calendar year
 - ii. Maximum of 2 special events in a week unless there is a federal holiday in the week, then up to 3 special events may be held in that week. For this section of the Ordinance, a week shall be a calendar week, Sunday to Saturday.
- l. A management plan meeting the following shall be provided:
- i. General description of the special event facility including operational calendar.
 - ii. Specific details on where the special events will be conducted (building, tent, outdoors, etc.) and number of guests permitted. Occupancy for outdoor area shall be calculated in the same manner as indoor (building or tent) space is calculated.
 - iii. Information pertaining to provisions for catering facilities, restrooms, and utilities.
 - iv. A traffic management plan approved by the Fire Department to ensure adequate ingress and egress for guests and emergency vehicles.
 - v. Contact information for onsite special event manager, if different from owner.

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 eight (8) days after publication.

Public Hearing: February 20, 2024

Adopted: _____

Effective: _____

**Charter Township of Elmwood
Planning Commission Regular Meeting
Elmwood Township Hall (10090 E. Lincoln Rd)
December 19, 2023 at 6:30 PM**

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

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

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

D. Limited Public Comment: None

E. Agenda Modifications/Approval: MOTION BY COMMISSIONER LUTA, SECONDED BY COMMISSIONER APRILL TO APPROVE THE AGENDA AS MODIFIED ADDING ITEM J.B- 2024 SCHEDULE. MOTION APPROVED 7-0.

F. Minutes- October 24, 2023: MOTION BY COMMISSIONER ROBERTS, SECONDED BY COMMISSIONER KUZMA TO APPROVE THE MINUTES OF OCTOBER 24, 2023 AS PRESENTED. MOTION APPROVED UNANIMOUSLY.

Minutes-November 15, 2023: MOTION BY COMMISSIONER KUZMA, SECONDED BY COMMISSIONER LUTA TO APPROVE THE MINUTES OF NOVEMBER 15, 2023 AS PRESENTED. MOTION APPROVED UNANIMOUSLY.

G. Consent Calendar: MOTION BY COMMISSIONER APRILL, SECONDED BY COMMISSIONER ROBERTS TO FILE THE CONSENT CALENDAR AS PRINTED. MOTION PASSED BY A UNANIMOUS VOTE.

H. Declaration of Conflict of Interest: None

I. Old Business: None

J. New Business:

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

Chairman Bechtold read the statement to open the public hearing.

Public hearing opened at 6:37 p.m.

Staff noted the Gallagher's who are the applicant were present even though the Township has essentially taken over the application, with the Gallagher's permission, and in the packet, she did include the additional memo received from the Township Attorney. All of the proposed modifications have been made to satisfaction of the Township Attorney with one further modification being on page 2 of 3, under h2f where it currently reads "requirements pursuant to Article 6 of the Zoning Ordinance...", he recommends they add the word "applicable", so it reads "**applicable** requirements pursuant to Article 6...".

Chairman Bechtold asked if they would need separate motions for each definition or could they be grouped. Sara Kopriva with Beckett and Raeder replied, it could be one motion.

Commissioner Roberts wanted clarification on p. 2 h2jiii, "tear down shall not occur after one hour..." which means essentially from the termination of the event until 1 hour, subsequently that's all the time they have to tear it down. Sara Kopriva clarified, or they have to do it during regular hours, they just can't do it later.

John Gallagher 9300 Breithaupt Rd. talked about the square footage requirements. If you had a 40 -acre parcel which is minimum, and 30 acres=approximately 1,300,000 sq. ft., then the 2.5% would leave you with 30,000 usable feet. They know somebody with a Special Event Center and took a rough look at what their roads would be like. Their roads would be about 10,000 sq. ft., parking would be about 80,000 sq. ft., and the event center itself not including toilets or cook tent which is mandated by law, just looking at the tent puts it well over 100,000 and best- case scenario at 2.5%, those people would only have 30,000 sq. ft to use. That would leave you maybe a 2-track, not a fire approved road or park on a main road and bus people in, it's impossible in his mind to try to do it at 2.5%. He thinks they're trying to identify something that is the environment in which you can't be subjective, we have to take everyone as a separate case, but if he were near a commercial district that had other amenities to help him with his special event center and he was surrounded by commercial, there would be one scenario. Another scenario might be, in the middle of 100 acres surrounded by same ownership, he doesn't know how to incorporate the language, but he thinks it's relative and would make a lot of difference if he was in their seat as to whether they were trying to use it as a commercial venue or if they were trying to preserve a farm. He thinks they are there to preserve farms. He's heard that from the Planning Commission, he's heard it from the Chairman, he just can't get it in text. As for sound, if someone complains about an event being too loud, and what they're talking about is, "annoy, disturb, injures and endangers comfort, repose health, peace or safety of any reasonable person". He asked who's going to define "reasonable person". It also says "normal sensitivities", he has allergies and his hearing is very good, he can hear a hoot owl ½ mile away. Those are so subjective, he asked how do you get your hands around that, let alone the fact, "peace or safety". So, someone complains about noise and the Zoning Administrator warns the event they're being too loud, they get a warning, a couple weeks go by and the same person complains again and the special event gets a fine, then that

person complains again, and the Township shuts the event facility down but they have other events scheduled, so they go to court. He wouldn't want to be the Zoning Administrator who walks into court and the special event says they weren't being too loud and have the court ask the ZA, what evidence they have. They would have the one person who complained, and how do you quantify that. It's an unenforceable situation. With those 2 issues, his recommendation, unless that can be amended to the satisfaction of the Planning Commission or functionality, which he doesn't know if it was already published, and you don't change the intent, if you could or felt that could be proper, if not, it should be denied and have another workshop to discuss those specific issues if not all of them.

Commissioner Kuzma said, on sound, aren't they looking at the memorandum from Young, Graham, and Wendling that said that's the verbiage that seemed appropriate. Sara Kopriva said, yes, that's the verbiage they've used in court to go with because you either have to do that or decibels and with decibels you run into its own trouble because you have meters and testing and things like that. The courts have held up the "reasonable person" standard for that enforcement.

Chairman Bechtold talked about the investigative piece using John Gallagher's example. A citizen calls to complain, wouldn't it be prudent on behalf of the enforcement agent to get as many specifics from the complainant as possible and would the Township move ahead with enforcement on just the information of it being too loud. Sara Kopriva said if someone called her, she would say get video or proof. Staff said evidence is incredibly important.

Chairman Bechtold thought the collection of evidence would be key. As far as square footage, when they came up with the 40 acres, they wanted enough real estate that there could be room for parking and setup versus somebody buying a barn on a 2-1/2 acre lot and having people park on the right of way of a county road or neighbors' yards. He asked Sara Kopriva and Staff if in that calculation would you include the road because if it's going to be an event venue on a piece of agricultural property, you want the road in and out of there safe enough for the attendees to get there and for emergency vehicles to get in and out if needed. Staff said that's a good point. She was reviewing the language again and when she saw access, it almost penalizes somebody if they place the facility in the middle of the parcel, which would theoretically allow for more buffering and less impact to the surrounding area.

Commissioner Aprill thought they started with a larger parcel so the 2.5% made sense. He said a 40- acre parcel isn't that big. If they're truly interested in saving farm land, they need to relook at it and look at specific parcels. He thinks they're missing some key parts and it's premature to send it through.

Sara Kopriva said last month when they left it, they were still talking about the acreage size and that 2.5% and what was included or not included and what felt good in protecting the neighbors in that calculation. The 2.5% comes over from the old Ordinance, but it didn't

have that active farm land component as a part of that, so it was 2.5% of the total acreage of the property, so it is more restrictive in this draft than it was prior, including the drive.

Commissioner McDonald said the other thing they looked at in the Township were the number of properties that have the capabilities of having a special event on their 40-acres.

Commissioner Aprill said one of the requirements is “shall not exceed 2.5% of the area used for the active farm operation.” If you had 40-acres and only 20-acres was farmable which is quite common, then it’s even smaller.

Commission Luta said she feels like they’re trying to do all of it and for something like this it’s just really difficult and that 2.5% has always been her kicker of if you want to do this and help people then make it successful and set them up to be successful with it, but they’re in this in between part where if you increase the acreage, then you’re limiting them out of people who have access to be able to do it and if they increase the percentage, then they’re taking away from the ag component that they want to keep in it. Commissioner Aprill agreed.

Commissioner Kuzma wondered if contiguous was included. Staff clarified, when permitting a use in the Township, the use is just on that one parcel, not adjoining parcels.

Commissioner McDonald said they talked about if someone has neighboring parcels, then they could combine them.

Commissioner Aprill said it’s a tough one and he agrees with Commissioner Luta, if they’re going to do this, they need to figure out how they can do it to make it help somebody, but they need to look at a 40-acre parcel and see what it is and see what they’ve got with that.

John Gallagher said it helps save a farm if you can help supplement a farm.

Chairman Bechtold said one of the key components for him was the operative word, farming, where it’s zoned agricultural.

Commissioner Mikowski noted at the last meeting she had made a comment that this is an up-and-coming thing so she went ahead and looked up 4 different Townships in the area and what their Ordinance’s are. Two of them don’t have special events in their Ordinance, but Bingham and Suttons Bay do. They do not have requirements for the 2.5%. One is 40-acres and the other is 25-acres, but they use the words commercial farm and in their definition of commercial farm; a farm which has produced agricultural or horticultural products worth \$2500 or more annually for at least 3 of the past 5 years. She also made a map of some of the special events; most of them are wineries, golf course, or farm, but there are 18 in a small area. So, if a special event is up and coming, you have 2 Townships that don’t have them, 2 Townships that do and have been successful at it, she doesn’t understand why they have to have the 2.5% in there. She understands the acreage

minimum, but they already require a setback so if you take that into consideration, plus access if they keep that in there, then the spot where it would actually be, you're talking less than ½-acre. She discussed active farm vs. commercial farm with Staff but because they had it in the Ordinance prior and had all the requirements for the figures of how much they did, they didn't want to get back into that.

Chairman Bechtold added with that in their earlier discussion was making sure the farming entity was registered with a farm services administration, but the Attorney felt that might be a problem with others who were farming but weren't registered.

Sara Kopriva thought the dollar amount goes back to the old Ordinance and could cause some trouble. She wondered if they went the other way, instead of 2.5%, have a certain number of square feet devoted to the use or a certain percentage of the property needed to be agricultural production.

Chairman Bechtold asked what would be a reasonable amount of land for what's in production.

Sara Kopriva noted this would be an accessory to ag use instead of the use standing on its own.

Commissioner Aprill said the tough thing is if you look at a square 40, he just did some calculations, it's 1320 ft. on the side provided you don't count the road right of ways or easement, so that leaves 920 ft. in the middle of the square 40 and the tough thing would be to get an event center in the middle of that because it may be the best piece of ground, and to actively farm a 200' wide strip around that 920' in the middle would be difficult. There are a lot of requirements they have that in a real world may not work at all.

Chairman Bechtold said he's been approaching this from the standpoint of the crops that are on this piece of property are to support the whole overall agricultural operation of the farm versus having just enough sod turned to meet the minimal requirements of the Ordinance to have the event center. He's seeing a connection to the overall farm operation. Commissioner Aprill said the issue he has is usually the first 200' of a farm if there's a farmstead is where the barn is. It's cumbersome to try to make it work on any particular piece. He thinks they need to spend time with it if they're going with 40-acres. They don't have a lot of requests for it, but he's not sure they want a lot of requests for it either. If they're going to put it in the Ordinance, let's make it work for somebody.

Commissioner McDonald said he also thinks they need to work on some of those other concerns John Gallagher pointed out about reasonable, and do they need definitions on those items.

Chairman Bechtold said what he's hearing is they are at a point where they need more information.

Public comment opened at 7:23 p.m. No public comment was given.

Public comment closed at 7:25 p.m.

Chairman Bechtold asked the Commissioners if they felt more information was needed. Commissioners Roberts and McDonald agreed they needed more information with clear definitions. Commissioner Kuzma didn't agree that they needed to talk more unless they want to be more restrictive or less restrictive. They have something in front of them they just don't agree with the amount 2.5%, maybe they have issues with sound, he brought up contiguous but Staff clarified that. In general, do they want these, he thinks that's where some people are at.

Chairman Bechtold said some of the points they questioned were the access.

Chairman Kuzma asked if they could change the percentage to a higher number or remove it.

Commissioner Roberts asked what if they increased the acreage.

Commissioner Mikowski said if you increase the acreage there aren't any parcels large enough. Staff didn't recommend increasing the parcel size, but said if they wanted to increase the percentage that may serve the same purpose.

Commissioner Aprill said they didn't have a map that shows the 40-acre parcels.

Commissioner Mikowski noted some of the acreage have multiple parcels but you can only use each parcel as its own.

Sara Kopriva offered to create a map to show parcels that are 40-acres and above. But, as they discussed, they'll have to make sure they don't create an Ordinance for something that doesn't exist.

Commissioner Aprill said they need to assess 40-acres and decide if that is an adequate size.

Sara Kopriva noted in the old Ordinance if a building existed, it was given relief from that setback, so if that's something they're thinking about is an existing building, maybe allowing closer setbacks under certain standards and requirements versus someone building new which would need more restrictive setbacks. The balance is between this commercial use, these special events, and the compatibility with the neighborhood and neighboring properties. The Planning Commission and Township need to decide what the balance is between allowing agricultural properties to put these events on and neighboring properties and the impact on the neighboring properties.

Chairman Bechtold asked if he called for a motion to close the public hearing and get into deliberations, and in some cases, they substantially change the text do they have to convene another public hearing with the revised text that would emanate out of their deliberations.

Sara Kopriva replied, they could revise the text, but they're looking for more research and information for the next meeting, so she's not sure they'd want to continue a public hearing at the next meeting. It would be nice to continue it so they don't have to republish it, but she's not sure they'll be ready for additional public input at the next meeting.

MOTION BY COMMISSIONER APRILL, SECONDED BY COMMISSIONER ROBERTS TO CLOSE THE PUBLIC HEARING AT 7:34 PM. MOTION APPROVED UNANIMOUSLY.

The Commissioners went through the amended text and deliberated.

Sara Kopriva will create a topographic map with calculations of 40-acre+ sized parcels and percentage calculations of 2.5%, 5%, 10%, 15%, and 20% to bring back to the next meeting.

b. Meeting schedule for 2024: The meeting time for 2024 was changed to 6:30 p.m. The November 2024 meeting will be November 12th and the December 2024 meeting will be held December 10th.

