

PENINSULA TOWNSHIP

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PENINSULA TOWNSHIP PLANNING COMMISSION AGENDA

August 15, 2022

7:00 p.m.

1. Call to Order
2. Pledge
3. Roll Call
4. Approve Agenda
5. Brief Citizen Comments (For Non-Agenda Items Only)
6. Conflict of Interest
7. Consent Agenda
 - a. Approval of Meeting Minutes: Township Board and Planning Commission Special Joint Public Hearing July 12, 2022
 - b. Approval of Meeting Minutes: Planning Commission Regular Meeting July 18, 2022
 - c. Approval of Meeting Minutes: Township Board and Planning Commission Special Joint Study Session July 26, 2022
8. Reports and Updates
 - a. Zoning Ordinance Re-write Adoption Pause (Cram)
9. Business
 - a. Cooley Bed and Breakfast SUP #142 - Introduction
(6901 Mission Ridge, Traverse City, MI 49686)
 - b. Structure Definition – Final Thoughts on Policy Direction
10. Public Comments
11. Other Matters or Comments by Planning Commission Members
12. Adjournment

Peninsula Township has several portable hearing devices available for audience members. If you would like to use one, please ask the clerk.

Minutes

Peninsula Township
Township Board Special Joint Meeting
With Planning Commission and Regular Meeting
July 12, 2022, 7:00 p.m.
Laura Martin, Recording Secretary

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13235 Center Road, Traverse City MI
49686 www.peninsulatownship.com
**Township Board Special Joint Meeting with
Planning Commission and Regular Meeting
July 12, 2022, 7:00 p.m.
Township Hall
Minutes**

1. Call to Order by Wunsch at 7:01

2. Pledge

3. Roll Call Township Board

Present: Wunsch, Achorn, Wahl, Sanger, Rudolph, Chown

Excused Absence – Shanafelt

Also present: Township Planner Jenn Cram and Attorney Bill Fahey via phone

Roll Call Planning Commission

Present: Shipman, Alexander, Dloski, Hornberger

Absent: Hall, Couture

4. Citizen Comments (for agenda items only)

Wunsch: if no one objects, we can take citizen comments for the township board and planning commission simultaneously.

John Wunsch, 17881 Center Road: my comment is primarily to the board and staff, although to the degree that any planning commission members are involved, I want to say how much I appreciate the energy, the time that's got to be going into this lawsuit situation, and how sorry I am to see there are now personal threats involved. I commend you for standing strong. I do believe you will win this on appeal, and I'm so glad you are doing so. Thank you.

Jim Raphael, 14826 Mallard Drive: first would like to thank the committees that have put together the various documents that have come before the board and planning committee in terms of updating the PDR language, the reports, the polls, etc. They've been very well done, very professional. I don't agree with everything, but I think you've done a good job with one exception: nobody at the township or any of the committees seems to have been interested in reaching out to the public and educating them. Very few people really understand the ins and outs of the PDR program. My hunch is a lot of people who have worked on this over the years assume that because this was passed in [2002], the same voters are going to pass it again. In my subdivision, only one of 20 households was here in 1994. I think we deserve better information. There's one thing in this proposal, the amendment to the ordinance, that I really want to focus on: the provision in section 14 B that's going to establish a multimillion-dollar endowment for the administration of this program. This strikes me as absurd. We have so many needs in this township – parks, local roads – so why are we setting up a four-million-dollar endowment to manage the PDR program in perpetuity? I'm also a little concerned that we have already sent out a ballot initiative asking people to vote without the revised ordinance being approved. I wonder about the legality of people who have already voted on provisions in an ordinance that hasn't been passed. I'm not happy about the two percent this group has proposed, up from the 1.74 percent, given how high

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our assessed properties are right now and what's coming downstream from the multimillion-dollar houses being built. It's not like we're resetting the clock at two percent and then starting to work down with the heavy rollback. The rollback is being eliminated. We are going to be paying two mils for 20 years and passing on this tax burden to new people, and they're not going to have any say for 20 years on amending this. I do appreciate the efforts to try and preserve our agricultural properties and help our farm families as much as we possibly can.

Monnie Peters, 1425 Neahtawanta Road: Welcome, Rudy. I want to let you know that Becky is going to make a minutes correction to what I said at your last meeting about changing one word that was picked up incorrectly. The letter that came out in the packet addition that came out today from Grant was very good. I want to support that. And, finally, my normal, the zoning rewrite. Jenn, is it going to happen next month? Are you going to pass it? Is this board going to actually get this done? You know what my opinion is because I've come before you at every meeting except one. I'm telling you, you should have done it last month. So, next month. Because I want to bring the bottle of champagne. Thank you.

Curt Peterson, 1356 Buchan Dr: welcome to the township board, Rudy. I'm here tonight to offer a suggestion for a motion that the township board should make. An advisement back to the planning commission, so like Monnie says we can actually get this zoning rewrite passed. Concerning the zoning rewrite, the stated goal from both the planning commission and the township board for years has been to not make any substantive changes to the rewrite. The intention was to add illustrations, sketches, get the amendments back into the documents so people wouldn't have to look for the 20 amendments at the back. Make it easier for citizens, staff, and developers to understand. That was the stated goal, but that has not happened in all situations, and I'm going to talk about the one that's my favorite topic. From the minutes of the May 16, 2022, planning commission meetings under business: "Cram summarized the proposed modifications to the zoning ordinance noted in the May 11, 2022 memo, found in the packet. For the most part, the language that is in the current rewrite will be removed from certain sections as noted and will be replaced with the original language in the 1972 zoning ordinance." That was to apply for eight subject areas, and those were conflicting regulations, definitions, hotels and motels, rental of dwellings, roadside stands, winery chateaus, Great Lakes shoreline regulations, and lastly soil erosion and sedimentation control and protection of steep slopes. Let's look at one of those in particular, rental of dwellings. At the planning commission meeting on May 16, 2022, questions were asked by planning commission members and myself as a citizen under public comment. At that particular meeting with clarifications on existing language of rental of dwellings 6.2.2.2.8, the chairperson asked the planning commission members if they wanted to discuss any items. One of the planning commissioners said, "I just want clarification that we're not changing anything. You're just going back to the original language." Cram said, "That is the plan." Then under public comment, I said, "Donna asked this question and I would like to ask it again. Jenn, you're saying we are going back to 6.2.2.2 E and that is going to stay as is?" Jenn acknowledged yes. So at the conclusion of the public hearing, Al Couture made a motion: "I move that we adopt the eight changes to the current recommended zoning ordinance revision and bring them back to the current language, and then we forward that to the town board. My motion is that we approve the changes one through eight." That was supported by Julie and the motion passed unanimously. So with respect to that, if we look at the draft dated 6.14.2022, it did not revert back to the current language. It is something else entirely. So here is 6.2.2.2 E, it is the R1A zoning district, which is rural hillside slopes. Here is 6.24 as in the 6.14.22 draft that you can see online today. These two

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are not the same. So what should be done tonight is that the township board should redirect the planning commission to go back and make that vote again but vote specifically to put 6.2.2 E back in the R1A district and then bring it back for your approval at your next meeting. Then we can go to work on making those changes in all of those areas that we talked about. I volunteer to be on a citizens' committee so that we don't end up like Sedona, Arizona, with 50 percent short-term rentals. They've taken over the town. We need to prevent that here on Old Mission Peninsula. And I'm willing to work on a committee so that we can come up with rules and regulations that make sure there are no nuisances, that we don't damage the environment or our water quality. I think you should make a motion to get this clarified because right now it's a mess. I have no idea what would happen if this zoning ordinance gets passed illegally, if it doesn't conform to the Michigan Zoning and Enabling act of 2006. Can somebody challenge the whole zoning ordinance or can they just challenge maybe the section on rental of dwellings? I don't know, but let's get it right. And it can be right within the next two or three weeks. The planning commission has their meeting next week so you can direct them to make this change so that we don't get in this legal bind. Thank you.

Mark Santucci, 11789 Center Road: I'm going to bring a little reality to the feel good that you get from the sycophants here. Change has come to the federal courts. You guys are involved in the federal court. You're talking about appealing the decision that came down; you've asked for a stay. You need to look at what's been happening at the Supreme Court. You have Roe versus Wade, which changed 50 years of what a number of people on both sides of the issue call settled law. You have West Virginia versus the EPA, where the Supreme Court has come down hard on the administrative state, basically saying that no more can you take a small phrase in a law and turn it into administrative law, which goes far beyond what the intent of Congress was. The township lawyers are asking for a stay in preparation to their appeal. I'm just going to bring up two examples of what's in their stay. I'm going to explain to you why as a non lawyer, but someone with a brain and common sense, they don't have a chance. They talk about the interstate commerce clause and say, "Well, we're just a local unit, a township making these rules, we're not a state." And the interstate clause talks about the state and what a state can and cannot do with respect to interstate commerce. Well, where do you get your authority from? You get it from the state. The state of Michigan gives cities and townships the authority to make law, to make regulations. Saying you're a township and not a state is irrelevant. You get your power from the state, so it is the state, through you, making this law. You're going to lose in court on this one. Weddings, I couldn't believe. They talk about the poor bride, who has set up a wedding for next year, and if the wineries lose in court, that poor bride isn't going to have a place to have a wedding. Well, first of all, your own officials in the deposition said that wineries can have weddings. You think the judge after hearing that is going to grant a stay to doing something like that? Again, it's just crazy. Now I understand Grant Parsons wrote you a very nice letter. He says the nation is watching, and this finding will have significant repercussions. I couldn't agree with him more. You may be at the center of a change that is going to sweep the nation. Right now, and if you notice what the judge said to you, no longer will just saying health, safety, and welfare of the community is why you do something. There has to be something to back it up. Again, a perfect example is the noise, electronic noise. You can have a symphony orchestra out there, or you can have the Mormon Tabernacle out there belting out 95 decibels and that's okay. You have someone on a guitar that happens to be modified electronically, it's not okay. What the judge said to you is, you can make regulations but they have to make sense. In other words, at the boundaries of the wineries, if the noise level is above whatever level you put that makes sense; whether it's electronic noise or just

people noise, you can make a law that says it can't be over 50 decimals, or 70, whatever a common sense number is, but you can't say no electronic but anything else. Since I'm a landowner and a taxpayer, I'm trying to help you guys. The papers that each side has written, I've read them all. Don't stick your heads in the sand. The world has changed in the United States with this Supreme Court. And if you ignore it, it's going to cost all of us. Thank you.

Louis Santucci, 602 Center Road: a petition was submitted for getting the moratorium on the November ballot. I want to bring to your attention, since you neglected to bring it to attention in the packet you sent out, that once that notice of petition is filed, the moratorium is basically in abeyance for 30 days. If the requisite number of signatures are gathered in the time frame, then it would be in abeyance until it's put on the ballot in November. So I think people should know that that exercise has been undertaken. The notice was put in the packet so people know what the notice is but they don't know really what it means. So I just thought I would bring that not only to the board's attention in case you don't know but to the public's attention as well. Thank you.

5. Approve Agenda

Town Board Agenda:

Wahl moved to approve the agenda with a second from Sanger. Motion approved by consensus

Planning Commission Agenda:

Hornberger moved to approve the agenda with a second by Alexander. Motion approved by consensus

6. Conflicts of Interest

Township board: none

Planning commission: none

7. Consent Agenda

Town board:

1. Invoices (recommend approval)

2. Reports

A. Cash Summary by Fund for June 2022

B. Peninsula Township Fire Department for June 2022

C. Ordinance Enforcement Officer for June 2022

3. Minutes from June 6, 2022, Township Board Special Meeting; June 9, 2022, Township Board Special Meeting; June 14, 2022, Township Board Regular Meeting; June 23, 2022, Township Board Special Meeting; and June 28, 2022, Township Board Special Meeting

4. Appoint Election Inspectors for August 2, 2022, Primary Election

5. Communication from the city of Traverse City regarding its master plan

6. Grant from Oleson Foundation to help fund the construction of a boardwalk on the John Spencer Memorial Trail at Pelizzari Natural Area

7. Letter of commendation for Jim Olson and plaque to be placed at Mission Point Lighthouse

8. East Bay Township Pauses Short-Term Rental Licenses (article)

9. Request from Peninsula Township Fire Chief Fred Gilstorff to donate surplus rescue tools

10. Incident report and emails from WOMP attorney Joseph Infante and Peninsula Township legal counsel Bill Fahey regarding planned food truck at Bowers Harbor Vineyard over July 4 holiday weekend

11. Correspondence

A. Kara Koeplin

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B. Connie Sargent
C. Eric Dreier
D. David Shambaugh
E. Todd M. Sanders and Maura A. Sanders
F. Laura Johnson
G. Dianne Richter
H. Grant Parsons

Chown: I have a couple of corrections. In the minutes from June 14, page one, eight lines from the bottom, the word "passive" needs to be replaced with the word "master." I also have a change to the election inspectors we are appointing tonight under the consent calendar. The first absentee voter counting board has a new precinct inspector, Cameron Farley. And to the second absentee voter counting board, we will appoint Kris Prescott. There might be some musical chairs, we might switch some people around, but the names that you see here, plus the two I just mentioned, will be our election inspectors for the August 2 Primary Election. Thank you.

Wahl moved to approve the consent agenda as amended with a second by Sanger

Roll call vote: Yes-Achorn, Wahl, Sanger, Rudolph, Chown, Wunsch

Passed unan

8. Business

Township board:

1. PDR Ordinance #23, Amendment #3 Adoption and Public Hearing (Cram and Virginia Coulter):

Cram: I want to thank the PDR study group for all the hard work they've done. It was wonderful to work with you all. And I would like to introduce the PDR study group: Susan Tarczon, John Wunsch, and Virginia Coulter. Virginia will be doing a summary for you. I also want everybody to note two packet additions. The first packet addition has the correct, most current, maps, which are in appendix A of the PDR ordinance. It's the agricultural preservation area map and the viewshed map. Packet addition number two proposes a change to the definitions as proposed by Armen Shanafelt. As with any ordinance, it's a work in progress. With that, I'll turn it over to Ginny.

Virginia Coulter, 16550 Center Road: it is my pleasure to be here. First thing I want to do is elaborate on Jenn's introduction. Most of you know John Wunsch. He was on the committee that wrote the original PDR ordinance, organized the millage campaigns, and ran those. He's been a constant watchdog for the PDR program over the years, and it's been a lot of years. A lot of things have changed in 28 years. Susan Tarczon is a recently retired banker; she has served as a financial advisor for PDR from the very beginning. She worked on the millage campaigns, she worked on the finance committee, and she served on the final selection committee. I was on the planning commission as the chairperson when the PDR program was developed for both millage votes. And for both millage votes, I served on the final selection committee, which I think was 2017. The last project was the Weatherholt farm, which as I recall closed in December of 2018. I also have personal experience donating and selling development rights to the Grand Traverse Regional Land Conservancy. We didn't do this by ourselves. It has been a real work in progress. We started with a few members in July 2019. Gordon [Hayward] was there; I'm not sure which planner was there at the time. Anyway, the target was to have another millage in the fall of 2020. Well, a lot has happened since then. I just want to give kudos to a lot of groups and people without spending the whole night going through names. We've had town board members that have assisted, township planning commissioners, the director of zoning, the assessor, the treasurer, planners, four of them, lots of attorneys, the Grand Traverse Regional Land Conservancy staff and their attorney. I can't

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say enough good stuff about Laura Spencer [Rigan], who was our primary staffperson. In this time she's had two babies. We've had assistance from bond council and the PDR financial committee, which was made up of local financial professionals. We've also had citizen input. We had one open house that people came to, but we had some regulars that came to a lot of our regular study group meetings. I don't want to go through this whole ordinance with you tonight. I just want to go through a few significant revisions that are being proposed. I'm sure you've all read the ordinance. We tried to do a good job writing this summary because there have been tremendous changes to this ordinance. The significant revisions are being proposed to more closely align the township program with the state and federal programs so that matching funds will be available. We also wanted to more closely align the ordinance language with industry standards that have changed. That's part of why the endowment fund is necessary: so that we can ensure that we can take this to the voters and say, "Your tax dollars will preserve these properties in perpetuity. We're buying these residential development rights and they're gone." We updated the ordinance to comply with the Michigan Zoning Enabling Act of 2006. Streamlined the selection process to make the program more time sensitive. Modified the scoring so that it's less complicated, less subjective, and prioritizes large parcels so that we can use those matching funds. Provided a set-aside to be used to purchase unused development rights that were previously retained on properties under conservation easement. There are some situations where the township bought development rights but a farmer held several development rights and has no intention of ever using them. We'd like to open it up so that those can be bought back, especially if they are in a viewshed. The new ordinance provides more guidance for appraisals, professional assistance, closings, monitoring, and enforcement plus a detailed process for amendments. It revises the financial section of the ordinance to ensure the long-term integrity of the program. These revisions were made upon recommendations and reviews of the bond council. Marge, the township treasurer, was very helpful, as was the financial committee. Do you have questions? We're here to answer them.

Cram: Thank you, Ginny. Because this is a joint public meeting, we're going to allow the planning commission to do their thing, then the township board. So likely the study group and I will get questions from both.

Shipman: I understand process wise that this is our opportunity to discuss and ask questions of the study group. Then we can open a planning commission public hearing. Then we can close that, have further discussion, and decide what to do next. I'll kick off the questions. My reading of all the work that was done in the amendment is that this very much reflects the original intent. It seemed like great care was taken to maintain that intent and then focus on updating so that we're in line with regulations and how things work now that there's so much time that's been spent on the program. I want to highlight that matching funds and grants are absolutely critical. They benefit all of the taxpayers as well, to help relieve some of the financial burden of the program. Speaking of financial burden, regarding the comment from Jim Raphael about the endowment: I'm absolutely in favor of what's planned here because this is a perpetual obligation to the township. We need to make sure that down the road we're not going to be spending general funds, or need to seek funds, to support all this land protection. There are annual obligations, and it's important that the township is secure in meeting them. That's my opinion. I have a couple of questions. First question is on the points system, page eight. Under the existing reserved development rights, I noted some specific examples: "You get ten points if this, zero points if not." I just want clarification for this second points chart because there wasn't a, "If this, this many points. If that, that many points."

John Wunsch, 17881 Center Road: the point here is that you can retain up to one development

right for each 20 acres. If you had for example an 80-acre parcel that had reserved four development rights, and they said, "Well, I want to give up two," then they're going to get down to where there's one home site for each 40 acres. Whereas if the next person said, "I want to retain three," then they're going to be above that threshold. Our desire would be the lowest possible number of reserved sites. So that is our place where we can give points to say, "Okay, you're really going to cut it down to half of what's allowed, you get those points." The person who doesn't cut it down that far does not. Now having said that, does that clarify or is there a further question?

Shipman: yes, that's my understanding of it. It's just the, "If this, then that," wasn't included like it is in the other parts of the table. Just want that to be on the record and clear for everyone.

Question number two, page 13, under amendment applications costs, item 2A, says, "Neither township general fund nor PDR fund will be used to pay for an amendment request." But then in item B it kind of reiterates that, it says, "All costs are going to be paid by the applicant, unless the township is the applicant." I was curious how that would work out if the township did have an interest in an amendment. In such an instance, where would the funds come from?

John Wunsch: I would assume at the time that we were contemplating this that if that township were the applicant, there would be a desire by the board to do this. That would be their decision on how to handle that. It would technically be an administrative cost, which can be covered out of the millage. They would have that option. But it didn't limit them to that. Because the millage pays for the administrative, the monitoring. So you're right, it does not specify. Because of feeling the circumstances will change over the decades.

Shipman: it does say, "Neither the general fund nor the PDR should be responsible for any expense."

John Wunsch: that's if the applicant is the landowner.

Shipman: if it needs to be specified, "If the applicant is requesting, then this."

Coulter: maybe it needs to be tweaked to, "Unless the township is the applicant."

Susan Tarczon, 15763 Smokey Hollow Rd: and we contemplated that happening very very rarely.

Cram: I've noted that change and am tracking that.

John Wunsch: we'd have to have the language in A, of the same language, "Unless the township is the applicant." That's a very good point; thank you.

Shipman: next question is page 14. In section ten, number seven, the statement in our summary of the amendment was for "Appraisal of changes in value." What showed up in the amendment wasn't consistent with what was stated in the summary. I think there's already been some work done on this.

Wunsch: yes, that's a very good point. Section seven, appraisal change of value, was never changed to match the prior page six. So really the last sentence does not belong there. Jenn, I've worked on language that I think will clarify that.

Cram: that language is in front of everybody. The new language would read, for section ten, number seven: "Appraisal of changes in value: prior to a final decision on a proposed amendment to a recorded conservation easement, the township board shall obtain at the applicant's expense an appraisal of the property to determine if the value of the retained development rights has increased as a result of the proposed amendment. The appraisal shall meet the same criteria as described in section seven above. If the appraisal indicates that the value of the retained development rights has increased as a result of the proposed amendment, the amendment shall not be approved."

Shipman: I'll just again express a thank you to the committee for all the hard work. I attended a

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few of the meetings; it was very informative and every detail was pored over. I also want to say that this program, this ordinance, are to me are a pretty clear indication that this community supports agriculture. I'm a big fan of it. Thank you, everyone, for your work.

Alexander: I really appreciate all the detail and care that you put into this. I also liked looking through section 12; it was helpful to see how the costs were going to be paid for. Just some questions that came to mind, because if we're not taking township resources to do this, is there anticipation that there will be staff who might be added? And equipment?

Cram: one of the roles of the planner is to administer the PDR program, so there is staff dedicated to manage the program. With regard to enforcement, there is a contract for enforcement or monitoring. Currently, we have two people who monitor on an annual bases. Again, that's why those different accounts were set up so that monitoring and enforcement are paid for from the PDR fund, from the appropriate account. We don't need additional resources. We believe that with existing staff and the contractual agreements, we will be covered.

Dloski: the definition of conservation easement in part says that it distinguishes development rights but a subject may be expressively reserved in the easement. What development rights could be expressly reserved in the easement other than the right to build one house for every 20 acres?

John Wunsch: that's the basic rights retained in the program. Individual negotiations could raise something else, which then when the appraiser appraises would be taken into consideration to establish the amount that they're getting. The boilerplate of the easement has to do with not having commercial development. The program references not supporting commercial development.

Dloski: are you saying then that there's really no negotiation because you can only have one residence for 20 acres? What are you going to negotiate?

Tarczon: maybe that each particular parcel might be impacted differently, such as if you're identifying the driveway easement to get to a particular residential site. Like any conservation easement that the regional planning conservancies have been involved with as well and throughout the community and beyond, because each property is unique. Each conservation easement is going to have that particular language that pertains to that particular property.

Wunsch: if you don't mind me jumping in, I am speaking not as the township supervisor but as someone who has negotiated on the seller side a few of these. A one dwelling per 20 acres might not always be a floating one dwelling per 20 anywhere on that site. When you dive into the weeds of negotiating a conservation easement, the buyer, whether it's the township or the Grand Traverse Regional Land Conservancy, might say that they would prefer to protect a scenic viewshed. So in addition to selling down a bunch of development rights, you would restrict future building envelopes, both for future residential or agriculture construction. Basically you end up with a pre- and post-easement plan. Then the appraiser appraises off of an unrestricted appraisal the value of the restricted. So there's some granularity that we don't necessarily see in the ordinance.

Dloski: can you build a winery chateau on PDR land?

John Wunsch: with the original language, the intent was, you could not without development rights. Clearly that's been backed now by the lawyer, the planner, the supervisor, the planning commission members, the most involved citizen activists, and the affidavits submitted to the planner. But clearly, no, the intent is you have to have development rights to have a winery chateau.

Hornberger: so if I sell my development rights and I sell the land, somebody will not be able to

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build a winery chateau?

John Wunsch: if they don't have any development rights. We're updating that language so it's more obvious.

Hornberger: and that language would be in the PDR?

John Wunsch: two places this occurs. You've got your zoning. So in the PDR, we did put specifically that appraisers have to open and look at the special use permits for what is allowed and what is not allowed.

Cram: we will be looking at that in future updates to the zoning ordinance to make sure it is very transparent and clear.

Hornberger: with the zoning ordinance, it's always a work in progress; we're constantly looking at it. Once this has been approved, is it modifiable? Or will we do the same thing 20 years from now?

Cram: the original ordinance was adopted in 1994 and there was a revision in I think 2003 and then another revision in 2017. They are always living documents. We reserve the right to get smarter based on current conditions. It could go through a public process for amendment.

John Wunsch: whereas the easements and individual deals could not.

Hornberger: those I realize. I'm a grammarian. If looking through this I see something that needs to be fixed, I can come to Jenn and and say, "We're going to change this sentence."

Cram: always.

Hornberger: that was my concern. Regarding the endowment, how long will it take to build that up?

John Wunsch: this is where the four retired bankers worked really hard. It's a little of a slow build. Initially, there's always excess millage. The initial excess millage revenue will bolster the legal defense fund up to the level that's more modern, \$250,000. When that's done, excess revenue will start to go into the endowment. When that reaches 2.5 million, at about eight or ten years in, it's capped and builds on its own interest until it reaches four million, at a minimum, which it needs to be kept at. If it reaches 4.5 million, it flows over to replenish the legal fund.

Wunsch: I have a request from an online viewer, John, for you to speak towards the mic.

John Wunsch: my apologies.

Shipman: very quick. Section seven, number 13, page 11, D at the top, third line down: "The selection committee shall request the planning commission to provide recommended building under vegetation restrictions." First of all, that's interesting. We need to think about that at the PC [planning commission] level, but do we want to strike that "to" just in terms of how it reads?

Committee discussion occurred.

Cram: change "provide" to "recommend." I have tracked everything we've discussed so far.

Hornberger moved to close regular meeting with a second by Alexander. Motion approved by consensus

Hornberger moved to open the meeting to public hearing with a second by Alexander.

