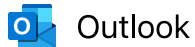


Packet Additions



Fw: Letter for Planning Commission September 2 meeting

From Maura Sanders <supervisor@peninsulatownship.com>

Date Tue 9/2/2025 8:35 AM

To Elise Loud <planner@peninsulatownship.com>; Kevin Beard <duneclimber55@yahoo.com>

Team,

This letter came in over the holiday. Please make sure that you share as you see fit.

Maura Sanders 🍒

Peninsula Township Supervisor

13235 Center Road

Traverse City MI 49686

phone - 231-223-7323

fax - 231-223-7117

supervisor@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.

From: John Wunsch <john@stringsbymail.com>

Sent: Monday, September 1, 2025 9:46 AM

To: Becky Chown <clerk@peninsulatownship.com>; Maura Sanders <supervisor@peninsulatownship.com>

Subject: Letter for Planning Commission September 2 meeting

Good morning becky and Maura,

My hope is that the fact the day before this month's Planning Commission is a holiday will not interfere with this letter, making the deadline for inclusion as an addition to packet.

Dear Planning Commission members,

I am writing to briefly comment in support of the recommendation from the agricultural advisory committee to adjust amendment 201 in order for the 60 acre retail with outdoor seating operation to instead require only a contiguous 40 acre location for operation.

I believe this is a well balanced compromise between the previous amendment 139 requirement of a 20 acre location for a tasting room and the current 60 acre top-tier operation of the amendment 201.

I hope you will work to move toward this change as expeditiously as is practical.

Thank you,

jw ~

August 27, 2025

Feedback from the Agricultural Advisory Committee regarding the signs draft ordinance-

In response to the McKenna Memo from 8-13, requesting specific feedback regarding a roadside stands number of total allowable signs: It is the recommendation of the Agricultural Advisory Committee that a roadside stand be allowed 1 on-premise sign, 1 off-premise sign, and 20 square feet of additional seasonal sign space to be utilized as placards, or various smaller signs of the owners choice. These signs would be temporary, and total no more than 20 square feet, and be in place during the recommended time limits discussed below.

Additional Feedback-

In 10.02-C-1-c and in the table 10.08-C-(*), parcels larger than 5 acres are required to host a sign. The ag committee recommends this restriction be removed and there should be no parcel size requirement to host an off-premise sign.

In 10.02-C-1-d, the timeframe allowed should be modified to, "Sign must be removed within 7 days of product unavailability". Current language dictates a growing season of April 1 through November 1, which excludes certain potential crops, or uses. (Christmas trees, for example)

In table 10.08-C-(*), the requirement requiring a notarized letter from the land owner should be removed. A simple letter between the land owner and the business owner is sufficient. In addition, it should be made clear that the permission to place an off-premise sign on someone's property is only valid so long as that person owns the land. Permission does not continue, if the property is sold. New permission must be negotiated with the new owners.



Re: PUD / Public Open Space

From Christopher Patterson <cpatterson@fsbirlaw.com>

Date Thu 8/28/2025 4:24 PM

To Elise Loud <planner@peninsulatownship.com>

Cc Maura Sanders <supervisor@peninsulatownship.com>; Kevin Beard <duneclimber55@yahoo.com>; Ben Kaiser <bkaiser@fsbirlaw.com>; John Brennan <jbrennan@fsbirlaw.com>

Elise:

After taking a closer look at the developer's plans and the easement language, the proposed open space may affect the rights of Consumers, Michigan Bell Telephone Company, and/or MDOT.

First, the largest proposed open space appears to follow and include utility lines located in the northwest corner of the property. The Consumers' easement states that successors may not interfere or threaten to interfere with the construction, operation, and maintenance of the lines, and that no buildings or other structures may be placed near the wires without written consent. Additionally, the easement provides that non-use or limited use of the easement by Consumers will not limit or prevent Consumers from later making use of the easement to its fullest extent. The easement language can be found on page 4 of the pack you sent Tuesday, August 26.