MOTION BY COMMISSIONER APRILL, SECONDED BY COMMISSIONER LUTA TO APPROVE THE MEETING DATES AND TIME FOR CALENDAR YEAR 2024. MOTION PASSED UNANIMOUSLY.

K. Discussion on Zoning Ordinance: None

L. Comments from the Chair: Chairman Bechtold thanked the Commissioners for their preparation, thorough discussion and good questions. He also thanked the applicant for providing them with thoughtful comments, and wished everybody a Merry Christmas and a Happy New Year.

M. Comments from Planning Commissioners: Commissioner Aprill said he's not sure what they're waiting for, but would seriously like to look at their Zoning Ordinance in the Resort/Commercial district and tighten that up.

N. Comments from Staff: Staff said hopefully at the next meeting they'll have an introduction for requirements on density.

O. Public Comment: Sue Jones-letter submitted, Jack Kelly

P. Adjourn: MOTION BY COMMISSIONER MCDONALD, SECOND BY COMMISSIONER KUZMA TO ADJOURN MEETING AT 8:19 PM. MOTION PASSED UNANIMOUSLY.

**Charter Township of Elmwood
Planning Commission Regular Meeting
Elmwood Township Hall (10090 E. Lincoln Rd)
January 16, 2024 at 6:30 PM**

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

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

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

D. Limited Public Comment: Rose Gallagher

E. Agenda Modifications/Approval: Staff noted last week after the packet was mailed out, she received a written extension request for West Shore Marina that was incomplete. They revised the extension request and submitted that this afternoon. They're not planning on being there tonight, but are requesting to be added to the agenda. Their permit will expire before the next meeting.

MOTION BY COMMISSIONER KUZMA, SECONDED BY COMMISSIONER APRILL TO ADD THE EXTENSION REQUEST FROM WEST SHORE PARTNERS AS J(F) TO THE AGENDA. MOTION PASSED 6-0.

MOTION BY COMMISSIONER APRILL, SECONDED BY COMMISSIONER KUZMA TO APPROVE THE AGENDA WITH MODIFICATION. MOTION APPROVED UNANIMOUSLY.

F. Minutes-December 19, 2023.

MOTION BY COMMISSIONER ROBERTS, SECONDED BY COMMISSIONER LUTA TO APPROVE THE MINUTES OF DECEMBER 19, 2023. MOTION PASSED BY A UNANIMOUS VOTE.

G. Consent Calendar:

MOTION BY COMMISSIONER LUTA, SECONDED BY COMMISSIONER KUZMA TO APPROVE THE CONSENT CALENDAR AS PRESENTED. MOTION APPROVED UNANIMOUSLY.

H. Declaration of Conflict of Interest: None

I. Old Business: None

J. New Business:

a. Site Plan Review SPR 2024-01-Request by Elmwood Township, regarding property at 13051 S. West-Bay Shore Dr., parcel 004-033-082-00 for Phase III a-c of the Elmwood Township Marina project.

Commissioner Aprill asked if the old bath house was being removed. Harbormaster Pete Moon, replied yes, as well as the bath house, the garage, the old office, and storage area.

Commissioner Aprill asked when that work would take place. Moon responded, they don't have a start date yet as it hasn't gone out to bid. Commissioner Aprill asked if they would tear it down next fall and start. Moon replied, that would be the goal—get the demolition done late season and get the ground work done hopefully before the snow flies.

Chair Bechtold asked if he anticipated the 2025 M-22 revamping impacting the project or the right-of-way. Moon noted the shoulder is quite broad and said that the biggest challenge will be if the two projects are going on simultaneously. There's no way around what's going to happen, it's going to be a challenge for traffic. The good news is that the Brewery Creek renovation is underway which gives them a head start on construction which should be finished in the spring. That will give them room for overflow parking across the street. The Commissioners discussed the plans further.

MOTION BY COMMISSIONER KUZMA, SECONDED BY COMMISSIONER ROBERTS TO APPROVE PHASE III OF THE ELMWOOD TOWNSHIP MARINA PROJECT BASED ON COMPLIANCE WITH ADOPTED TOWNSHIP PLANS, PROVIDED ALL OUTSIDE AGENCY PERMITS ARE OBTAINED. MOTION APPROVED UNANIMOUSLY.

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

The Chair noted that as requested, Sara Kopriva from Beckett and Raeder, prepared a graph with the parcels that are 40 acres and over.

Kopriva stated anything 40 acres or more show the slope. At the last meeting they had talked a little about topography in the Township and what that looked like in the parcels and what impact that might have. She showed that on the graph and gave an overview.

The Commissioners discussed sound, percent of acreage allowed for a special event facility based on the amount of acreage being used for active farming and removing access as part of the calculation. Ultimately the Commission agreed that by including access in the

calculation, it would penalize a property owner if the facility is located in further in the lot, which allows for more buffering; access was removed from the calculation.

The Commission reviewed the prepared calculations showing different scenarios of the size of the facility based on the size of active farm operation. Kopriva asked if the Commissioners were comfortable with 5%. The Commissioner's discussed the percentage further and determined that 7.5% of the acreage being used for active farm operation would be a better balance.

The Commissioner's further discussed the requirement of sound; Staff indicated that the requirement was provided by the township attorney; it's been indicated that such language is in noise ordinances and is defensible.

Staff indicated that the Commission should incorporate a parking requirement for the use; they relayed that 1 parking space per 3 people is used for other uses that are relatively similar. The Commission agreed.

Kopriva said the next step would be to hold another public hearing since changes have been made to the proposed text amendment.

MOTION BY COMMISSIONER KUZMA, SECONDED BY COMMISSIONER MIKOWSKI TO SCHEDULE A PUBLIC HEARING FOR ZO 2017-04-17 A ZONING ORDINANCE AMENDMENT TO AMEND SECTION 2.2 BASED ON MODIFICATIONS. MOTION APPROVED UNANIMOUSLY.

c. Introduction ZO 2017-04-00-a Zoning Ordinance Amendment to amend Section 2.2 to add a definition for Dwelling, Multi and Lot Area, Gross and to modify the existing definitions for Parcel, Lot Area and Net Lot Area; create Section 3.14 to include development requirements for Multi-Dwelling developments; add Note "I" to Section 5.6 to reference residential density requirements to Section 3.14; modify Section 7.1.2 so residential base density is determined using net acreage; modify Section 7.2.2 so residential density is based off of net lot area; modify Section 8.4.12 to have Site Plan Review applicants submit the gross lot area and net lot area.

Staff said the Commission has talked about this in the past and talked about having residential density based off net lot area. Their attorney originally did not believe they presented a clear enough argument, but has recently agreed there is a valid planning purpose for it. The intent is to ensure that lots are being developed in-line with the underlying zoning. Staff gave the example of a 100acre parcel theoretically zoned A-R, putting [permitted] uses aside; if 90 acres were wetlands and undevelopable, should 100 dwelling units be allowed in the developable 10acres or should you calculate your development rights off of what you can actually develop.

The Chair said a case where that would have been handy, is when they had the 80+ acre development on Grandview Rd. A lot of that was pretty wet and their plan was based on the area they had versus the area they could use so the net lot size was really the usable area when you account for wetlands.

Commissioner Aprill commented, in his mind, if you take that factor out of it, it's almost like the property takings because you can't do anything with it. Staff disagreed; one could do a cluster development, you can seek a variance, and there are options to develop the property. It's not saying you have 100 acres you can't do anything with it, no, you can still develop it, but you develop it based on the zoning of that parcel. The intent is to not overburden the developable portions of property, which impacts the surrounding lots. Aprill suggested that is a strike against cluster developments, which are encouraged. Staff relayed that the prepared text does allow for the Commission to consider density bonuses within Planned Developments as allowed and defined within Section 7.1.2 of the Ordinance, but it also states that in no instance shall density be permitted to exceed twelve dwelling units per acre as that is from the Township's Master Plan.

Staff asked if there were other thoughts from other Commissioners. Commissioner Kuzma said it makes sense the way it is described. Chair Bechtold asked if the Commission would like more time with the prepared text. Commissioner Roberts said he is comfortable with the language as it stands. Commissioner Luta said it makes sense; if you can't build on something, should it be included in the calculation on how much you can build? Commissioner Luta said the text also clarifies what's already in the Ordinance. Commissioner Aprill said unbuildable area also includes setbacks; staff disagreed as setbacks are not included in the definition of net lot area.

The Commissioners determined that they would like more time to review the proposed text and article 7 and would discuss the text amendment at the next meeting.

d. Introduction. ZO 2017-04-23- a Zoning Ordinance Amendment to amend Section 2.2 to add definitions for alcohol, Beer, Brewer, Brewery, Distiller, Micro Brewer, Small Distiller, Small Wine Maker, Spirits, Tasting Room, Wine Maker, revise definitions for Distillery, Wine, Winery, and eliminate definitions for Distillery Tasting Room, Wine, Brandy, Wine Drink Mixed, Wine Related Beverages, and Wine Tasting Room; amend Section 5.4 to eliminate Distillery Tasting Rooms, Microbreweries/Distilleries, and Wine Tasting Room, Add "Distillery and/or Brewery" and "Tasting Room" as permitted uses under Site Plan Review or Special Use Permit in certain zoning districts, allow Winery as a use within the General Commercial and Light Industrial districts under Site Plan Review, renumber uses; amend Section 5.5 K to eliminate two requirements for Temporary Produce Stands and renumber subsequent requirements; add Section 5.5 to contain requirements for Wineries, Distilleries, and Breweries; eliminate Section 9.8 L Distillery Tasting Room and its requirements and reserve Section 9.8 L for future use.

The Chair said as he understands, this was to have like language in all of the definitions like wineries, brew pubs, cideries, distilleries, etc.

Staff stated the intent is to align the Zoning Ordinance with the definitions within the state regulations and to make further effort to make sure the ag district does not become industrialized. The proposed text follows what they believe the Commission has desired; regulations and standards to tie the uses to active agriculture. It was pointed out that currently there are no specific standards for distilleries and microbreweries other than meeting basic requirements of the Ordinance.

Commissioner Aprill asked if this was in all districts. Staff noted on p. 3 of 7 there's a change proposed to Section 5.4 which is the table of allowed uses which shows all uses allowed in the Township and what district they are allowed in.

Commissioner Aprill recommended taking breweries out of ag because it takes away from the land; commercial uses should stay in a commercial district. The Commissioners had a lengthy discussion about breweries and the amendment.

The Commissioners decided to come back to this item at the next meeting.

e. Selection of Officers: MOTION BY COMMISSIONER KUZMA, SECONDED BY COMMISSIONER APRILL TO ELECT RICK BECHTOLD AS CHAIR. MOTION CARRIED.

MOTION BY CHAIRMAN BECHTOLD, SECONDED BY COMMISSIONER KUZMA TO ELECT JEFF APRILL AS VICE-CHAIR. MOTION CARRIED.

MOTION BY COMMISSIONER APRILL, SECONDED BY COMMISSIONER LUTA TO ELECT JONAH KUZMA AS SECRETARY. MOTION CARRIED.

MOTION BY COMMISSIONER APRILL, SECONDED BY COMMISSIONER ROBERTS TO FINISH WITH THE AGENDA. MOTION APPROVED UNANIMOUSLY.

f. West Shore extension request: No one was present on behalf of the request. Staff reported that last week on January 10th, she received an email from Shari Johnson, widow of Pat Johnson, requesting an extension. The extension request received last week Wednesday did not meet the minimum requirements of an extension request. Staff provided the original letter, Staff's response email, the revised letter, the letter from the previous extension request for the project, and a memo on the request. The Commissioners discussed the request.

MOTION BY COMMISSIONER ROBERTS TO GRANT THE REQUEST FOR A 1-YEAR EXTENSION. NO SECOND WAS GIVEN. MOTION DIED. REQUEST DENIED.

K. Discussion on Zoning Ordinance: None

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

M. Comments from Planning Commissioners: Commissioner Luta thanked the other Commissioners and thanked Staff for her annual review. She also gave kudos to The Chair and Commissioner Aprill for making every meeting in 2023.

Commissioner Aprill apologized if they felt like he was a stick in the mud, he just wants everybody to think about the items on the agenda saying just because it's on paper, doesn't mean it's the only way. He asked them to think it through and make sure. They made past decisions by somebody else's recommendation, and they're regretting them and he doesn't want them to regret any future decisions.

N. Comments from Staff: Staff said it was a good discussion and thanked the Commissioners for letting her overburden them with agenda items. She also relayed that last year contained a lot of special meetings.

O. Public Comment: None

O. Adjourn: MOTION BY COMMISSIONER APRILL, SECOND BY COMMISSIONER LUTA TO ADJOURN THE MEETING AT 8:58 PM. MOTION PASSED UNANIMOUSLY.

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

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

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

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

D. Limited Public Comment: None

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

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

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

H. Declaration of Conflict of Interest: None

I. Old Business: None

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

K. Discussion on Zoning Ordinance: None

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

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

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

O. Public Comment: None

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

TEXT AMENDMENT REVIEW
PC07-2024-04 Elmwood Township
Text Amendment – Multi-Dwelling Requirements

Reviewing Entity: Leelanau County Planning Commission
Date of Review: April 23, 2024

General Information

Date Request Received: April 15, 2024

Last Day of Review Period: May 15, 2024 (30 days in which to review and comment on the application and provide comments to the township. After the 30-day period, the township can proceed with or without comments from reviewing agencies).

Applicant: Elmwood Township Planning Commission
Rick Bechtold, Chairman

Section 2: Proposal

See Appendix for a copy of the proposed text amendments.

Section 3: Other Planning Input

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

Leelanau General Plan: The Leelanau General Plan (2020) does not specifically address the amendment.

Township Planning Commission:

A public hearing was held on March 19, 2024, and no public comment was received. Following the public hearing, the planning commission unanimously passed the following motion:

MOTION BY COMMISSIONER KUZMA, SECONDED BY COMMISSIONER MIKOWSKI TO RECOMMEND APPROVAL OF ZO 2017-04-22 TO THE TOWNSHIP BOARD AND TO FORWARD ON TO THE COUNTY AS IT MEETS SECTION 11.12 OF THE ZONING ORDINANCE. MOTION APPROVED UNANIMOUSLY.

Section 4: Analysis

Compatibility

A. Is the proposed text compatible with other language in the zoning ordinance?

Yes

B. Are there any issues with the proposed text (such as poor wording, confusing text, unenforceable language, etc.)?

No.

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.