Jim Raphael, 14826 Mallard Drive: I'm wondering if anybody has given any thought to what the implications of our beloved WOMP lawsuit might have on the PDR program and what people can and cannot do with their property above and beyond the residential building aspect. I remember when we were talking about this earlier, a number of farmers are interested in getting the same rights as the winery owners. Just to cite one example, right now on Swaney Road, there is a 20-acre parcel that is in the PDR program that happens to have a 4,400-square-foot barn on it. They're very careful to say what you can do about the residential stuff. But when it comes to this big barn they have in the program, it says numerous personal and agriculture uses, events, tasting room,

storage. So my question is, in the ordinance, will there be restrictions beyond building residences on these properties that are somehow going to circumscribe or prevent people from using their barns and other outbuildings for events, weddings etc. as we're now having to deal with the wineries or is this something yet to be considered?

Louis Santucci, 12602 Center Road: I just have two questions. One is, I don't understand the millage; it hasn't been explained adequately in any of the information I see. Is it the actual appraised value of your property or is it the other value? Could you just use an example of a house appraised at \$100,000 and what that person would have to pay each year? Two, John, are you saying that the current PDR ordinance says that anyone who sells their development rights has to have a development right, at least one development right, on the property? If I'm wrong, correct me. And that that person that sells a development right, if the winery comes along, they have to give up the development right in order to have a winery chateau? I'm just trying to figure out, is that the current rule or the proposed rule? Because I didn't see it in the zoning ordinance.

John Wunsch: that would not be in the PDR ordinance. That is referencing the original winery chateau ordinance. That is referencing the original intent. And while the planning commission has worked several times as you know to try to clarify that language and seemed to understand the intent, we did not get to go back and finish that. We have bolstered that instead with the affidavits of the four key parties at the time of its creation, establishing that for the original winery chateau ordinance, yes, you have to have a development right to give up for the winery. A second development required a first residence, a development right for each three guest rooms. If you look at the winery Chateau Chantal, that's a perfect example. Another example is Chateau Grand Traverse. When they originally wanted to apply for [chateau status], they did not have the development rights. They were able to purchase an adjacent parcel and wrap it in; that's where they got their development rights to have their winery chateau permission and their guest rooms.

Santucci: just so I understand it, if a farmer wants to sell his development rights, and a winery comes along and says I'm willing to buy your property, then he has to keep, shall we say, a number of development rights, and not sell them to the township or the conservancy; he has to keep them in order to give them.

John Wunsch: yes.

Santucci: okay, if someone could just take that hundred-thousand-dollar example.

John Wunsch: I can do that for you right now. The most precise and accurate way to understand is off the SEV, the state equalized value. Generally speaking, your market value runs about twice that. But because SEVs are not done every year, they can vary some. So if you want to look at the SEV of a \$100,000 house, it would be \$28.77 per year, or \$2.39 per month.

Mark Santucci, 11789 Center Road: I have two contiguous farms. On one farm, the previous farmers sold the PDR rights. The other farm, I still have full development rights. Every year, there's an audit that takes place. As far as I'm concerned, it's maybe a half hour, an hour at most for the person doing the audit. I don't know how many pieces of property are PDR and how many more you expect to be PDR, but the numbers I saw tossed around, for what it cost to audit it, I think you should audit the audit. Thank you.

Bernie Kroupa, 3183 Shore Wood Drive: we're going to vote in August. Is what I've been reading the final ordinance?

John Wunsch: depending on what's discussed tonight.

Kroupa: all right; that's good. So, unlike Congress, we don't have to vote and make it up later.

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John Wunsch: the board has to pass the ordinance and vote on this as always.

Kroupa: so still a work in progress but by August [second], that's what we vote on. Good. Questions come more to the basic stuff. So I'm referring now to the deed of conservation easement that governed past PDR properties. My question is, has that or will that change?

Hornberger: no. You went into a contract.

Kroupa: I'm not talking about the old one; I'm talking about someone entering into a new agreement.

Hornberger: the new one will be under this. What do you think might be different?

Kroupa: I don't know.

John Wunsch: we've had no plan or discussion about any substantial changes to the easement.

Coulter: is your question will there be a deed restriction?

John Wunsch: will the boilerplate of the deed easement change? That is your question, correct? They are individually negotiated; there's a basic platform. We've had no conversation about changing the basic platform.

Kroupa: that's good news.

Coulter: they do evolve though. Industry standards for conservation easements have changed, and that's part of why we've made changes; we've got to keep up.

Kroupa: I probably understand that but I'm just talking about basics, what you can do in this agricultural area.

Hornberger: what you're saying is, if you didn't already have an easement and you came to us, would the deed look different now?

Kroupa: yes, that's what I'm trying to get to.

Hornberger: probably not.

John Wunsch: substantially not.

Kroupa: okay, that's a good thing. Things you cannot do then. I'm not too interested in vehicle raceways and stuff like that. One big deal is access. Every once in a while, that is debated. "This is public dollars; why don't we have access to that land." That I assume will remain.

John Wunsch: Yes, and that we bolstered in the actual ordinance. We wanted to make that clear by adding language that there shall be no public access unless allowed by the owner. We knew that should be kept not just in the easement but in the ordinance.

Kroupa: that's pretty easy then. I could have stayed home and loaded a couple more trucks.

Mary Beth Milliken, 7580 East Shore Road: this is a really basic question. I have been passing out brochures about PDR and how important it is. I've been asked by a couple of people, "Who really decides which properties are purchased, whose development rights are purchased?" I couldn't answer that. I know that it said somewhere in the packet that the number of people on the committee is reduced, but who are these people and what are their qualifications?

John Wunsch: historically, it's been a process of application by residents, and the board has a little bit of their qualifications to make that choice. As far as choosing what's going to come in next, it is believed that the scoring system we have will differentiate for us who's in order. We were just looking at the language. Someone said, "Maybe you should say, 'They may follow the criteria.'" No, we say, "They shall follow criteria." We don't want it to be an individual group saying, "We like this one better." So we review by points. It will be a group of five volunteer residents chosen by the board based on qualifications.

Milliken: who serves and for how many years?

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Shipman: three-year terms. It's section six; it really does outline who and for how long.

Milliken: and do they approach landowners?

John Wunsch: a notice goes out that a round has opened. Landowners are notified how long they have to apply. Might there be someone who goes out and says, "Boy this is a great farm" to help put it in PDR? It's not the role of the selection committee to recruit. It's laid out clearly that it's a volunteer program. Landowners have to want to come in. They have to make that application to the selection committee.

Hornberger: it looks like a rolling term too for members so they're not all being replaced at the same time. Theoretically [you have] experienced people and new people in the same group.

Dloski moved to close the public hearing, seconded by Hornberger. Motion approved by consensus

Hornberger moved to open the regular meeting, seconded by Dloski. Motion approved by consensus

Shipman: the easement is a contract between the township or the conservancy and the private landowner for a private land arrangement. What is kind of the boilerplate is certainly going to be a starting point, but it is a contract that is negotiated by the two parties. A landowner could wish to have additional restrictions as a request for the easement. They could wish to have no residential home sites maintained, and it all comes out in the wash in the appraisal. The township is going to be looking at these, and following the ordinance, and not agreeing to anything that violates the ordinance.

Shipman moved that the planning commission recommend to the township board that it adopt the purchase of Development Rights Ordinance #23, Amendment #3, as presented in the packet with the changes to section 2, #19; section 7, #13(d); and section 10, #2(a) and #7 as discussed, seconded by Dloski.

Roll call vote: Yes: Alexander, Dloski, Hornberger, Shipman Passed unan

Wunsch: as we move on to our own business item of discussing the PDR program, does anyone want to request more information or dialogue?

Wahl: on page 12, Enforcement of Penalties under section three, there is a schedule proposed with 90 days for the town board to have. Is this something we've already thought about or is it something we're going to create after this is approved? Is it common for us to have a fee schedule?

Cram: yes. That is something the PDR study group has been contemplating, and staff will be working with our new legal counsel to make sure that will get drafted within 90 days. It will come back before the township board for approval.

Sanger: I want to clarify my understanding that a winery on land subject to this conservation easement would require a residential development right. I heard John talk about that, but I don't find it anywhere in the document. Where, John, can we find that a winery chateau, namely the winery building itself, will require one residential dwelling right to be allowed?

Cram: that will be addressed in the zoning ordinance updates that will be coming forward soon. The citizens' agricultural advisory committee has worked on that, made recommendations, and it's gone to the planning commission. Staff is working with our new legal counsel to get them up to speed with the current zoning ordinance rewrite as well as proposed changes to our agricultural sections related to winery chateaus, farm processing, etc. So that is the appropriate place where that will be defined further.

John Wunsch: that is the original intent; the language in there already says that. The planning

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commission has worked on that but has not updated it. Since the entire update is coming along, we expect it will be addressed there. Between the affidavit submitted by four key individuals and the history established by the Grand Traverse Chateau deed, we feel we have the precedent established and clear, but we want to improve the language.

Cram: the current zoning board also speaks to a dwelling unit per five acres. This affidavit further clarifies that, and future updates will make it very clear.

Wunsch: as a landowner, I would say the township ordinance probably prohibits those uses right now, but there are probably some dormant rights that remain around agricultural tourism or retail uses. The market-based PDR program is the best way to achieve permanent endowment rights. Whereas the ordinance can kind of dictate land use in the short term, the township easements that we have on our farms are a little more ambiguous about what's allowed and not allowed. The more modern easements we have worked on with the Grand Traverse Regional Land Conservancy are quite a bit more explicit regarding what level of retail use is allowed. A conservation easement is permanent, and a zoning ordinance is reasonably permanent but is also subject to change.

Sanger: the definition of development rights that we've heard read tonight talks about residential, commercial, and industrial purposes. And I agree with you; that's fluid. As the conditions change, definitions change. Five years from now, a meaning we put in tonight could be different in terms of what that structure or use called. You can address those differences in the zoning ordinance as you drill down on residential, commercial, and industrial.

Wunsch: if you look at the agriculture real estate market today, it's almost inevitable that you would have to sell down some of those retail, agricultural tourism rights in order to generate a positive value for a conservation easement.

Cram: this is a voluntary program, and those conservation easements are negotiated between the property owner and the township or the land conservancy. So that value would be incorporated if they wanted to relinquish additional development rights for specific types of things.

Wahl moved to close the regular township board meeting with a second by Chown.

Wahl moved to open the public meeting with a second by Chown. Motions approved by consensus

Wunsch: is there any public comment that is not repetitious of previous comments?

John Wunsch, 17881 Center Road: I want to address a couple of things that were brought up. About the size of the endowment, the bankers who worked on this were very careful to try to set something up that would go into perpetuity. We're talking hundreds of years. And if you look at the cost that could be coming, we based that on two things. One, what the conservancy spends for each easement it monitors, and two, what we spend on each easement that we monitor. What we've been spending is actually less. We based it upon that assumption, with an increase for inflation. We felt confident that this was a necessary amount. If you look at it as a way of ensuring what's already been spent and what will be spent the past 30 years and the next 20, it is proportionately a wise investment. I'm not at all aware of Headlee ever being rolled back; I don't think that's in the works. If it did happen, town boards have the ability to not collect all of a millage. If this funding was no longer necessary because Headlee did get eliminated, they would be able to adjust for that. Thank you, everyone, for your support. We will certainly do our best as the group that backs and supports PDR to be ethical and considerate to the community.

Jim Raphael, 14826 Mallard Drive: let me clarify that last comment. I went to the Michigan Municipal Fact Sheet, and there's an item there called Headlee Rollback and Headlee Override.

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Basically what you're doing is overriding the rollback. The reason that the millage went from two to 1.74 over time was the adjustment; that's the rollback. It says very specifically, "A heavy rollback is a vote by the electors to return the millage to the amount originally authorized via charter state statute or vote of the people and is necessary to counteract the effects of the heavy rollback." My understanding is that this is going to be two mills for 20 years.

John Wunsch: no, it will go down quite heavily, just like the last millage. This is a reset to a start point. We can't override Headlee; it will keep bringing us back down. That's built into our projections.

Raphael: it would be interesting to find out from the lawyer because that's not what the language of the millage says. It says it's going two points for 20 years.

John Wunsch: every millage states that in the initial ballot language.

Raphael: you need to get this clarified because it makes a substantial difference in terms of how much money is going to be collected over 20 years.

Wahl moved to close the open session with a second by Sanger.

Motion approved by

consensus

Chown: in the summer newsletter, there is a terrific article about PDR that educates, not advocates, readers about what the program does and how it operates. I encourage everyone to read that article and then ask any questions that they have. There are many individuals on this board and in this community who would love to talk about the PDR program.

Achorn moved that the township board adopt the Purchase of Development Rights Ordinance #23, Amendment #3, as presented in the packet with the changes as discussed to section 2, #19; section 7, #13(d); and section 10, #2(a) and #7 as discussed in this meeting tonight and noted by Cram in the packet, seconded by Rudolph.

Roll call vote: Yes- Wahl, Rudolph, Chown, Wunsch, Achorn

Passed unan

2. Statement from Peninsula Township concerning the moratorium ordinance and
Notice of Intent to File Petition under MCL 125.3402

Wunsch: the township has prepared a statement. Also included in the packet is a notice of intent to file a petition under MCL 125.3402 by Jennifer Bramer, which reads "The undersigned, a registered elector residing in Peninsula Township, hereby gives notice of intent to file a referendum petition pursuant to MCL 125.3402, regarding Peninsula Township Zoning Ordinance 2022-06-14 adopted by the township board on June 14, 2022, and published in the Traverse City Record-Eagle on June 16, 2022." Joseph Infante was copied on that petition.

Township Board Discussion

Chown: I continue to very strongly support this moratorium. I think it is necessary and prudent, and I do not believe that it constitutes a significant hardship. A significant inconvenience, yes, but hardship, no. There is a chasm between the two. Thank you, township board members, for supporting this moratorium.

Sanger: we acted on this at a previous meeting. This is an update tonight.

Alexander: I was wondering about a public comment that was made earlier: since this has been filed, then this effectively ends the moratorium. Could we have some comment? Is that accurate?

Cram: Bill, did you hear that public comment by Louis Santucci regarding the petition for the referendum for the moratorium?

Fahey: the petitioners have 30 days from the publication of the ordinance, which was on June 16, to get the petition signatures. If that happens, the ordinance will be suspended until such time as

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the electors can vote the ordinance either up or down.

Dloski moved to adjourn the planning commission meeting with a second by Hornberger.

Motion approved by consensus

Planning commission meeting adjourned at 8:50 p.m.

3. Zoning Ordinance Rewrite Adoption

Cram: we are working to bring legal counsel up to speed on the zoning ordinance rewrite. We recommend that the board make a formal motion to table this to the next regular scheduled township board meeting, on August 9, so we can continue this work. We are hopeful that we'll have something then.

Wunsch: you have talked to our legal counsel about Curt Peterson's concerns, right?

Cram: yes, we've reviewed the minutes, we have reviewed the motion, and there will be an update at the planning commission to advise them how to proceed.

Wahl moved to table the resolution until August 9, seconded by Sanger.

Motion approved by consensus

4. Resolution 2022-7-12 #1 Authorizing Salary Adjustment for Peninsula Township Trustees

Achorn: last October, Peninsula Township engaged Rahmberg Stover and Associates to conduct a compensation study for all positions in the township. The township did not act on anything relating to the four trustees on the township board. The results of that survey of Grand Traverse County showed that based on 12 meetings per year for Acme, the trustees are paid \$7,200 per year. Blair Township, \$7,560. East Bay Township, \$6,919. Green Lake Township, \$7,846. Long Lake Township, \$6,259 plus a per-meeting stipend of \$75. Garfield Township had 24 meetings a year and they were compensated \$13,000 dollars. Peninsula Township trustees have compensation of \$5,391. Dave, you calculated the number of meetings?

Sanger: yes, seeing this agenda item, I did look it up. During the last calendar year, 2021, there were 31 meetings of the township board. That included regular scheduled meetings and special meetings. So far in 2022, there have been 24 meetings through tonight.

Achorn: plus travel to Grand Rapids or Kalamazoo. Although it is not a great increase in compensation, it shows some appreciation to the trustees for the additional work they have had to do over the last two years. I propose resolution 2022-07-12 #1 authorizing the salary of Peninsula Township trustees to be adjusted to a flat rate of \$7,500 annually with the new rate effective in the next paycheck and authorizing the treasurer to note the change in the amended budget report. I also want to note that I looked in MTA's little red book and it said the township board may set the salaries of township officials by resolution and the township board should adopt a separate resolution for each official. In this case, it would be the four trustees in total.

Achorn moved that the board accept the resolution, with a second by Wunsch.

Roll call vote: Yes: Sanger, Rudolph, Chown, Wunsch, Achorn, Wahl

Approved unan

5. Resolution 2022-07-12 #2, Enhanced Access to Public Records Policy

Chown: Beth Chan is our FOIA coordinator. She has spoken with an attorney who specializes in FOIA requests at Bill Fahey's firm. That individual worked with Beth to come up with this resolution and bring us up to date with how we ought to be taking FOIA requests and billing for them when appropriate. I do have one change to exhibit A, which is on page four. Number four says, "The township clerk shall estimate the reasonable fee." That needs to be changed to, "The FOIA coordinator shall estimate the reasonable fee." I will make that change before I sign off on this. I

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was the FOIA coordinator my first year as clerk. It's becoming a full-time job; we keep Beth very busy in this community. She has tallied up the number of FOIA requests since the start of 2022 and how much staff time it has taken. In a community that submits FOIA requests on a regular basis, it became apparent that we needed an updated policy.

Achorn: I would like to make one change on that same number four paragraph. It said, "The requester shall post a cash deposit with the township clerk." It should be with the treasurer.

Sanger: one typo: it reads at the top "Special Meeting." It should say, "Regular Meeting" on the top of the resolution.

Chown moved to accept and approve resolution 2022-07-12 #2, Enhanced Access to Public Records Policy, with the amendments, with a second from Wahl.

Roll call vote: Yes-Rudolph, Chown, Wunsch, Achorn, Wahl, Sanger

Passed unan

6. Update from Parks Committee, Mary Beth Milliken and Michele Zebell

Mary Beth Milliken, 7580 East Shore Road: the parks committee continues to look at what we can accomplish with the small amount of money we have. We're working on prioritizing our wants list. At our last meeting, we agreed to re-seal and re-line the tennis courts at Bowers Harbor Park. It will cost about \$6,000 and should buy us about five to seven years of safe play on the courts. We will hold off on re-lining for pickleball until we know what's going to happen with the construction of the pickleball courts. They may get lined at the same time. And also what happens with the basketball court. The pickleball courts are on hold pending relocation of the basketball court and who's going to pay for getting it redone. They can't do that given the way they're raising money, so some other activities are going on in the background to see if the basketball court can be moved and redone. We know that pickleball courts would be a great asset to Bowers Harbor Park. There are a few positive things happening at Archie Park. Parshalls has been contracted to remove five unsafe trees. That doesn't really come out of our parks budget per se because it's a safety issue; the trees are dead and need to be taken out. Parshalls was very generous in their price to remove them. They said they'd do the stump grinding and put the chips under the swing set so it's a soft landing. They're going to re-seed and put black dirt where there are holes in the park. They'll also remove the autumn olive that is growing there. We have applied for a DTE tree grant that we will be sharing with Bowers Harbor Park. Some of this planting will replace some of the trees that were lost when a hillside neighbor removed park trees to enhance his view. The grant will beautify the park. You have noticed Elmer's dropped off and spread gravel at the parking lot for Archie. They also took the grindings they procured when making the rumble strips in the highway. That will keep down the dust and mud. Thanks to Rob Manigold for working that out for us. We ordered a new life ring and that has been installed. The other life ring was attacked by woodpeckers. We've ordered a new split rail fence for the south and north borders of the park. I'm planning the work bee on the 19th of July, weather permitting, at 9:30 a.m. Anyone interested is invited. Please email me if you're interested in coming in case we need to postpone. If you come, dress accordingly; there is a lot of poison ivy there. Also at Archie Park, MDOT has agreed to place signage within 1,000 feet on the north and south of the park warning people that pedestrians could be crossing the highway. Down the road, we hope to install a bike service station and a Beta Bus shelter. At Haserot, the parks committee agreed to begin a life jacket library, which was suggested and sponsored by Mission Blues, which will happen mid to late summer. Then at Pelizzari, the Oleson Foundation has granted money to begin work on the boardwalk through the hemlock forest.

Chown: thank you for this. Have you reached out to Bob Wilkinson? Does he know to bring the

split rail fencing for Archie Park?

Miliken: I need to contact him. Archie really is the first park you see on your way out the peninsula that's really visible. It could look a lot better.

Achorn: just this week we ordered a porta-john for Kelley Park. If you could, please take back to your committee a request to start working on what you would like as playground equipment. There's another opportunity for a grant from the playground company that did Haserot. I think it's a September deadline.

Miliken: for Bowers Harbor?

Achorn: Bowers Harbor. Just to be prepared. We still have several requests for money from the county and from the state. If we could piggyback it with that equipment grant, I want you to be prepared.

Michele Zebell: just two things. One, we met with a playground equipment company and just today we got proposals. Second, I want to commend Marge and Mary Beth. The amount of time the DTE grant took was pretty enormous. Mary Beth didn't just look at what could be done. She brought in the foresters and looked at possibilities considering native plants. I just want to commend her for the time and care she's put in.

7. Coastal Community Resilience Matching Grant Program (Jennifer Graham)

Graham: for a little bit of back story, we've had this conversation before, looking at a plan and incorporating language into the master plan and ordinances related to coastal needs. Our firm constantly gets called just by the standard property owner with their dock, wanting to know what they can install as far as rip rap or retaining walls to protect what shoreline they have. This has been a discussion for quite some time; the goal was always to look for a grant. There is a grant opportunity that the state of Michigan offered for management and to provide a tool for you guys. Matt [Cowell] is here and can speak to some of the technical aspects. LIAA did apply and received a grant for \$75,000. It's a fifty fifty match to help communities such as yours work with some planning components. The grant has to be utilized by the end of December. I'll bring Matt up to speed on some of the specifics. The contract is in your packet. It's intended to be utilized as an educational tool, provide an interactive map, and programming for the end user. It works with your planning departments to provide some guidance with the master plan documentations. We're available as a resource and have a lot of information that we're going to work with LIAA on as well, with the GIS and mapping and providing an interactive tool for property owners to see water levels and provide some details for best management practices. In the long run, perhaps we can create a formal document that you guys can incorporate into your master plan and provide a public engagement process too for residents to discuss and see things they can implement locally.

Cram: in one of the areas in the zoning ordinance rewrite that we looked at, we took out the newer section on shoreline management to go back to the original. There were a lot of helpful graphics in the zoning ordinance. I wonder how involved you were in drafting that rewrite. Would you be available to assist staff? We do plan to bring that back for a discussion and adopt it. We think there are a lot of valuable parts with the graphics and things.

Graham: I did help with your predecessor; a lot of it was identifying updates. Another piece we worked on was steep slopes. So, yes.

Matt Cowell, Land Information Access Association LIAA: we're involved with Michigan's Coastal Management Program. The state department does some grant making annually every December. I'd encourage you to look into it. One of the hard parts about all the grant making is it's always a

one to one match. So they're going to cover half the cost of any project. We've done a number of their grant cycles focused on coastal planning. This current iteration for 2022 is meant to be relatively light, fast touches in coastal communities. We're trying to see how many communities we can fit in a year; it's kind of a volume project. It's all over the state. The qualification is that if you have shoreline on the Great Lakes, you're qualified. The main deliverable is we create an assessment tool; it's a matrix of best practices. You can read a master plan or a zoning ordinance, compare it to those matrixes, and sort of check boxes. It's a way to take a look and examine your planning and zoning documentation and see what you are including about your shoreline in those plans. You can identify priorities, are there things that fit your local context that you would want to work on in terms of making changes or updates to a master plan or ordinance, to start to codify some of the shoreline management you'd like to see in your community. These engagements are meant to open the door to looking at where community priorities lie, start to set some goals and objectives around shoreline management, start to wrap your hands around what is a really complicated natural resource. We don't know for instance when water levels are going to go up or down. Our predictions are not great. We know that they cycle, so we'll start with some of the baseline Great Lakes shoreline dynamics and then dial it in with the local level, with master planning and zoning for communities to be able to consider what sort of goals and objectives they want. We can get these done in 60 to 90 days. We have to use these grant dollars before the end of 2022. We've got quite a few communities in the consideration stage right now, so it's good to get in line. Because the state gave us these dollars, there are some strings attached. The assessment is baked into the deliverable. The other thing we know we can get done is essentially a master plan chapter of information that could serve as a standalone document or be incorporated into a master plan. It's a nice place to start with what are a lot of complicated issues that everyone really struggled with in 2019 and 2020. Those conditions will return. What we're hoping to see around the Great Lakes over the coming decades are communities that are ready for the highs and lows and in between.

Chown: on the first page, point number three, it says, "The municipality must provide a direct contact." Who do you envision as being your direct contact?

Cowell: it's whoever the jurisdiction wants; it's usually the planner. I would say from start to finish it's usually about eight hours of staff time. Our staff pretty much handles the lion's share of this effort, but we have to have someone on the jurisdictional end who knows the local plan. Because we're going to take some stabs, and we want to work with staff and say this is our first draft; what did we miss? Someone who is intimate with the planning who can give feedback.

Chown: Jenn, you have time for this?

Cram: I will make time; it's a priority.

Chown: it is so important. If we're putting ourselves on the line to protect our agriculture, we have to do the same for our water.

Sanger: when I was on the planning commission 20 years ago, we talked about a shoreline overlay. With my enforcement job, I see so much in the way of flaws with our ordinance that stem from our master plan. People are well intentioned, they move here, they want it to look like a golf course where the water goes right down nice and green to the water, but that's not a Great Lake. It frustrates me that our ordinance really doesn't address the major issues. And it troubles me, seeing some major projects taking place. I would sure love to see this take off.