Second, the smaller proposed open space along the southeastern edge of the property appears to follow and include a right of way easement for Michigan Bell Telephone Company and may also include parts of property owned by MDOT. The plan labels the open space in the center of the southeastern edge of the property and appears to bend at right angles toward larger blocks of open space on either side of the labeled section and also appears to include Michigan Bell's right of way easements. The easements, which can be reviewed on pages 5-8 of the packet, convey a right of way to construct, reconstruct, maintain, operate and/or remove lines of communications as required. One easement is twelve feet in width and the other two are seventeen feet in width.

It is possible the open space also includes the edge/ditch of M-37. However, the developer labeled M-37 as a solid black line on its plans. If this solid black line represents the edge of the land described in MDOT's warranty deed (which can be reviewed on pages 10-15 of the packet), it's possible that the proposed open space does not invade on MDOT's property. But if the solid black line is not an accurate representation of the boundary of MDOT's property, MDOT's interest in the land may be affected.

Notably, MCL 560.190 provides that an owner "shall have the right to make any other use of the [public utility easement] land" so long as the owner's use is not "inconsistent with the rights of the public utilities, or the other uses as noted on the plat." Additionally, if the language of an easement is clear, it is generally enforced as written and cannot unilaterally be changed. Given the rights of Consumers, Michigan Bell, and MDOT described in the packet you provided, it is unlikely the developer will be able to guarantee that the proposed open space would not be developed/changed/modified by the utilities or that the developer will be acting consistently with the rights of the public utilities. However, you

mentioned that the developer was seeking verification from Consumers and MDOT, and if they consent to the developer's plans, the proposed space may be valid unless the PTZO says otherwise, as nothing in MCL 560.190 limits local regulatory power.

Section 8.3.6(2) of the PTZO requires that a 10% of the net acreage of a planned residential unit be dedicated to the Township for "park or recreational purposes by the project owner or owners provided that the Township Board makes the following determinations: (a) The location and extent of said land is not in conflict with the Master Plan of Peninsula Township, [and] (b) The access to and the characteristics of the open space land is such that it will be readily available to and desirable for the use intended."

With this information in mind, the developer's proposed open space must contain 10% net acreage intended for park or recreational purposes. Yet, the current proposed open space may conflict with not only the PTZO, but also the Master Plan, and may ultimately not "be readily available to and desirable for the use intended" because another entity could exercise its rights in entering and modifying the space. For an example, if Consumers exercises its right to construct or expand new lines within its easement boundaries, the proposed 10% open space could be reduced to less than the 10% required. Therefore, the proposed open space should be moved if the developer cannot guarantee it will meet the PTZO requirements under an assumption that an easement holder will exercise its rights.

I see three paths:

1. The Applicant does provide recorded acknowledgments from the utilities that the Township's open space restrictions will be satisfied in those areas where their easements exist;
2. The Applicant provides more detail of easement acreage in comparison to total open space to confirm whether the net amount of open space is met, which seems to require No .3; and
3. The Applicant enlarges the open space so to provide for the 10% requirement without it being encumbered by utility easements.

Thank you,

Chris



Christopher S. Patterson

Member • Fahey Schultz Burzych Rhodes

Direct: 517.381.3205 • Cell: 269.744.4807

Office: 517.381.0100 • Fax: 517.381.3185

fsbrlaw.com • cpatterson@fsbrlaw.com

4151 Okemos Road, Okemos, MI 48864 USA

▼ U.S. News & World Report Ranked Best Law Firm

From: Elise Loud <planner@peninsulatownship.com>
Sent: Tuesday, August 26, 2025 10:17 AM
To: Christopher Patterson <cpatterson@fsbrlaw.com>
Cc: Maura Sanders <supervisor@peninsulatownship.com>; Kevin Beard <duneclimber55@yahoo.com>; Ben Kaiser <bkaiser@fsbrlaw.com>; John Brennan <jbrennan@fsbrlaw.com>
Subject: Re: PUD / Public Open Space

Apologies—see package attached. This was sent by the developer and there are a number of easements described.

I'm sending the PC packet on this item by Thursday at noon; we could include any comments/recommendations from your team as a packet addition, if that's not enough time. Thank you, Chris!