No

Comparison with County Plans or Ordinances

A. Do the contents in the proposed text amendment(s) conflict with the General Plan? Please list.

No

Current Zoning District: For Current text, Link to the Township Zoning Ordinance at:

<https://www.leelanau.gov/elmwoodtwpod.asp>

Section 5: Staff Comments

The proposed amendment will **add** the following definition to **Article 2, Definitions, Section 2.2:**

Dwelling, Multi. A building or buildings on a single lot with at least two dwelling units, including any attached dwelling, as defined in this Ordinance.

The proposed amendment will also modify definitions for **Parcel, Lot, and Lot Area.**

The **current** ordinance reads as follows:

Parcel. A tract of land having a single tax identification number on which a principal building or structure and or use, and or accessory structures or uses, may be located.

Lot. A parcel of land having frontage along a road or right-of-way approved by the Township on which one (1) principal use and its accessory uses are located, or intended to be located, together with any open spaces required by this Ordinance. A site condominium lot shall also be considered a lot for purposes of compliance with the regulations of this Ordinance.

Lot Area. The total horizontal area within the boundary lines of a parcel not including right-of-way easements.

The proposed amendment will **amend** these definitions to read as follows:

Parcel. See Lot.

Lot. A parcel of land having frontage along a road or right-of-way on which a principal use or uses and its accessory uses are located, or intended to be located, together with any open spaces required by this Ordinance. A site condominium lot shall also be considered a lot for purposes of compliance with the regulations of this Ordinance.

Lot Area, Gross. The total horizontal area within the boundary lines of a lot not including right-of-way easements.

Lot Area, Net: The lot area excluding unbuildable areas of the lot. Examples for unbuildable areas include existing and proposed ingress and egress easements, wetlands, and bodies of water. (Amendment ZO 2017-04-09, Ordinance #2021-1, Effective January 29, 2021)

The proposed amendment will **amend** **Article 3, SECTION 3.14 RESERVED** to read as follows:

SECTION 3.14 MULTI-DWELLING REQUIREMENTS

Intent. The intent of this Section is to recognize the growing need for housing within the Township, while at the same time encouraging sustainable multi-dwelling developments so

these developments do not overburden the lots on which they are located and do not impose unreasonably adverse impacts on the surrounding lots. Further, this Section seeks to ensure that any multi-dwelling development of lots remains consistent with underlying zoning requirements.

- B. Multi-dwelling Development Requirements. All multi-dwelling developments that are permitted in any zoning district shall comply with the following requirements:
1. Every dwelling unit within a multi-dwelling development shall have a minimum width of twenty-four (24) feet and a minimum living area of seven hundred twenty (720) square feet.
 2. The minimum net lot area for a multi-dwelling development shall be 12,500 sq ft.
 3. Except as provided in subsection 6 below, the maximum number of dwelling units permitted (density) within a multi-dwelling development shall be determined by dividing the net lot area of the lot on which the multi-dwelling development will be located by the minimum lot size of the zoning district in which the multi-dwelling development will be located. When the density calculation results in a whole number, plus any fraction, then the calculation shall be rounded up to permit one additional dwelling unit. In addition, when a density calculation results in any fraction less than a whole number, then the developer shall be allowed to construct one (1) dwelling unit on the lot. Finally, in the case of a multi-dwelling development in the General Commercial (GC), Neighborhood Commercial (NC), Light Industrial (LI), and Shoreline Commercial (SC) Zoning Districts, 6,250 sq ft may be utilized instead of the minimum lot area when calculating the number of dwelling units.
 4. If the density of a multi-dwelling development exceeds one dwelling unit per acre, then the development shall have shared utility systems (septic and well) or connect into public utility systems (sewer and water).
 5. The Planning Commission may consider density bonuses within Planned Developments as allowed and defined within Section 7.1.2 of this Ordinance.
 6. In no instance shall density be permitted to exceed twelve (12) dwelling units per acre.

The proposed amendment will amend **Article 5-Use Restrictions, SECTION 5.6 TABLE OF DIMENSIONAL REQUIREMENTS** to **add** a new '**Note I**' under footnotes, which will read as follows:

Note I: Density. The maximum number of dwelling units permitted on a lot in any zoning district referenced in this table shall comply with Section 3.14 of this Ordinance.

The current **Article 7-Land Development Options, SECTION 7.1.2 General Requirements C.**, reads follows:

C. **Residential Base Density:** The maximum base residential density and number of permitted dwelling units shall be determined by dividing the total gross acreage by the minimum lot size of the underlying zoning district.

And will be **amended** to read as follows:

C. **Residential Base Density:** The maximum base residential density and number of permitted Dwelling units shall be determined by dividing the total net lot area by the minimum lot size of the underlying zoning district.

The current **Article 7-Land Development Options, SECTION 7.2.2 Application And Review Procedures E.,1.d** reads as follows:

d. A residential density calculation indicating the total number of dwelling units divided by gross site area, and a more detailed residential density calculation that divides the number of a specific unit type by the gross site area associated with that specific unit type.

And will be **amended** to read as follows:

d. A residential density calculation indicating the total number of dwelling units divided by the net lot area, and a more detailed residential density calculation that divides the number of a specific unit type by the net lot area associated with that specific unit type.

The current **Article 8-Site Plan Review, SECION 8.4. REQUIREMENTS FOR SITE PLAN APPROVAL, 12.,** reads follows:

12. The gross and net acreage of the parcel

And will be **amended** to read as follows:

12. The gross lot area and net lot area.

Appendix - Correspondence from Elmwood Township

Gail Myer

From: Sarah Clarren <planner@elmwoodmi.gov>
Sent: Monday, April 15, 2024 3:03 PM
To: Gail Myer
Subject: Elmwood Township - Proposed Text Amendments for County Review
Attachments: 2024-03.19_PC Minutes.docx; 2024-04.15_Findings_ZO 04-22.docx; Clean_Draft Section 3.13.docx; 2024-04.15_Findings_ZO 04-23.docx; 2024-02.20_2017-04-23_Clean.docx

Gail,

Attached you will find two additional proposed Zoning Amendments for County Planning Commission review and comment.

1. ZO 2017-04-22. Multi Dwelling Development Requirements.
 - a. DRAFT minutes from the Public Hearing held on 3/19/2024.
 - b. Memo containing the Planning Commission's findings, as modified.
 - c. Proposed Text Amendment text.

2. ZO 2017-04-23. Aligning and Reforming Alcohol Requirements.
 - a. DRAFT minutes from the Public Hearing held on 3/19/2024.
 - b. Memo containing the Planning Commission's findings, as modified.
 - c. Proposed Text Amendment text.

Links to the Planning Commission's epackets can be accessed below:

3/19/2024 (Public Hearing) - https://www.leelanau.gov/downloads/202403_1.pdf
2/20/2024 (Introduction (2)) - <https://www.leelanau.gov/downloads/202402.pdf>
1/16/2024 (Introduction (1)) - https://www.leelanau.gov/downloads/202401_1.pdf

Let me know if you have any questions or require anything further from me.

Sarah

Sarah Clarren | Planner / Zoning Administrator | Elmwood Township | 231-946-0921 | www.elmwoodmi.gov |

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CHARTER TOWNSHIP OF ELMWOOD
Leelanau County, Michigan

Ordinance No. _____
ZO 2017-04-22

AN ORDINANCE TO AMEND THE TOWNSHIP ZONING ORDINANCE, IN ACCORANCE 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 SECTION 2.2 TO ADD A DEFINITION FOR DWELLING, MULTI AND TO MODIFY THE EXISTING DEFINITIONS FOR PARCEL, LOT, LOT AREA AND NET LOT AREA; AMEND SECTION 3.14 TO REINTRODUCE DEVELOPMENT REQUIREMENTS FOR MULTI-DWELLING DEVELOPMENTS; ADD NOTE 'I' TO SECTION 5.6 TO REFERENCE RESIDENTIAL DENSITY REQUIREMENTS TO SECTION 3.14; MODIFY SECTION 7.1.2 SO RESIDENTIAL BASE DENSITY IS DETERMINED USING NET ACREAGE; MODIFY SECTION 7.2.2 SO RESIDENTIAL DENSITY IS BASED OFF OF NET LOT AREA; MODIFY SECTION 8.4.12 TO HAVE SITE PLAN REVIEW APPLICANTS SUBMIT THE GROSS LOT AREA AND NET LOT AREA.

The Charter Township of Elmwood Ordains:

Section 1: Amendment

1. Amend Section 2.2, specifically to add the following definitions:

Dwelling, Multi. A building or buildings on a single lot with at least two dwelling units, including any attached dwelling, as defined in this Ordinance.

2. Amend Section 2.2, specifically to modify the below definitions to read as follows:

Parcel. See Lot.

Lot. A parcel of land having frontage along a road or right-of-way on which a principal use or uses and its accessory uses are located, or intended to be located, together with any open spaces required by this Ordinance. A site condominium lot shall also be considered a lot for purposes of compliance with the regulations of this Ordinance.

Lot Area, Gross. The total horizontal area within the boundary lines of a lot not including right-of-way easements.

Lot Area, Net: The lot area excluding unbuildable areas of the lot. Examples for unbuildable areas include existing and proposed ingress and egress easements, wetlands, and bodies of water. (Amendment ZO 2017-04-09, Ordinance #2021-1, Effective January 29, 2021)

3. Amend Section 3.14, specifically so it reads as follows:

SECTION 3.14 MULTI-DWELLING REQUIREMENTS

- A. Intent. The intent of this Section is to recognize the growing need for housing within the Township, while at the same time encouraging sustainable multi-dwelling developments so these developments do not overburden the lots on which they are located and do not impose unreasonably adverse impacts on the surrounding lots. Further, this Section seeks to ensure that any multi-dwelling development of lots remains consistent with underlying zoning requirements.
- B. Multi-dwelling Development Requirements. All multi-dwelling developments that are permitted in any zoning district shall comply with the following requirements:
1. Every dwelling unit within a multi-dwelling development shall have a minimum width of twenty-four (24) feet and a minimum living area of seven hundred twenty (720) square feet.
 2. The minimum net lot area for a multi-dwelling development shall be 12,500 sq ft.
 3. Except as provided in subsection 6 below, the maximum number of dwelling units permitted (density) within a multi-dwelling development shall be determined by dividing the net lot area of the lot on which the multi-dwelling development will be located by the minimum lot size of the zoning district in which the multi-dwelling development will be located. When the density calculation results in a whole number, plus any fraction, then the calculation shall be rounded up to permit one additional dwelling unit. In addition, when a density calculation results in any fraction less than a whole number, then the developer shall be allowed to construct one (1) dwelling unit on the lot. Finally, in the case of a multi-dwelling development in the General Commercial (GC), Neighborhood Commercial (NC), Light Industrial (LI), and Shoreline Commercial (SC) Zoning Districts, 6,250 sq ft may be utilized instead of the minimum lot area when calculating the number of dwelling units.
 4. If the density of a multi-dwelling development exceeds one dwelling unit per acre, then the development shall have shared utility systems (septic and well) or connect into public utility systems (sewer and water).
 5. The Planning Commission may consider density bonuses within Planned Developments as allowed and defined within Section 7.1.2 of this Ordinance.
 6. In no instance shall density be permitted to exceed twelve (12) dwelling units per acre.

4. Amend Section 5.6, Table of Dimensional Requirements to create a new 'Note I' under

footnotes. This 'Note I' will read as follows:

Note I: Density. The maximum number of dwelling units permitted on a lot in any zoning district referenced in this table shall comply with Section 3.14 of this Ordinance.

5. Amend Section 7.1.2.C to read as follows:

SECTION 7.1.2 General Requirements

C. **Residential Base Density:** The maximum base residential density and number of permitted Dwelling units shall be determined by dividing the total net lot area by the minimum lot size of the underlying zoning district.

6. Amend Section 7.2.2 to read as follows:

SECTION 7.2.2 Application And Review Procedures

E.1.d. A residential density calculation indicating the total number of dwelling units divided by the net lot area, and a more detailed residential density calculation that divides the number of a specific unit type by the net lot area associated with that specific unit type.

7. Amend Section 8.4.12 (Requirements for Site Plan Approval) to read as follows:

12. The gross lot area and net lot area.

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 eight (8) days following publication.

Public Hearing: _____

Adopted: _____

Effective: _____

To: Leelanau County Planning Commission
Elmwood Township Board

From: Sarah Clarren, Planner/Zoning Administrator

Date: April 15, 2024

RE: Planning Commission Findings Pursuant to Section 11.12 of the Zoning Ordinance for
ZO 2017-04-22 Amendment

Section 11.12 of the Elmwood Township Zoning Ordinance requires the Planning Commission to consider criteria for all zoning amendments. Below is the criteria with draft findings for and against (where applicable) the proposed amendment. Unlike standards for special land uses, this criteria is not an all or nothing for approval. There will be criteria that will not apply and criteria that may weigh heavier than others.

On March 19, 2024, the Planning Commission held a public hearing on the proposed text amendment ZO 2017-04-22. After the hearing was closed and deliberations ended, the following two motions were made:

MOTION BY COMMISSIONER APRILL, SECONDED BY COMMISSIONER KUZMA TO ACCEPT THE FINDINGS OF FACT AS MODIFIED. MOTION PASSED UNANIMOUSLY.

MOTION BY COMMISSIONER KUZMA, SECONDED BY COMMISSIONER MIKOWSKI TO RECOMMEND APPROVAL OF ZO 2017-04-22 TO THE TOWNSHIP BOARD AND TO FORWARD ON TO THE COUNTY AS IT MEETS SECTION 11.12 OF THE ZONING ORDINANCE. MOTION APPROVED UNANIMOUSLY.

The following are the findings of fact as modified by the Planning Commission on March 19, 2024.

1. Text Amendment.

a. The proposed text amendment would clarify the intent of the Ordinance.

The Commission unanimously (4-0) finds that “The intent of the Zoning Ordinance as a whole is the promotion of public health, safety, and welfare. The proposed text amendment creates a new Section of in the Zoning Ordinance and includes the following language in its Intent: “The intent of this Section is to recognize the growing need for housing within the Township, while at the same time encouraging sustainable multi-dwelling developments so these developments do not overburden the lots on which they are located and do not impose unreasonably adverse impacts on the surrounding lots. Further, this Section seeks to ensure that any multi-dwelling development of lots remains consistent with underlying zoning requirements.””

b. The proposed text amendment would correct an error in the Ordinance.

The Commission unanimously (4-0) finds that “In 2017, the Township’s Zoning Ordinance contained density calculations. The Commission acknowledges that the Ordinance was

lawfully changed, but seeks to reintroduce density calculations to ensure multi dwelling developments are developed in a sustainable manner, do not overburden the lot being developed, nor adversely impact the surrounding lots.