Graham: this is a great opportunity. I am able to help; I know Jenn is very busy. Given my

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familiarity with working with the ordinance on these specific issues, I'm able to help immediately.

Cram: I'll take that help, and I can think of a planning commissioner who is passionate about this as well.

Cowell: we hope that both monetarily and from an effort standpoint, it's a pretty light lift for the local group. Our goal is that more communities start to think about these issues.

Wahl: my question is to Marge. If we're putting up \$75,000, where would we plan on this money coming from?

Chown: it's \$7,500.

Cram: I heard \$75,000 too.

Graham: That was the grant they got from the state. This contract is for \$7,500.

Wahl: that doesn't change my question. Where are we anticipating getting this money from?

Achorn: I'm not sure where, but I think there are alternate sources. Several years ago, we sent out capital donation requests. If people didn't know where they wanted it, they said put it where it needs to be. This project could perhaps meet that criteria of something that needs to be done for the entire peninsula. The money is sitting in the bank right now. There are alternate places that we could look also, but that was one that came to mind right now. We can amend the budget.

Achorn moved that the township board instruct the supervisor to sign the contract for the participation agreement with LIAA for the Coastal Community Resilience Program and the township commit \$7,500 dollars in matching funds to facilitate this project, with a second by Chown.

Roll call vote: yes-Chown, Wunsch, Achorn, Wahl, Sanger, Rudolph **Passed unan**

8. Enter closed session pursuant to MCL 15.268(1)(e) to discuss trial strategy with the township attorney, including the July 18, 2022, hearings and pre-trial conference and the August 16, 2022, trial for the winery lawsuit

Wunsch: when we go into a closed session at the end of the meeting, we allow public comments so you don't have to wait until we come back.

Susie Shipman, 14735 Shipman Road: I am thrilled with what you just did. This project is fantastic and much needed. Having this additional focus on our shoreline is so critical. Our residents care about this. We know that because of the survey. Now we have more resources and information to point to. I am thoroughly grateful. Thank you.

Sanger moved to enter closed session pursuant to MCL 15.261 (1)(z), seconded by Wahl.

Roll call vote: Yes-Wunsch, Achorn, Wahl, Sanger, Rudolph, Chown **Passed unan**

Wahl moved to exit closed session, seconded by Rudolph. **Motion approved by consensus**

9. **Citizen Comments:** none

10. **Board Comments:** none

11. **Adjournment**

Wahl moved to adjourn with a second by Rudolph.
consensus

Motion approved by

Meeting adjourned at 10:20 p.m.

PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686

Ph: 231.223.7322

Planning Commission Regular Meeting

July 18, 2022 7:00 p.m.

1. Call to Order: @7:00 p.m. by Shipman

2. Pledge

3. Roll Call: Present: Shipman, Dloski, Couture, Alexander, Hornberger, Absent: Hall, also present: Planner, Jenn Cram, Recording Secretary, Beth Chan

4. Approve Agenda:

Moved by Dloski to approve agenda, as presented, seconded by Alexander approved by consensus

5. Brief citizen comments (For Agenda Items Only):

Nancy Heller, 3091 Bluewater Road: commented on item C. under business: the definition of structures and what it includes will affect all of the township, not just agriculture. Expressed concern with ag. uses, cited example of the term "poles," this is not clear with an example of a mailbox, and flag poles. Secondly, referred to signs for a yard sale, it is not clear if there is a fee for each? Also, is a permit needed for an umbrella on a deck, how is this treated, is there a yearly renewal? Be careful in what is left for interpretation, and does it create more non-conforming situations that go to the ZBA? Finally, how does this definition and others line up with the master plan? Requested that the planning commission take time and effort with decisions.

Curt Peterson, 1356 Buchan: referred to the meeting minutes for June 20, 2022 and questioned the dialog at the bottom of page 2 to the top of page 3. Felt that it was inaccurate, with Cram stating "yes, we are going back to the intent of what was noted in Section 6.2.2(2)(e)." Comments on what the intent was for the ordinance, because 6.2.2(2)(e) states intent. Read the ordinance.

Marc Santucci, 11789 Center Road: referred to the minutes for the planning commission, May 16, 2022. The change was from public comment for agenda items only to public comments to items not on the agenda. (the June 20 agenda is Brief Citizen Comments for non-agenda items only and the July 18 agenda is for agenda items only)

Dloski: non-agenda items were at the top

Cram: Hall was referring to outdated by-laws during that discussion, but the agendas should mirror the township board agenda for meetings with agenda items only.

Dloski: a motion was made for that change, to public comment on items not on the agenda.

Discussion

Moved by Dloski for public comment in the beginning of the meeting to be for items not on the agenda, seconded by Couture. approved by consensus

Marc Santucci: there was a petition to put the township's moratorium to a vote. He read the Michigan Zoning Enabling Act, Section 125.3402. Notice of intent to file petition, section 402.1, page 24.

Suggested that for thirty days the zoning ordinance is in abeyance and if enough signatures are collected, it is in abeyance until the election. Jennifer Braemer gave seven days' notice to the township clerk and in that interim period, Todd Oosterhouse tried to file an SUP with the township and it was

illegally rejected. The SUP has to do with part of my property. The township has to accept the application.

6. Conflict of Interest: None

7. Consent Agenda:

a. Approval of Meeting Minutes: Planning commission Regular Meeting May 16, 2022 and June 20, 2022

Cram: clarified that the May 16, 2022 minutes were reviewed and are accurate and the motion by Couture is accurate. The minutes stand as presented. Explained intent of rentals in zoning districts.

Moved by Couture to approve the consent agenda as presented, seconded by Alexander Shipman: will abstain from the May 16, 2022 minutes approval as she was absent from the meeting.

Dloski: will abstain from the June 20, 2022 minutes approval as he was absent from the meeting.

Couture withdrew his motion, Alexander withdraws support

Moved by Couture to approve the meeting minutes for the May 16, 2022 meeting, seconded by Dloski

Yes: Hornberger, Couture, Dloski, Alexander; Shipman: abstained

Moved by Couture to approve the meeting minutes from June 20, 2022 meeting, seconded by Hornberger

Yes: Hornberger, Couture, Alexander, Shipman; Dloski abstained

Hornberger arrived for the planning commission meeting.

8. Reports and Updates:

a. Non-motorized Committee (Shipman)

Shipman: gave an update on the progress of the non-motorized committee.

- Working with M-DOT on the M-37 resurfacing project looking at safety signage in high traffic areas, specifically for cyclists
- Working with the parks committee on signage for Archie Park in coordination with M-DOT
- M-DOT to complete a road safety audit where Peninsula Drive and M-37 meet to where it meets M-72. This impacts the citizens on the peninsula.
- A speed safety trailer is still in the works

9. Business:

a. Lemanski Bed and Breakfast SUP #141-Public Hearing and Findings of Fact and Conditions (550 Camino Maria Drive, Traverse City, MI 49686)

Cram: reviewed findings of fact included in the packet. Reviewed approval conditions and safeguards Numbers 1-8 on pages 7-8 included in the packet. Also noted two letters of support in packet.

Dloski: asked for the number of bed and breakfasts in the township.

Cram: approximately a dozen

Moved by Dloski to close the regular planning commission meeting and open the public hearing on the Lemanski Bed and Breakfast SUP #141, seconded by Couture

approved by consensus

Deb Haase, 9544 Peninsula Drive: supports the Lemanski Bed and Breakfast

Moved by Dloski to close the public hearing on the Lemanski Bed and Breakfast SUP #141, seconded by Couture

approved by consensus

Moved by Dloski to recommend approval for the Lemanski Bed and Breakfast SUP #141, subject to the approval conditions and safeguards found on page 7-8 in the Finding of Fact to the township board, seconded by Alexander

Roll Call:

approved unanimously

**b. Cooley Bed and Breakfast SUP #142-Introduction
(6901 Mission Ridge, Traverse City, MI 39686)**

Cram: briefly reviewed the Cooley Bed and Breakfast application found in the packet. A letter from the fire chief and a floor plan drawn to scale of the entire footprint is needed. When received, the draft Findings of Fact and Conditions will be generated. Believes that a public hearing can be scheduled for the next planning commission meeting.

c. Structure definition-Policy Discussion continued

Cram: concurs with Nancy Heller that care should be taken with the definitions. Looked at the zoning ordinance where structure is used over 300 times and looked at the context in which it was used. A building is a type of structure and a dock is a seasonal structure. The zoning ordinance stated that the setbacks are measured from the property line to the eaves. The other questions will be flushed out in the zoning ordinance.

Couture: commented on the current zoning ordinance versus the 1972 version. How did the changes occur?

Cram: the proposed changes to the definition in the re-write did not come to the planning commission; that is why it is proposed to go back to the 1972 language.

Discussion

Cram: Agreed with Nancy Heller that there should be exceptions for agricultural structures. The definitions should be broad enough to cover all of the context where structure is used and have the ability to allow for exceptions or specific setbacks for different types of structures.

Dloski: should have a simple definition with exclusions. Cites an example of a structure definition from a downstate zoning code: "a structure means anything constructed or erected on the ground or attached to the ground." There are other sections that talk about docks and other things.

Discussion of wording used to define structure

Cram: Summarized that the planning commission supports a simple definition of structure with exclusions covered in other areas of the zoning ordinance. Things at grade would not be included, but greater than 30 inches above grade would be required to meet structure setbacks. Finally, there will be exceptions for setbacks for agricultural support structures.

Discussion

10. Public Comments: None

11. Other Matters or Comments by Planning Commission Members:

Dloski: the township needs to do a traffic analysis/study on Center Road.

Moved by Dloski to recommend to the township board that they start the process for a traffic study for Center Road, seconded by Couture

approved unanimously

12: Adjournment: @ 8:06 p.m.

Moved by Dloski to adjourn, seconded by Couture

approved unanimously

DRAFT

PENINSULA TOWNSHIP

13235 Center Road, Traverse City
MI 49686

www.peninsulatownship.com

Township Board and Planning Commission

Joint Special Study Session

July 26, 2022, 7:00 p.m.

Township Hall

Minutes - DRAFT

1. **Call to Order** by Wunsch at 7:00 p.m.

2. **Pledge**

3. **Roll Call**

Planning commission roll call:

Present: Alexander, Dloski, Hornberger, Warren, Shipman

Town board roll call:

Present: Wunsch, Achorn, Sanger, Wahl, Rudolph, Chown, Fahey (by phone)

Absent: Shanafelt

4. **Citizen Comments**

Monnie Peters, 1425 Neahtawanta Road: good evening. It's good to see all these people here. I want to push you all to remember that the zoning code has been under work for now over a year at the town board level. Planning commission first passed it more than a year ago. It was at the July meeting last year that it first came in front of the town board. I think it has been a waste of time not to pass it and been working under the new zoning code. Jenn is doing really good work, and you're asking her to do it under the old code. I really hope it won't be more than the next month before you pass it. You keep identifying problems, but don't solve them under the old code. Solve them under the new code. Pass it; get it done. I've been before you every meeting but one. I will be disappearing to go home and have dinner with grandchildren. Have a good meeting.

Mary Beth Milliken, 7580 East Shore Road: I wish to express my support of the revised ordinance documents produced by planning commissioner Jenn Cram and the efforts of the agricultural advisory committee. I know the resulting documents took a substantial amount of time. They took collaboration and compromise from all involved. They were revised by honest, hardworking professionals with integrity and respect for the Peninsula Township residents as a whole. This was an open process. A number of involved parties were invited to participate but chose not to. Unfortunately, those who choose not to participate often are the loudest critics of what comes out as the result. Sometimes they fail to consider the wishes and vision of the Peninsula Township residents as a whole. The wishes of the residents were evidenced by the survey that was taken and reported on over a year ago. There never will be a perfect document, and I think it's time for all of us to accept that. Put aside the acrimony, adversity, the self-centered belief that the ordinances

were written to limit businesses on the peninsula. That's really not true. They were written to abide by what the majority of residents want and have expressed many times: their wishes to protect the beauty and serenity of our township. Thank you.

John Jacobs, 5294 Forest Ave: two things to say. First of all, Jenn, you and other staff have done a monumental amount of work, and good work, on the proposed changes to the agricultural ordinance. You've been bullied and otherwise treated unfairly and uncivilly by a few hurtful people while doing it. Let me say on behalf of the vast majority of our community, thank you for the terrific job you've done. In the short time you've been here, you've made a huge and positive impact. Two: the proposed changes to the ordinance are the culmination of thousands of hours of thoughtful, careful, and diligent work on the part of the agricultural advisory committee and many others. They have been crafted with the input of a wide cross section of individuals interested in the township. They rectify unfair disadvantages that the current ordinance imposed on many agricultural operators. They clarify numerous murky aspects of the current ordinance, and they strike a balance that aims to serve the interests of all without imposing an unfair disadvantage on any. I hope the board will quickly adopt it. Thank you.

Louis Santucci, 12602 Center Road: sometimes I feel like I'm going down a rabbit hole in Alice in Wonderland. When I look at this rewrite of the farm processing facility, I see so many things in there that make no sense at all and are actually anti-farmer. Requiring 80 acres for a farm processing facility that's going to have outdoor seating? Do you realize for a new farmer what 80 acres would cost? Two million dollars maybe if they're lucky, and that's before they build the farm processing center. The 50 acres for one without outdoor seating, that's a million dollars. You say the agricultural committee came up with this, but you had three agricultural people on that committee, one of whom hardly showed up. You had three Protect the Peninsula people, which is why this thing is written the way it is, with all these things that are in essence going to stop any winery from ever coming in again, but it hurts the farmer. If you can't put a processing facility in, or you can't sell your land for a winery, I don't know any farmer that's going to start out with one or two million dollars in the hole to buy property to farm. A lot of these things as I read through this, and I only had a short while to read through because quite frankly it's very confusing, you've got two different zoning ordinances in there, one says 40 acres one says 50 acres. Trying to hop between the two is very difficult. Having looked at what the judge said in the WOMP lawsuit that you lost, you've got to come up with rationale for these things. For example, whoever came up with the idea that you can only have 50 people outside, or the seating space can only be 750 square feet? Where does that come from? One thing to think about is the requirement that the farm processing facility has to have 70 percent of the goods that they're going to be processing come from their own land. That means you're saying to farmers who might want to supply them with something, well, sorry, they can only buy 30 percent from you. Why have these limits? Why not say, if you're going to process, process what you can of your own, process what you can from someone else. One final thing. You can call anything attorney client privilege, but it bothers me that you're going to go into a closed session and talk about ordinances. We don't get to know what the ordinances are, then you're going to come out of that meeting, maybe you're going to make an announcement and say, "Hey we got these new ordinances; come back next week and talk

about them.” Thank you.

Marc Santucci, 11789 Center Road: I’m just going to focus on one thing. The name of the agricultural committee would make those who like to obfuscate proud. As Louis said, there were three farmers on that agricultural committee. There were nine people on the committee. If you’re going to have an agricultural committee, if you’re going to seriously look at agricultural farmer-related issues, the majority of the members of that committee should be farmers, not one-third of the members. On top of that, when you talk about what the committee recommended, the farmers voted against many of the items that you are now proposing. And to follow what Louis said, it’s crazy to have 80-acre, 50-acre requirements. If you’re trying to promote, which maybe you’re not, new blood in the community, you need to not burden them so much that they don’t even try. I am fortunate that I have traveled the world in my various careers. One of my most enjoyable experiences was in Italy. The company that I was part owner of imported olive oil from the Verona region. I got to be friends with the people who owned that company. I went there during harvest time, and it was one of the more interesting and fun experiences I had. These guys not only did their own olive oil, but all the farmers in the area made olive oil for them. The way you’ve set this up, something like that could never happen here. I just think that’s a tragedy. In addition, by requiring that many acres to do anything, you get people who want to start a business. You don’t start a business with 80 acres. You hope to reach that point at some point in time. But that’s not where you start. I know a person who has twenty acres and would like to set up a maple syrup operation. Can’t do it. You have no distinction between a large producer and a small producer. The artisans, they are left out of this area. That’s why I think you need a majority of farmers on the agricultural committee because there are a lot of unintended consequences. Thank you.

Bernie Kroupa, 3183 Shore Wood Drive: we farm in the general vicinity of the Old Mission Tavern. We try to do it right, try to do it well. I have no desire or need to come to the township for anything, I hope, but we’ve got generation six coming and they do. It’s sad because it’s going to be the last generation of tree fruit on our farm. Those are the kind of things that get left out when we form an agricultural committee to do situational analysis. Twenty years ago, we did a white paper, a look-see at things, and a lot of things came of that. I was very proud of the Use by Right 139 that we’ve operated under. We worked long and hard on that. Again, hasn’t affected us because we’re just farmers. I’ve seen what the next group has in mind, and it will require a special use permit. Let’s face it, public hearings here have been kind of weaponized. The social media lights up, the crowds come out, we beat up the person requesting. I wouldn’t want to see them go through that. The option would be something non-agricultural. I hope that doesn’t come to pass. Yes, everyone could have been on this committee. “What the hell would I be on that committee for? Going to tinker with the winery ordinance, when the dust finally settles.” But I had no concept that we were going to sweep the deck clear, that any rights we had in 139 wouldn’t be intact anymore, and that’s troubling. We’ve talked about keeping the committee going, but I hope not. We don’t need a minister of agriculture monitoring our every behavior. We haven’t misbehaved that badly out here. Thank you.

Mark Nadolski, 10 Mckinley Road: with all that’s going on in the world and in our country, it seems we could set an example of how to intelligently and peacefully work out our

issues here on Old Mission Peninsula. We have one of the best planners in Jenn Cram, a great town board and planning commission, and citizens who have donated years of their lives to making Old Mission Peninsula the best place to live. We have generations of farm families who have given their all to preserve the heritage of the cherry, apple, and many other fruits on this peninsula. Let's honor that heritage by approving this new ordinance that Jenn, the ag committee, and others have worked so hard to create. Thank you.

Dave Murphy, 6943 East Shore Road: first, thank you all for working on these challenging issues. I have a lot of contacts in Traverse City, as I live on the south end of the peninsula. I've said before that we live so far south, some say we talk with an accent. We're a community on a very unusual and valuable piece of land surrounded by water. I can't tell you how often I've heard from my city contacts, "Boy, you do things differently out on Old Mission Peninsula." Yes, we do. We do it differently in the agricultural community; we do it differently in the residential community. We take umbrage with the county road commission telling this township that there's no reason to treat a county road here any differently than a county road anywhere else. We know that's ignoring reality. When so many of our roads abut Lake Michigan, they require greater care not only because of water quality issues but because of the blend of farming, residential, and recreational. There's a uniqueness of this peninsula that disproves the county's assertion that every road is the same. Similarly with other land uses, great care has been taken and must be taken and not just with farming. It's why this township long ago limited common elements found in other municipalities such as extensive commercial zones and billboards. It's why we have a dark night sky ordinance. It's why we have a common waste hauler, it's why residential developments face such scrutiny, it's why we watch the amount of keyholing and waterfront developments. It's why we take care of installation waterfront decks. It's why on waterfront land zones that are r1b and r1c, I can have one-acre lot and I'm still limited to one home. And that's because we take care of what we do in the residential community. It's why we've done a hard sell on municipal water and sewer, because we see how impervious surface permits such infrastructure that we may actually hurt the environment more with sewer and water than having septic and well. It's why we fight road widening and live with potholes and poor drainage, because we aren't going to get the proper treatment by the road commission. It's why we fight short-term rentals. It's why we've dedicated so much land to park use. There's 1,200 acres in this township, and it's state, it's county, and it's conservancy, and it contributes to township health. It's why we have three fire stations. It's why we have PDR. We do a lot differently out in Peninsula Township. This body of land merits special care. We've worked through many different concerns and controversies to protect the land and the interests of those of us fortunate enough to live here, agriculture and residential. The efforts in this new zoning are to achieve what was stated repeatedly: to support thriving agriculture and the preservation of rural character. Those twin goals have been emphasized by citizen surveys in our master plan. I think your groups have been trying to achieve that. If it's not perfect, we know we can make it better. Thank you very much for your work.

Curt Peterson, 1356 Buchan Drive: on my computer, page 11, under "policy direction for farm processing facilities," bullet point five or six down says, "No guest rooms shall be permitted." Let's not try to solve a problem that doesn't exist. There have been no

reported problems, nuisance problems, environmental problems, water problems, with guest rooms. So, this is a taking, essentially. Contrary to what you have been told, guest rooms in a house are not necessarily a bed and breakfast. They might be, but they might not be, and that is per Michigan State statute. So let's not solve a problem that doesn't exist. Thank you.

Brit Eaton, 1465 Neahtawanta Road: the citizen's agricultural committee came about because of the meeting in October of 2021. More than 250 residents came out to oppose the effects of the WOMP lawsuit. The charge was for the committee to look at ways of equalizing. At the same time, the 19 farmers wanted the same rights, the same special use rights that the wineries were requesting. When you think about those 19 farms having those special uses, on top of WOMP, the impact with visitor-serving sites on the peninsula is going to be horrific. So the committee set about to look at how we can equalize. How can we take the existing agricultural ordinances and form them into something that gave parity between the agricultural group and agricultural wine community and counter the divisive impact of WOMP on the peninsula and bring parity to the agricultural community while respecting the citizens' concerns? It requires the careful crafting of new agricultural zoning ordinances. It will require compromise, clarity of purpose, well-defined expectations, and enforceable rules understood by all parties. Jenn deserves our trust and support to make that happen.

Jeremiah Warren, 2677 Island View: I had just a quick minute today to glance at some of the stuff that you guys are going to decide on tonight I'm assuming. I don't like it. I want to agree with the Santuccis on the acreage requirements. I mean, you're looking at, you know, big-time producers. Terry Hooper is a prime example. She grows an acre of flowers. They do 147,000 gross on that one acre, but you need a studio to prepare those flowers to go out for the wedding. So please look at that acreage requirement and maybe do something different there. And there was some other stuff. I can store a recreational vehicle, a use by right, but to store agricultural products I've got to have a special use permit? That's what it said in the paperwork I looked at. I'm sorry, I don't have the page number. There's a lot of this stuff that's going to have to be gone over and looked at. I would hope that somebody's doing that, not waiting until it gets passed and going back to change stuff. Let's get it right the first time and be done with it. Thank you.

John Wunsch, 17881 Center Road: I have mixed feelings about this. In fact, I have great sadness about this. I worked hard over the last 30 years with the winery owners and citizens and Bern Kroupa, as you referenced, 20 years ago. And I think we built and established a really nice balance. We could have a very small, simple tasting room that was a use by right; it didn't do anything else. But clearly it was just there for a tasting without extensive retail events. We had a balance where if a winery-chateau had events for guests, they had to buy more grapes from around the peninsula. And there were limitations to what kind of groups and what size they could do. But I get it. When a lawsuit comes in and starts establishing that as soon as you have a wine tasting license, you can do anything, then how can we have a use by right? It has been taken away from us by the lawsuit, which has destroyed our ability to keep the balance we had. So what choice do we have? I am sad about it. I worked hard on all of it, but I get it. And similarly, limiting outdoor use unless there is a good amount of space for a good setback. We've had so much complaint

from neighbors who get all the noise when you put it outside. What choice do we have? Circumstances change. I worked very hard on these balances. I am sorry to see them go. I am conflicted about it. But I support moving forward. I support the good work Jenn is doing. I support all of you and looking carefully at this, considering it, and trying to move us forward in a way that keeps us from being vulnerable to lawsuits undoing the good intentions we had. Thank you.

Phil Wilson, 2570 Phelps Road: I just want to basically say that the township clearly is a really complex area with a lot of potentially conflicting interests. I do think that the township has in its own somewhat halting way tried really hard to balance those out to achieve some sort of equilibrium. The only constant, of course, is change. Change is something we all basically fear. It seems to me that if there's a lesson from the winery lawsuit, it's to stop and really look carefully at things and work a little harder to get a real true consensus. Or if not a consensus, some sort of larger equilibrium. Thank you.

Chown: Read letters (attached). Correction to Marty Lagina's wording: tonight is not a public hearing; it's a study session. The public hearing will be August 9th.

5. Approve Agenda

Town board

Cram: We are going to move the closed session to the end of the meeting so we can get right into our study session.

Wahl moved to move business item one to business item two and approve the agenda as amended with a second by Rudolph.

Roll call vote: Yes – Achorn, Sanger, Rudolph, Chown, Wunsch

Passed unan

Planning commission

Alexander moved to approve the agenda as amended with a second by Hornberger.

Roll call vote: Yes – Alexander, Dloski, Hornberger, Hall, Shipman

Passed unan

6. Conflict of Interests

Wunsch: I have a conflict of interest. I am one of the larger farm land managers in the township. I will endeavor to work through these issues without allowing my land ownership to impact my decision making, but I would welcome any of you to question if those conditions present a conflict of interest as we move through the decision-making process. If anyone has concerns, I would be happy to recuse myself from decision making.

Planning commission: none

7. Consent Agenda

1. Request to use Charlie Doe sign to advertise the annual Peninsula Community Library book sale

Sanger moved to approve the consent agenda with a second by Chown.