Sincerely,

Elise Loud, Planner
Peninsula Township
13235 Center Road
Traverse City, MI 49686
planner@peninsulatownship.com

Office Hours (Remote): Tue & Thur from 9a-12p
Please allow three business days for a response. Thank you for your patience.

From: Christopher Patterson <cpatterson@fsbrlaw.com>
Sent: Thursday, August 21, 2025 3:50 PM
To: Elise Loud <planner@peninsulatownship.com>
Cc: Maura Sanders <supervisor@peninsulatownship.com>; Kevin Beard <duneclimber55@yahoo.com>; Ben Kaiser <bkaiser@fsbrlaw.com>; John Brennan <jbrennan@fsbrlaw.com>
Subject: Re: PUD / Public Open Space

Elise:

Without first construing the PTZO language, because I see nothing directly on point at this time, we should start with looking at the easements and the scope of improvements that can be built within the easements. I do not see how the open space approval via the PUD could now restrict rights already provided in the utility easements. I would have to see them to understand the scope of those installations, but assuming that is true, the developer would seem unable to guarantee the areas would not be developed if so chose by the utilities. If, however, the private easement right does prevent development and the easement is now also being expanded for public open space (that is consistent with the utility easements), it is possible that area could be used under the PTZO unless a ZBA interpretation exists. We can also explore if a condition of any recommendation could require the open space moved elsewhere.

We need to start with looking at the instruments currently creating the open space. The Township needs to review those to verify what rights have already been granted to others to develop within the area. If there are such development rights, I would recommend we start with then asking the developer how the open space will be preserved long term.

We are happy to look those but I do not see on the plans any further details about those documents. I apologize if I missed it.

Chris

Christopher S. Patterson
Member
Fahey Schultz Burzych Rhodes PLC

From: Elise Loud <planner@peninsulatownship.com>
Sent: Thursday, August 21, 2025 12:56:16 PM
To: Christopher Patterson <cpatterson@fsbrlaw.com>
Cc: Maura Sanders <supervisor@peninsulatownship.com>; Kevin Beard <duneclimber55@yahoo.com>
Subject: PUD / Public Open Space

Chris, Walnut Grove is a proposed 33-unit PUD/site condominium being formally introduced to the Planning Commission on September 2.

Attached is the proposed site plan set. The developer is working under the 10% public open space requirement (Section 8.3.6(2) of the ordinance). The majority of the proposed open space is within an existing Consumers Energy easement / Center Road right-of-way. The Commission briefly reviewed this project via developer public comment a few months ago and several commissioners expressed displeasure that the set aside open space is largely within space already protected from development, i.e. public easements.

Setting aside the attractiveness of this proposal, is planning open space within existing open space legally allowed by Township ordinance, or must a development create open space in lands that are not already designated as such? I'm not finding any guidance in Section 8.3.6(2) or elsewhere in the ordinance.

The developer is working on providing verification from Consumers Energy / MDOT that this would be allowed per their authority.

Guidance from your team by Sep 2 would be helpful on this. Thank you!

Sincerely,

Elise Loud, Planner
Peninsula Township
13235 Center Road
Traverse City, MI 49686
planner@peninsulatownship.com

Office Hours (Remote): Tue & Thur from 9a-12p
Please allow three business days for a response. Thank you for your patience.

8-5-25

Single and Shared Waterfront Ownership Policy Framework

Background: This document is an updated version of the Shoreline Subcommittee policy recommendations made in January 2025. This latest draft incorporates feedback from the community shoreline education session, planning and zoning staff, and Planning Commission.

This was presented to the Planning Commission on July 10, 2025, and the Planning Commission recommended staff work with McKenna to codify this policy document into draft ordinance language. That language will be introduced to the Planning Commission at their September meeting.

THE WHY

Why does the Township have an interest in regulating the number and location of docks and hoists?

- Public Safety
- Natural Resource Protection (Water Quality, Flora and Fauna Habitat, Erosion Control, etc.)
- Conflict Resolution (Standards that support everyone being able to enjoy their waterfront)
- Green Space and View Corridor Preservation

What are the activities that take place on our waterfront?