Further, Section 5.5.G.3 of the Zoning Ordinance states “In the R-3 zoning district, the total number of units shall not exceed the net density permitted in the zoning district.” However, the Ordinance does not set a maximum net density permitted in the R-3 (or any) zoning district. The proposed text will correct this error.”

c. The proposed text amendment would address changes to State legislation, recent case law or opinions from the Attorney General of the State of Michigan.

The Commission unanimously (4-0) finds that “The proposed text amendment does not address any changes to legislation or case law.”

d. The proposed text amendment would promote compliance with changes in other county, state or federal regulations.

The Commission unanimously (4-0) finds that “The proposed amendment is not intended to promote compliance with changes in regulations as there have been no changes to county, state, or federal regulations applicable to the text amendment.

However, it is worth noting that other local governments are adopting regulations to ensure that density is based on developable land. These include, but are not limited to:

- Muskegon. “Density: The number of dwelling units situated on or to be developed on a net acre (or smaller unit) of land, which shall be calculated by taking the total gross acreage and subtracting surface water, undevelopable lands (e.g., wetlands) and the area in rights-of-way for streets and roads (see Figure 2-6).” (<https://muskegon-mi.gov/documents/pdf/2456.pdf>)
- Emmet County. They do not define density, but they set limitations regarding “Net Density in Units per Acre.” They even go further in Section 22.00.3.A.1 which states “New Lots to be Buildable. All newly created lots shall have buildable area. The net buildable area of a lot shall be a contiguous piece of land excluding land subject to flooding six (6) months of the year, poor drainage, steep slopes, rock outcrops and land encumbered by easements preventing the use of the land.” (https://www.emmetcounty.org/wp-content/uploads/2021/12/PZ_2021-updated-county-zoning-ordinance.pdf)
- Lodi Township. “Density. The number of dwelling units per acre of land, based on the net lot area.” Their Ordinance bases dwelling units on net lot area. Their Ordinance, in its entirety, is available (https://loditownshipmi.org/wp-content/uploads/2020/01/2020_loditwp_zoning_ord_2019_rev_01_2020.pdf) and the amendment specific to net lot area / density is: <https://loditownshipmi.org/wp-content/uploads/2019/11/2019-006.signed.pdf>.
- Rochester Hills. In one zoning district, “...land which is within a floodplain, watercourse, floodway, drainage course and/or wetlands, as defined and/or delineated as such by the U.S. Army Corps of Engineers, City Consultants, and/or official City maps adopted pursuant to this ordinance and the City floodplains, watercourse and wetland protective ordinances, and subaqueous land as is not otherwise delineated shall

be counted for density computations on the basis of only 50 percent of such land. In no event shall the development upon the remaining part of any parcel exceed an average density of 167 percent of the average density allowed in the schedule of regulations per remaining acre.”

(<https://cms9files.revize.com/rochesterhillsmi/PED/Ordinances/ZoningOrdinance.pdf>)

- **Grand Haven Charter Township.** Section 2.08 of their Ordinance includes a note stating that “Net Lot Area,” as defined in Chapter 2, shall be used to determine compliance with lot area requirements. No new parcel shall be created unless the parcel has adequate usable lot area, such that the parcel can be built upon in compliance with Zoning Ordinance standards.” However, they differ from other municipalities and their definition of net lot area does not include restrictions on wetlands; their definition is “Net Lot Area. The total horizontal area within the lot lines but excludes any public or private easement for right-of-way purposes (e.g., for a public street, private street or any other easement for access purposes)” This aligns with Elmwood’s current definition of lot area. (https://ght.org/wp-content/uploads/2023/10/GHT-Zoning-Ordinance_08252023-compressed.pdf)”

- e. The proposed text amendment would be consistent with the goals, policies, and future land use map of the Elmwood Township Master Plan, or if conditions have changed significantly since the Master Plan was adopted, consistent with recent development trends in the area.**

The Commission unanimously (4-0) finds that “The proposed text amendment is consistent with the goals and policies of the Elmwood Township Master Plan as it “Encourage[s] and guide[s] the development of housing at densities that relate to natural and manmade features” (p.26). It reintroduces development density (p. 32-33) and encourages shared utility systems (p. 35).”

- 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.**

The Commission unanimously (4-0) finds that “The proposed text does not add a use to any zoning district.”

- g. The amendment shall not create incompatible land uses within a zoning district, or between adjacent districts.**

The Commission unanimously (4-0) finds that “The proposed amendment does not create incompatible land uses as it does not add a use to the zoning ordinance. Instead, it seeks to include regulations intended to promote sustainable development and to ensure lots (and surrounding areas) are not overburdened and to ensure development of the parcels stays consistent with the respective zoning district.”

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

The Commission unanimously (4-0) finds that “The Commission has not received reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements, and similar technical items pertaining the request.”

“The Commission finds that statements made under findings for guideline d are also applicable to this standard.”

i. As applicable, the proposed text amendment shall be consistent with the Township’s ability to provide adequate public facilities and services.

The Commission unanimously (4-0) finds that “The regulations that are provided in the amendment create a use that is consistent with the Township’s ability to provide adequate public facilities and services including fire, water, sewer, and medical services.”

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

The Commission unanimously (4-0) finds that “The proposed text amendment is consistent with the Township’s desire to protect the public health, safety and welfare of the community. The amendment provides regulations to ensure that uses that are currently already allowed within the Ordinance are developed in such a way to protect the public health, safety and welfare of the community.”

**Charter Township of Elmwood
Planning Commission Regular Meeting
Elmwood Township Hall (10090 E. Lincoln Rd)
March 19, 2024 at 6:30 PM**

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

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

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

D. Limited Public Comment: None

E. Agenda Modifications/Approval: *MOTION BY COMMISSIONER APRILL, SECONDED BY COMMISSIONER KUZMA TO APPROVE THE AGENDA AS PRINTED. MOTION PASSED 4-0.*

F. Minutes-February 20, 2024: *MOTION BY COMMISSIONER KUZMA SECONDED BY COMMISSIONER APRILL TO APPROVE THE MINUTES OF FEBRUARY 20, 2024. MOTION PASSED BY A UNANIMOUS VOTE.*

Minutes-March 5, 2024: *MOTION BY COMMISSIONER MIKOWSKI, SECONDED BY COMMISSIONER KUZMA TO APPROVE THE MINUTES OF MARCH 5, 2024. MOTION APPROVED UNANIMOUSLY.*

G. Consent Calendar: *MOTION BY COMMISSIONER APRILL, SECONDED BY COMMISSIONER KUZMA TO FILE THE CONSENT CALENDAR AS PRESENTED. MOTION APPROVED UNANIMOUSLY.*

H. Declaration of Conflict of Interest: None

I. Old Business: None

J. New Business:

a. Site Plan Review SPR 2024-03-Request by Discovery Center and Pier regarding property a 0, 13223, 13240, 13272, 13271, and 13170 S. West-Bay Shore Dr., for Discovery Pier Phase II and III (Elements from previously approved Planned Development; parking lot landward of M22)

Matt McDonough with Discovery Center said a lot of what was on the site plan has been approved, but the features that have not been approved are: 1) the completion of the parking lot which they thought was approved in a previous site plan 2) to be able to put a 20x30 temporary tent out on the pavilion to serve as a catering tent that would be taken down once the building is up 3) the jib crane, there's actually 2. He thinks the first one was already approved when they had it proposed to be on the N/E corner of the pier, that's

been moved to the N/W corner of the basin; there's a smaller crane that is going to be located on the S/W corner of the pier itself which is for launching smaller remote operated vehicles, that way the classroom within that building will be able to operate from their desks. 4) the fixed access platforms-one is in the N/W portion of the marina basin 5) the landing platform to provide more space for people to use the kayak launch. All of these changes have been approved by EGLE, but they're waiting on the Army Corps permit who told them it's all good, they're just waiting on the permit.

Staff noted one of the additional pieces of information from the Chief was his review and he has a couple recommended conditions. This is an SPR so there's no public hearing and she has draft Findings, but those do not include the Fire Chief's recommended conditions.

The Commissioners went through Standards for Approval and found that all standards were met based on the Findings of Fact. The Commission agreed with the Findings of Fact as presented, with adding the email from the Fire Chief within 8.5.B.2, 8.5.B.7 and the conditions. The Planning Commission set the conditions on the project as follows:

- 1) Prior to issuance of a Land Use Permit, a sealed and signed set of plans shall be provided to the Township.
- 2) Prior to issuance of a Land Use Permit, permits from all applicable outside agencies shall be provided.
- 3) Temporary tents used during special events (permitted under a different decision) shall be tightly secured during their use and taken down at the end of each event.
- 4) Pursuant to Section 6.1.3.B of the Zoning Ordinance, "All parking areas shall conform to the requirements of the Americans with Disabilities Act and any other accessibility requirements in effect at the time. These spaces shall be included in the calculations for meeting the parking requirements of this Article." Prior to issuance of a Land Use Permit, compliance with this requirement shall be provided.
- 5) Prior to issuance of a Land Use Permit for the parking lot, the parcels must be combined.
- 6) Recommendations proposed by the Fire Chief in his 3/19/24 email will be made a condition of approval. These recommendations include:
 1. The installation of the Jib Crane in the northwest corner of the harbor may obstruct the Fire Apparatus Access Lane (FAAL) to the causeway. Any boom, feature or vehicle that may impinge on or obstruct the FAAL clear width requirement of 20 feet wide by 13.5 feet in height shall be temporary with time limited to that necessary for the safe operation, loading and unloading of the crane. The crane operator shall also be in attendance of the controls during the time the crane may obstruct the FAAL.
 2. The Fire Department Connection (FDC) for the south dock standpipe system is shown located on the south dock at the end of the gangway ramp and kayak chute. The FDC shall be located on land and within a maximum of 100 feet of the shoulder of S. West-Bay Shore Drive (SWBS).
 - a. *NOTE: Approved locations have been discussed with Matt McDonough and includes areas near the Ticket Booth and parking lot turn-around.*
 3. The parking lot on the west side of SWBS appears to have dimensions acceptable for fire department access.
 - a. The north access to the parking lot must maintain with a clear width of 20 feet wide by 13.5 feet tall from SWBS.
 - b. Emergency or alternative access is recommended from the drive located on SWBS. This access may be secured by chain or other means agreed upon with the fire department.

MOTION BY COMMISSIONER APRILL, SECONDED BY COMMISSIONER MIKOWSKI TO ADOPT FINDINGS OF FACT AS MODIFIED. MOTION APPROVED UNANIMOUSLY.

MOTION BY COMMISSIONER APRILL, SECONDED BY COMMISSIONER MIKOWSKI TO APPROVE SPR 2024-03 REQUEST BY DISCOVERY CENTER AND PIER FOR DISCOVERY PIER PHASE II AND III. MOTION PASSED BY A UNANIMOUS VOTE.

b. Introduction SPR/SUP 2024-02-Request by John Gallagher III regarding property at 8525 E. Lincoln Rd. (Parcel 004-030-001-00) for Bay View Distillery Tasting Room

John Gallagher III 8855 E. Strang Rd. on behalf of the application, there were some notes made by the Planner regarding the narrative on both the maximum size of the tasting room and the size of the parcel. For clarity, he thinks the notes from the Planner do address the concerns of the Commissioners. He wanted to make the notation to make them aware that there is an intended split they're looking to do, he just filed the paperwork with the Assessor to have that 80 split into 2-20's and a 40, so, moving forward as an item of transparency. The size of the tasting room with regards to the current and proposed, he knows he can't speak to the proposed text amendment until that session is open, but he's looking for the opportunity to speak at that time.

Staff added, that this is an introduction, this is Site Plan Review and a Special Use Permit so the Planning Commission would be reviewing the application and determine if they agree it is a complete application. If so, a motion should be made to schedule a public hearing for the next regularly scheduled PC meeting.

Commissioner Aprill asked how this would affect their other business that evening. Staff explained the proposed text amendment is not what's currently in their Ordinance, so it has no weight on the application. If the applicant wanted the PC to hold off on a decision until the text amendment has been discussed, it could be a few months and they don't want to do that, they want to proceed under the current regulations. If the proposed text amendment is adopted at a later date, the applicant would have every ability to apply for an amendment to come back before the Commission. Commissioner Aprill asked, so they are looking at this under their current Ordinance. Staff responded, exactly. That's part of the reason why the Staff report is a little more detailed; just to be clear. She asked if there were any questions regarding the application or whether or not the requirements for section 8.4 have been met or if it's a complete application.

Commissioner Kuzma questioned section 9.8.L.4 regarding the use of the patio for a tasting room. Staff said the text was drafted the way it was as the PC needs to be clear, the applicant is clear, on what can be approved. Commissioner Kuzma asked about 9.8.L.6 and the 2500 sq. ft. tasting room. Staff responded the Commission cannot approve that at this time. Commissioner Kuzma asked if that was a typo because the two numbers are the same. Staff said what the applicant essentially wants to do could be allowed under the proposed text, however that proposed text is not their current regulation. The Commission cannot render a decision on proposed regulations. Commissioner Kuzma asked about 9.8.L.12 and the additional 2 parking spaces; can that be conditioned? Staff said the Commission can grant the additional 2 parking spaces.

The Chair questioned 8.4.17 as the staff report indicates the plan doesn't contain an accurate treeline. Staff said that the Commission has received a new sheet showing an aerial, with the site plan layered on top; she will revise the report for the next meeting.

The Commissioners went the rest of the report and determined that the required elements have been provided.

MOTION BY COMMISSIONER KUZMA, SECONDED BY COMMISSIONER MIKOWSKI TO SCHEDULE A PUBLIC HEARING FOR SPR/SUP 2024-02 AT THE NEXT REGULARLY SCHEDULED MEETING. MOTION APPROVED UNANIMOUSLY.

c. Public Hearing and Deliberations-Planning Commission Discussion on ZO 2017-04-22- a Zoning Ordinance Amendment to amend Section 2.2, to add a definition for Dwelling, Multi and Lot Area, Gross and to modify the existing definitions for Parcel, Lot Area and Net Lot Area; create Section 3.14 to include development requirements for Multi-Dwelling developments; add Note "I" to Section 5.6 to reference residential density requirements for Section 3.14; modify Section 7.1.2 so residential base density is determined using net acreage; modify Section 7.2.2 so residential density is based off of net lot area; modify Section 8.4.12 to have Sit Plan Review applicants submit the gross lot area and net lot area.

The Chair read the statement to open the public hearings for items Jc & Jd.

The public hearing opened at 7:17 p.m.

Public comment opened at 7:19 p.m. No comment given. Public comment closed at 7:19 p.m.

The Commissioners reviewed the text amendment.