Roll call: Yes – Sanger, Wall, Rudolph, Chown, Wunsch, Achorn

Passed unan

8. Business

1. Joint Study Session on the Agricultural Sections for the Township's Zoning Ordinance

Cram: I want to thank the planning commission, the township board, the citizens, and our attorney for joining us at 7:00 p.m. on a beautiful Tuesday evening. I know that all of you agricultural operators are busy and everybody has lives, but this is important work and I appreciate hearing from all of you. These recommendations, or proposed amendments, have developed as a result of what we have learned from the WOMP lawsuit. I have been working very closely with our legal counsel, Bill Fahey, and his team on what the decisions

that Judge Maloney brought forward mean for us and our zoning ordinance. Our goal is to develop a zoning ordinance that is legally defensible and also equitable. The equity is one of the most important things for me personally. I accepted this position to come here because I am a pro-agriculture planner. That was my background before coming here. When I interviewed with this township board, I felt I was making a good decision because I felt that it was pro ag. I started participating with the citizens' agricultural advisory committee in December of 2021, before I was officially an employee with Peninsula Township. I wanted to quickly get up to speed with the issues, with the lawsuit, with where the community was at. And it's true, we only had three agricultural operators who participated. We held three seats for three additional agricultural operators, the wineries. They chose not to join us. That committee is called the citizens' agricultural advisory committee because it was meant to get diverse opinions from the citizens here who are not agricultural operators as well as the agriculture operators. I believe that one thing is very clear: this is a very special place. It is unique because we're surrounded by water. People want to come here to enjoy the scenic views and vistas. People want to live here for the same reasons. And all of those things are possible because of the strong agricultural heritage and culture in this community. I believe that if we continue to work together and come to these study sessions and speak honestly about what is important to us, we can get there. So thank you all for taking the time and being honest. Whether it's pro or against, all comments have helped me to understand the uniqueness of this community and where we're going. I bring with me experience. I understand how agriculture works in other areas, but, again, Peninsula Township is very unique, so I'm excited to walk through these amendments with you. This is a study session. There will be no action this evening. There will be a public hearing on August 9th at 7:00 p.m., where the board and the planning commission will have a joint public hearing to discuss these items further. Tonight, it is going to be very helpful for me to hear from the planning commission and the township board. I will continue to take written comments or you can call me.

The proposed changes we are looking at this evening include removing the winery-chateau use under Section 6.7.3(22), 8.7.2 (11) and 8.7.3(10) from the zoning ordinance. We will be replacing that with two opportunities for obtaining a special use permit for retail farm processing. We will also be updating the farm processing facility as a use by right under section 6.7.2. The other proposed amendments update the definitions, table of contents, parking requirements, and things like that so that the entire document looks at these amendments thoroughly. These amendments are the current priority because of the lawsuit. I want you to know that there will be additional amendments to address new uses such as a farm market. That's what I'm calling it right now, which is the missing middle. That is the smaller acreage for new farmers who want to get in and do some processing, such as if I'm growing blueberries and want to make blueberry jam or other things. Right now, the opportunities for ag operators go from having a roadside stand to a farm processing facility. Not everybody wants to go in that direction. Realistically, there aren't any farm processing facilities here that aren't wineries, maybe one or two. We're hoping to encourage new processing. In other parts of the country, that's called value-added agriculture, when you're taking something that you grow and changing it into something else. We want to provide those opportunities and that missing middle piece.

We also want to look at agritourism and some of the things that will be coming out with the winery-chateau, such as guest activities. Those belong in another section of the zoning ordinance that are specific to agricultural uses. They drive tourism, allow agricultural operators to be more creative, and to have those uses that truly complement agriculture. We can look at how to mitigate impacts and allow those things to coexist with the rest of the community. Those changes will be brought forward as quickly as possible. I believe it is very important to bring the agricultural advisory committee back together with a good balance of citizens and agricultural operators. I hope that we will have the opportunity to do that and that all of you will express your interest if you'd like to participate in that committee.

The other thing we need to think about, especially because Peninsula Township does function so uniquely, is some type of cooperative farm processing. Not everybody wants to have that large footprint on their land or take that on, but one of the things that's wonderful about the peninsula is that farmers do work together, and in order to grow or process wine and other things, it's good to use agricultural produce from other farms. I think there's opportunities for that. I'm committed to updating the zoning ordinance to make it work for this very unique community.

The first six pages in this packet are copies of the recommendations that were brought forward from the citizens' agricultural advisory committee to the planning commission. They were presented on May 16, and the planning commission did welcome public comment at that time. Things were then paused because of Judge Maloney's decision on the WOMP lawsuit. These recommendations came over several months of work. We went through a series of exercises where I asked specific questions. One of the examples, and this will help us with our acreage as we move forward, is that I asked the group, "Do you believe that a farm processing facility is a more intensive use than growing crops, agricultural production, and/or a single-family residence?" The answer to that question from everyone was yes, unanimously. That is a more intensive use. It's a larger footprint. There are noises, there are smells, there are things associated with the farm processing facility. In order for us then to mitigate impacts, we need to think about the amount of land that can accommodate that use. Think about the parking, the access, and appropriate setbacks to the neighboring uses. One of the things we know that agricultural operators don't like is nuisance complaints. And the township doesn't like nuisance complaints. If we look at the land associated with that and develop appropriate setbacks, we can hopefully help to mitigate some of those things. Those were the types of questions that were asked. Here you can see that I noted the agricultural operators who were present had a different perspective than the residents. There were some things that the group agreed on unanimously and some things that were a majority. I reflected all of those to be very transparent as to what the decisions of that committee were. That work has been shared with our legal counsel, Bill Fahey, who is here on the phone with us this evening. We also talked through the impacts from the lawsuit and trying to make this equitable. Right now, the way the zoning ordinance exists, farm processing is specific to wineries, and winery-chateau is specific to wineries. We want to make farm processing so that it applies equally if I'm growing lavender and processing it into lavender oil or growing apples and I want to make applesauce or growing grapes and want to make wine.

This is hot off the press; there will be some typos. I am starting on page seven of the packet that I put before you. What I did for the board members is print a packet for them and then hand write page numbers so that I can refer to the numbers. This is the same packet that is posted on the website. The first thing you'll see is updates to the definitions of farm processing. We are proposing three types of farm processing. There will be a farm processing as a use by right, which is a wholesale farm processing. Then there would be two retail farm processing facilities that are approvable through the special use permit process; one is indoors only and one includes some outdoor seating. Being in alphabetical order, the farm processing facility with indoor retail sales is the first definition. I used the existing farm processing facility definition that exists in the zoning ordinance now on page eight as a reference to that, and then tried to make the definition unique to each of those individual uses.

Hall: the sixth line says, "An indoor retail sales area may include a 'tasing' room." You probably mean tasting. The same typo appears in the next paragraph.

Dloski: just so I can put this in context, are the changes that we're going through now starting with page seven the changes that are mandated by the lawsuit?

Cram: some of them, yes. Those are some of the things that Bill will be discussing with us at closed session so we know the things that we need to change direction on. Are we good with definitions? Then I'm moving on to page nine; you'll see the definition of winery-chateau has been removed. Under Winery, new language was added: "From raw produce." We want to support local, regional, and state agriculture. I want to make sure that it is that first stage of processing, the apple or the grape, that is processed. This seemed to be very important to the community as well as supportive to local agriculture. You'll see that language used throughout the ordinance.

Wunsch: if a winery is currently trucking in all their juice from California, they would be a non-conforming use, right?

Cram: another thing I want to make very clear: if this zoning ordinance is adopted, all of the wineries with existing special use permits will be considered legally non-conforming. All of the uses approved with the special use permit would still stand. Any changes to those uses would come through a process and be under the new zoning ordinance. We will be looking in the future to see that existing special use permits are in compliance with what was approved.

Jumping to page ten, under Wholesale Farm Processing Facility, the major change is that retail sales would no longer be allowed. This is intended for the farmer who has a minimum acreage in crop production and has reached a point where they want to add value to that agriculture and change it into something else. Provided that they meet the minimum, then they could have a farm processing facility. The acreage minimum stays the same at 40. Another thing I want to point out from some of the comments that were made by the public is that, yes, 40 is a lot acreage to accumulate, as well as 80, but those acreages do not have to be owned. They can be leased. This supports the ability for new farmers to get in. You don't necessarily have to invest in owning it. But if you are leasing it, and successfully growing it, and want to change that product, then this would be an option for you. The intent statement has been modified to clearly demonstrate that the intent is to allow this use when there is a minimum acreage of land in active crop production. To try

to mitigate some of the negative impacts, we have added clarification under 19 (b) 1, "All processing shall be conducted indoors." 40 acres is the smaller of the acreages. We're trying to address noise and things like that. "No retail sales or consumption of processed products on the premises is permitted. The Michigan Liquor Control Commission and the Michigan Department of Agriculture shall control applicable wholesale liquor and food licenses and compliance with said licenses." So we're not trying to intervene in any of that. Are there any questions on the intent or (b)1?

Hall: I have a comment on 19(a). This is a technical comment for the attorney. In the middle of 19(a), a sentence says, "The majority of the produce sold fresh or processed shall be grown on the specific farm operation" and then there's a parenthetical, "land owned or leased for the specific farm operation." I'm going to suggest to legal counsel that the term "specific farm operation" be changed. I think the intent of that sentence is to say that the majority of the produce shall be grown on certain land, and the land is whatever land qualifies the project for the farm processing facility. Meaning, the minimum number of acres. But to talk about a specific farm operation, it's not talking about land; it's talking about an operation. That term "farm operation" appears throughout this ordinance. I suggest it would be clearer if instead there were a defined term like "qualifying land" or "minimum required land," something like that.

Cram: what if farm operation were defined to include that?

Hall: you could; it's just that the term "farm operation" to me doesn't mean land.

Cram: so the idea is to qualify this as a use by right. A use by right means they don't have to come before the township board to get approval of a special use permit. It's an administrative process. So the planner would review their site plan to make sure they're compliant with all those things. And then when that site plan is approved, then they go to zoning to get their land use permit and they move forward. The idea was if you were doing this by right, you have to have the minimum acres, but that doesn't prevent you from processing. Let's say I have 80 acres, and I want to be able to process things from my entire farm operation. In order to meet these requirements, I'm going to commit these 40 acres to this because maybe I want to do other things on that other 40 acres. I want to have another dwelling or something, but I still want to be able to process agriculture from my entire farm operation. So that was why I thought farm operation allowed for more flexibility. But the minimum acreage applies to the fact that it's a use by right and you don't have to go through another process for it. You're meeting those minimum requirements.

Fahey: I wrestled with this too. We are going to come up with something that is more transparent and clearer than what we have here. I agree, we need to tie the ability to have this use by right to specific land, not necessarily to a specific operation.

Rudolph: The last part of that: "Since a farm processing facility is generally an industrial use, it is not the intent to grant any vested interest in the continued non-agricultural uses." If that wholesale farm processing facility would go out of business, then that use by right does not automatically go with that piece of property, is that what we're saying?

Cram: uses do run with the land. If I as Jenn Cram the farmer meet all the requirements for my farm processing as a use by right, and I sell it to Christina, as long as she's doing the same and meeting it, she could continue to do that. The intent of this is that if the farm

processing facility operation were to go away, and now we have this large building, that large footprint couldn't be used for other things that aren't allowed as uses by right for agricultural operations.

Hall: it could only be used for wholesale farm processing.

Cram: or another thing I think that was mentioned earlier. As a farmer, you don't have to come in and get any type of approval to have a barn to store your hay or agricultural products. You can grow flowers and cut them in your shed and you don't have to have a permit. This would mean that large building then could be used for standard agricultural operations, but it wouldn't allow for more intense uses beyond that.

Hall: I have another technical comment. I'm glad Bill mentioned that second to last sentence of 19(a). It says, "It is not the intent to grant any vested interest in the continued non-agricultural uses." I'm not a zoning law expert but I believe under Michigan common law the term is "vested right," not "vested interest." I believe the intent here is to talk to that specific area of Michigan common law that talks about vested rights in the context of non-conforming uses. So I think we should use "vested rights" instead.

Fahey: yes, and this is one of the subjects of the closed session that we're going to have, because this is one of the key things I think we all have to understand from a legal perspective. What some of the implications are going to be going forward.

Cram: that is something that is in the existing zoning ordinance. Anything that is in black is existing. Anything that changed is either in red or blue. But good catch, because our goal is to improve this.

Deeren: I don't see anywhere that this is a permitted use by right.

Cram: that happens in other sections of the zoning ordinance. Section 6 under (a)1 it lists what uses.

Chown: one little tweak, that final sentence in 19(a), "This amendment is also not intended to, *and may not* supersede any conservation easement." We have to make that crystal clear.

Cram: I do have that comment elsewhere. This version includes some of Bill's comments but Becky corrected some editorial things that are good for the public to hear.

Wahl: I would recommend adding "or amend" after "supersede." So, "This amendment is not intended to supersede or amend any conservation easement."

Chown: I like that.

Cram: Okay. Page 11. Because there are no retail sales, it takes out the confusing language about logoed merchandise. Moving on to page 12, item number two: Limitations on Sources of Produce. We did add language: "processing is limited to raw produce. For example, apples may be processed into apple juice or applesauce." The thought is that it wouldn't allow for bringing in juice and things from other areas. This gets in further when we talk about the 70 percent and 30 percent. I would be processing 70 percent of what I grow and 30 percent could come from anywhere as long as it is the raw produce. So then this allows for farmers on the peninsula to process one another's products as well as come from the region and the state potentially, as long as it is raw produce.

Sanger: is lavender considered produce?

Cram: yes. For that we would just need to go back to our definitions of what agriculture is. It does give a varied list of fruit trees and so on.

Sanger: you're going to pick up the definition of produce then as a definition? This has come up in the past, when we've discussed roadside stands and some conflicts there.

Cram: we hadn't planned on it, but that is something we could look at. I'll just make sure it's covered in an existing definition or something.

Achorn: does this cover Marty Lagina's question about forest timber? (see attachment)

Cram: At the citizens' agricultural advisory committee, we talked about the minimum acreage. We included some language because we didn't want to force someone to remove mature trees and put that land into agricultural production just to meet minimum requirements. It's not included in this version, but it is something we discussed and were supportive of. I discussed it with Bill, and we postponed putting it in here because we want to make sure the minimum acreage is established. We don't want someone to say, "I have 40 acres, and I want to process something, but all of my acreage is mature trees or wetlands." So we have to come up with what is a good balance where you're still producing that minimum amount to justify having a processing facility. The other thing, in other areas, in order to have a farm processing facility as a use by right, you have to be processing 100% of what you grow. I come from Larimer County. The crops there are sugar beets and wheat and corn and things like that, and it makes sense there. Here it doesn't make sense. There has been a cooperative nature where you're processing other cherries or apples and things. So the 70/30 is something that has been discussed, but it's not set in stone. It would be helpful to hear how it does work here. The goal is that if you are doing this as a use by right, you're actually growing something and you're going to process it; you're not just using this landscape as a backdrop for your business.

Shipman: keeping with the 70/30, I did note the change from those notes you provided previously. Also in this discussion about the land owned or leased, what you forwarded to us in the April meeting included more of a focus on that you could include produce from another farm on Old Mission. This seems more broad to me. Is that very specifically a change where I hear you saying things like regional produce, state produce, things like that? I'm assuming that change may be related to the lawsuit.

Cram: yes, we're learning from the lawsuit, trying to allow for flexibility and what works specifically for this community. The recommendations that came forward from the citizens' agricultural committee to the planning commission also talked about having to own all the land. Bill has advised that, no, we have to allow for the opportunity. It makes sense, trying to make this work for new farmers who may not have accumulated a lot of land but as long as they are an active farmer, they would have the opportunity to pursue this as a use by right. And we did keep in the standard number three: "If crop conditions or natural disasters result in a short of locally grown fruit," all someone would have to do is come before the board and talk about it. There could be flexibility to bring in produce from outside the area as long as that amount didn't exceed five years total. That again is exact language from the existing zoning ordinance to allow for flexibility.

Hornberger: page eight, number two, the phrase "specific farm operation" is again used. Do we want to remember we need to fix that?

Cram: when Bill and I figure out how to address that, I'll do a search and catch them all but thank you for noting that. Okay, moving on to page 13 to the parcel requirements. We've touched on this, for the wholesale farm processing as a use by right: "A total of 40

acres of land are required to be devoted to the operation of a wholesale farm processing facility. The 40 acres shall be located within Peninsula Township and shall be owned or leased for the specific farm operation by the same party owning the farm processing facility." This is language right from the existing zoning ordinance. "Up to 20 of the required 40 acres does not have to be contiguous and may be either owned or leased with exclusive control and use by the operator of the farm wholesale processing facility." I just moved that up because I thought it made more sense than where it previously was.

Wahl: I have a comment about that. In paragraph three, there are two new concepts introduced. One is a qualification on leased. It says, "leased with exclusive control." But in other paragraphs, it doesn't use that language. So I think we should decide how we're going to reference leases. Maybe a definition of what "leased" means. To add "exclusive control" here but not to say it elsewhere can create ambiguity. The other concept introduced here is one of an operator instead of an owner. I wonder if that's appropriate.

Cram: that is what is in the ordinance now.

Wahl: I would change it.

Rudolph: "owner" makes more sense.

Fahey: there are a number of levels that we have to look at. So there's the ownership of the property, there's leasing the property, there's operating the property, and there's controlling the property. I think the most important thing is to be able to connect these facilities to specific land. Whether that land is controlled by the person who's operating this facility, or owned, or leased, maybe shouldn't make a difference. I want us to keep an open mind on that and try to be flexible as long as the result is that the land which is producing those crops is tied to the processing of those crops.

Wahl: I would agree with your approach. I'm not taking a policy stand here; I'm just pointing out as a drafting matter that the concept of an operator is newly introduced in this paragraph.

Fahey: yes, I agree we need to make these consistent.

Wahl: when we finalize this, can we be consistent whether we have a number or a numeral?

Cram: part of it is I'm dealing with a zoning ordinance that was adopted in 1972. Yes, I want to make it as consistent as possible. I want to fix the whole thing but I have to focus on these sections right now. But thank you; I do agree.

Shipman: we have at the end of this section a note on the length of time for the lease. That includes a good chunk of existing language, but do we want it there? Or do we bring that up so that they're together? It jumped out to me as those are completely separate but very important that they live together.

Cram: yes, so on page 14, maybe move that up? Sure. Currently, the zoning ordinance only allows for a lease of one year, which is really difficult to track. We are going to have to come up with a way to track all of this since it doesn't require ownership. We propose to increase that to five years.

Deeren: could we have them provide us a copy when they register with the county?

Cram: I noted under site plan review it will be a requirement. Before you get it for a land use permit, we'll make sure that all the parts and pieces are together.

Hall: as a matter of real estate practice, in the paragraph that says "The lease shall be

recorded," I recommend that it say, "The lease or a memorandum thereof shall be recorded." Parties typically wouldn't want to place the potentially confidential economic terms of the lease of record. The memorandum would just state that there is a lease, it would describe the parties and the property leased, and give the term. But it wouldn't have to include the economic terms.

Cram: noted. I'm jumping back to page 13, roman numeral number four: "The parcel containing the wholesale farm processing facility shall be a minimum of 20 acres and have a minimum parcel width of 330 feet." That's existing with some clarification. "The 20-acre minimum parcel and the farm processing facility shall be owned by the same party." We're going to get into owning, leasing, operating, those types of things to make sure that it is clear and legal. "None of the 20 acres shall be further divided while the wholesale farm processing facility use is in effect." That's important because with the way that the Michigan Land Division Act works, you can come in and divide land and then it could create a situation where this farm processing facility as a use by right no longer conforms to the minimum requirements. Roman numeral number six: "The remaining 20-acre parcel(s) associated with the wholesale farm processing facility necessary to meet the 40-acre minimum requirement shall be in active crop production. The remaining 20 acres may be one parcel or two contiguous parcels such that the contiguous parcels that make up the balance of the farm operation are not separated by a road." It used to say, "They may be separated by a road." The reason I changed it to "are not" is because I didn't want that road right of way 60 feet to take away from the acreage and production. That's one of the comments that Marty [Lagina] read. Do we think we can accomplish the acres and production with a road through it? Any thoughts on that? Is that standard practice? I know people own land on both sides of a road.

Deeren: our current zoning ordinance says that if the road divides the property, it's supposed to be treated as two separate parcels of land. That is current language adopted in 1972. Then the road right of way doesn't count either because I have to subtract that from the calculations.

Cram: I thought this was cleaner, but I also don't want to make it more difficult for an agricultural operator to have the minimum acreages in production. So I'm open to discussing that based on what Marty brought up today.

Wahl: it's definitely going to make it hard for new property owners.

Sanger: it's quite common in a township for a 40-acre parcel to be the gross area. Later on, roads came in, so the net area is less than 40. The zoning board of appeals has handled several cases in terms of, if we have say 40 acres in an agricultural zone with five-acre minimum parcel size, and the net is 38 acres, how many dwelling rights do you have? The answers come back in my memory; you have one per five on the gross. So if we have gross of 40, roads take off, say 238, there still remains five. Somehow we have put that into words. That's common in a township as a quarter section is divided up and then the roads came along.

Cram: maybe we need to think about gross and net acreages then, to allow for that. So we could change it back to the existing and allow for the acreages to be divided by a road as long as the net acreage and crop production remains the same and meet the minimum?

Chown: that makes sense.

Shipman: I support that. Farmers need access to different parts of the property anyway. There's going to be access usage throughout the property.

Cram: Roman numeral number seven: "There shall be no more than one single family dwelling on the 20-acre parcel containing the wholesale farm processing facility and no more than one single family dwelling on the remaining required 20 acres." That is the existing standard for the 40 acres. "The total number of allowed single-family dwellings which may be built on the total 40 acres dedicated to the wholesale farm processing facility use shall be two." That's existing language.

Hall: let's suppose that somebody has a 50-acre parcel. This is a use by right. Can they say, "On the 40 acres, as related to the wholesale farm processing, I can only have two residences, but the other 10 acres, I can put two residences there because I'm going to treat those as not part of the wholesale farm processing." Could they do that?

Cram: yes. On the site plan, they can show which acreages are dedicated to which. Okay, and then roman numeral nine: "None of the minimum 40 acres shall be used to satisfy acreage density or open space requirement of any other food processing or other use in the township while the wholesale farm processing facility is in effect." That is an existing standard.

We already covered roman numeral 10, with regard to the minimum lease terms and a suggestion to move that up to the top to read better. I'm moving on to page 15, roman numeral 11: "There shall be a minimum of 10 acres in active crop production on the same parcel as the wholesale farm processing facility. There shall be an additional 15 acres of land and active crop production of the 40-acre minimum such that a minimum of 65 percent of the total land associated with the wholesale farm processing facility is in active crop production." In the existing zoning ordinance, for the 40-acre minimum, you are only required to have five acres in crop production. Which I questioned: are you even growing enough to warrant a processing facility? In talking through this with the citizens' agricultural advisory committee, everybody agreed that, yes, you should be processing more. I looked at standards for the region and the country too. I had a lot of conversations with Isaiah about this in particular, and we came up with about 25 acres of crops that warrant having enough to process. In conversation with Bill, the the comfort level from him was about 20 acres. So I feel we're really in the ballpark here. I also compared what the existing farm processing is as a use by right with only having a minimum of five acres to what the winery-chateau said. One of the things I really liked about the winery-chateau ordinance is you have to have 75 percent of 50 acres in crop production. That is really preserving a lot of crops. That 65 percent for 40 acres is 10 percent lower than what the winery-chateau ordinance allowed. That's where that 65 percent came from.

Hall: a technical point: the math doesn't work here. If you have 25 acres in active crop production divided by 40, total is 62 and a half percent.

Cram: I'll fix that.

Sanger: how does this address the issues of lavender farms where it's very intensive farming. I'm unaware of any 15-acre lavender farm in the township. Also, someone brought up tonight the cut flower operation. Aren't we really penalizing these operators who need to have some place to process what they're growing on their property?

Cram: page six of your packet. One of the things we agreed at the citizens' agricultural

advisory committee is that there is a missing component to the uses we currently allow. As a farmer, I can only afford five acres here in Peninsula Township and I am growing my carrots and as soon as I sell one carrot, I am protected by Right to Farm. I have the ability to have a roadside stand. There are no minimum acreages, other than meeting the underlying zoning district requirements. And then our current zoning ordinance jumps right up to the farm processing, which our existing farm processing as a use by right says you have to have a minimum of 40 acres. So there is that missing middle. We want to have another use that does allow someone to have a smaller acreage where they're very productive. Where I come from, our most productive farms that were providing food to that area were on two and a half acres. Yes, our current zoning ordinance doesn't allow for that and so we plan to fix it. This is really for the larger-scale operations, for the fruit farmers and things like that.

Wunsch: I think the important thing to note as you look through to number five, "Wholesale Farm Processing Facility Size," is that this is the use that anticipates up to 30,000 square-foot build. So I think what the agriculture committee will work through subsequent to this conversation is what that smaller footprint facility is that might include some processing and retail.

Sanger: lavender requires a place to dry; you need a place if you're going to distill it into oils. There is a missing piece; maybe we need a small farm processing facility.

Wunsch: we've tried as a township to do some things to accommodate those uses, but our ordinance doesn't support them very well, so we're going to try to come up with some language that will support the smaller footprint. More direct retail and direct market-type agriculture. This farm processing facility, whether you're looking at the wholesale or retail that we're discussing tonight, will be focused more on a combined wholesale and direct sales approach, where the owner or operator would have a fairly substantial facility. A 30,000 square-foot facility is quite large. We will work on the smaller uses.

Cram: those are a priority. We called it a farm market in our discussions with the citizens' agricultural advisory committee. The agritourism uses are also very important for us to have a section that covers those.

Dloski: page 15, are Roman numeral 11 and 12 consistent with Roman numeral 6 on page 13?

Cram: yes, it is consistent because what we're saying is that the actual facility that is going to be constructed has to be on 20 acres. And on that 20 acres where you have the facility, 10 of those acres would be in crop production. Which leaves 10 acres to develop your facility, your parking, or whatever. Where is the best location for your crops? Where's the best location for your facility? Then on the other acreage, that is entirely crops. It doesn't have the farm processing building. Those are consistent and meant to be together. I am happy to take another look at that again, Larry, if it needs additional clarity. The goal is that 65 percent of the total 40 acres is in active crop production. Is everybody comfortable with that goal? I see head nods.