- Walking the shoreline
- Swimming from shoreline and platforms
- Non-motorized watercrafts (paddleboards, kayaks, canoes, etc.)
- Motorized watercrafts (pontoon boats, jet skis, etc.)
- Fishing (from the shoreline, dock, or boat)
- Passive recreation such as sunbathing, picnics, star gazing, campfires, etc.
- Storage of docks, hoists, boats, lawn furniture, etc.

DOCKS

Number of Docks:

- One dock per parcel, including a “T” or “L” configuration (One point of contact with shoreline)
- Consider an administrative option for single ownership with larger waterfronts (300-600 feet) to allow another dock, especially if there are benefits to neighboring properties for dock and hoist configurations.
- Allow multiple property owners to share one dock, if desired. Treat this use similar to shared fences on property lines [Section 7.13(5)(d)] and clarify that this allowance shall not result in any more docks than would otherwise be allowed—meaning, two property owners cannot have one personal dock each, plus a shared dock.
- **Note:** Existing zoning ordinance allows one dock per parcel. See Sections 6.2.2(2)(c)1. and 7.4.2(4).

Size of Docks:

- Average = 3-4 feet wide
- Not to exceed eight (8) feet wide

- Keep dock length flexible as currently allowed in the ordinance per Section 6.2.2(2)(c)(3): “No dock shall be....no longer than necessary to provide adequate water depth for the boat using the dock or boat hoist.”
- **Notes:**
 - The maximum width does not apply to swim platforms or dock patios. Average size of swim platforms and dock patios = 12' x 16'
 - The existing zoning ordinance limits the width to seven (7) feet. See Sections 6.2.2(2)(c)3. and 7.4.2(5).

Location of Docks and Hoists:

- No closer than fifteen (15) feet from the side property line. Project side property lines outwards into the lake. Setbacks are measured from the imaginary property line. (See sketch) Or, generally centered within the parcel (this applies to parcels less than 50 feet wide or with oddly shaped shoreline).
- Allow docks/hoists shared between multiple/separate properties to be placed within the side yard setback and/or on the property line, similar to how we treat fences in Section 7.13(5)(d)]
- **Note:** The existing zoning ordinance does not address the location of docks for single ownership. Shared ownership requires that docks be located as near as possible to the center of the parcel. See Section 7.4.2(4).

Dock Lighting

- Clarify/affirm that dock lighting shall comply with dark night sky regulations.

HOISTS

Hoist Size:

- Average = 11' x 14'
- Two (2) jet ski hoists equal one (1) boat hoist
- **Note:** Existing zoning ordinance does not distinguish between boats and jet skis.

Number of Hoists:

- Three hoists per fifty (50) lineal feet of shoreline (i.e., 100 feet of shoreline would allow 4 boat hoists and 4 jet ski hoists, 6 hoists total)
- Include standalone hoists in this regulation (hoists without a dock); consider that if a parcel is allowed multiple docks, how to allow hoists per dock vs. linear shoreline.
- **Note:** Existing zoning ordinance allows for one hoist per fifty lineal feet of shoreline. See Sections 6.2.2(2)(c) and 7.4.2(3) and (4). Generally, this regulation is not widely followed throughout the Township. Allowing more hoists via ordinance does not necessarily mean there will be a significant increase in hoists in the Township.

SEASONAL STORAGE

- All items stored within property lines.
- All items seasonally stored four (4) lineal feet from where the water meets the land (allows the public to walk the shoreline)
- Nothing stored in the road right-of-way
- Avoid storage in the floodplain where possible
- Dock sections to be neatly stacked

- Boat hoists consolidated
- **Note:** Existing zoning ordinance requires that a fifteen (15) foot setback from side property lines be maintained. See Section 7.4.2(7).

PARKING

Parking seems to be working as-is, with minimal complaints. Leave as-is.

REMOVE SHARED WATERFRONT PERMIT REQUIREMENT

Remove permit process [Section 7.4.2(2)]. If ordinance provisions are enforced, no need for registering this land use. All other shared waterfront regulations would remain as-is or as-updated, but no registration requirement. **Point of clarity:** the current ordinance requires a land use permit for shared waterfront use, but does not require annual registration.