Staff handed out draft findings. She said as the Commission knows, section 11.12 of the Ordinance which talks about how the PC renders their decision on whether or not to recommend approval or recommend to not approve text amendment to the Township Board, the Commission has to review it on guidelines. She that moving forward with all text amendments, it would be good to have formal findings drafted and prepared as they do for SPR/SUP.

Staff noted it might be helpful if the Commission went through the guidelines one by one. The Commission did, unanimously agreeing that all guidelines have been met. During discussion, the Chair suggested that findings for guideline d are also relevant for guideline h; the Commission agree to add the following sentence to the draft findings for guideline h: "The Commission finds that statements made under findings for guideline d are also applicable to this standard."

MOTION BY COMMISSIONER APRILL, SECONDED BY COMMISSIONER KUZMA TO ACCEPT THE FINDINGS OF FACT AS MODIFIED. MOTION PASSED UNANIMOUSLY.

MOTION BY COMMISSIONER KUZMA, SECONDED BY COMMISSIONER MIKOWSKI TO RECOMMEND APPROVAL OF ZO 2017-04-22 TO THE TOWNSHIP BOARD AND TO FORWARD

ON TO THE COUNTY AS IT MEETS SECTION 11.12 OF THE ZONING ORDINANCE. MOTION APPROVED UNANIMOUSLY.

d. Public Hearing and Deliberations-Planning Commission Discussion on ZO 2017-04-23-a Zoning Ordinance Amendment to amend Section 2.2 to add definitions for Alcohol, Beer, Brewer, Brewery, Distiller, Micro Brewer, Small Distiller, Small Wine Maker, Spirits, Tasting Room, Wine Maker, revise definitions for Distillery, Wine, Winery, and eliminate definitions for Distillery Tasting Room Wine, Brandy, Wine Drin, Mixed, Wine Related Beverages, and Tasting Room. Add “Distillery and/or Brewery” and “Tasting Room” as permitted uses under Site Plan Review or special Use Permit in certain zoning districts, allow Winery as a use within the General Commercial and Light Industrial districts under Site Plan Review, renumber uses; amend Section 5.5 K to eliminate two requirements for Temporary Produce Stands and renumber subsequent requirements; add Section 5.5 K to eliminate two requirements for Temporary Produce Stands and renumber subsequent requirements; add Section 5.5 N to contain requirements for Wineries, Distilleries, and Breweries; amend Section 6.1.3 to list parking requirements for Wineries, Distilleries, and Breweries; amend Section 9.8 J to contain requirements for Tasting Rooms for Wineries, Distilleries, and Breweries; eliminate Section 9.8 L Distillery Tasting Room and its requirements and reserve Section 9.8L for future use.

Public comment opened at 7:33 p.m. No comment given. Public comment closed at 7:33 p.m.

Staff noted the Commission has seen this text a few times before; the only modification since their last meeting was the addition of one word, it reads “monthly” sale of food for one of the proposed requirements.

The Commissioners went through draft Findings of Fact.

The Chair asked about if the proposed language was specific about harvestable crops being in the AG district [not others]. Staff said that the way the text amendment was drafted, is it stated in the intent, and then one of the conditions for production facilities calls out conditions that would be specific to facilities within the AR zoning district. She noted that the text also shifts use requirements to the production facility versus the tasting room.

Under guideline “g”, options 1 or 2, Commissioner Mikowski asked for clarification. Staff stated she wanted to give options for all members of the Commission. The Commission as a whole will need to make a Finding on whether or not they believe the amendment creates incompatible uses or does not create incompatible uses. In other words, with the proposed text, are those uses compatible with other uses in the zoning districts. Commissioner Mikowski said yes.

The Chair said with the proposed changes for breweries, wineries, distilleries in AG, they’ve increased the area of land they have to have and they’ve also put in the stipulation they have to have producible, harvestable crops they’ll be putting into their product.

Staff added that the text also sets requirements for microbreweries as under the current Ordinance, as long as it meets the state's definition, it's approved under site plan review. Commissioner Kuzma said they put in the most restrictive, palatable wording and conditions for those sites.

The Chair asked what if somebody has either a crop failure or through really poor agricultural practices, the subsequent crops they have growing, don't grow. Staff replied, if they were to destroy their entire crop, she would say that's clear cut, they have no intention of complying with that requirement of the use and they would be in violation and would not be able to, if conditioned appropriately, be able to continue to operate their production facility.

The Chair asked what if there was a late season frost and a lot of orchard was lost, if it's effecting other agricultural production, would that be singled out for not having fruit growing on their parcel. Staff answered, she would look at it as the text says, 5 planted acres of mature crops, 10 acres for wholesale, at the time of permitting for purposes of this section, mature crops shall mean crops that are of an age where they can be harvested and used in the production of alcohol. If there was a failed crop and they were replanted within a certain time frame, she would imagine that would be in compliance. Before enforcement, she'd get the attorney involved. They are imposing reasonable conditions to ensure people continue to comply with what the PC is approving. The Chair clarified with Commissioner Mikowski that she was saying yes to the first option. She replied with confirmation. All Commissioners agreed with option 1 for guideline g, making no other modifications to the draft findings.

MOTION BY COMMISSIONER KUZMA, SECONDED BY COMMISSIONER MIKOWSKI TO APPROVE FINDINGS OF FACT AS MODIFIED. MOTION APPROVED BY A UNANIMOUS VOTE.

MOTION BY COMMISSIONER MIKOWSKI, SECONDED BY COMMISSIONER KUZMA TO RECOMMEND APPROVAL OF ZO 2017-04-23 TO THE TOWNSHIP BOARD AND TO FORWARD ON TO THE COUNTY AS IT MEETS SECTION 11.12 OF THE ZONING ORDINANCE. MOTION PASSED UNANIMOUSLY.

K. Discussion on Zoning Ordinance: Staff said at their next meeting, if they don't have a lot going on, she'll print out a table of all the uses that are allowed in the Ordinance but have no requirements other than it obtains a land use permit or Article 8 or Article 9 to see if the Commission wants to create standards for any of those uses.

L. Comments from the Chair: Commissioner Bechtold noted in the Ticker there was a mention of a meeting on Agri-tourism and he found it interesting that they're featuring Jacob's Corn Maze, 9 Bean Rows, Farm Club, Leelanau Cheese, and Tandem Cider, so a couple in Elmwood Township and he's sensing this is another focus on potential value-added activities that occur on AG land. He doesn't know what that means for their future, but it's going to be interesting to see what the off shoot will be. He thanked the Commissioners for their diligence in reviewing the materials and the good discussion.

M. Comments from Planning Commissioners: None

N. Comments from Staff: Staff relayed that the Agri-tourism summit will be May 8 and provided a print out of the agenda. She likely will be going and if anybody else wants to attend let her know, if there is a fee, the Township does have some funds available to send the Commissioners. She also let the Commissioners know there will be a training called Connecting Entrepreneurial Communities in Cadillac, and then a webinar on understanding approvals with conditions, basics and best practices, which will be tomorrow. Also, the RFP for the Comprehensive Plan was approved by the Township Board with a couple modifications. At a future meeting she'll be looking for one of the Commissioners to serve on a sub-committee for that.

O. Public Comment: None

O. Adjourn: *MOTION BY COMMISSIONER KUZMA, SECOND BY COMMISSIONER MIKOWSKI TO ADJOURN THE MEETING AT 8:00 PM. MOTION PASSED UNANIMOUSLY.*

DRAFT

**TEXT AMENDMENT REVIEW
PC08-2024-04 Elmwood Township
Text Amendment – Alcohol Requirements**

Reviewing Entity: Leelanau County Planning Commission
Date of Review: April 23, 2024

General Information

Date Request Received: April 15, 2024
Last Day of Review Period: May 15, 2024 (30 days in which to review and comment on the application and provide comments to the township. After the 30-day period, the township can proceed with or without comments from reviewing agencies).

Applicant: Elmwood Township Planning Commission
Rick Bechtold, Chairman

Section 2: Proposal

See Appendix for a copy of the proposed text amendments.

Section 3: Other Planning Input

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

Leelanau General Plan: The Leelanau General Plan (2020) does not specifically address the amendment.

Township Planning Commission:

A public hearing was held on March 19, 2024, and no public comment was received. Following the public hearing, the planning commission unanimously passed the following motion:

MOTION BY COMMISSIONER MIKOWSKI, SECONDED BY COMMISSIONER KUZMA TO RECOMMEND APPROVAL OF ZO 2017-04-23 TO THE TOWNSHIP BOARD AND TO FORWARD ON TO THE COUNTY AS IT MEETS SECTION 11.12 OF THE ZONING ORDINANCE. MOTION PASSED UNANIMOUSLY.

Section 4: Analysis

Compatibility

A. Is the proposed text compatible with other language in the zoning ordinance?

Yes

B. Are there any issues with the proposed text (such as poor wording, confusing text, unenforceable language, etc.)?

No.

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.

No

Comparison with County Plans or Ordinances

A. Do the contents in the proposed text amendment(s) conflict with the General Plan? Please list.

No

Current Zoning District: For Current text, Link to the Township Zoning Ordinance at:

<https://www.leelanau.gov/elmwoodtpord.asp>

Section 5: Staff Comments

The proposed amendment will **add** the following definitions in **Article 2, Definitions, SECTION 2.2**

DEFINITIONS:

Alcohol. The product of distillation of fermented liquid, whether or not rectified or diluted with water, but does not mean ethyl or industrial alcohol, diluted or not, that has been denatured or otherwise rendered unfit for beverage purposes.

Beer. A beverage obtained by alcoholic fermentation of an infusion or decoction of barley, malt, hops, sugar, or other cereal in potable water.

Brewer. A person located in this state that is licensed by the Michigan Liquor Control Commission to manufacture beer and sell at retail and to licensed wholesalers the beer manufactured by the person.

Brewery. A facility licensed by the Michigan Liquor Control Commission where agriculture products are grown and/or maintained and used by brewers and/or micro brewers to manufacture beer and sell at retail and to licensed wholesalers the beer manufactured by the brewer or micro brewer.

Distiller. A person licensed by the Michigan Liquor Control Commission to manufacture and sell spirits or alcohol, or both, of any kind.

Micro Brewer. A brewer that manufactures in total less than 60,000 barrels of beer per year and that may sell the beer manufactured to consumers at the licensed brewery premises for consumption on or off the licensed brewery premises and to retailers. In determining the 60,000-barrel threshold, all brands and labels of a brewer, whether manufactured in this state or outside this state, must be combined and all breweries for the manufacturing of beer that are owned or controlled by the same person must be treated as a single facility.

Small Distiller. A manufacturer of spirits annually manufacturing in this state not more than 60,000 gallons of spirits, of all brands combined.

Small Wine Maker. A wine maker manufacturing or bottling not more than 50,000 gallons of wine in 1 calendar year. A small wine maker is not required to bottle wine it manufactures.

Spirits. A beverage that contains alcohol obtained by distillation, mixed with potable water or other substances, or both, in solution, and includes wine containing an alcoholic content of more than 21% by volume, except sacramental wine and mixed spirit drink.

Tasting Room. A location on or off the manufacturing premises of a brewer, micro brewer, wine maker, small wine maker, distiller, or small distiller where the brewer, micro brewer, wine maker, small wine maker, distiller, or small distiller may provide samples of or sell at retail for consumption on or off the premises, or both, the beer, wine, or spirits it manufactures. A small wine maker, however, may only sell wine it bottled.

Wine Maker. A person licensed by the Michigan Liquor Control Commission to manufacture wine and to sell that wine to a wholesaler, to a consumer by direct shipment, at retail on the licensed winery premises, and to sell that wine to a retailer.

And **amend** the following definitions to read as follows:

Distillery. A facility licensed by the Michigan Liquor Control Commission where agriculture products are grown and/or maintained and used by distillers and/or small distillers to manufacture spirits or alcohol and to sell the spirits and/or alcohol manufactured by the distiller or small distiller.

Wine. A product manufactured by the normal alcoholic fermentation of the juice of sound, ripe grapes, or any other fruit with the usual cellar treatment, and containing not more than 21% of alcohol by volume, including cider made from apples or pears, or both, that contains at least ½ of 1% of alcohol by volume, or mead, or honey wine made from honey, fermented fruit juices other than grapes, and mixed wine drinks.

Winery. A facility licensed by the Michigan Liquor Control Commission where agriculture products are grown and/or maintained and used by wine makers and/or small wine makers to manufacture wine and to sell that wine to a wholesaler, to a consumer by direct shipment, at retail on the licensed winery premises, and to sell that wine to a retailer.

And **delete** the following definitions:

Distillery Tasting Room. A Michigan licensed room used in conjunction, as an accessory use, with a distillery where a spirit is produced on-site, may be consumed or purchased.

(Amendment ZO 2017-04-03, Ordinance #2018-04, Effective November 9, 2018)

Wine, Brandy. An alcoholic liquor as defined in Federal Standards of Identity for Distilled Spirits, 27 CFR 5.22 (d) 1980.

Wine Drink, Mixed. A drink or similar product containing less than seven percent (7%) alcohol by volume, consisting of wine and sparkling or carbonated or water and/or containing one (1) or more of the following: non-alcoholic beverages; flavorings; fruit juices; coloring materials; fruit adjuncts; sugar; preservatives; and carbon dioxide .

Wine-Related Beverages. Fortified wines, wine brandy, other mixed wine drinks, and drinks related to or inclusive of wines.

Wine Tasting Room. A Michigan licensed room used in conjunction with a winery where the tasting of wine, fruit wines, and non-alcoholic fruit juices takes place at a charge or at no charge to the individual, and the retail sales of winery and cheese products, incidental wine-related non food items, products by the bottle, container, or case for off-premises consumption, and wine-related packaged food items are allowed as provided

The proposed amendment will **amend** Article 5-Use Restrictions, SECTION 5.4 LAND USE AND ZONING DISTRICT TABLE, to eliminate Microbreweries/Distilleries regulated by Michigan Liquor Control Commission) Use #78 (Wine Tasting Room); create new Use #49 (Distillery and/or Brewery), Use #74 (Tasting Room); change permitting process for Use #79 (Winery); And will read as follows:

Applicable to Multiple Districts	A-R	R-1	R-2	R-3	MHP	MC	NC	GC	LI	SC	RR
49. Distillery and/or Brewery	SUP						Psp	Psp	Psp		
74. Tasting Room	SUP						Psp	Psp	Psp		
79. Winery	Psp							Psp	Psp		

The proposed amendment will also **delete #5 and #6**, from **Section 5.5. SPECIAL REQUIREMENTS FOR SPECIFIC USES, K.**

- 5. Additional agricultural products may be sold at the produce stand provided it is grown or produced (e.g., honey, syrup, etc) in Elmwood Township.
- 6. Sale of craft items is limited to those produced on the property.