Next is number four, Setbacks: "The minimum setbacks for a wholesale farm processing facility, including required parking, shall be: side and rear yards, 200 feet. Front yard, 50 feet." The existing ordinance had a requirement of 100 feet. The 200 feet comes from the existing zoning ordinance with the winery-chateau later, where there is a 200-foot

required setback from residential structures. It's difficult because someone could build later a residential structure on A-1 land, or residentially zoned, and you can't limit what's going to happen off your property. It made sense to take that 200-foot setback from a residential structure and make it from the property line. That way you're protected regardless of what development happens around you. That 200-foot setback allows you then to locate your facility and your crops and the best locations. It helps to mitigate the noise and the parking. We get calls about the beeping from the trucks backing up. Creating that distance between these types of uses helps to mitigate those impacts. So that 200 feet was proposed in another area, and I'm bringing it forward here so that it's all encompassing.

Item number five: "Wholesale Farm Processing Facility Size." This section of the zoning ordinance was actually updated by amendment 197 in 2019. That is where the township board heard from the agricultural operators that the maximum 6,000 square feet wasn't enough for the storage of all the things they needed for their operation. The township board responded and increased those limits. I incorporated here the language from Amendment 197, which allows for an agricultural operator to have 250 square feet per acre. If you only have that 40-acre minimum, you would be limited to about 10,000 square feet. But if you had more acreage, then you could have a larger building. That is existing language that is carried forward in the existing zoning ordinance from the approved Amendment 197.

Item number six: "Pre-existing Buildings." That is also an existing part. I put in there that it was the 10,000 maximum. We want to encourage the adaptive reuse of existing buildings. There might be barns and and other things out there that could be used for this. So we want to allow for that flexibility.

Page 16, item seven: remains pretty much unchanged with regard to vested interest. That is something we'll be discussing with Bill as noted. Currently, it reads: "There shall be no vested interest in non-agricultural uses of the structures. Structures shall only be used for allowed uses and the A-1 Agricultural district in the event that the farm processing facility use is abandoned." This goes back to what we talked about earlier, those vested interests. With regard to parking: "Parking shall conform to the requirements of section 7.6." You'll see that there have been some changes there and we'll talk about that. "Lighting shall conform to section 7.14. Signs shall conform to section 7.11." I do know that the signage requirements for agricultural operations was discussed at the citizens' agricultural advisory committee. I recommend that we look at our sign ordinance and allow for greater flexibility for our agricultural operators. That will be coming forward in the future.

Page 17: "Access shall be from a public road." It was also discussed that the public road should be paved. Again, this is a more intensive use. We can anticipate large trucks and things, and so how do you all feel about the requirement of it being paved? So that we know that this use is occurring in a location where we have adequate transportation systems in place?

Sanger: I think that's a lot to ask if it's a use by right.

Rudolph: this is a wholesale facility, not a retail facility.

Chown: I would hate to require paving.

Cram: okay. It does come up later. Number 12 is Data and Records: "The owner of the wholesale farm processing facility shall annually provide data and records to the director of planning showing that a minimum of 70 percent of the raw products processed are grown on the land owned or leased for the specific farm operation by the same party owning and operating the wholesale farm processing facility." Number two: "An up-to-date record of land ownership or lease to comply with the minimum acreage requirements shall be provided to the director of planning. The above data shall be supplied to the township in a format or form approved by the director of planning." That will be vetted with the community and the township board. We need to come up with something that's easy for the agricultural operator and easy for staff resources to document and keep track of. "Any change in the above shall be submitted promptly." These are all existing conditions for the farm processing as a use by right with some clarifications.

Rudolph: when you have a statement that says "must be submitted promptly in writing," I wonder if there needs to be some kind of time frame or date.

Cram: within 60 days of the change or something like that. Good catch. Then 13 is the approval process, with some changes to existing language: "A site plan drawn to scale (one or more sheets as appropriate) shall be submitted to the director of planning along with the appropriate permit fee as established by the township board." I'm not going to go into a lot of detail in this particular location on the approval process because in farm processing, I dug a little bit deeper. I do believe that we need to update our application forms and submittal requirements. It would be my recommendation that we don't put the specifics of what you have to submit in order to do it. We talk about the process and the zoning ordinance, then we have supporting documents that are approved by the township board, administered by the planning department, that are very clear and transparent so that the applicant will know what they need to do. We don't have to get into the weeds here. So I'm going to save this conversation until we get a little bit further. My goal as your planner is to make sure that the zoning ordinance is clear, that it's easy for us to make recommendations and decisions. And that it's very clear for the applicant what the process is and what it looks like, what do they need to submit and long is it going to take. Those are areas that we can absolutely improve on.

Page 18 continues the site plan review, which we can talk about a little bit later. But to talk about the process here: if I am a farmer and I have 40 acres, I have 65 percent of that in crop production, and I want to change that raw apple into something else. Then in order to do that, I would come into the planning department, I would bring my site plan in, the planner approves it, then go to the zoning administrator to have the land use permit approved. Then they would move forward depending on what they're doing, building permits, things like that. But the zoning administrator and planner would work with the applicant to help them through the site plan review and land use permit process and make sure that we have all of the other state and federal licenses and permits in place for the type of processing they're doing. We want to develop a clear process.

Number 14 talks about any violation of the site plan issued. There will be conditions of approval for the site plan. It will say very clearly if any of the conditions change, there would be the ability for the township board to suspend that use. The existing zoning ordinance allowed for a residence within a farm processing facility. I think that's a good

thing to keep. If someone has limited resources, they might propose a simple or modest dwelling inside their barn. I saw that a lot in my previous experience. Allowing someone to have a dwelling within the farm processing facility is standard. There are safety concerns with making sure that dwelling is safe, but I think we should still include that opportunity. So no changes proposed for that.

Page 20, you can see that section 8.7.3 changes the winery-chateau use to retail farm processing facilities. Standards for the two retail farm processing facilities are covered in section 8.7.3 (10) and (11).

Page 21 is Parking Standards. Winery-chateau is changed to "retail farm processing." Bill noted we should have less restrictive parking requirements for the wholesale farm processing than the retail farm processing. We need to take a look at that. I came up with the one for each 150 square feet of retail floor space based on some research I did for restaurants and different type of retail stores to be more consistent with that. I think it would be helpful for us to have specific standards for wholesale and for retail. Do you all agree?

Board members signal agreement

Three-minute break

Cram: page 22, Retail Farm Processing Facility. This incorporates an indoor-only retail sales facility. The intent statement is consistent with the wholesale farm processing but makes it specific to a retail operation. All the comments we made with regard to the intent statement and the additional clarification on language, I will take all of those comments forward. Anything anyone believes should be included in the intent statement for retail sales? Okay. Then we get into the details of the retail sales. (b)1: "Retail sales of fresh or processed agricultural products are allowed subject to the requirements of Section 8.7.3.(10)(b)2, and the following additional requirements. All processing and retail sales shall be conducted indoors. The consumption of processed products on premises is permitted indoors only. A tasting room may be included in the allowable square footage for retail sales to provide for the tasting of fresh or processed agricultural products, including wine." What that is saying is the areas designated as retail sales could also have a tasting room. "Free entertainment may be provided within a retail sales/tasting room indoors only." That is taking into consideration some things that have been included in liquor licenses. "The hours of operation for retail sales, including a tasting room, shall be limited to an opening time no earlier than 9:00 a.m. and a closing time no later than 9:30 p.m." Hours of operation are currently being discussed. It has always been understood by me as a professional planner that zoning allows us to say what the best locations are, what the conditions associated with that are. I do believe that putting hours of operation is okay. Depending on what happens, we might need to adjust that. In discussing this with the citizens' agricultural advisory committee, this is another area where the committee unanimously agreed that nothing needs to be open later than 9:30 here on the peninsula.

Dloski: isn't this a contentious issue in the lawsuit? If the board is going to consider adopting this on the 9th of August, is that issue going to be resolved?

Fahey: let me address the hours of operation from the perspective of Judge Maloney's opinion. In the first part of his opinion when he addressed hours of operation, he was pretty clear that despite the argument by the wineries, the liquor control commission

statute and regulations are not controlling on the hours of operation for wineries. In other words, he agreed with us that it's appropriate to set hours of operation in a zoning ordinance, and that would control any liquor control condition requirements. The place where things went upside down in the opinion were after the judge read some of the depositions that suggested there were not any consistent hours of operation in the ordinance. That is an important observation, to be clear, and we need to put hours of operation in the ordinance or in the special use permits so that it's absolutely clear to everyone what those requirements are. If we do that, I don't think from the judge's opinion that he'll have a problem with that.

Hall: my reading of the the opinion is consistent with Bill's. On the issue of preemption, the question is, does the state liquor license law and regulations preempt local ordinances? The judge said that what the state allows, the township cannot prohibit, but it can regulate.

Fahey: exactly. The way that the state regulations are written, it doesn't require that a bar be open until 10, it simply says it cannot be open after 10. That gives the township the ability to set different hours. They are not going to be preempted by the state liquor laws.

Shipman: a note on the free entertainment: is that to separate a fee-type of concert versus having someone playing guitar in the background?

Cram: that helps with the promotion. It might encourage someone to come in and sample the agricultural products and that would enhance the experience. With it being indoors, it is less likely to have impacts on surrounding neighbors.

Number six: "The Michigan Liquor Control Commission and Michigan Department of Agriculture shall control applicable licenses and compliance with said licenses consistent with the requirements of this ordinance and any special use permit granted for the retail farm processing facility."

Number seven: "Those retail farm processing facilities that hold a liquor license may sell limited food items indoors in the retail sales area to offset the effects of consuming alcohol. Food items not processed within the retail farm processing facility are limited to snacks that require minimal preparation such as cheese and crackers, dried fruit and nuts, and chocolates. No commercial kitchens shall be permitted as part of the retail farm processing facility." The discussions we've had around food have been unanimous agreement that if somebody is consuming alcohol, they should have some food. It was never the intent of the existing zoning ordinance and the winery-chateau to allow for a commercial restaurant. It's been something that's been challenging for us to achieve. The goal is to try to make it very clear what types of food would be permitted with a tasting room. I think this needs some work. I'd love to hear from you on it.

Deeren: I think this gives a good example of what you're talking about. I think it could be expanded a little bit, but it covers what we're looking for; it limits to the basic items.

Cram: you could be creative with those things as well.

Wahl: where I disagree with the retail kitchen is, you can make a lot with a microwave and that's not a retail kitchen. It's still opening up larger dinner-type options. We'll need to look into this more later.

Hornberger: commercial kitchens have never been allowed up to this point, right?

Cram: correct, but it's been spotty. The zoning ordinance specifically said that the intent of

allowing food was not that it be a commercial restaurant. The existing ordinance has a lot of gray areas. We really need to have a clear definition of what limited food items are that still allow for comfort that there is some creativity involved. I think we need to consider with the agritourism option there could be the opportunity under another section of the zoning ordinance to allow something like a farm-to-table dinner. Some of these agricultural operators might be growing more than what they're processing that they might like to present here. We want to allow for flexibility for that without opening the door to having a full commercial restaurant. This is tricky and part of the lawsuit, so we need guidance from our attorney. As far as the intent, that it is a snack, something small, different than a full meal. Does everyone feel that we're in the right direction with that, with some additional clarity?

Dloski: this would prohibit the wine tasting dinners.

Cram: it would.

Dloski: why would we want to do that? They're doing that now.

Cram: the wineries that have have special use permit approval that allow that would be able to continue to do that. I would say that some of them are doing it without the approval. It gets very confusing for the community and for us. That's why we're really getting a handle on what the actual approvals are. This conversation is the same as when we talk about retail sales. You can't say that you can sell this but not that. We have to define it so that it is clear. I do think that we want to have these agricultural operations have the ability to do some of these special things. I think because of the challenges we have with traffic, we as a community need to say what's the right number of special dinners and things like that. I think the existing zoning ordinance says it's okay to do Blossom Days or other town-wide events. So we definitely want to allow this, but as far as the day-to-day operation, we want it to be limited so that it doesn't open that door to become something else.

Rudolph: the concern is if that door gets opened too far then you become a commercial restaurant. I don't think that anybody really wants that to happen.

Deeren: this creates consistency with everyone coming new into the process.

Cram: Marty did bring up a good point. He has invested in commercially zoned property and has a restaurant; now the wineries are competing with commercially zoned properties. That's another other reason you don't want a full-blown commercial restaurant on agriculturally zoned properties.

Wunsch: something that repeatedly came up in the agricultural committee was that if a restaurant is not an agricultural use when it's not associated with the winery, then it is also not an agricultural use when it is associated with a winery. It's an accessory commercial use that we tried to allow in the old ordinance and it blew up in our faces.

Dloski: what happens when WOMP has all those special mac and cheese, all that kind of stuff. That's out the door now?

Hornberger: I think those are caterers coming out.

Dloski: okay, if I'm a winery, I'll have more than just cheese and crackers. I'll have a caterer come out.

Hornberger: I would sure hate to close down on mac and cheese.

Dloski: isn't that what we're doing?

Achorn: isn't that a community event?

Dloski: it's a WOMP event.

Cram: it would be a community-wide event. Our goal right now is to come up with a defensible zoning ordinance. That's not to say that this won't evolve and change in the future. I think there are other sections of the zoning ordinance that will accomplish some of the other things that were tried for fitting a square peg into a round hole under the winery-chateau ordinance. Guest activities should be covered under agritourism, and we need to update special events as well, so it would allow for some of these community-wide events. From my previous experience, you could apply for a special event, you could have one per month, three per calendar year. You could apply for that, do something special, have a caterer come in, feature some seasonal things. Those are not off the table. It's just not in this part of the ordinance. We need to make sure that the retail farm processing use is clearly defined.

Hornberger: what do you do about Chateau Chantal, which does wine tasting dinners?

Cram: this applies to anyone coming in new. Chateau Chantal has an existing special use permit. So the uses they were allowed to do, they would continue to be allowed to do.

Deeren: what will happen once the new ordinances are created is that we will have legal non-conforming existing wineries that will still have special uses that they can operate under. This is for anyone new coming in the door.

Cram: as long as they are compliant with their use, they can continue to do it.

Dloski: isn't this still an issue with the court? I don't believe Judge Maloney has ruled definitely. Mr. Infante has made the case that if you have an MLCC license, you can have a full-service restaurant. I don't think the courts have addressed that issue in finality.

Fahey: correct, that's still an issue that the plaintiffs want to raise at trial. Whether or not their liquor control license gives them the right to have a restaurant.

Cram: should we not include this in this draft of the zoning ordinance?

Fahey: I think we need to nail this down. If it later happens that we're wrong, then that part of the ordinance will be preempted. But if we aren't, then we will have made the right choice and we'll have established a rule that will be enforceable. It's all going to be up to what the judge decides.

Achorn: is there any type of agricultural farming other than WOMP that this would apply to?

Cram: all of these farm processing facilities are intended to apply to all agricultural operators.

Wunsch: realistically, I couldn't see anybody other than a winery using the combined 30,000 square foot maximum processing space plus retail. We're still basically talking about how we manage wineries.

Cram: but it could. If I were growing honey crisp apples and I had a farm processing facility to make applesauce and apple pies, I could sell my applesauce and my apple pies and people could consume them inside and if we are allowing for other limited food things, I like a little sharp cheddar cheese with my apple pie, things like that. Our goal is to be equitable for all types of agricultural operations, not just specific to wineries.

Hornberger: but it says that you have to hold a liquor license.

Cram: we probably need to change that then.

Alexander: they could make hard cider. Could be a brewery, not just wineries.

Cram: I would like this to be equitable for all. I think that number seven needs some work.

Sanger: we've had a case with one of the lavender-growing operations in the retail sales area selling hot cider in the fall. Yes, we need to think outside the box. Lavender doesn't seem to fit in terms of the consumption of food.

Chown: actually it does. Lavender honey, lavender ice cream, lavender lemonade.

Cram: would you agree that if it's legal, we should allow for some food items, particularly associated with the consumption of alcohol? And if we allow it for those farm processing facilities that have alcohol, that we would allow it for other processors to make it fair?

Alexander: they are all retail farm processing facilities. We just say, these farm processing retail facilities may sell those food items, and leave the liquor license out of it.

Board discussion

Rudolph: Maybe it is important to identify those places specifically that require a liquor license because they are a more intensive use than just providing applesauce or apple pie.

Cram: seven needs work. I'm going to keep going. Number two: "Limitations on Sources of Produce: (a) Processing is limited to raw produce. For example, an apple may be processed into apple juice or applesauce." This is all very similar to what we looked at for the wholesale so it carries through. Number three is where things change and there is a larger acreage requirement. 3(a): "A total of 50 acres of contiguous land is required to be devoted to the operation of a retail farm processing facility with indoor retail sales." This is consistent with the existing winery-chateau with regard to the minimum acreage requirements. "The 50 acres shall be located within Peninsula Township and shall be owned, leased, or cooperatively managed." Again, we have the same type of things that we talked about and wholesale to clarify that. "The parcel containing the retail farm processing facility shall be a minimum of 20 acres." That is similar with the frontage requirements. "The remaining 30-acre parcel associated with a specific retail farm processing facility necessary to meet the minimum 50-acre requirement shall be in active crop production." We would allow it to be separated by a road as long as it met that minimum. "There shall be no more than one single-family dwelling on the minimum 20-acre parcel containing the retail farm processing facility and no more than one single-family dwelling on the remaining required 30 acres. None of the 50 acres shall be used to satisfy acreage density or open space." That is similar to wholesale. Same thing about registering the leases with the Grand Traverse County Register of Deeds, so those comments would carry forward. Hopefully my math is better. Randy?

Hall: No. 17 acres should be 17 and ½.

Cram: I know. I didn't like that .5. I wanted to stick with whole numbers.

Hall: I get it.

Cram: I'll do some better math. Okay, setbacks then. Front yard setbacks remain the same at 50. This is where we talked about the intensity of the use. Now we have a farm processing facility that could have up to 30,000 square feet depending on how much acreage is consumed. You have retail now so the public is coming. To mitigate the impacts of that retail, the 200 feet is increased to 350 feet from adjacent property lines.

Dloski: that is really taking a lot property from these owners. Why do you need 350 feet?

Cram: because there could be a residence built on that adjacent agricultural property. This

is to consider the required setbacks from residential uses.

Dloski: that's just a humongous amount of land for a setback.

Deeren: it can be used for crops too.

Hornberger: crops can't be that close to where people are.

Cram: they can here because this is all indoors. It wouldn't effect spraying or anything.

Sanger: I think the key is it's a structure setback. That's the issue we've had, a contention between structures. A structure right now and a winery can be 15 feet from the property line, and we've had issues.

Wahl: this is a use by right.

Cram: no, this is a SUP.

Wahl: not all properties will have an buildable site.

Cram: what if we included language that would allow for the setback to be reduced because there might be situations where you're adjacent to agriculture. That setback could be reduced if there are adequate buffers. Then the planning commission could review and approve a lesser buffer. I don't think we would want to go any less than the 200 feet, which we've already established in the existing ordinance. So you could go from 350 to say 200 if you had some exceptions.

Dloski: that's a good compromise.

Sanger: that's a slippery slope that got us to where we are tonight. My suggestion is, this is a zoning board of appeals manner. The person wishing to apply for a SUP can go to the ZBA and present their case. Keep in mind that the ZBA ruling can be appealed to the circuit court for proper process. And I'm more comfortable with that as a relief valve than trying to put more language on results in a very convoluted ordinance.

Achorn: I agree.

Hornberger: I don't think you can build into this every single contingency or scenario. I think David's right.

Cram: because this is a SUP, it's for a retail farm processing, so everything's going to be indoors. So the things that we get complaints about, the outdoor uses, are going to be less likely for the indoor situation. Are you comfortable then with the 200 foot setback here? I'm guessing Larry's going to have a really big problem when we get to the next level of the 80 acres and it's a 500-foot setback. And so you know, maybe we keep this one at the 200 and then 350 for the next one. There could be that ability to go for a variance.

Achorn: what if the neighbor is an agricultural neighbor? What happens if tomorrow it's a subdivision? You have to protect the future possible use of your neighbor.

Sanger: Underwood Farms is a good example. When it was developed, we made them adhere to a 200-foot setback for the residential buildings. Today we have a winery that is so close. Basically the only limitation we have in that winery today has to do with the structure setbacks of 15 feet side and rear, in the front. So I'd be very careful here. We need to do some studying. Sound travels; it depends on topography. In the case of what I just mentioned, we're dealing with an uphill, and of course the noise tends to follow the wind. So I would leave it at 350. I wouldn't try to solve the problem tonight.

Cram: the other thing that I want to throw out there because, again, I am pro agriculture: instead of putting the onus only on agricultural land to provide the setbacks, I think we need to look at both sides. If a new subdivision were to go in, I think we should also put

the onus on that developer. If we look at setbacks right now, our PUD setback, there's this 30-foot required setback. Maybe that needs to be increased to consider if you are proposing a new subdivision adjacent to agricultural land, you need to think about those buffers. So that it's equitable for both an agricultural operator and a residential developer.

Deeren: what's happened in the past with the agricultural pieces that have been developed is that the planning commission has given the lesser setbacks to residential because they're condensing their property. The buffering has to be both ways.

Chown: that's more equity, more parity in this community.

Cram: in Larimer County, we made those changes. Whatever use is there first, the other person needs to consider and it needs to be equitable. We can stick with the 350 right now with the comment that some think it is too much and we can look at it.

Then, on to Farm Processing Facility Size. All of those things remain the same as the existing zoning ordinance with regard to the 250 square feet per acre. "The retail sales space may be a separate room within a retail farm processing facility and shall not exceed the 1,500 square feet in area. A tasting room shall be included in the allowable square footage for the retail sales." That is a clarification that says you can have this footprint for retail and that's where the tasting room needs to be as well. Then the pre-existing buildings are the same. That vested interest, parking, lighting, signs, access, data, and records. Then this is where we get into the approval process where I really tried to focus on what is the process. First you come in and you get approval of your special use permit. Then you do your site plan, and then you do your land use permit. Providing enough detail so that it's clear, you know what process you're going to go through, but we don't get into the nitty gritty of a site plan drawn to scale, those types of things. I'm open to any feedback on approval process.

Sanger: is this all going to be done administratively?

Cram: the site plan would be administrative. The special use permit, the use of the land would come before the planning commission. They would make a recommendation to the township board, and then the planning director would make sure that the site plan is consistent with the special use permit approval. This is one area I have found there seems to be a lot missing. Because if you think about it, when a developer comes forward and they're wanting to get approval of a special use, they don't necessarily want to invest all of the time to have a final grading plan, final construction plans, because they don't know if the use is going to be approved. So a lot of times the planning commission and the township board approves this thing that we have enough evidence to show, yes, it meets the standard and is going to be a compatible use. But we don't have the final details. Then you come to get the land use permit and things are different. We really need to tighten up that site plan review, especially because we don't control our building permits. We need to make sure that the Grand Traverse County Building Department is approving construction plans that match the site plan, that match the land use permit. That's something we're working internally to clean up.

Dloski: the planning commission still needs to see a site plan.

Cram: yes. For the special use permit, there will be a site plan that shows everything. I am going to make sure that site plan has all the uses labeled. The site plan should be pretty well vetted. That floor plans are labeled with uses, that we have a preliminary drainage

plan, that we know that things are going to work. The final site plan needs to match the conditions of approval from the special use permit. And that's what the building permit is issued on.

Page 26. This is the Retail Farm Processing Facility with Outdoor Seating. The intent is consistent; the retail sales is consistent. Number two, this gets into the retail sales if you have an outdoor seating area: "The consumption of processed products on premises is permitted indoors and within an approved and clearly defined outdoor seating area." This means I can come into the retail facility, buy a glass of apple juice and a slice of apple pie, and go and sit outside and I can consume it. "The hours of operation for an approved outdoor seating area shall be limited to an opening time no earlier than 9:00 a.m. and a closing time 8:00 p.m." I'm a little bit conflicted with this because it sure is nice to drink a glass of apple juice and watch the sunset. But thinking about when we get the noise complaints, we need to come up with something reasonable. What are your thoughts? Should the hours of operation for the outdoor be the same as indoor or different?

Rudolph: I was a little bit hesitant about the eight o'clock because during the summer hours you have the sun till about ten o'clock at night. If you're not allowing any kind of entertainment outside...

Cram: entertainment is indoors for both of the retail farm processing facilities.

Rudolph: so you have someone buying something inside and going outside to enjoy it. I don't know that it makes sense to have different hours.

Chown: I agree it makes sense to let it all go till 9:30.

Cram: And it also goes back to that we have to be consistent.

Board discussion

Cram: I think that the two differences are now we have indoor retail, but we are allowing an outdoor seating area. We're providing consistency between the two. The limitations on the sources of produce are the same; we're looking for that 70/30. There's the ability if there's a bad crop condition. The parcel requirements change here again; this goes back to the intensity of the use. Now we have a retail facility and we have some outdoor seating and so allowing for larger areas so that we can have greater setbacks. Whether the proposed setback is good or not, I'm open to suggestion. For this particular situation that was discussed at the citizens' agricultural advisory committee, they came up with an 80-acre recommendation. They thought it allowed for greater separation. Again, it could be leased. The facility needs to be on 20 of the 80 acres; the remaining 60 need to be in crop production. We would allow that 80 acres to be divided by a road. You would have 15 acres in active crop production on the parcel with the farm processing, 37 on the other. The goal is to have that minimum of 65 percent in crop production. Moving down to setbacks, you can see that jumps up to 500 feet.

Hornberger: a total of 80 contiguous land, and then you're talking about a parcel containing 20 acres.

Cram: that has been consistent throughout. If we go back to the wholesale farm processing as a use by right, we said that you had to have 40 acres. And the 40 acres should be should be contiguous, but you didn't have to own. What we said is, let's say I own 20 and I'm leasing 20, I'm going to put the actual facility, the footprint, on a minimum of 20 acres. In order to meet the minimum acreage requirements and have the crop

production, you have to have additional acreage. We're trying to tie the use to the land. We felt like 20 acres could accommodate a larger building.

Dloski: if I have 40 acres retail, and I want to have a couple of outdoor seats, I have to have another 40 acres?

Cram: in order to have retail, you have to have 50 acres.

Dloski: so I need another 30 acres just to have four outdoor seats?

Cram: it's not four.

