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To: Centerville Township Planning Commission

Re: Zoning Ordinance Amendments

Ladies and Gentlemen:

I am pleased that the Planning Commission is being proactive in reviewing and revising the existing zoning ordinance. Your efforts are most appreciated.

While I hope to provide more detailed comments on the proposed shoreline overlay district amendments before your next meeting, I have comments on the draft revised ordinance and am providing suggested changes for your consideration.

A. Changes to help preserve and protect water quality and other natural resources.

The Ordinance should provide that all Marinas are prohibited in the township. I would suggest that the following be added as Section 12.4: Marinas are prohibited anywhere in the Township.

1. As I explained in an email sent to Ms. Kellogg and Dr. Grobbel on January 24, 2024, I believe the definition of Marina should be revised. I suggest the following definition (revised from the definition provided in my email):

Marina - a commercial facility or business that:

- (a) extends into or over an inland lake or stream, or is located on or near the shore of a lake or stream;
- (b) provides docking, mooring, launching, fueling or other services or goods for watercraft; and
- (c) is open to (i) the public, (ii) members of an association, club or similar group, or (iii) residents of, visitors to, or patrons of, a Trailer Park, a RV Park, a campground, or a business.

Also, for purposes of this Ordinance, a Marina includes a marina or a boat livery as those terms are used in the Michigan Natural Resources and Environmental Protection Act, or any successor law.

2. Apart from the definition and the proposed new section 12.4, the term Marina is only used two times in the Ordinance – in section 3.10.C and 12.3.A. As to Section 3.10.B, that

clause is no longer relevant as marina operating permits are no longer required (Public Act 139 of 2009 removed the marina operating permit requirement and only permits for marina construction are required). And if Marinas are prohibited everywhere in the Township, Section 12.3.A should be amended to make it clear that it only applies to Marinas that are Non-Conforming Uses (this can be done by simply revising the provision to read “Marinas that are a Non-conforming Use.”).

3. Consistent with prohibiting Marinas, new boat launches should be prohibited. Although Section 3.10.C seems to prohibit new boat launches, I believe the provision could be interpreted in a way that it allow a new boat launch that is solely for the use of the owner of a parcel because the phrase “multiple party use” could be read to modify everything prior in the provision. To avoid any ambiguity, I recommend that (i) the provision be moved to Section 12 (Prohibited Land Uses) and revised to read something like “Shoreline alterations to riparian properties for on-site boat launching are prohibited.”
4. The allowance for the number of motorized watercraft in Section 3.10.B is not consistent with recognized best practices for maintaining water quality. For example, as drafted 7 motorized watercraft would be allowed on a 200-foot parcel. It is highly doubtful that a private landowner with that frontage would have so many motorized watercraft. And if 7 motorized watercraft are present on any parcel, it is very likely that keyholing, slip rental or other commercial activity is taking place. Because of both the significant impact motorized watercraft can have on water quality and the problems associated with keyholing, I believe the limitation should be 3 motorized watercraft for the first 100 feet and one additional motorized watercraft per additional 50 feet of frontage. Finally, to avoid any ambiguity about what is a “boat” and because boats are not typically referred to as vehicles, (a) the definition of Motor Boat could be replaced with the term motorized watercraft (defined as any watercraft having an engine or motor for propulsion), and (b) Section 3.10.B revised to read *motorized watercraft* (vs. motor-boat) and *non-motorized watercraft* (vs. “watercraft other than motor boats”).

B. Other comments and proposed revisions.

5. Page 7- while perhaps implied, to make it clear that the broad language in the paragraph under *Limitations of Zoning Ordinance* is not intended to affect the other limitations and conditions imposed on Non-Conforming Uses, add “Subject to Article XI,” before the words “*The provisions.*”
6. Page 7: *Repeal of Previous Zoning Ordinance*, paragraph 2 - because a violation of the existing Ordinance may not have ripened into a “fine, penalty, forfeiture or liability,” add the word “violations” after both the phrase “*rights acquired,*” and the phrase “*such rights.*”
7. Page 7: Under *Interpretation and Relationship to Other Regulations* change the word “there” in the first line to “the.” Also, again to help ensure there is no ambiguity, consider adding the word “lawful” before easements in line 4.

8. Section 2.1 - Because defined terms are used both in capitalized and uncapitalized forms in the Ordinance, add a subpart H: “If a word or term is defined in this Ordinance, the term or word has the given meaning whether or not it is capitalized.”
9. For consistency, in the definition of Building, if a vehicle used for purposes of a building is within the defined term, Recreational Vehicle should also be included in the list of non-traditional items that are treated as Buildings.
10. The definition of Campground: (a) in the penultimate line, change *asa* to *as*; (b) there is a circular reference in the use of the word campground in the definition itself, and the term *campground sites* should just read *sites*; and (c) the purpose of the sentence “*Campgrounds are regulated by. . .*” is not clear, because as used, it is just a statement of fact – it is not stated as a requirement for an activity to within the definition of campground. Presumably the intent is that an activity will be a campground (and a special use permitted only with special approval) only if the location/activity is required to be licensed by the state, I believe the provision should be re-written as follows:

Campground –a parcel of land upon which five (5) or more sites are located, established or maintained for occupancy by recreational vehicles, tents, or other individual camping units, as temporary living quarters for recreational purposes, regardless of whether they are public or private or there are fees charged, where the activity is a “campground” regulated by the Michigan Department of Environment, Great Lakes and Energy.
11. In the definition of Campground - Instead of including a prohibition on park model recreational vehicles in the definition, from a statutory drafting standpoint, it is probably better to include the prohibition in the Article on prohibited land uses (and the words “*from campgrounds*” should read “*in campgrounds*”).
12. In the definitions of Buildings and Campground, the term park model recreational *vehicles/units* is used. While park model recreational vehicle is a defined term, is the addition of “*/units*” intended to mean something different than the defined term? If yes, a definition of *park model recreational unit* should be added. If the addition of “*/units*” is not a new concept and is intended to have the same meaning as park model recreational vehicle, the term “*/unit(s)*” should be deleted. Note that the term recreational *units/vehicle* also is used in the definition of Recreational Vehicle and *units/* should be deleted there too.
13. In the definition of Guest House, to avoid any issues regarding the interpretation of “*income producing structure,*” the last sentence should be revised to read: “*Guest houses may not be rented or leased.*”
14. The definition of Hotel references a building or physical structure. However, the last sentence (“Hotels and Inns do not include...”) introduces the concept of an activity (a *stay*). If the sentence is intended to mean farm related buildings used for meals and lodging are not within the definition of hotel or inn, the last sentence should read something like “Farm-

related or ag-tourism buildings where lodging or meals are provided are not hotels or inns as those terms are used in this Ordinance.”

15. In the definition of Park Model Recreational Vehicle, there are three references that are ambiguous or invite interpretation disputes: (a) the parenthetical phrase (*formerly referred to (sic.) recreational park trailers*) should probably reference where that term was formerly used; (b) the term RV park is used (but not defined in the Ordinance) and because the definition of campground appears to include what would typically be referred to as an RV park (i.e. Leelanau Pines), is something different intended by adding RV park instead of just using campground in that definition? Note that the term RV park is also used in Section 6.2 and is redundant if the defined term campground includes what is commonly referred to as an RV park.
16. There may be some ambiguity as to the intent of Sections 6.6 and 7.7, the proposed changes to the definition of restaurant and the continued use of the term dining facilities. Assuming the intent is to restrict restaurants and dining facilities in the Commercial Resort District to those operated in conjunction with a hotel, inn, lodge or motel, and in the Recreational District to those related to otherwise permitted uses in the district, I believe both sections need to be revised and I offer the following for your consideration:

Section 6.7 Dining Facility and Restaurant Limitations
Dining facilities and restaurants are only permitted if attached to or operated in conjunction with inns, lodges, hotels or motels having accommodations for ten (10) or more individuals of family rental units.

Section 7.7 Dining Facility and Restaurant Limitations
Dining facilities and restaurants are only allowed if attached to or operated in conjunction with a use otherwise permitted in the district.
17. Although it may be implicit in the Ordinance, to avoid any doubt, language should be added to Section 14.5 to make it clear that any expansion, increase or change to an existing *Special Land Use Permitted by Special Approval* requires a new special land use approval.
18. Section 3.9 - Because keyholing can be done via boat slip rentals instead of true access easements, I believe Section 3.9 needs to be redrafted to include any use of lake frontage by parties other than an owner or renter of the parcel via an easement, slip rental or other arrangement.
19. The intent of Section 6.1.B and Section 6.2.B is not clear and those provisions may create an anomalous result with the same land use being both a use permitted by right and a use that requires special approval: a *rental cottage* in Section 6.2.B seems to also qualify as *dwelling intended for rental* in Section 6.1.A. Likewise, if a campground has rental cabins or cottages along with recreational vehicle sites (which occurs in some state parks), by application of Sections 6.1.B and 6.2.B, is a special use permit be required for the rental cabins or cottages because they are part of a campground covered by Section 6.2.C or are

they permitted as a matter of right under section 6.1.B? I believe what is allowed in the district as a matter of right vs. only with special approval needs to be clarified.

20. Section 14.4.A.2 gives far too much discretion to the zoning administrator. An up to 25% increase in the land area occupied by the main or accessory uses, the size of the parking area, the number of parking spaces provided, occupancy load, capacity or membership, or traffic generation could be quite material, yet the provision says that they are minor. For example, allowing any increase in the size of a parking lot or land area occupied by a main or accessory use could put a project materially above a lot coverage limitation. I am sure this is not the intent. I believe the reference to 25% should be deleted and replaced with a phrase such as “An immaterial increase that is otherwise in compliance with this Ordinance.”

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Thank you for considering my comments and proposed changes to the Ordinance. While I am not able to attend the Planning Commission meeting on February 5, I would be happy to answer any questions you have via email or on a telephone call.

Very truly yours,

/s/

Donald F. Baty, Jr.