This section will also be **amended** to create a new **5.5.N**, which will read as follows:

N. Winery, Distillery, Brewery

- 1. **Intent.** It is the intent of this ordinance to allow construction of Breweries, Distilleries, and Wineries for beer, wine, spirits and other alcoholic beverages regulated by the Michigan Liquor Control Code of 1998, being Public Act 58 of 1998 [MCL 436.1101 et seq] (the “Code”) on lands where the ingredients for such products are raised or grown. Such facilities are permitted with or without tasting rooms (See Section 9.8.J).

The growing of wine fruit and production of wine, the growing of the ingredients for making beer and the growing of crops to be used in distilling spirits are recognized as an integral component of the rural and agricultural ambiance of the agricultural areas within Elmwood Township if regulated appropriately. The growing of these crops do not require Planning Commission review, but without site plan review, production facilities could industrialize the agricultural district. It is, therefore, the intent of this section to maintain the viability of growing agricultural products by providing for the value added processing and direct sales of such beverages and other end products of such processing.

- 2. **Conditions.** Wineries, Distilleries, and Breweries may be permitted in accordance with Article 8 (Site Plan Review) and subject to the following conditions:
 - a. Every winery, brewery, and distillery, is subject to the development review requirements as provided in Article 8 (Site Plan Review) of this ordinance.
 - b. Monthly retail sales of the beverages produced on the site are permitted along with retail sales of related products (i.e. branding merchandise for the facility). However, no tasting is permitted unless a permit for a Tasting Room is obtained onsite.
 - c. To ensure that production facilities within the A-R Zoning District do not industrialize the district, the following standards shall be met:
 - i. The parcel must be at least ten (10) acres.

- ii. The winery, distillery, or brewery is operated according to generally accepted agricultural management principles and for every winery, distillery, and brewery, the parcel shall have a minimum of five (5) planted acres of mature crop that is used for the on-site production of alcohol for production facilities selling directly to the consumer. Ten (10) planted acres of mature crop that is used for the on-site production of alcohol for production facilities selling directly to the consumer is required for selling wholesale. For purposes of this section, ‘mature crop’ shall mean crops that are of an age where they can be harvested and used in the production of alcohol.
- iii. The total land area covered by buildings and structures used for the processing, storage and sales of wine, beer, and spirits may not exceed fifteen percent (15%) of the lot area. In order to encourage the reuse of historic buildings, the Planning Commission may consider a larger land cover percentage, while considering the impact of the use on neighboring properties. If the parcel contains a dwelling, the dwelling and the dwelling’s associated accessory structures shall not be incorporated in this calculation. Any building or structure used for agricultural use (i.e. silos, animal husbandry, storage of traditional agricultural machinery (i.e. tractors, plows, etc.) shall not be incorporated in this calculation.
- d. All winery, brewery, or distillery structures and/or permitted outdoor tasting areas (if permitted shall be set back at least 100 feet from any lot line as well as any wetlands and/or any water’s edge. This setback shall not apply to any building or structure used for agricultural use (i.e. silos, animal husbandry, storage of traditional agricultural machinery (i.e. tractors, plows, etc.).

The proposed amendment will also **amend** Article 6-Site Development, **SECTION 6.1.3 Spaced Required** table as follows:

USE	MINIMUM NUMBER OF SPACES REQUIRED
Winery, Distillery, and/or Brewery	5 spaces plus 1 per employee on largest shift

The proposed amendment will also **amend** Article 9-Special Land Uses, **SECTION 9.8 ADDITIONAL REQUIREMENTS FOR CERTAIN SPECIAL LAND USES, J. Wine Tasting Room**, to read as follows:

J. Tasting Rooms for Wineries, Breweries, and Distilleries

The Township would like to encourage agriculturally related uses while preserving neighboring property owners’ enjoyment of their land. Tasting Rooms are permitted as accessory uses at permitted Wineries, Breweries and Distilleries or within other zoning districts, as permitted provided that the proposed tasting room complies with the following requirements:

- 1. Every tasting room for a winery, brewery, and distillery within the Agricultural-Rural (A-R) Zoning District is subject to the development review and requirements for a winery, brewery and distillery as provided in Article 5.5.N of this ordinance.

NEW BUSINESS ITEM 3

2. The tasting area may be located inside or outside a building, but at no time shall the tasting area exceed 2,500 sq ft.
3. A tasting room and/or an authorized outdoor tasting area shall not be located closer than 100 feet from any lot line of a lot containing a dwelling or from any lot that is zoned residential (R-1, R-2, or R-3).
4. If a tasting room is located within 500 feet from any lot line of a lot containing a dwelling or from any lot that is zoned residential (R-1, R-2, or R-3), then a fence or buffer, meeting the requirements of Section 6.4.4 of this Ordinance, shall be placed along the lot line of that adjacent lot to discourage trespass.
5. The hours of operation shall be between the hours of 10 am and 10 pm unless the Planning Commission determines that different and more restrictive hours are more appropriate to meet the standards of Section 9.3.
6. Amplified sound (including amplified music) shall be contained indoors and shall not produce sound that because of its volume or frequency annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of any reasonable person of normal sensitivities.
7. A Tasting Room is not intended to be a restaurant; restaurants are a use that is permitted in certain zoning districts. Therefore, a tasting room may offer limited food service provided:
 - a. Any retail sales and food service must be clearly accessory to the tasting room. This shall be evidenced by:
 - i. The area for serving food shall seat no more than twenty (20) patrons at one time.
 - ii. Monthly sale of food shall not exceed 10% of gross sales of licensed products. At the request of the Township, the business shall provide supporting documentation to the Township verifying compliance with this section.
 - iii. Food service items shall be limited to appetizers and small plates. Carry-in or carry-out foods are prohibited.
 - b. Any food service shall be licensed to prepare and serve food by the appropriate Health Agency.

And **remove** requirements for Distillery Tasting Rooms from **Section 9.8.L, Distillery Tasting Room**, and replace as follows:

L. RESERVED

Appendix - Correspondence from Elmwood Township

Gail Myer

From: Sarah Clarren <planner@elmwoodmi.gov>
Sent: Monday, April 15, 2024 3:03 PM
To: Gail Myer
Subject: Elmwood Township - Proposed Text Amendments for County Review
Attachments: 2024-03.19_PC Minutes.docx; 2024-04.15_Findings_ZO 04-22.docx; Clean_Draft Section 3.13.docx; 2024-04.15_Findings_ZO 04-23.docx; 2024-02.20_2017-04-23_Clean.docx

Gail,

Attached you will find two additional proposed Zoning Amendments for County Planning Commission review and comment.

1. ZO 2017-04-22. Multi Dwelling Development Requirements.
 - a. DRAFT minutes from the Public Hearing held on 3/19/2024.
 - b. Memo containing the Planning Commission's findings, as modified.
 - c. Proposed Text Amendment text.

2. ZO 2017-04-23. Aligning and Reforming Alcohol Requirements.
 - a. DRAFT minutes from the Public Hearing held on 3/19/2024.
 - b. Memo containing the Planning Commission's findings, as modified.
 - c. Proposed Text Amendment text.

Links to the Planning Commission's epackets can be accessed below:

3/19/2024 (Public Hearing) - https://www.leelanau.gov/downloads/202403_1.pdf
2/20/2024 (Introduction (2)) - <https://www.leelanau.gov/downloads/202402.pdf>
1/16/2024 (Introduction (1)) - https://www.leelanau.gov/downloads/202401_1.pdf

Let me know if you have any questions or require anything further from me.

Sarah

Sarah Clarren | Planner / Zoning Administrator | Elmwood Township | 231-946-0921 | www.elmwoodmi.gov |

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CHARTER TOWNSHIP OF ELMWOOD
Leelanau County, Michigan

Ordinance No. _____
ZO 2017-04-23

AN ORDINANCE TO AMEND THE TOWNSHIP ZONING ORDINANCE, IN ACCORANCE 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 SECTION 2.2 TO ADD DEFINITIONS FOR ALCOHOL, BEER, BREWER, BREWERY, DISTILLER, MICRO BREWER, SMALL DISTILLER, SMALL WINE MAKER, SPIRITS, TASTING ROOM, WINE MAKER, REVISE DEFINITIONS FOR DISTILLERY, WINE, WINERY, AND ELIMINATE DEFINITIONS FOR DISTILLERY TASTING ROOM, WINE, BRANDY, WINE DRINK, MIXED, WINE RELATED BEVERAGES, AND WINE TASTING ROOM; AMEND SECTION 5.4 TO ELIMINATE DISTILLERY TASTING ROOMS, MICROBREWRIES/DISTILLERIES, AND WINE TASTING ROOM, ADD 'DISTILLERY AND/OR BREWERY' AND 'TASTING ROOM' AS PERMITTED USES UNDER SITE PLAN REVIEW OR SPECIAL USE PERMIT IN CERTAIN ZONING DISTRICTS, ALLOW WINERY AS A USE WITHIN THE GENERAL COMMERCIAL AND LIGHT INDUSTRIAL DISTRICTS UNDER SITE PLAN REVIEW, RENUMBER USES; AMEND SECTION 5.5.K TO ELIMINATE TWO REQUIREMENTS FOR TEMPORARY PRODUCE STANDS AND RENUMBER SUBSEQUENT REQUIREMENTS; ADD SECTION 5.5.N TO CONTAIN REQUIREMENTS FOR WINERIES, DISTILLERIES, AND BREWERIES; AMEND SECTION 6.1.3 TO LIST PARKING REQUIREMENTS FOR WINERIES, DISTILLERIES, AND BREWERIES; AMEND SECTION 9.8.J TO CONTAIN REQUIREMENTS FOR TASTING ROOMS FOR WINERIES, DISTILLERIES, AND BREWERIES; ELIMINATE SECTION 9.8.L DISTILLERY TASTING ROOM AND ITS REQUIREMENTS AND RESERVE SECTION 9.8.L FOR FUTURE USE.

The Charter Township of Elmwood Ordains:

Section 1: Amendment.

1. Amend Section 2.2, specifically to add the following definitions:

Alcohol. The product of distillation of fermented liquid, whether or not rectified or diluted with water, but does not mean ethyl or industrial alcohol, diluted or not, that has been denatured or otherwise rendered unfit for beverage purposes.

Beer. A beverage obtained by alcoholic fermentation of an infusion or decoction of barley, malt, hops, sugar, or other cereal in potable water.

Brewer. A person located in this state that is licensed by the Michigan Liquor Control Commission to manufacture beer and sell at retail and to licensed wholesalers the beer manufactured by the person.

Brewery. A facility licensed by the Michigan Liquor Control Commission where agriculture products are grown and/or maintained and used by brewers and/or micro brewers to manufacture beer and sell at retail and to licensed wholesalers the beer manufactured by the brewer or micro brewer.

Distiller. A person licensed by the Michigan Liquor Control Commission to manufacture and sell spirits or alcohol, or both, of any kind.

Micro Brewer. A brewer that manufactures in total less than 60,000 barrels of beer per year and that may sell the beer manufactured to consumers at the licensed brewery premises for consumption on or off the licensed brewery premises and to retailers. In determining the 60,000-barrel threshold, all brands and labels of a brewer, whether manufactured in this state or outside this state, must be combined and all breweries for the manufacturing of beer that are owned or controlled by the same person must be treated as a single facility.

Small Distiller. A manufacturer of spirits annually manufacturing in this state not more than 60,000 gallons of spirits, of all brands combined.

Small Wine Maker. A wine maker manufacturing or bottling not more than 50,000 gallons of wine in 1 calendar year. A small wine maker is not required to bottle wine it manufactures.

Spirits. A beverage that contains alcohol obtained by distillation, mixed with potable water or other substances, or both, in solution, and includes wine containing an alcoholic content of more than 21% by volume, except sacramental wine and mixed spirit drink.

Tasting Room. A location on or off the manufacturing premises of a brewer, micro brewer, wine maker, small wine maker, distiller, or small distiller where the brewer, micro brewer, wine maker, small wine maker, distiller, or small distiller may provide samples of or sell at retail for consumption on or off the premises, or both, the beer, wine, or spirits it manufactures. A small wine maker, however, may only sell wine it bottled.

Wine Maker. A person licensed by the Michigan Liquor Control Commission to manufacture wine and to sell that wine to a wholesaler, to a consumer by direct shipment, at retail on the licensed winery premises, and to sell that wine to a retailer.

2. Amend Section 2.2, specifically to modify the below definitions to read as follows:

Distillery. A facility licensed by the Michigan Liquor Control Commission where agriculture products are grown and/or maintained and used by distillers and/or small distillers to manufacture spirits or alcohol and to sell the spirits and/or alcohol manufactured by the distiller or small distiller.

Wine. A product manufactured by the normal alcoholic fermentation of the juice of sound, ripe grapes, or any other fruit with the usual cellar treatment, and containing not

more than 21% of alcohol by volume, including cider made from apples or pears, or both, that contains at least ½ of 1% of alcohol by volume, or mead, or honey wine made from honey, fermented fruit juices other than grapes, and mixed wine drinks.

Winery. A facility licensed by the Michigan Liquor Control Commission where agriculture products are grown and/or maintained and used by wine makers and/or small wine makers to manufacture wine and to sell that wine to a wholesaler, to a consumer by direct shipment, at retail on the licensed winery premises, and to sell that wine to a retailer.

3. Amend Section 2.2, specifically to eliminate the following definitions:

Distillery Tasting Room. A Michigan licensed room used in conjunction, as an accessory use, with a distillery where a spirit is produced on-site, may be consumed or purchased.

(Amendment ZO 2017-04-03, Ordinance #2018-04, Effective November 9, 2018)

Wine, Brandy. An alcoholic liquor as defined in Federal Standards of Identity for Distilled Spirits, 27 CFR 5.22 (d) 1980.

Wine Drink, Mixed. A drink or similar product containing less than seven percent (7%) alcohol by volume, consisting of wine and sparkling or carbonated or water and/or containing one (1) or more of the following: non-alcoholic beverages; flavorings; fruit juices; coloring materials; fruit adjuncts; sugar; preservatives; and carbon dioxide .

Wine-Related Beverages. Fortified wines, wine brandy, other mixed wine drinks, and drinks related to or inclusive of wines.

Wine Tasting Room. A Michigan licensed room used in conjunction with a winery where the tasting of wine, fruit wines, and non-alcoholic fruit juices takes place at a charge or at no charge to the individual, and the retail sales of winery and cheese products, incidental wine-related non food items, products by the bottle, container, or case for off-premises consumption, and wine-related packaged food items are allowed as provided herein.