Dloski: what if I wanted four?

Cram: if you want outdoor seating then you would be required to apply for a special use permit for a retail farm processing facility with outdoor seating.

Dloski: and I'd have to have 80 acres.

Cram: yes.

Dloski: I don't get that. Plus a 500-foot setback on the property. I don't see that being feasible for anybody in this township.

Cram: the recommendation when I brought it forward to the citizens' agricultural advisory committee was 50 acres, and the 80-acre minimum came up because of the intensity of the use and wanting to have a certain percentage of acreage to be able to mitigate the negative impacts from the outdoor use. It is open to discussion.

Dloski: if you want to have 10 outdoor seats, you have to have 30 more acres?

Achorn: we're not talking about that level of participation. We're talking about the larger winery-type operation.

Dloski: it's covering any outdoor seating, 80 acres, and you need a 500-foot setback.

Sanger: but the facility itself is still limited to 20 acres. "Contiguous" is misleading. Each of these three sections of the ordinance we're talking about uses this word "contiguous." My interpretation is that means the whole project, but it does that broken up into 20-acre pieces. Basically, when we talked about this outdoor, it could be applicable to 20 whether it's on the retail indoor only or the retail outdoor allowed. When we're talking about setbacks then to allow something to happen outside on 20 acres.

Cram: contiguous means that they touch by a point; there's a property line that we can look at the the minimum acreage as a whole. They don't have to be owned; they don't have to be one parcel. It can be multiple. I do think, Dave, when you present it that way, it does raise an issue because if this facility is on 20 acres, it would be hard to meet a 500-foot setback.

Rudolph: you could not. In fact, if you had 40 acres, I don't think you could do it. I'm trying to remember why we came to the 80 acres. I think the concern was generated by the number of complaints the township got because of noise with the outdoor guests at wineries. We were thinking new facilities on a bigger parcel of land would mitigate the possibility that they're going to be interfering with their neighbors.

Dloski: the noise that the wineries are generating now is illegal. They shouldn't be doing that.

Wunsch: what you're seeing is the emergence of a much more conservative ordinance because, a, we have these issues with enforcement. The township will try to enforce these rules that everybody's agreed to in one area and then we'll have a slip somewhere else and so on. I would agree with you that the new ordinance is much more restrictive than

the old ordinance. It pains me that this is the direction we're moving in. We've gone from a scalpel to a tourniquet as our policy tool because of the ongoing legal dispute. We have the ongoing nuisance issues with outdoor tasting room cases that we're up against now. After the litigation, there's an ongoing risk that we will face lobbying at the state levels to have rules changed that will further erode our ability to control things like outdoor uses. Sighting a winery, or a farm processing facility with outdoor uses, is clearly within the township's purview to do. But we may face challenges in the future on whether we can limit the intensity of that outdoor use. The sighting is relatively low risk for us from a policy standpoint. As we try to control what happens in that outdoor space to mitigate nuisance, our control going forward becomes more tenuous. There's a risk that there will be lobbying at the MLCC or with the state legislature to preempt conditions that have been agreed to during the approval process.

Chown: I would also just say, I can't imagine anyone would build a retail farm processing facility with outdoor seating and only want four seats.

Dloski: I'm saying that just to make a point.

Chown: really, the inclination will always be for more. We're here because the wineries want the maximum usage they can get.

Wahl: as soon as we approve four, then we're stuck with having approved any outdoor seating. That's the issue.

Chown: that is the lesson we have learned from the lawsuit, and it is a sad lesson.

Dloski: what is the lesson?

Sanger: it's called "creep."

Chown: we let the camel's nose under the tent, and now we have a camel in the tent.

Sanger: the enforcement is the problem because it's very difficult. First of all, the county noise ordinance was abolished. The only remedy we have is the township noise ordinance, and who is going to enforce a noise call at 10 o'clock at night? The answer is the sheriff. It gets out of control quickly and there is no practical means of determining the violation unless you want to put some decibel levels in and get very technical.

Deeren: those are not admissible in court.

Sanger: right. We have to think ahead. We thought at one time an evergreen buffer would work. It doesn't. We have to consider worst case. We know that noise attenuates over space, so you need to put enough space in. To do the enforcement, it's getting out the tape measure.

Dloski: my concern is you're eliminating outdoor seating. This ordinance in this format with 80 acres will eliminate outdoor seating. I don't think there's anything wrong with going to a winery, sitting outside, and having a glass of wine. No music, no entertainment.

Hornberger: but it gets noisy.

Dloski: living on center road is noisy.

Chown: you're saying that because you think there are not going to be enough 80-acre parcels?

Dloski: I think that's one case. Also, it's financially a deal killer to get 80 acres to have outdoor seating.

Achorn: this is the only way to mitigate the noise and nuisances.

Wunsch: the real estate acquisition cost is not your barrier to building one of these types

of facilities. It would represent 15 to 20 percent of the overall cost.

Dloski: have we done inventory for how many 80-acre parcels would be available for this?

Wunsch: I believe there are about 30 that are not developed.

Deeren: The thought process was, you have a more intense use, so you need to have larger acreage so that you can have a greater setback to mitigate that negative impact. I do see some challenges with the setback component when you don't have to own all of the 40 or 50 acres. When a land use permit comes in or a site plan, we measure setbacks to the property line. And so we might be seeing these applications come in where there are property lines in the middle of their application that technically we have to measure setbacks to. I do believe we need to apply greater setbacks, but we're going to have to have flexibility of where they're measured from. It wouldn't be the same if you came in for a single-family residence. With the farm processing facility, you don't have to own it all and there will be multiple parcels. We will have to think about where setbacks are measured from.

Board discussion

Cram: I think it's something that we need to address. I believe we need to have larger acreage to support mitigating the negative impacts.

Chown: one last thing. Is there a saturation point regarding how many farm processing establishments with outdoor seating this peninsula can handle given our geography?

Wunsch: we're not able to regulate that.

Shipman: this is land use planning. This is what we're tasked with doing. Our job, to me, isn't to make sure that every one of the potential 80-acre parcel options can be developed into a big facility. For those who want to, these are the rules.

Deeren: there are a couple of options; it's not like they're locked into a box and this is the only option you have.

Cram: the next section I want to take you to is on page number 28, number seven, Outdoor Seating Area Size. I did a bit of research. "The outdoor seating area shall be limited to 750 square feet." That is a reasonable size for a seating capacity of 50 persons. 50 persons is consistent with what other regional areas have allowed. This is something that we legally can regulate. I wanted to know what your thoughts are on the capacity. I believe that square footage allows it. "The limits of outdoor seating area shall be clearly defined with a fence and or combination of fencing and landscaping." It's important that they have to define where it is.

Shipman: we have wineries out here that have an elevated deck; that's clearly defined. Would that option be eliminated?

Cram: no, a deck with railing would be clearly defined.

Wahl: the total capacity of outside should be considered with maximum capacity in case people outside suddenly, because of something like rain, have to move inside.

Cram: we would likely need to do that. The maximum occupancy for the entire thing would be set by that 1,500 square feet of retail. That maximum occupancy can either be indoors or out. We're saying no more than 50 for the outdoors, going back to the noise.

Achorn: doesn't that connect with the parking limitations also?

Cram: yes. Parking will be based on the ordinance distinctions for the warehousing requirement, if there's an office space, retail space. You calculate one per 150 square feet

or one per 75 square feet. You come up with what the total required parking is based on the whole thing. The rest of the changes that you see are really just redlining and removing winery- chateau in its entirety. We'll be going through this to make sure there is consistency with all three of the processes as far as spelling things out, parentheses, all of the things that are duplicative will be consistent.

Sanger: each of these sections, in terms of enforcement, picks up language that at this point is 20 years old. Page 29, approval process number 14. It put the town board as the authority that's going to pull the SUP. I want to be sure that our legal counsel has looked at this. I thought this was unusual when it was done back in 2002. Typical enforcement would involve the issue of a citation and, if it's necessary, to pull the permit and move towards an injunction if we can't get compliance.

Cram: Bill and I have talked about it and he is looking at it.

Fahey: I'm going to take another look at it, but it's not bad; it's in pretty good shape.

Cram: I appreciate your time and attention. Your comments are very helpful.

Chown: we're going to do public comment now and then turn off everything to go into closed session.

9. Citizen Comments

Nancy Keller, 3091 Blue Water Road: I still have concerns about parts of this ordinance that are left up to individual interpretation and creating non-conforming situations. I attend the zoning board of appeals meetings. It's a challenge to meet the six basic conditions. You're giving the impression that they can do this and that, yes, they can. But not necessarily successfully, and at great cost to the applicant.

Town board:

Wunsch moved to enter closed session pursuant to MCL 15.268(1)(h) to discuss a confidential written legal opinion from the township attorney on proposed amendments to the zoning ordinance with a second by Achorn.

Roll call vote: yes – Wall, Rudolph, Chown, Wunsch, Achorn, Sanger Passed unan

Planning commission:

Hornberger moved to join the town board in closed session with a second by Alexander.

Roll call vote: yes – Alexander, Dloski, Hornberger, Wahl, Shipman Passed unan

Wahl moved to come out of closed session with support by Achorn. Motion approved by consensus

Dloski moved to come out of closed session with support by Hornberger. Motion approved by consensus

10. Board Comments: none

11. Adjournment:

Wahl moved to adjourn the meeting with support from Chown. Motion approved by consensus

Hornberger moved to adjourn the meeting with support from Alexander. Motion approved by consensus

Meeting adjourned at 11:00 p.m.

Reports and Updates

All reports and updates will be verbal.

Business

SUP #142, Cooley B&B

Peninsula Township Planning & Zoning Department
13235 Center Road
Traverse City, MI 49686

SPECIAL USE PERMIT (SUP)
FINDINGS OF FACT
SUP #142 Cooley Bed and Breakfast
August 15, 2022

PENINSULA TOWNSHIP BOARD

DECISION AND ORDER

Applicant: Erin Cooley
6901 Mission Ridge
Traverse City, Michigan 49686

Hearing Date(s): Planning Commission: July 18, 2022 (Introduction)
Planning Commission: August 15, 2022 (Public Hearing and Recommendation on Findings of Fact)

PROPERTY DESCRIPTION

Parcel ID#: 28-11-031-005-10
Property Address: 6901 Mission Ridge
Zoning: R-1A – Rural and Hillside Residential

GENERAL INTRODUCTION AND BACKGROUND

The applicant requests the approval of a Special Use Permit to allow a Bed and Breakfast use in the existing residence. Rental of three (3) bedrooms for up to eight (8) guests is proposed. No exterior improvements or change in character to the single-family residence are proposed. Required parking for the proposed use will be accommodated in an existing driveway. Adequate water and sewage disposal also exist for the existing residence and proposed bed and breakfast use.

The submitted application is provided in **EXHIBIT 1**. A plot plan and floorplan have been included.

SECTION 8.1.3 BASIS FOR DETERMINATIONS

FINDINGS - SECTION 8.1.3 (1) GENERAL STANDARDS

General Standards. *The Peninsula Township Board of Trustees shall review each application for the purpose of determining that each proposed use meets the following standards, and, in addition, shall find adequate evidence that each use on the proposed location will:*

- a) Be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.

The character of the area surrounding the proposed bed and breakfast is primarily rural residential. The Pelizarri Natural Area is north of the subject property. There are no changes proposed to the exterior of the existing residence and detached garage in order to accommodate the use. The required additional parking (three spaces) can be accommodated in the existing driveway. Thus, the visual character of the area will not change as a result of the use.

- b) Not be hazardous or disturbing to existing or future uses in the same general vicinity and will be a substantial improvement to property in the immediate vicinity and to the community as a whole.

Per Section 8.7.2. (9). A bed and breakfast establishment is a use permitted in residential and agricultural zone districts. Per Section 8.7.3. (6). (b). 3. The residence shall be the principal dwelling unit on the property and shall be owner-occupied at all times. Thus, the use is a permitted use and disturbance will be minimized based on the fact that the owner shall be present at all times. The use will have no greater impacts than if the owners had family or friends visiting.

- c) Be served adequately by essential facilities and services such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities, or schools.

The proposed bed and breakfast use will be served adequately by essential services. The proposed use does not place any additional burden on adjacent roadways, public emergency services, public utilities, or schools.

The fire department has visited the property and has worked with the property owner to meet the Fire Code. A letter from the Fire Chief, Fred Gilstrorff, dated July 20, 2022, and email dated July 25, 2022 is included in the packet in (EXHIBIT 2). Conditions of approval will be proposed to address the requirements to meet the fire code.

The property owner has included a copy of the certificates of occupancy for the residence and attached garage that was converted to living space. Staff has spoken with the Chief Building Official for the Grand Traverse County Building Department to confirm that a bed and

breakfast use is reviewed under the same building code as a single-family residence. A copy of the certificates of occupancy and applicable building code are included in (EXHIBIT 2).

A well and septic status form has been completed by the Grand Traverse County Health Department. The property has adequate service for eight (8) bedrooms. This is adequate to serve the three (3) rental bedrooms and five (5) additional bedrooms in the residence. A copy of the approved status form is included in (EXHIBIT 2). A condition of approval has also been included for staff to verify the 8 total bedrooms prior to the commencement of the bed and breakfast use.

- d) Not create excessive additional requirements at public cost for public facilities and services.

The proposed bed and breakfast use does not create excessive additional requirements at public cost as the use will operate in an existing private residence with adequate facilities (access, parking, water and sewage disposal). Thus, the proposed use will not create the need for additional public facilities or services.

- e) Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by fumes, glare or odors.

The proposed bed and breakfast use does not include uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by fumes, glare, or odors.

As noted above, the use requires it be owner-occupied. It is not anticipated that the proposed impacts would be greater than if family and friends were visiting.

FINDINGS - SECTION 8.1.3(3) SPECIFIC REQUIREMENTS:

***Specific Requirements.** In reviewing an impact assessment and site plan, the town board and the planning commission shall consider the following standards:*

- (a) That the applicant may legally apply for site plan review. **The applicant is one of the owners of the property for the subject bed and breakfast use and has applied for a Special Use Permit. A plot plan and floorplan have been provided as part of the application that shows clearly where the proposed use is located on the property and the details including dimensions of the proposed rooms for rent within the existing residence.**
- (b) That all required information has been provided. **All required information is provided as part of this application. (EXHIBIT 1).**
- (c) That the proposed development conforms to all regulations of the zoning district in which it is located. **The proposed development conforms to regulations of the R-1A zoning district.**
- (d) That the plan meets the requirements of Peninsula Township for fire and police protection, water supply, sewage disposal or treatment, storm drainage, and other public facilities and services. **Gourdie-Fraser, Inc., Township Engineer has reviewed the submitted plans. Because the**

residence is existing, no review of grading or drainage is required by the Township Engineer. A copy of the email from Jennifer Hodges, Township Engineer is included for reference (EXHIBIT 2). A Proposed condition of approval will be included to address Fire Department comments.

- (e) That the plan meets the standards of other governmental agencies, where applicable, and that the approval of these agencies has been obtained or is assured. **The proposed use, along with plans and relevant information, have been supplied to the necessary governmental agencies for review and approval. Communication from the Grand Traverse County Building Department and Environmental Health Department are provided (EXHIBIT 2).**
- (f) That natural resources will be preserved to a maximum feasible extent and that areas to be left undisturbed during construction shall be so located on the site plan and at the site per se. **As noted above, the property has already been developed with a single-family residence and detached garage. Parking for the existing residence and bed and breakfast use already exist in the driveway. Thus, no additional disturbance is anticipated for the proposed use.**
- (g) That the proposed development property respects floodways and floodplains on or in the vicinity of the subject property. **There are no floodways or floodplains in the vicinity of this site.**
- (h) That the soil conditions are suitable for excavation and site preparation and that organic, wet, or other soils that are not suitable for development will either be undisturbed or modified in an acceptable manner. **Soil conditions were suitable for the construction of a single-family residence. A bed and breakfast is a use allowed within a single-family residence with the approval of a Special Use Permit.**
- (i) That the proposed development will not cause soil erosion or sedimentation problems. **As noted above, the property has already been developed with a single-family residence and detached garage. A bed and breakfast is a use allowed in a single-family residence with the approval of a special use permit. The proposed use will not cause soil erosion or sedimentation problems.**
- (j) That the drainage plan for the proposed development is adequate to handle anticipated stormwater runoff and will not cause undue runoff onto neighboring property or overloading of water courses in the area. **The proposed use will not cause any increase in off-site storm water runoff as discussed above.**
- (k) That grading or filling will not destroy the character of the property or the surrounding area and will not adversely affect the adjacent or neighboring properties. **No grading is proposed as a result of the proposed use.**
- (l) That structures, landscaping, landfills, or other land uses will not disrupt air drainage systems necessary for agricultural uses. **The proposed use within an existing single-family residence with a detached garage will not change the cold air drainage flow of the site.**
- (m) That phases of development are in a logical sequence so that any one phase will not depend upon a subsequent phase for adequate access, public utility service, drainage, or erosion control. **This project will not be developed in phases. The existing residence with detached garage does not require**

any modification to accommodate the proposed use.

- (n) That the plan provides for the proper expansion of existing facilities such as public streets, drainage systems, and water sewage facilities. **No expansion of public streets, drainage systems, or utility systems is proposed.**
- (o) That landscaping, fences, or walls may be required by the town board and planning commission in pursuance of the objectives of this ordinance. **No additional landscaping is proposed or required for the proposed use. The property is surrounded by mature trees on three sides.**
- (p) That parking layout will not adversely affect the flow of traffic within the site or to and from the adjacent streets. **As noted above the required parking is located in an existing driveway. Access is from Mission Ridge. Trips generated by the proposed use are similar to that of a single-family residence with visits from family and friends.**
- (q) That vehicular and pedestrian traffic within the site, and in relation to streets and sidewalks serving the site, shall be safe and convenient. **Vehicular traffic will enter and exit the property from Mission Ridge.**
- (r) That outdoor storage of garbage and refuse is contained, screened from view, and located so as not to be a nuisance to the subject property or neighboring properties. **The applicant has noted that garbage containers are stored in the garage out of view.**
- (s) That the proposed site is in accord with the spirit and purpose of this ordinance and not inconsistent with, or contrary to, the objectives sought to be accomplished by this ordinance and the principles of sound planning. **The proposed development meets the objectives of the ordinance and the principles of sound planning by maintaining the existing character of the subject parcel while providing opportunities for visitors to experience Old Mission Peninsula in a manner that is respectful to neighbors.**

FINDINGS - SECTION 8.7.3(6) (b) SPECIFIC REQUIREMENTS FOR BED AND BREAKFAST ESTABLISHMENTS:

1. The minimum lot size shall be one (1) acre. **The property is 2.3 acres according to the Assessor's records.**
2. Off-street parking shall be provided in accordance with Sections 7.6.3. and 7.6.4. of this Ordinance. **Per Section 7.6.3. (7) a proposed bed and breakfast requires one (1) space per rental sleeping room in addition to the two (2) spaces required for owner/occupant. The application provides the minimum of five (5) required parking spaces and can actually accommodate additional cars easily in the existing driveway. All parking spaces meet the dimensional requirements noted in Section 7.6.4. as well.**
3. The residence shall be the principal dwelling unit on the property and shall be owner-occupied at all times. **The existing residence on the property is the principal dwelling unit. The applicant/owner**

has noted that the bed and breakfast use will only take place when she and her husband the property owners are present. A general condition of approval is also included.

4. The residence shall have at least two (2) exits to the outdoors. **The area proposed for rental as part of the bed and breakfast use is located in the existing residence. The two required exits are a door to the outdoors and bedroom windows that meet egress requirements. The Fire Department has inspected the property and proposed area for the bed and breakfast use and has found that it meets this requirement provided certain conditions are met including providing an approved emergency exit plan and providing rescue ladders for emergency exiting from egress windows. Thus, the requirement of the zoning ordinance has been met and approved by the Fire Chief, Fred Gilstorff. This and other items noted in the letter from the Fire Chief will be included as a condition of approval.**
5. No more than three (3) sleeping rooms in the residence may be used for rental purposes. **As noted, three (3) sleeping rooms are proposed for rental purposes.**
6. Not more than eight (8) overnight guests may be accommodated at any time. **The applicant is requesting a maximum occupancy of eight (8) guests for the three rental sleeping rooms.**
7. The rooms utilized for sleeping shall be part of a dwelling that has received an occupancy permit prior to the application for a bed and breakfast. **The applicant has provided a copy of the certificates of occupancy for the existing residence proposed for the bed and breakfast use. In addition, staff has confirmed with the Grand Traverse County Building Department that the building code for a single-family residence and bed and breakfast are the same.**
8. The rental sleeping rooms shall have a minimum size of one hundred (100) square feet for each two occupants with an additional thirty (30) square feet for each occupant to a maximum of four (4) occupants per room. **The floor plan indicates that the three sleeping rooms meet minimum square footage requirements.**
9. Proof of evaluation of the well and septic system by the Health Department and conformance to that agency's requirements shall be supplied by the owner/occupant. **As noted, the applicant has provided the signed and approved Well and Septic Status Form from the Grand Traverse County Environmental Health Department for 8 bedrooms. The property is served by municipal water.**
10. The Township Board shall require that a floor plan drawn to an architectural scale of not less than 1/8" = 1 foot be on file with the Fire Department. **The applicant has provided a floor plan meeting these requirements that will be on file with the Fire Department and part of the public record for the application.**

Each owner/operator of a bed and breakfast establishment shall keep a guest registry which shall be available for inspecting by the Zoning Administrator, and police and fire officials at any time. **The applicant has agreed to this and a general condition of approval will be included.**

11. The length of stay for each guest shall not exceed seven (7) days within a thirty (30) day period. **Again,**

the applicant has agreed to this and a condition of approval will be included.

12. In the event that the Township Board determines that noise generation may be disturbing to neighbors, or that the location of the establishment is in an area where trespass onto adjacent properties is likely to occur, then the Township Board may require that fencing and/or a planting buffer be constructed and maintained. **The existing residence meets required setbacks and there is mature vegetation on three sides. It is not anticipated that the proposed bed and breakfast use in this location will generate a noise disturbance or encourage trespass. No fencing or landscaping is proposed or required at this time.**
13. Rental of snowmobiles, ATVs or similar vehicles, boats and other marine equipment, in conjunction with the operation of the establishment shall be prohibited. **The applicant has noted that they understand this and will comply.**
14. A special use permit shall not be granted if the essential character of a lot or structure within a residential or agricultural district, in terms of use, traffic generation or appearance will be changed substantially by the occurrence of the bed and breakfast use. **As discussed above, the residential character of the existing single-family residence will not change as a part of the proposed use as a bed and breakfast. Traffic will be similar to that of the existing residence with visiting family and friends.**
15. Breakfasts shall be the only meals served to transient tenants. **The applicant agrees and a general condition of approval will be included.**

COMPLIANCE WITH GOVERNMENTAL REGULATIONS:

The petitioner shall comply with all state, county, township, and other governmental regulations relative to the establishment of the special use for a parcel zoned R-1A, which includes meeting the requirements of the Michigan Department of Transportation (MDOT), the Grand Traverse County Drain Commissioner (GTCDC), the Grand Traverse County Road Commission (GTCRC), and the Grand Traverse County Environmental Health Department (GTCHD). Zoning compliance is based on the governing special land use permit document, approved site plan, and Articles 6 and 8 of the Peninsula Township Zoning Ordinance.

APPROVAL CONDITIONS AND SAFEGUARDS:

Pursuant to Section 8.1.3 (2), the board may require such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights, and for ensuring that the intent and objectives of the ordinance will be observed. The breach of any condition, safeguard, or requirement shall automatically invalidate the permit granted. Specific conditions and requirements for a land use permit include:

- 1) The use approved as part of this Special Use Permit shall be conducted within the existing residence with a maximum guest occupancy of eight (8) in three (3) sleeping rooms.
- 2) Continued compliance with permitting necessary with the Grand Traverse County Environmental

Health Department and Construction Code are required.

- 3) Prior to issuance of a Land Use Permit, staff shall verify that the residence has no more than 8 bedrooms.
- 4) There shall be no more than eight (8) bedrooms on the property served by the existing on-site septic system.
- 5) No external illumination as part of the bed and breakfast use is allowed other than fixtures attached to the exterior of the building and compliant with Section 7.14.
- 6) The Bed and Breakfast use shall be in full compliance with all fire department review requirements stipulated in the letter dated July 20, 2022, and email dated July 25, 2022.
- 7) The Bed and Breakfast use shall be in full compliance with all standards of Section 8.7.3.(6) (b) as discussed above.
- 8) Any proposed signage shall meet the requirements of Section 7.11.
- 9) The applicant shall obtain a Land Use Permit for the change in occupancy prior to commencement of the bed and breakfast use.

The commencement and completion of special land uses are governed by Section 8.1.2(5) of the Peninsula Township Zoning Ordinance. Violations of the special land use permit and accompanying site plan are enforceable, and remedies are available under Section 3.2 of the zoning ordinance.

STAFF FINDINGS AND RECOMMENDATION:

As outlined above, staff finds that the Cooley Bed and Breakfast SUP #142 located at 6901 Mission Ridge meets all standards of the Peninsula Township Zoning Ordinance and has provided evidence that it is in compliance with other review agencies with the conditions proposed above. Staff recommends that the Planning Commission recommend approval to the Township Board of Trustees.

EXHIBITS:

1. Application with Site Plan and Floorplan
2. Well and Septic Status Form, Copy of Certificates of Occupancy and Construction Code, Letter from Fire Chief, and Email from Township Engineer, Jennifer Hodges
3. Public Comments

Exhibit 1

PENINSULA TOWNSHIP APPLICATION FOR SPECIAL USE PERMIT NO.