4. Amend Section 5.4 to eliminate Use #49 (Distillery Tasting Rooms), Use #60 (Microbreweries/Distilleries regulated by Michigan Liquor Control Commission) Use #78 (Wine Tasting Room); create new Use #49 (Distillery and/or Brewery), Use #74 (Tasting Room); change permitting process for Use #79 (Winery); renumber the table as needed. Uses #49, #74, and #79 will read as follows:

Applicable to Multiple Districts	A-R	R-1	R-2	R-3	MH P	M C	NC	G C	LI	SC	R R
49. Distillery and/or Brewery	SUP						Psp	Psp	Psp		
74. Tasting Room	SUP						Psp	Psp	Psp		

5. Amend Section 5.5.K containing requirements for ‘Temporary produce stands,’ specifically to eliminate existing requirements 5 and 6 and then renumber subsequent requirements. The requirements that will be eliminated are:

- ~~5. Additional agricultural products may be sold at the produce stand provided it is grown or produced (e.g., honey, syrup, etc) in Elmwood Township.~~
- ~~6. Sale of craft items is limited to those produced on the property.~~

6. Amend Section 5.5 to create 5.5.N to contain requirements for Wineries, Distilleries, and Breweries. This new Section 5.5.N will read as follows:

N. Winery, Distillery, Brewery

- 1. **Intent.** It is the intent of this ordinance to allow construction of Breweries, Distilleries, and Wineries for beer, wine, spirits and other alcoholic beverages regulated by the Michigan Liquor Control Code of 1998, being Public Act 58 of 1998 [MCL 436.1101 et seq] (the “Code”) on lands where the ingredients for such products are raised or grown. Such facilities are permitted with or without tasting rooms (See Section 9.8.J).

The growing of wine fruit and production of wine, the growing of the ingredients for making beer and the growing of crops to be used in distilling spirits are recognized as an integral component of the rural and agricultural ambiance of the agricultural areas within Elmwood Township if regulated appropriately. The growing of these crops do not require Planning Commission review, but without site plan review, production facilities could industrialize the agricultural district. It is, therefore, the intent of this section to maintain the viability of growing agricultural products by providing for the value added processing and direct sales of such beverages and other end products of such processing.

- 2. **Conditions.** Wineries, Distilleries, and Breweries may be permitted in accordance with Article 8 (Site Plan Review) and subject to the following conditions:
 - a. Every winery, brewery, and distillery, is subject to the development review requirements as provided in Article 8 (Site Plan Review) of this ordinance.
 - b. Monthly retail sales of the beverages produced on the site are permitted along with retail sales of related products (i.e. branding merchandise for the facility). However, no tasting is permitted unless a permit for a Tasting Room is obtained onsite.
 - c. To ensure that production facilities within the A-R Zoning District do not industrialize the district, the following standards shall be met:
 - i. The parcel must be at least ten (10) acres.
 - ii. The winery, distillery, or brewery is operated according to generally accepted agricultural management principles and for every winery, distillery, and brewery, the parcel shall have a minimum of five (5) planted acres of mature crop that is used for

the on-site production of alcohol for production facilities selling directly to the consumer. Ten (10) planted acres of mature crop that is used for the on-site production of alcohol for production facilities selling directly to the consumer is required for selling wholesale. For purposes of this section, ‘mature crop’ shall mean crops that are of an age where they can be harvested and used in the production of alcohol.

- iii. The total land area covered by buildings and structures used for the processing, storage and sales of wine, beer, and spirits may not exceed fifteen percent (15%) of the lot area. In order to encourage the reuse of historic buildings, the Planning Commission may consider a larger land cover percentage, while considering the impact of the use on neighboring properties. If the parcel contains a dwelling, the dwelling and the dwelling’s associated accessory structures shall not be incorporated in this calculation. Any building or structure used for agricultural use (i.e. silos, animal husbandry, storage of traditional agricultural machinery (i.e. tractors, plows, etc.) shall not be incorporated in this calculation.
- d. All winery, brewery, or distillery structures and/or permitted outdoor tasting areas (if permitted shall be set back at least 100 feet from any lot line as well as any wetlands and/or any water’s edge. This setback shall not apply to any building or structure used for agricultural use (i.e. silos, animal husbandry, storage of traditional agricultural machinery (i.e. tractors, plows, etc.).

7. Amend Section 6.1.3, specifically to add minimum required parking spaces for Wineries, Distilleries, and Breweries to the existing table as follows:

USE	MINIMUM NUMBER OF SPACES REQUIRED
Winery, Distillery, and/or Brewery	5 spaces plus 1 per employee on largest shift

8. Remove Section 9.8.J (Requirements for Wine Tasting Rooms) and replace with a new Section 9.8.J (Requirements for Tasting Rooms for Wineries, Breweries, and Distilleries) to read as follows:

J. Tasting Rooms for Wineries, Breweries, and Distilleries

The Township would like to encourage agriculturally related uses while preserving neighboring property owners’ enjoyment of their land. Tasting Rooms are permitted as accessory uses at permitted Wineries, Breweries and Distilleries or within other zoning districts, as permitted provided that the proposed tasting room complies with the following requirements:

- 1. Every tasting room for a winery, brewery, and distillery within the Agricultural-Rural (A-R) Zoning District is subject to the development

review and requirements for a winery, brewery and distillery as provided in Article 5.5.N of this ordinance.

2. The tasting area may be located inside or outside a building, but at no time shall the tasting area exceed 2,500 sq ft.
3. A tasting room and/or an authorized outdoor tasting area shall not be located closer than 100 feet from any lot line of a lot containing a dwelling or from any lot that is zoned residential (R-1, R-2, or R-3).
4. If a tasting room is located within 500 feet from any lot line of a lot containing a dwelling or from any lot that is zoned residential (R-1, R-2, or R-3), then a fence or buffer, meeting the requirements of Section 6.4.4 of this Ordinance, shall be placed along the lot line of that adjacent lot to discourage trespass.
5. The hours of operation shall be between the hours of 10 am and 10 pm unless the Planning Commission determines that different and more restrictive hours are more appropriate to meet the standards of Section 9.3.
6. Amplified sound (including amplified music) shall be contained indoors and shall not produce sound that because of its volume or frequency annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of any reasonable person of normal sensitivities.
7. A Tasting Room is not intended to be a restaurant; restaurants are a use that is permitted in certain zoning districts. Therefore, a tasting room may offer limited food service provided:
 - a. Any retail sales and food service must be clearly accessory to the tasting room. This shall be evidenced by:
 - i. The area for serving food shall seat no more than twenty (20) patrons at one time.
 - ii. Monthly sale of food shall not exceed 10% of gross sales of licensed products. At the request of the Township, the business shall provide supporting documentation to the Township verifying compliance with this section.
 - iii. Food service items shall be limited to appetizers and small plates. Carry-in or carry-out foods are prohibited.
 - b. Any food service shall be licensed to prepare and serve food by the appropriate Health Agency.

9. Remove Section 9.8.L (Requirements for Distillery Tasting Rooms) and replace as follows:

L. RESERVED

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 eight (8) days following publication.

Public Hearing: _____

Adopted: _____

Effective: _____

To: Leelanau County Planning Commission
Elmwood Township Board

From: Sarah Clarren, Planner/Zoning Administrator

Date: April 15, 2024

RE: Planning Commission Findings Pursuant to Section 11.12 of the Zoning Ordinance for
ZO 2017-04-23 Amendment

Section 11.12 of the Elmwood Township Zoning Ordinance requires the Planning Commission to consider criteria for all zoning amendments. Below is the criteria with draft findings for and against (where applicable) the proposed amendment. Unlike standards for special land uses, this criteria is not an all or nothing for approval. There will be criteria that will not apply and criteria that may weigh heavier than others.

On March 19, 2024, the Planning Commission held a public hearing on the proposed text amendment ZO 2017-04-23. After the hearing was closed and deliberations ended, the following two motions were made:

MOTION BY COMMISSIONER KUZMA, SECONDED BY COMMISSIONER MIKOWSKI TO APPROVE FINDINGS OF FACT AS MODIFIED. MOTION APPROVED BY A UNANIMOUS VOTE.

MOTION BY COMMISSIONER MIKOWSKI, SECONDED BY COMMISSIONER KUZMA TO RECOMMEND APPROVAL OF ZO 2017-04-23 TO THE TOWNSHIP BOARD AND TO FORWARD ON TO THE COUNTY AS IT MEETS SECTION 11.12 OF THE ZONING ORDINANCE. MOTION PASSED UNANIMOUSLY.

The following are the findings of fact as modified by the Planning Commission on March 19, 2024.

1. Text Amendment.

a. The proposed text amendment would clarify the intent of the Ordinance.

The Commission unanimously (4-0) finds that “The intent of the Zoning Ordinance as a whole is the promotion of public health, safety, and welfare. The proposed text amendment includes regulations intended to maintain the viability of growing agricultural products by providing for the value added processing and direct sales of such beverages and other end products of such processing while streamlining regulations to ensure that production facilities do not industrialize the agricultural district and adversely impact the community.”

b. The proposed text amendment would correct an error in the Ordinance.

The Commission unanimously (4-0) finds that “The proposed text aligns Township definitions with State definitions. It also corrects an error as Microbreweries are currently an allowed use, but there is not a definition, nor requirements other than meeting the

standard requirements in Article 8. The proposed amendment also shifts use requirements to the production facility vs the Tasting Room.”

c. The proposed text amendment would address changes to State legislation, recent case law or opinions from the Attorney General of the State of Michigan.

The Commission unanimously (4-0) finds that “The proposed text amendment does not address any changes to legislation or case law.”

d. The proposed text amendment would promote compliance with changes in other county, state or federal regulations.

The Commission unanimously (4-0) finds that “The proposed amendment is not intended to promote compliance with *changes* in regulations as there have been no changes to county, state, or federal regulations applicable to the text amendment. However, the proposed amendment will align definitions with State definitions. Further, regulations in the current Zoning Ordinance which may violate the Commerce Clause are proposed to be removed. The Township Attorney has reviewed the proposed amendment.”

e. The proposed text amendment would be consistent with the goals, policies, and future land use map of the Elmwood Township Master Plan, or if conditions have changed significantly since the Master Plan was adopted, consistent with recent development trends in the area.

The Commission unanimously (4-0) finds that “The proposed text amendment is consistent with the goals and policies of the Elmwood Township Master Plan as it is intended to “Encourage the retention of important farmlands, orchards, vineyards, forest lands, open space areas, and woodlands” through continuing to allow value added agriculture.”

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.

The Commission unanimously (4-0) finds that “The Zoning Ordinance currently allows for Microbreweries, Distilleries, Distillery Tasting Rooms, and Winery Tasting Rooms.

The proposed text combines all Tasting Rooms into one ‘use’ with the same requirements. Currently, Wine Tasting Rooms are allowed in the NC Zoning District under SPR, but Distillery Tasting Rooms are not. The proposed text would eliminate Wine Tasting Rooms and Distillery Tasting Rooms and add ‘Tasting Rooms’ as a permitted use, including within the NC District under SPR. As a Wine Tasting Room is currently an allowed use within the NC District, allowing Tasting Rooms as a permitted use would be consistent. Distillery and Breweries would be permitted within the NC Zoning District under SPR. There is a wide range of uses within the NC district, including uses such as ‘Light Fabrication,’ ‘Mini-Warehousing,’ ‘Showrooms, offices, and workshops of building tradesmen,’ ‘Retail Sales,’ and ‘Restaurants.’”

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

The Commission unanimously (4-0) finds that “The proposed amendment does not create incompatible land uses as the uses are similar to the uses listed in Section 5.4 Land Use and Zoning District Table of the Elmwood Township Zoning Ordinance.”

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

The Commission unanimously (4-0) finds that “The Commission has not received reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements, and similar technical items pertaining the request.”

i. As applicable, the proposed text amendment shall be consistent with the Township’s ability to provide adequate public facilities and services.

The Commission unanimously (4-0) finds that “The regulations that are provided in the amendment create a use that is consistent with the Township’s ability to provide adequate public facilities and services including fire, water, sewer, and medical services.”

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

The Commission unanimously (4-0) finds that “The proposed text amendment is consistent with the Township’s desire to protect the public health, safety and welfare of the community. The amendment provides regulations to ensure that uses that are currently already allowed within the Ordinance are developed in such a way to protect the public health, safety and welfare of the community.”

**Charter Township of Elmwood
Planning Commission Regular Meeting
Elmwood Township Hall (10090 E. Lincoln Rd)
March 19, 2024 at 6:30 PM**

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

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

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

D. Limited Public Comment: None

E. Agenda Modifications/Approval: *MOTION BY COMMISSIONER APRILL, SECONDED BY COMMISSIONER KUZMA TO APPROVE THE AGENDA AS PRINTED. MOTION PASSED 4-0.*

F. Minutes-February 20, 2024: *MOTION BY COMMISSIONER KUZMA SECONDED BY COMMISSIONER APRILL TO APPROVE THE MINUTES OF FEBRUARY 20, 2024. MOTION PASSED BY A UNANIMOUS VOTE.*

Minutes-March 5, 2024: *MOTION BY COMMISSIONER MIKOWSKI, SECONDED BY COMMISSIONER KUZMA TO APPROVE THE MINUTES OF MARCH 5, 2024. MOTION APPROVED UNANIMOUSLY.*

G. Consent Calendar: *MOTION BY COMMISSIONER APRILL, SECONDED BY COMMISSIONER KUZMA TO FILE THE CONSENT CALENDAR AS PRESENTED. MOTION APPROVED UNANIMOUSLY.*

H. Declaration of Conflict of Interest: None

I. Old Business: None

J. New Business:

a. Site Plan Review SPR 2024-03-Request by Discovery Center and Pier regarding property a 0, 13223, 13240, 13272, 13271, and 13170 S. West-Bay Shore Dr., for Discovery Pier Phase II and III (Elements from previously approved Planned Development; parking lot landward of M22)

Matt McDonough with Discovery Center said a lot of what was on the site plan has been approved, but the features that have not been approved are: 1) the completion of the parking lot which they thought was approved in a previous site plan 2) to be able to put a 20x30 temporary tent out on the pavilion to serve as a catering tent that would be taken down once the building is up 3) the jib crane, there's actually 2. He thinks the first one was already approved when they had it proposed to be on the N/E corner of the pier, that's

been moved to the N/W corner of the basin; there's a smaller crane that is going to be located on the S/W corner of the pier itself which is for launching smaller remote operated vehicles, that way the classroom within that building will be able to operate from their desks. 4) the fixed access platforms-one is in the N/W portion of the marina basin 5) the landing platform to provide more space for people to use the kayak launch. All of these changes have been approved by EGLE, but they're waiting on the Army Corps permit who told them it's all good, they're just waiting on the permit.