Parcel Code/s #28-11-031-005-10

Property Address: 6901 Mission Ridge, Traverse City, MI 49686

Applicant Address: 6901 Mission Ridge

Elmer Cooley
Applicant's Signature

Review Fee \$730⁰⁰ 1154 6-1-22
Check No. Date

APPLICATION REQUIREMENTS

1. Each application is submitted through the Zoning Administrator, and shall be accompanied by a fee as established by the Peninsula Township Board.
2. The applicant will assume direct costs for any additional professional review determined necessary by the Planning Commission or the Township Board, subject to prior review and approval of the applicant.
3. No part of any fee is be refundable and no portion of the fee covers the cost of any individual land use permit that may be issued on any of the building sites located in a Planned Unit Development.
4. Requirements for documents and information filled out in full by the applicant:
 - (a) A statement of supporting evidence showing compliance with the requirements of Section 8.1.3.
 - (b) Site plan, plot plan, development plan, drawn to scale (preferable 1"=50'), of total property involved showing the location of all abutting streets, the location of all existing and proposed structures and their uses, and the location and extent of all above ground development, both existing and proposed.
 - (c) Preliminary plans and specifications of the proposed development.
5. This application, along with all required data shall be submitted to the Zoning Administrator.
 - (a) Upon receipt of a completed application and the required data by the Zoning Administrator, it is transmitted to the Township Planning Commission for review.
 - (b) The Planning Commission may hold a public hearing on the application.
 - (c) Following a study by the Planning Commission it is transmitted to the Township Board for consideration.
 - (d) The Township Board may deny, approve, or approve with conditions, a request for special land use approval.

6. **Specific Requirements:** In reviewing an impact assessment and site plan, the Town Board and the Planning Commission shall consider the following standards:

Ordinance Reference - Section 8.1.3

Include a statement of HOW the proposed project meets the standards:

Section 8.1.3 Basis for Determinations: Before making recommendation on a special use permit application, the Town Board shall establish that the following general standards, as well as the specific standards outlined in each section of this Article, shall be satisfied.

- (1) **General Standards:** The Town Board shall review each application for the purpose of determining that each proposed use meets the following standards, and in addition, shall find adequate evidence that each use on the proposed location will:
 - (a) Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.
 - (b) Not be hazardous or disturbing to existing or future uses in the same general vicinity and will be a substantial improvement to property in the immediate vicinity and to the community as a whole.
 - (c) Be served adequately by essential facilities and services, such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities, or schools.
 - (d) Not create excessive additional requirements at public cost for public facilities and services.
 - (e) Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by fumes, glare or odors.
- (2) **Conditions and Safeguards:** The Town Board may impose such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights, and for insuring that the intent and objectives of this Ordinance will be observed. The breach of any condition, safeguard or requirement shall automatically invalidate the permit granted.
- (3) **Specific Requirements:** In reviewing an impact assessment and site plan, the Town Board and the Planning Commission shall consider the following standards:
 - (a) That the applicant may legally apply for site plan review.
 - (b) That all required information has been provided.
 - (c) That the proposed development conforms to all regulations of the zoning district in which it is located.

- (d) That the plan meets the requirements of Peninsula Township for fire and police protection, water supply, sewage disposal or treatment, storm drainage and other public facilities and services.
- (e) That the plan meets the standards of other governmental agencies where applicable, and that the approval of these agencies has been obtained or is assured.
- (f) That natural resources will be preserved to a maximum feasible extent, and that areas to be left undisturbed during construction shall be so located on the site plan and at the site per se.
- (g) That the proposed development property respects floodways and flood plains on or in the vicinity of the subject property.
- (h) That the soil conditions are suitable for excavation and site preparation, and that organic, wet or other soils which are not suitable for development will either be undisturbed or modified in an acceptable manner.
- (i) That the proposed development will not cause soil erosion or sedimentation problems.
- (j) That the drainage plan for the proposed development is adequate to handle anticipated stormwater runoff, and will not cause undue runoff onto neighboring property or overloading of water courses in the area.
- (k) That grading or filling will not destroy the character of the property or the surrounding area, and will not adversely affect the adjacent or neighboring properties.
- (l) That structures, landscaping, landfills or other land uses will not disrupt air drainage systems necessary for agricultural uses.
- (m) That phases of development are in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility service, drainage or erosion control.
- (n) That the plan provides for the proper expansion of existing facilities such as public streets, drainage systems and water sewage facilities.
- (o) That landscaping, fences or walls may be required by the Town Board and Planning Commission in pursuance of the objectives of this Ordinance.
- (p) That parking layout will not adversely affect the flow of traffic within the site, or to and from the adjacent streets.
- (q) That vehicular and pedestrian traffic within the site, and in relation to streets and sidewalks serving the site, shall be safe and convenient.

- (r) That outdoor storage of garbage and refuse is contained, screened from view and located so as not to be a nuisance to the subject property or neighboring properties.
 - (s) That the proposed site is in accord with the spirit and purpose of this Ordinance and not inconsistent with, or contrary to, the objectives sought to be accomplished by this Ordinance and the principles of sound planning.
7. A public hearing on a special land use request is held by the Township Board if:
- a. A public hearing is requested by the Township Board, the applicant for special land use authorization, a property owner, or the occupant of a structure located within three hundred (300) feet of the boundary of the property being considered for a special land use.
 - b. The decision on the special land use request is based on discretionary grounds.
8. Complies with Section 7.7 Developments Abutting Agricultural Lands.

6901 Mission Ridge B&B Application

Statement from Applicant	1
General Special Use Permit Form	2
Statements of compliance with Section 8.1.3	2
Site plan	5
Preliminary plans and specifications of the proposed development	6
Bed and Breakfast Application Form Supplement to Special Use Permit Application	7
Appendices: Site Plan, Floor Plan, Well & Septic Evaluation	11

Statement from Applicant

My name is Erin Cooley and I am applying for a special use permit for my family's recently purchased home at 6901 Mission Ridge. We closed on this home on April 25, 2022. My husband is a coast guard helicopter pilot newly assigned to Traverse City. However, we intend to stay in Traverse City long term as he is set to retire in 1-3 years.

This property is unique because it was previously operating as an assisted living facility and lends itself seamlessly to bed and breakfast use. We would like to convert its use from a 10 bedroom assisted living facility to a single family home for ourselves and our 2 small children, with 3 bedroom spaces available for bed and breakfast use. I previously operated a bed and breakfast for approximately 5 years on the coast of Oregon and look forward to bringing my skills, experience, and love of hosting guests to this new special property. No changes to the structure or exterior are necessary.

Below, I have responded line by line to the General Special Use Permit Form and subsequently to the Bed and Breakfast Application Form Supplement to Special Use Permit Application. I have also attached documentation as appendices throughout to demonstrate satisfaction of conditions.

I am grateful for your consideration and am happy to provide any further information needed.

General Special Use Permit Form

Statements of compliance with Section 8.1.3

A statement of supporting evidence showing compliance with the requirements of Section 8.1.3.
Ordinance Reference - Section 8.1.3 Include a statement of HOW the proposed project meets the standards: Section 8.1.3 Basis for Determinations: Before making recommendation on a special use permit application, the Town Board shall establish that the following general standards, as well as the specific standards outlined in each section of this Article, shall be satisfied.

(1) General Standards:

The Town Board shall review each application for the purpose of determining that each proposed use meets the following standards, and in addition, shall find adequate evidence that each use on the proposed location will:

(a) Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.

No structural changes proposed.

(b) Not be hazardous or disturbing to existing or future uses in the same general vicinity and will be a substantial improvement to property in the immediate vicinity and to the community as a whole.

No impact on existing or future uses; proposal reflects a reduction in occupants.

(c) Be served adequately by essential facilities and services, such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities, or schools.

Conditions met by nature of the existing neighborhood, sewer, and water supply.

(d) Not create excessive additional requirements at public cost for public facilities and services.

Creates no additional requirements.

(e) Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by fumes, glare or odors.

No uses or operation conditions that would create any detrimental consequences.

(2) Conditions and Safeguards: The Town Board may impose such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights, and for insuring that the intent and objectives of this Ordinance will be observed. The breach of any condition, safeguard or requirement shall automatically invalidate the permit granted.

Acknowledged.

(3) Specific Requirements: In reviewing an impact assessment and site plan, the Town Board and the Planning Commission shall consider the following standards:

(a) That the applicant may legally apply for site plan review.

Condition met.

(b) That all required information has been provided.

Supplied to the applicant's fullest knowledge.

(c) That the proposed development conforms to all regulations of the zoning district in which it is located.

Satisfied via R1-A zoning.

(d) That the plan meets the requirements of Peninsula Township for fire and police protection, water supply, sewage disposal or treatment, storm drainage and other public facilities and services.

Satisfied.

(e) That the plan meets the standards of other governmental agencies where applicable, and that the approval of these agencies has been obtained or is assured.

No other agency approval required.

(f) That natural resources will be preserved to a maximum feasible extent, and that areas to be left undisturbed during construction shall be so located on the site plan and at the site per se.

No construction proposed.

(g) That the proposed development property respects floodways and flood plains on or in the vicinity of the subject property.

No new development proposed.

(h) That the soil conditions are suitable for excavation and site preparation, and that organic, wet or other soils which are not suitable for development will either be undisturbed or modified in an acceptable manner.

No new development proposed.

(i) That the proposed development will not cause soil erosion or sedimentation problems.

No new development proposed.

(j) That the drainage plan for the proposed development is adequate to handle anticipated stormwater runoff, and will not cause undue runoff onto neighboring property or overloading of water courses in the area.

No new development proposed.

(k) That grading or filling will not destroy the character of the property or the surrounding area, and will not adversely affect the adjacent or neighboring properties.

No new development proposed.

(l) That structures, landscaping, landfills or other land uses will not disrupt air drainage systems necessary for agricultural uses.

No new development proposed.

(m) That phases of development are in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility service, drainage or erosion control.

No new development proposed.

(n) That the plan provides for the proper expansion of existing facilities such as public streets, drainage systems and water sewage facilities.

No expansion proposed.

(o) That landscaping, fences or walls may be required by the Town Board and Planning Commission in pursuance of the objectives of this Ordinance.

Acknowledged.

(p) That parking layout will not adversely affect the flow of traffic within the site, or to and from the adjacent streets.

No new development or parking proposed.

(q) That vehicular and pedestrian traffic within the site, and in relation to streets and sidewalks serving the site, shall be safe and convenient.

Acknowledged and satisfied.

(r) That outdoor storage of garbage and refuse is contained, screened from view and located so as not to be a nuisance to the subject property or neighboring properties.

Acknowledged and satisfied.

(s) That the proposed site is in accord with the spirit and purpose of this Ordinance and not inconsistent with, or contrary to, the objectives sought to be accomplished by this Ordinance and the principles of sound planning.

Acknowledged.

7. A public hearing on a special land use request is held by the Township Board if: a. A public hearing is requested by the Township Board, the applicant for special land use authorization, a property owner, or the occupant of a structure located within three hundred (300) feet of the boundary of the property being considered for a special land use. b. The decision on the special land use request is based on discretionary grounds.

Acknowledged.

8. Complies with Section 7.7 Developments Abutting Agricultural Lands.

Not applicable.

Site plan

Site plan, plot plan, development plan, drawn to scale (preferable 1"=50'), of total property involved showing the location of all abutting streets, the location of all existing and proposed structures and their uses, and the location and extent of all above ground development, both existing and proposed.

See appendices.

Preliminary plans and specifications of the proposed development

There is no additional development proposed. The proposal is to convert the existing special use of the existing structure from an assisted living facility to the proposed use of a single family primary residence plus a 3 bedroom bed and breakfast space.

Bed and Breakfast Application Form Supplement to Special Use Permit Application

Requirements for documents and information filled out in full by the applicant for the items listed in 8.7.3 (6)(b) below in addition to the requirements of Section 8.1.3. (Special Use Permits).

Satisfied in the current document (above and below).

Section 8.7.2 Special Uses that May be Permitted: The following land and structure uses may be permitted within the particular zone districts cited, PROVIDED that requirements specified in Section 8.1 and the applicable specified conditions established herein can be complied with: (9) Bed and Breakfast Establishments within the residential and agricultural zone districts. Section 8.7.3

Site Development Requirements: A special use permit shall not be issued for the occupancy or use of a structure or parcel of land, or for the erection, reconstruction or alteration of a structure unless complying with the following site development requirements. Without limiting the powers of the Township Board in any other Section of this Ordinance, the Township Board shall have the authority to revoke any special use permit when, after reasonable warning, the operator of any use permitted under this Section fail to comply with any of the requirements stipulated. In addition, the Township Board may, to prevent injury or damage to adjoining properties which may impair public health, welfare or safety, require additional conditions and safeguards:

(6) Bed and Breakfast Establishments:

(a) Statement of Intent: It is the intent of this subsection to establish reasonable standards for Bed and Breakfast Establishments to assure that:

1. The property is suitable for transient lodging facilities.

This property was under prior use as an assisted living facility and has the natural size and configuration to support bed and breakfast operation.

2. The use is compatible with other uses in the residential and agricultural districts.

Bed and breakfast use is allowable in R1-A zoning which is the zoning for this property.

3. Residential and agricultural lands shall not be subject to increased trespass.

Condition met.

4. The impact of the establishment is no greater than that of a private home with house guests.
Bed and Breakfast Application (in addition to Special Use Permit application)

Condition met.

(b) The following requirements for Bed and Breakfast establishments together with any other applicable requirements of this Ordinance shall be complied with:

1. The minimum lot size shall be one (1) acre.

Condition met. See appendices.

2. Off-street parking shall be provided in accordance with Sections 7.6.3 and 7.6.4 of this Ordinance.

Condition met. 6 off-street parking spots are available for the property, excluding 2 additional spaces in the garage. 3 blacktop spaces will be dedicated to bed and breakfast use. See appendices.

3. The residence shall be the principal dwelling unit on the property and shall be owner-occupied at all times.

Condition met.

4. The residence shall have at least two (2) exits to the outdoors.

Condition met. See appendices.

5. No more than three (3) sleeping rooms in the residence may be used for rental purposes.

Condition met.

6. Not more than eight (8) overnight guests may be accommodated at any time. Acknowledged and will comply.

7. The rooms utilized for sleeping shall be a part of the primary residential use and not specifically constructed for rental purposes.

Condition met.

8. The rental sleeping rooms shall have a minimum size of one hundred (100) square feet for each two occupants with an additional thirty (30) square feet for each occupant to a maximum of four (4) occupants per room.

Condition met. See appendices.

9. Proof of evaluation of the well and septic system by the Health Department and conformance to that agency's requirements shall be supplied by owner/occupant.

Condition met. See appendices.

10. The Township Board shall require that a floor plan drawn to an architectural scale of not less than 1/8" = 1 foot be on file with the Fire Department.

Satisfied. Applicant spoke to the Fire Chief about the B&B application and he is aware; floor plan is on file with the Fire Department. See appendices.

11. Each owner/operator of a Bed and Breakfast Establishment shall keep a guest registry which shall be available for inspecting by the Zoning Administrator, and police and fire officials at any time.

Acknowledged and will comply.

12. The length of stay for each guest shall not exceed seven (7) days within any thirty (30) day period.

Acknowledged and will comply.

13. In the event that the Township Board determines that noise generation may be disturbing to neighbors, or that the location of the establishment is in an area where trespass onto adjacent properties is likely to occur, then the Township Board may require that fencing and/or a planting buffer be constructed and maintained.

Acknowledged.

14. Rental of snowmobiles, ATVs or similar vehicles, boats and other marine equipment, in conjunction with the operation of the establishment shall be prohibited.

Acknowledged and will comply.

15. A special use permit shall not be granted if the essential character of a lot or structure within a residential or agricultural district, in terms of use, traffic generation or appearance will be changed substantially by the occurrence of the bed and breakfast use.

The essential character and structure to remain unchanged. The proposal reflects a conversion in use of a 10 bedroom assisted living facility to a primary family residence with 3 bedrooms available for bed and breakfast use.

16. Breakfasts shall be the only meals served to transient tenants. (ADDED BY AMENDMENT 136)

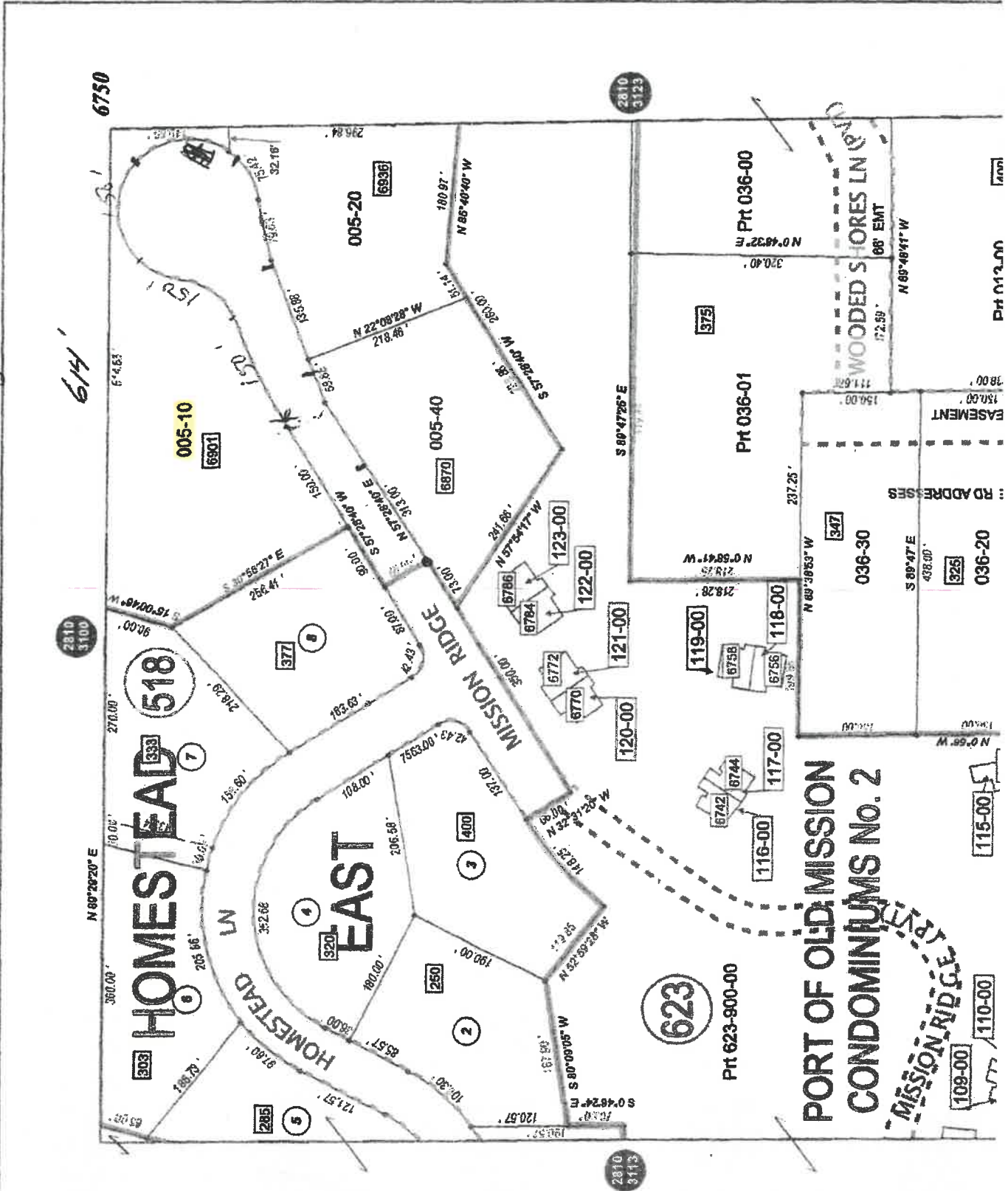
Acknowledged and will comply.

Appendices: Site Plan, Floor Plan, Well & Septic Evaluation



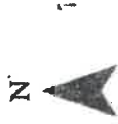
Distance from B & B structure to:

- 377 Homestead Lane - 238 feet
- 6936 Mission Ridge - 368 feet
- 6870 Mission Ridge - 314 feet



Port of Old Mission
Grand Travers

Section
28-1



LEGEND

- Parcel Identification Number
- Lot Number
- Adjoining
- Platted
- Parcel Ownership
- Dimensions
- Direction
- Subdivisions and Condominiums
- Subdivision and Condominium
- Drain Easement
- Government
- Electrical Easement
- Section
- Road Easement
- Road Number
- Rail
- Rivers & Streams
- Lakes and Ponds

151

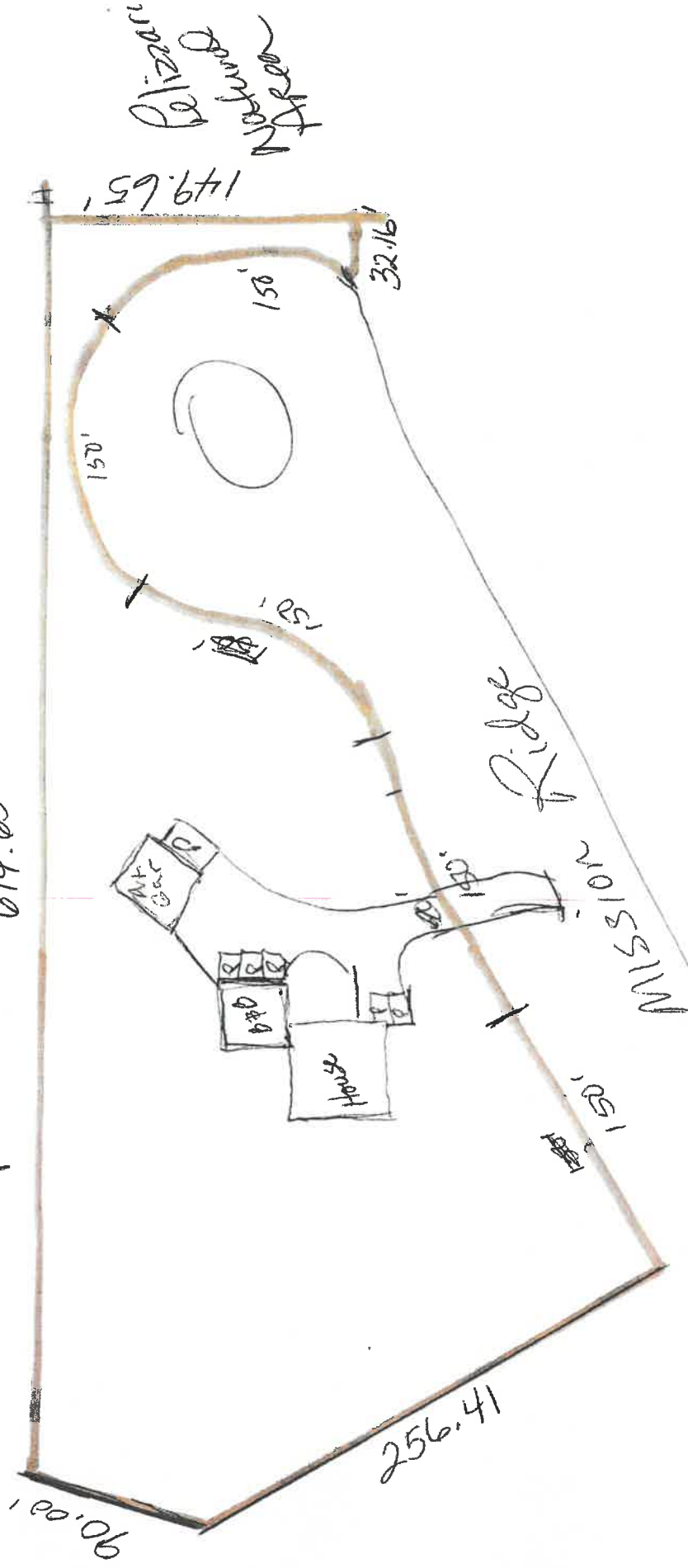
b_{rr} Parking Space

6 open blacktopped
Spaces

Distance from B&B to		
Mission Ridge	=	120 ^{±15} feet
North lot line	=	106 ^{±17} feet
West lot line	=	235 feet
East lot line	=	368 feet

Pelizzari Area

6/4.651

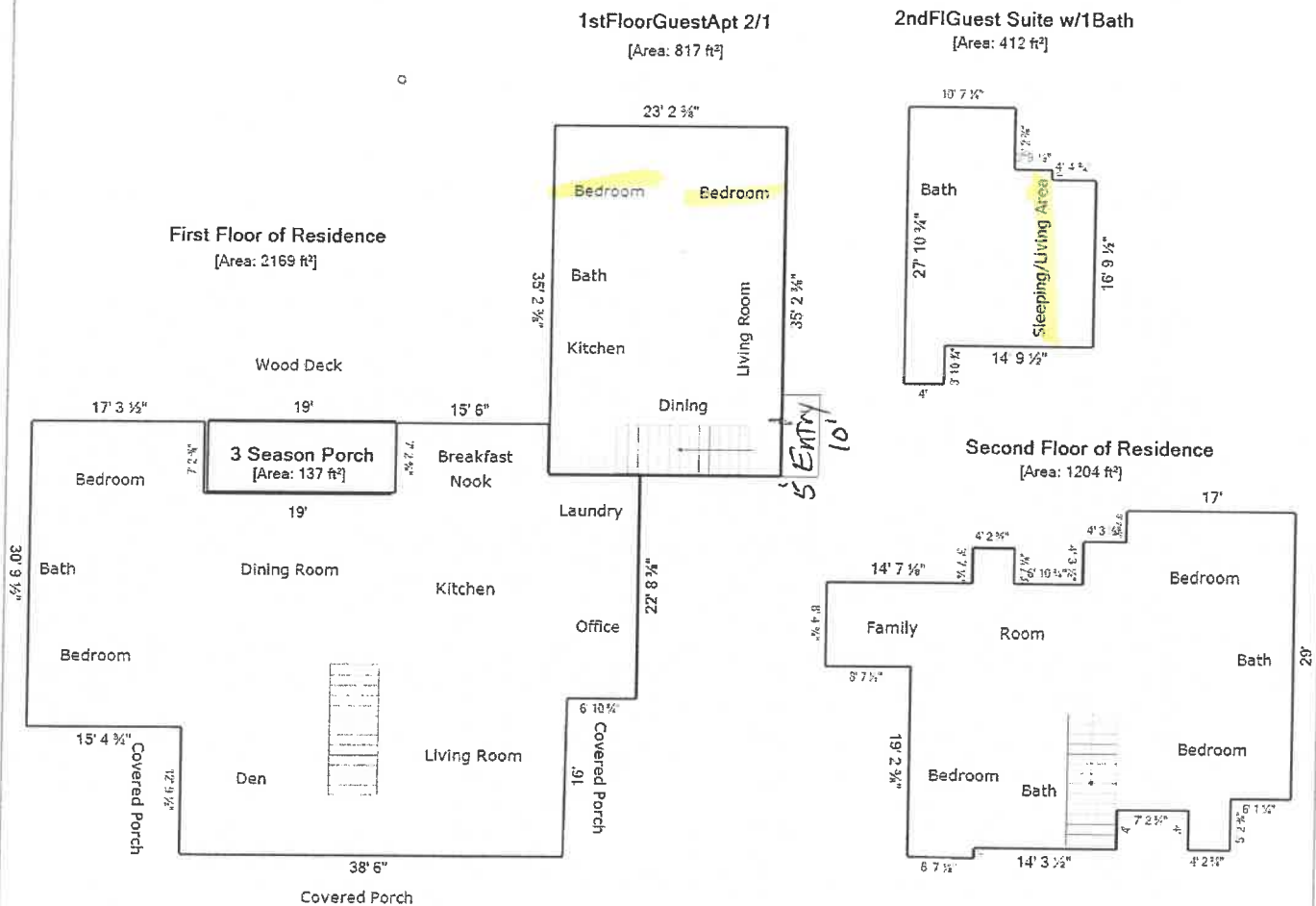


6901 Mission Ridge

Overall Property
Perimeter Sketch

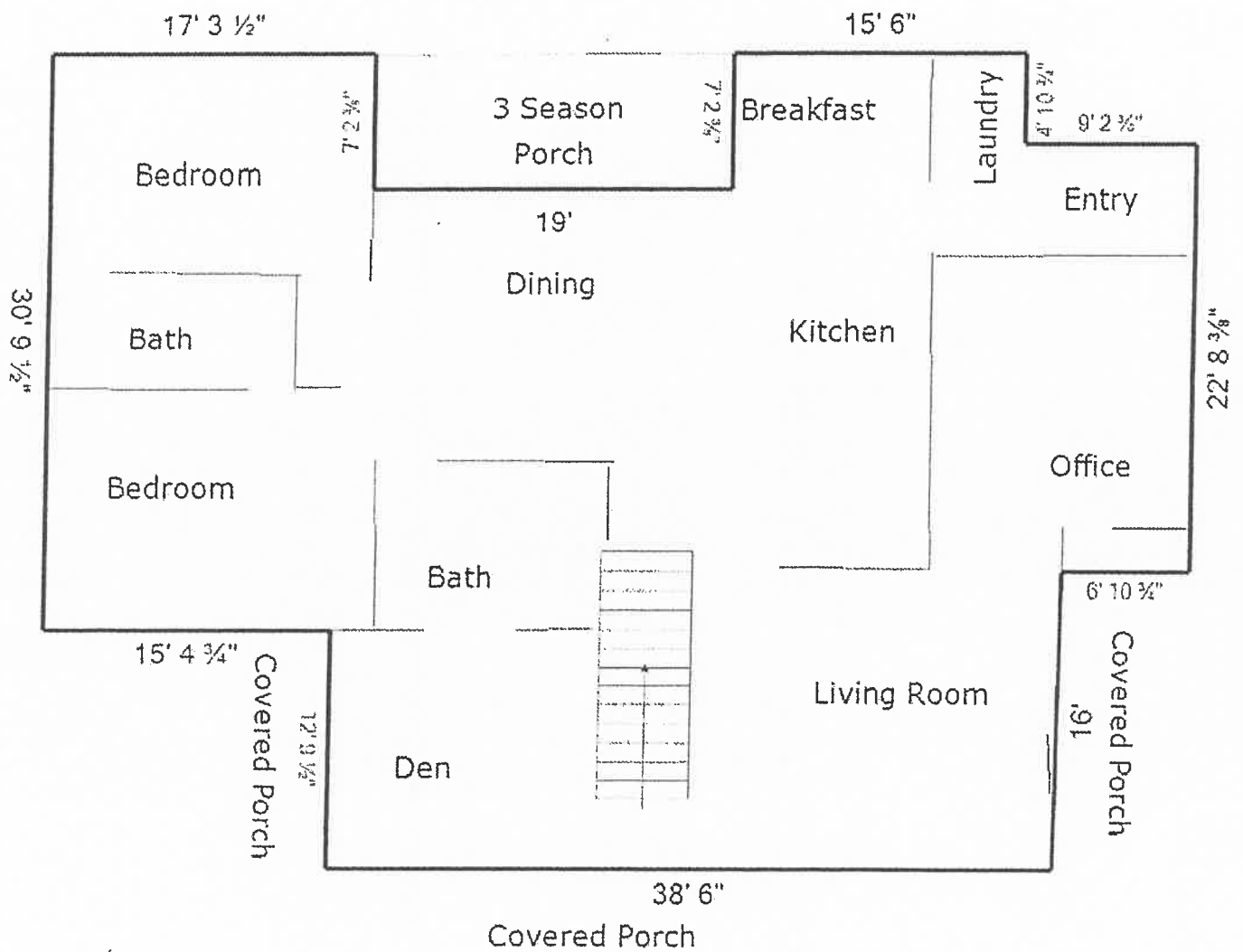
proposed 3 rooms
in highlight

SE



First Floor of Residence

[Area: 2169 ft²]



Second Floor of Residence

[Area: 1204 ft²]

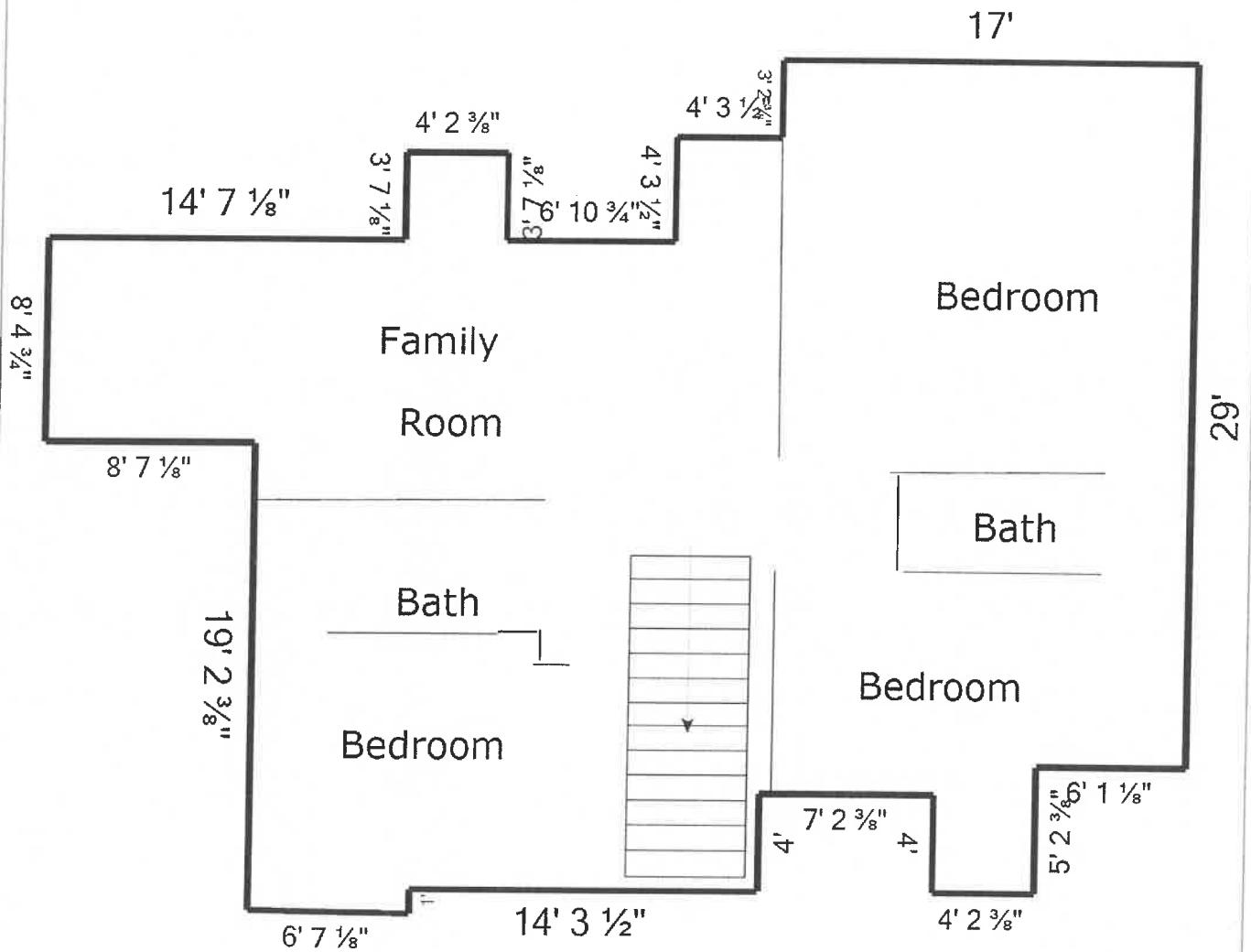


Exhibit 2



RECEIVED

MAY 03 2022

GRAND TRAVERSE COUNTY ENVIRONMENTAL HEALTH WELL & SEPTIC STATUS FORM - \$25

☐ DEMOLITION
☒ CHANGE OF USE

☒ REMODEL/ ADDITION
☐ FILE REVIEW/OTHER

☐ HOME REPLACEMENT

Property Address: 6901 Misson Ridge

Property Tax ID: 281103100510

Township: Peninsula

Owner's Name: Erin Cooley

Owner's Mailing Address: 6901 Mission Ridge

City, State, Zip: Traverse City, MI 49686

Owner's Phone: 6084458726

Owner's email: eeatough@gmail.com

Applicant (if other than owner):

Applicant Address:

City, State, Zip:

Applicant Phone:

Applicant Email:

Brief summary of the proposed changes to the property: converting from assisted living facility use to bed and breakfast use

☒ RESIDENTIAL

Current # of Bedrooms: 10

Current # of Bathrooms: 6

Proposed # of Bedrooms: 8

Proposed # of Bathrooms: 6

Garbage Disposal: ☒ YES ☐ NO

Other changes: no changes to the structure, but changing the use from 10 assisted living rooms to 5 residential rooms and 3 bed and breakfast rooms

☐ COMMERCIAL (please attach a brief business plan)

Type of Facility:

Current Max # of Employees:

Current # of Bathrooms:

Proposed Max # of Employees:

Proposed # of Bathrooms:

Max Customers Per Day:

Drinking Fountain: ☐ YES ☐ NO

Please note that additional information may be required depending on proposed change or use

Erin Eatough Cooley

5/2/2022

Signature of Owner/Contractor

Date

(TO BE COMPLETED BY SANITARIAN)

Grand Traverse County Environmental Health

WELL & SEPTIC STATUS FORM

☒ EXISTING PERMIT AVAILABLE PERMIT # 33419 DATE OF ISSUE: 11/28/06
☐ EXISTING PERMIT NOT AVAILABLE

- ☐ Well shall be properly plugged according to Part 127 of Act 368, P.A. 1978, as amended. Abandoned well plugging record shall be submitted to the Health Department. A new well may be required.
- ☐ Septic tank(s) and any other tank(s) associated with the wastewater system shall be pumped by a licensed septage hauler, crushed, and filled or removed. A new wastewater system may be required.
- ☐ Existing well meets current well construction code requirements and is approved for use as an:
- ☐ Private Residential Well
 - ☐ Irrigation Well
 - ☐ Public Well circle type: TYPE II TYPE III

- ☒ Existing septic system meets current design requirements for proposed use and meets all isolation requirements. Tank(s) Size(s): 1600 + (2) 1200 Final Disposal: 25x76 1900 ft
- Existing septic system will serve:
- ☒ Residential home with 8 bedrooms Garbage Disposal: YES NO
 - ☐ Commercial facility with design daily flow of _____ gal/day
 - ☐ Other use with design daily flow of _____ gal/day
- ☐ Existing septic system does not meet current design requirements, but is considered "grand-fathered" for proposed use.

Comments: home is on municipal water


Signature of Health Department Representative

5/4/22
Date

OFFICE USE ONLY

Receipt Date: 5/10/22

Receipt #: 55446

Initials: jm

**GRAND
TRAVERSE
COUNTY**

CONSTRUCTION CODE
400 BOARDMAN AVENUE
TRAVERSE CITY, MI 49684
(616) 922-4722

**CERTIFICATE
OF OCCUPANCY**

Building Permit

Permit #: 16393
Date Issued: 11/02/1993
Receipt #: 7780

SITE

6901 MISSION RIDGE
TRAVERSE CITY MI 49684

Township: PENINSULA Property #: 2B 11 031 005 10

Description:

CONSTRUCT A NEW 6 BEDROOM DWELLING ON A CRAWL SPACE W/18X20 BASEMENT,
COVERED PORCH, SCREENED PORCH & ATTACHED 23X36 GARAGE

BOCA Use Group: R-3 BOCA Type Construction: 5B

Proposed Use: 01 NEW HOME

Area (SF): 3280 Estimated Cost: \$156,353 Permit Fee: \$797

Signature:

Wicky Hill

APPLICANT

ERICKSON, RICHARD
6660 MISSION RIDGE
TRAVERSE CITY MI 49684

OWNER

ERICKSON, RICHARD
6660 MISSION RIDGE
TRAVERSE CITY MI 49684

DEPARTMENTAL APPROVAL FOR CERTIFICATE OF OCCUPANCY and COMPLIANCE

To be filled in by each division indicated hereon upon completion of its final inspection.

TYPE	PERMIT #	APPROVED	DATE	REMARKS
BUILDING	16393	<i>Rich Derby</i>	5/18/94	
PLUMBING		OK 4-29-94 VH		
ELECTRICAL		OK 5-6-94 VH		
MECHANICAL		OK 3-30-94 VH		

**GRAND
TRAVERSE
COUNTY**

CONSTRUCTION CODE
2325 GARFIELD RD., N. SUITE D
TRAVERSE CITY, MI 49686-5100
(616) 922-4722

**CERTIFICATE
OF OCCUPANCY**

Building Permit

Permit #: 20953
Date Issued: 11/14/1997
Receipt #: 18889

6901 MISSION RIDGE
TRAVERSE CITY MI 49684

Township: PENINSULA Property #: 28 11 031 005 10

Description:

CONSTRUCT A DETACHED 24X32 GARAGE, FINISH THE INTERIOR OF AN EXISTING
2 STORY GARAGE INTO LIVING AREA, NEW DORMERS & SXIO FOYER

BOCA Use: R-3

BOCA Cons: SB

Proposed Use: 02 RESID A&A

Area (SF): 1271 Estimated Cost: \$44,428 Permit Fee: \$376

Signature: 

DUNE VALLEY CONSTRUCTION
7446 S GLEN LAKE RD
GLEN ARBOR MI 49636

ROBERTSON, CINDY

OWNER

DEPARTMENTAL APPROVAL FOR CERTIFICATE OF OCCUPANCY and COMPLIANCE

To be filled in by each division indicated hereon upon completion of its final inspection.

TYPE	PERMIT #	APPROVED	DATE	REMARKS
BUILDING	20953	Russell Schley	5-27-98	
X PLUMBING		OK 3/6/98		
X ELECTRICAL		OK 4/27/98		
X MECHANICAL		hot water heat-pump		not required

Sent 7-23-98

(8) Before the Michigan building code, the Michigan residential code, the Michigan plumbing code, the Michigan mechanical code, the Michigan uniform energy code, and the Michigan rehabilitation code may be enforced, the director shall make each Michigan-specific code available to the general public for at least 45 days in printed, electronic, or other form that does not require the user to purchase additional documents or data in any form in order to have an updated complete version of each specific code, excluding other referenced standards within each code. This subsection does not apply to any code effective before April 1, 2005. If the Michigan residential code is updated on a 6-year cycle, then use of a material, product, method of manufacture, or method or manner of construction or installation provided for in an interim edition of the international residential code is authorized throughout this state and shall be permitted, but shall not be mandated, by an enforcing agency or its building official or inspectors. However, the enforcing agency or its building official or inspectors may require that if such a material, product, method of manufacture, or method or manner of construction or installation provided for in an interim edition of the international residential code is used, the use shall comply with all applicable requirements set forth in the interim edition of the international residential code.

History: 1972, Act 230, Eff. Jan. 1, 1973;—Am. 1978, Act 442, Imd. Eff. Oct. 9, 1978;—Am. 1980, Act 371, Imd. Eff. Dec. 30, 1980;—Am. 1995, Act 270, Imd. Eff. Jan. 8, 1996;—Am. 1999, Act 245, Imd. Eff. Dec. 28, 1999;—Am. 2004, Act 584, Imd. Eff. Jan. 4, 2005;—Am. 2012, Act 504, Eff. Mar. 28, 2013.

Popular name: Act 230

Popular name: Uniform Construction Code

Administrative rules: R 408.30101 et seq.; R 408.31070; R 408.31087 et seq. of the Michigan Administrative Code.

125.1504a Repealed. 1985, Act 220, Eff. Jan. 13, 1988.

Compiler's note: The report of the advisory committee's actions and recommendations, required by this section, was transmitted by the Director of the Department of Labor to the Clerk of the House of Representatives and the Secretary of the Senate by letters dated January 5, 1988. 1988 Journal of the House 9 (No. 1, January 13, 1988) and 1988 Journal of the Senate 5 (No. 1, January 13, 1988).

Popular name: Act 230

Popular name: Uniform Construction Code

125.1504b Bed and breakfast.

Sec. 4b. (1) A bed and breakfast is considered under the code to be a single family residential structure and shall not be treated as a hotel or other facility serving transient tenants. This section is effective throughout the state without local modification, notwithstanding the exemption provisions of section 8.

(2) This section does not affect local zoning, fire safety, or housing regulations.

(3) As used in this section, "bed and breakfast" means a single family residential structure that meets all of the following criteria:

(a) Has 10 or fewer sleeping rooms, including sleeping rooms occupied by the innkeeper, 1 or more of which are available for rent to transient tenants.

(b) Serves meals at no extra cost to its transient tenants.

(c) Has a smoke detector in proper working order in each sleeping room and a fire extinguisher in proper working order on each floor.

History: Add. 1987, Act 112, Imd. Eff. July 13, 1987;—Am. 1996, Act 292, Imd. Eff. June 19, 1996.

Popular name: Act 230

Popular name: Uniform Construction Code

125.1504c Installation of smoke alarms in existing buildings or structures; promulgation of rules required.

Sec. 4c. (1) Beginning 1 year after the effective date of the rules promulgated under subsection (2), the owner of an existing building or structure constructed before November 6, 1974 shall install 1 or more smoke alarms in that building or structure, as provided in those rules.

(2) The director shall promulgate rules that establish standards and requirements for the installation of smoke alarms in a building or structure described in subsection (1). The rules shall include both of the following:

(a) For a single family dwelling, 1 or 2 family detached dwelling, or multiple family dwelling, a requirement for the installation of at least 1 single-station smoke alarm in each dwelling unit.

(b) For a building or structure that is not a single family dwelling, 1 or 2 family detached dwelling, or multiple family dwelling, a requirement for the installation of smoke alarms as provided in the code.

(3) A building that is renovated, reconstructed, or added to or whose use or occupancy is changed shall meet the requirements contained in the code for installation of smoke alarms.

Peninsula Township Planning

From: Fred <fire@peninsulatownship.com>
Sent: Monday, July 25, 2022 1:46 PM
To: Jennifer Cram
Cc: 'Erin Cooley'
Subject: 6901 Mission Ridge B & B

Jen,
I have worked with Erin Cooley on her inspection for a B & B permit. At this time, she has complete all items from fire inspection. She is working to secure a couple fire escape ladders and she will be all set. She has the ladders. The fire department is good with this inspection. Any questions, please feel free to reach out to me. Thank you.

Fire Chief Fred Gilstorff
Peninsula Township Fire Department
14247 Center Rd.
Traverse City, Michigan 49686
fire@peninsulatownship.com
Ph. 231-223-4443
Cell- 231-463-0330
Fax- 231-223-4697



Peninsula Township Fire Department
14247 Center Rd.
Traverse City, Michigan 49686
PH: 231-223-4443
fire@peninsulatownship.com



Re: Erin Cooley B&B inspection

July 20, 2022

Dear Township Planner and Planning Commission,

At the request of Erin Cooley, I have inspected her home for the proposed application to use it as a bed and breakfast. The proposed space is a suite that has its own entrance. After inspection, the following requirements are needed-

- Prepare an approved emergency plan for the entire space.
- Fix door going to upstairs so it opens freely.
- Placed lever style door handle on main entrance.
- Remove AC units from window openings upstairs.
- Have an annual inspection of the area by the fire department.
- Ensure carbon monoxide detector in each unit.
- Perform regular checks of the smoke alarms and carbon monoxide alarm. Replace if over ten years old.
- Provide rescue ladders for emergency exiting from windows for the bedroom upstairs.

Once all the above conditions are met, the fire department will re-inspect. Any questions, please feel free to contact us.

Respectfully,

Fire Chief Fred Gilstorff

Peninsula Township Planning

From: Jennifer Hodges <jennifer@gfa.tc>
Sent: Friday, July 8, 2022 12:55 PM
To: Peninsula Township Planning
Subject: RE: New SUP Application for a B&B

Thanks for sending over. Since no new construction is proposed and work is constrained to the existing building, GFA review is not considered necessary
Hope you have a great weekend!

From: Peninsula Township Planning <planner@peninsulatownship.com>
Sent: Thursday, July 7, 2022 1:46 PM
To: Jennifer Hodges <jennifer@gfa.tc>
Subject: New SUP Application for a B&B

Jennifer, I have received another application for a Bed and Breakfast in an existing residence. This residence was actually used in the past for an adult foster care previously and now has new owners. I assume that you will not need an Escrow for review per the last application, but would like to make sure. The application is attached for review. I am planning to take this for an introduction to the PC on July 18.

Thanks,

Jenn Cram
Peninsula Township Director of Planning
13235 Center Road
Traverse City MI 49686
phone - 231-223-7314
fax - 231-223-7117
[*planner@peninsulatownship.com*](mailto:planner@peninsulatownship.com)

Office Hours: Mondays 7:30 am to 6:30 pm, Tuesdays – Thursdays 7:30 am to 5 pm and closed Friday – Sunday and Holidays.

Exhibit 3

August 2, 2022

Peninsula Township

Attn: Clerk Becky Chown

Re: Jim and Erin Cooley Bed & Breakfast request (6901 Mission Ridge)

Dear Becky,

We are writing to support Jim and Erin Cooley's request to operate a bed and breakfast at 6901 Mission Ridge with 3 guest rooms and a limit of 8 guests. Please circulate this letter to Jenn and the appropriate people.

The Cooley family lives right across the street from our family's residence. We have enjoyed their entire family. While being "nice" is not grounds to be granted land use rights, it is relevant that the Cooley family is very enthusiastic about settling on Old Mission and becoming part of our neighborhood. The Cooleys' residence – the former Arbor House – is well suited to become a B&B, with ample parking and ample setbacks from neighboring residences. The key factor, for us, is that the Cooley's B&B will remain a private residence and the family will occupy the home and remain on-site during guest visits. We know they'll be there and will be responsive to our concerns.

We have opposed absentee-owner short term rentals (STRs) in the past, because they are commercial investments with inadequate on-site supervision. An STR can degrade a neighborhood by renting to unruly vacationers with un-neighborly habits. In contrast to an STR, the 3-guest owner-occupied B&B, such as the Cooleys are proposing, can enrich a neighborhood's culture by exposing residents to interesting guests, while maintaining the essential familiarity and continuity of the on-site neighbor-owner.

We appreciate your consideration of the Cooleys' application. Thank you for your time. If you have questions, please contact us.

Paulette and Grant Parsons

6936 Mission Ridge

Traverse City, MI 49686

(TEL. 231-883-2599)

PS We circulated this letter to the other two families who are nearest to the Cooleys, and they all support the Cooleys' request: Tony and Amber Ochoa, Del and Nancy Johnson. Others, such as Marilyn and Terry Herman up the hill, also give their support.



August 1, 2022

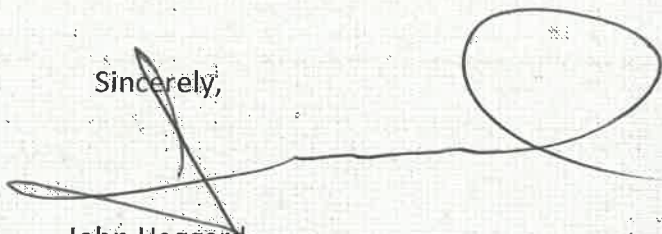
Peninsula Township Planning Department
13235 Center Rd.
Traverse City, MI 49686

Ref: Special Use permit (SUP) #142 from Cooley Bed and Breakfast for a new Bed & Breakfast to establish a consisting of a rental on three bedrooms and an eight person existing home application. Parcel#28-11-031-005-10

To whom it May Concerns,

Upon reviewing the above notice, I would like to express my view on the above plan request. Haggard's Plumbing & Heating is not opposed to the changes of the property and/or the request. If a property owner is fortunate enough to have the ability and the recourses in this time to either build and/or improve their existing property, it would only help the economy continue to grow. It would prove positive for the local, county, and state to do all we can to improve and promote in anyways possible.

Sincerely,



John Haggard

Haggard's Plumbing & Heating