Staff noted one of the additional pieces of information from the Chief was his review and he has a couple recommended conditions. This is an SPR so there's no public hearing and she has draft Findings, but those do not include the Fire Chief's recommended conditions.

The Commissioners went through Standards for Approval and found that all standards were met based on the Findings of Fact. The Commission agreed with the Findings of Fact as presented, with adding the email from the Fire Chief within 8.5.B.2, 8.5.B.7 and the conditions. The Planning Commission set the conditions on the project as follows:

- 1) Prior to issuance of a Land Use Permit, a sealed and signed set of plans shall be provided to the Township.
- 2) Prior to issuance of a Land Use Permit, permits from all applicable outside agencies shall be provided.
- 3) Temporary tents used during special events (permitted under a different decision) shall be tightly secured during their use and taken down at the end of each event.
- 4) Pursuant to Section 6.1.3.B of the Zoning Ordinance, "All parking areas shall conform to the requirements of the Americans with Disabilities Act and any other accessibility requirements in effect at the time. These spaces shall be included in the calculations for meeting the parking requirements of this Article." Prior to issuance of a Land Use Permit, compliance with this requirement shall be provided.
- 5) Prior to issuance of a Land Use Permit for the parking lot, the parcels must be combined.
- 6) Recommendations proposed by the Fire Chief in his 3/19/24 email will be made a condition of approval. These recommendations include:
 1. The installation of the Jib Crane in the northwest corner of the harbor may obstruct the Fire Apparatus Access Lane (FAAL) to the causeway. Any boom, feature or vehicle that may impinge on or obstruct the FAAL clear width requirement of 20 feet wide by 13.5 feet in height shall be temporary with time limited to that necessary for the safe operation, loading and unloading of the crane. The crane operator shall also be in attendance of the controls during the time the crane may obstruct the FAAL.
 2. The Fire Department Connection (FDC) for the south dock standpipe system is shown located on the south dock at the end of the gangway ramp and kayak chute. The FDC shall be located on land and within a maximum of 100 feet of the shoulder of S. West-Bay Shore Drive (SWBS).
 - a. *NOTE: Approved locations have been discussed with Matt McDonough and includes areas near the Ticket Booth and parking lot turn-around.*
 3. The parking lot on the west side of SWBS appears to have dimensions acceptable for fire department access.
 - a. The north access to the parking lot must maintain with a clear width of 20 feet wide by 13.5 feet tall from SWBS.
 - b. Emergency or alternative access is recommended from the drive located on SWBS. This access may be secured by chain or other means agreed upon with the fire department.

MOTION BY COMMISSIONER APRILL, SECONDED BY COMMISSIONER MIKOWSKI TO ADOPT FINDINGS OF FACT AS MODIFIED. MOTION APPROVED UNANIMOUSLY.

MOTION BY COMMISSIONER APRILL, SECONDED BY COMMISSIONER MIKOWSKI TO APPROVE SPR 2024-03 REQUEST BY DISCOVERY CENTER AND PIER FOR DISCOVERY PIER PHASE II AND III. MOTION PASSED BY A UNANIMOUS VOTE.

b. Introduction SPR/SUP 2024-02-Request by John Gallagher III regarding property at 8525 E. Lincoln Rd. (Parcel 004-030-001-00) for Bay View Distillery Tasting Room

John Gallagher III 8855 E. Strang Rd. on behalf of the application, there were some notes made by the Planner regarding the narrative on both the maximum size of the tasting room and the size of the parcel. For clarity, he thinks the notes from the Planner do address the concerns of the Commissioners. He wanted to make the notation to make them aware that there is an intended split they're looking to do, he just filed the paperwork with the Assessor to have that 80 split into 2-20's and a 40, so, moving forward as an item of transparency. The size of the tasting room with regards to the current and proposed, he knows he can't speak to the proposed text amendment until that session is open, but he's looking for the opportunity to speak at that time.

Staff added, that this is an introduction, this is Site Plan Review and a Special Use Permit so the Planning Commission would be reviewing the application and determine if they agree it is a complete application. If so, a motion should be made to schedule a public hearing for the next regularly scheduled PC meeting.

Commissioner Aprill asked how this would affect their other business that evening. Staff explained the proposed text amendment is not what's currently in their Ordinance, so it has no weight on the application. If the applicant wanted the PC to hold off on a decision until the text amendment has been discussed, it could be a few months and they don't want to do that, they want to proceed under the current regulations. If the proposed text amendment is adopted at a later date, the applicant would have every ability to apply for an amendment to come back before the Commission. Commissioner Aprill asked, so they are looking at this under their current Ordinance. Staff responded, exactly. That's part of the reason why the Staff report is a little more detailed; just to be clear. She asked if there were any questions regarding the application or whether or not the requirements for section 8.4 have been met or if it's a complete application.

Commissioner Kuzma questioned section 9.8.L.4 regarding the use of the patio for a tasting room. Staff said the text was drafted the way it was as the PC needs to be clear, the applicant is clear, on what can be approved. Commissioner Kuzma asked about 9.8.L.6 and the 2500 sq. ft. tasting room. Staff responded the Commission cannot approve that at this time. Commissioner Kuzma asked if that was a typo because the two numbers are the same. Staff said what the applicant essentially wants to do could be allowed under the proposed text, however that proposed text is not their current regulation. The Commission cannot render a decision on proposed regulations. Commissioner Kuzma asked about 9.8.L.12 and the additional 2 parking spaces; can that be conditioned? Staff said the Commission can grant the additional 2 parking spaces.

The Chair questioned 8.4.17 as the staff report indicates the plan doesn't contain an accurate treeline. Staff said that the Commission has received a new sheet showing an aerial, with the site plan layered on top; she will revise the report for the next meeting.

The Commissioners went the rest of the report and determined that the required elements have been provided.

MOTION BY COMMISSIONER KUZMA, SECONDED BY COMMISSIONER MIKOWSKI TO SCHEDULE A PUBLIC HEARING FOR SPR/SUP 2024-02 AT THE NEXT REGULARLY SCHEDULED MEETING. MOTION APPROVED UNANIMOUSLY.

c. Public Hearing and Deliberations-Planning Commission Discussion on ZO 2017-04-22- a Zoning Ordinance Amendment to amend Section 2.2, to add a definition for Dwelling, Multi and Lot Area, Gross and to modify the existing definitions for Parcel, Lot Area and Net Lot Area; create Section 3.14 to include development requirements for Multi-Dwelling developments; add Note "I" to Section 5.6 to reference residential density requirements for Section 3.14; modify Section 7.1.2 so residential base density is determined using net acreage; modify Section 7.2.2 so residential density is based off of net lot area; modify Section 8.4.12 to have Sit Plan Review applicants submit the gross lot area and net lot area.

The Chair read the statement to open the public hearings for items Jc & Jd.

The public hearing opened at 7:17 p.m.

Public comment opened at 7:19 p.m. No comment given. Public comment closed at 7:19 p.m.

The Commissioners reviewed the text amendment.

Staff handed out draft findings. She said as the Commission knows, section 11.12 of the Ordinance which talks about how the PC renders their decision on whether or not to recommend approval or recommend to not approve text amendment to the Township Board, the Commission has to review it on guidelines. She that moving forward with all text amendments, it would be good to have formal findings drafted and prepared as they do for SPR/SUP.

Staff noted it might be helpful if the Commission went through the guidelines one by one. The Commission did, unanimously agreeing that all guidelines have been met. During discussion, the Chair suggested that findings for guideline d are also relevant for guideline h; the Commission agree to add the following sentence to the draft findings for guideline h: "The Commission finds that statements made under findings for guideline d are also applicable to this standard."

MOTION BY COMMISSIONER APRILL, SECONDED BY COMMISSIONER KUZMA TO ACCEPT THE FINDINGS OF FACT AS MODIFIED. MOTION PASSED UNANIMOUSLY.

MOTION BY COMMISSIONER KUZMA, SECONDED BY COMMISSIONER MIKOWSKI TO RECOMMEND APPROVAL OF ZO 2017-04-22 TO THE TOWNSHIP BOARD AND TO FORWARD

ON TO THE COUNTY AS IT MEETS SECTION 11.12 OF THE ZONING ORDINANCE. MOTION APPROVED UNANIMOUSLY.

d. Public Hearing and Deliberations-Planning Commission Discussion on ZO 2017-04-23-a Zoning Ordinance Amendment to amend Section 2.2 to add definitions for Alcohol, Beer, Brewer, Brewery, Distiller, Micro Brewer, Small Distiller, Small Wine Maker, Spirits, Tasting Room, Wine Maker, revise definitions for Distillery, Wine, Winery, and eliminate definitions for Distillery Tasting Room Wine, Brandy, Wine Drin, Mixed, Wine Related Beverages, and Tasting Room. Add “Distillery and/or Brewery” and “Tasting Room” as permitted uses under Site Plan Review or special Use Permit in certain zoning districts, allow Winery as a use within the General Commercial and Light Industrial districts under Site Plan Review, renumber uses; amend Section 5.5 K to eliminate two requirements for Temporary Produce Stands and renumber subsequent requirements; add Section 5.5 K to eliminate two requirements for Temporary Produce Stands and renumber subsequent requirements; add Section 5.5 N to contain requirements for Wineries, Distilleries, and Breweries; amend Section 6.1.3 to list parking requirements for Wineries, Distilleries, and Breweries; amend Section 9.8 J to contain requirements for Tasting Rooms for Wineries, Distilleries, and Breweries; eliminate Section 9.8 L Distillery Tasting Room and its requirements and reserve Section 9.8L for future use.

Public comment opened at 7:33 p.m. No comment given. Public comment closed at 7:33 p.m.

Staff noted the Commission has seen this text a few times before; the only modification since their last meeting was the addition of one word, it reads “monthly” sale of food for one of the proposed requirements.

The Commissioners went through draft Findings of Fact.

The Chair asked about if the proposed language was specific about harvestable crops being in the AG district [not others]. Staff said that the way the text amendment was drafted, is it stated in the intent, and then one of the conditions for production facilities calls out conditions that would be specific to facilities within the AR zoning district. She noted that the text also shifts use requirements to the production facility versus the tasting room.

Under guideline “g”, options 1 or 2, Commissioner Mikowski asked for clarification. Staff stated she wanted to give options for all members of the Commission. The Commission as a whole will need to make a Finding on whether or not they believe the amendment creates incompatible uses or does not create incompatible uses. In other words, with the proposed text, are those uses compatible with other uses in the zoning districts. Commissioner Mikowski said yes.

The Chair said with the proposed changes for breweries, wineries, distilleries in AG, they’ve increased the area of land they have to have and they’ve also put in the stipulation they have to have producible, harvestable crops they’ll be putting into their product.

Staff added that the text also sets requirements for microbreweries as under the current Ordinance, as long as it meets the state's definition, it's approved under site plan review. Commissioner Kuzma said they put in the most restrictive, palatable wording and conditions for those sites.

The Chair asked what if somebody has either a crop failure or through really poor agricultural practices, the subsequent crops they have growing, don't grow. Staff replied, if they were to destroy their entire crop, she would say that's clear cut, they have no intention of complying with that requirement of the use and they would be in violation and would not be able to, if conditioned appropriately, be able to continue to operate their production facility.

The Chair asked what if there was a late season frost and a lot of orchard was lost, if it's effecting other agricultural production, would that be singled out for not having fruit growing on their parcel. Staff answered, she would look at it as the text says, 5 planted acres of mature crops, 10 acres for wholesale, at the time of permitting for purposes of this section, mature crops shall mean crops that are of an age where they can be harvested and used in the production of alcohol. If there was a failed crop and they were replanted within a certain time frame, she would imagine that would be in compliance. Before enforcement, she'd get the attorney involved. They are imposing reasonable conditions to ensure people continue to comply with what the PC is approving. The Chair clarified with Commissioner Mikowski that she was saying yes to the first option. She replied with confirmation. All Commissioners agreed with option 1 for guideline g, making no other modifications to the draft findings.

MOTION BY COMMISSIONER KUZMA, SECONDED BY COMMISSIONER MIKOWSKI TO APPROVE FINDINGS OF FACT AS MODIFIED. MOTION APPROVED BY A UNANIMOUS VOTE.

MOTION BY COMMISSIONER MIKOWSKI, SECONDED BY COMMISSIONER KUZMA TO RECOMMEND APPROVAL OF ZO 2017-04-23 TO THE TOWNSHIP BOARD AND TO FORWARD ON TO THE COUNTY AS IT MEETS SECTION 11.12 OF THE ZONING ORDINANCE. MOTION PASSED UNANIMOUSLY.

K. Discussion on Zoning Ordinance: Staff said at their next meeting, if they don't have a lot going on, she'll print out a table of all the uses that are allowed in the Ordinance but have no requirements other than it obtains a land use permit or Article 8 or Article 9 to see if the Commission wants to create standards for any of those uses.

L. Comments from the Chair: Commissioner Bechtold noted in the Ticker there was a mention of a meeting on Agri-tourism and he found it interesting that they're featuring Jacob's Corn Maze, 9 Bean Rows, Farm Club, Leelanau Cheese, and Tandem Cider, so a couple in Elmwood Township and he's sensing this is another focus on potential value-added activities that occur on AG land. He doesn't know what that means for their future, but it's going to be interesting to see what the off shoot will be. He thanked the Commissioners for their diligence in reviewing the materials and the good discussion.

M. Comments from Planning Commissioners: None

N. Comments from Staff: Staff relayed that the Agri-tourism summit will be May 8 and provided a print out of the agenda. She likely will be going and if anybody else wants to attend let her know, if there is a fee, the Township does have some funds available to send the Commissioners. She also let the Commissioners know there will be a training called Connecting Entrepreneurial Communities in Cadillac, and then a webinar on understanding approvals with conditions, basics and best practices, which will be tomorrow. Also, the RFP for the Comprehensive Plan was approved by the Township Board with a couple modifications. At a future meeting she'll be looking for one of the Commissioners to serve on a sub-committee for that.

O. Public Comment: None

O. Adjourn: *MOTION BY COMMISSIONER KUZMA, SECOND BY COMMISSIONER MIKOWSKI TO ADJOURN THE MEETING AT 8:00 PM. MOTION PASSED UNANIMOUSLY.*

DRAFT