

**Packet Addition Two
for November 12, 2024,
Township Board Regular Meeting**

Correspondence

November 10, 2024

To: Ms. Becky Chown
Peninsula Township Clerk

Regarding the Amendment to SUP#138 to be discussed at the upcoming Township Board meeting:

I like Ms Hafeli's plan for an aromatherapy sauna. It's creative. It's small in scale, so as to complement the primary permitted activity rather than being the dominant activity. And, it is a clever way to add to her farm's revenue. Ag operators can probably find dozens of similar ways to expand their businesses, and the township needs to encourage those uses.

BUT...

I urge the board to delay any decision for several reasons:

1. Members of the current board will shortly retire, to be replaced by newly elected members. The incoming board members deserve the courtesy of considering the application themselves, rather than being saddled with a decision they didn't make.
2. The newly formed Agriculture Committee will be considering how to integrate business activities such as this into the overall commercial ag environment. Ms Hafeli's operation should be considered in those discussions, and should conform to any resulting ordinance changes so as not to be an orphan.
3. The devil is in the precedent. It seems clear that Ms Hafeli's operation will be harmonious with the character of the township and is the type of activity residents support. However, there are currently no safeguards in place to keep operators with similar but far more ambitious plans from arguing that they too should receive a green light, even if those plans are incongruent with the township's character and would negatively impact residents. If you approve an aromatherapy sauna, in which the crop grown on the land is a minimal component of the overall product, what's to keep someone from reasonably arguing that they too should be allowed a much larger scale and more impactful activity in which the farm product is a minimal component.

Rather than being a one-off, let the issue be thoughtfully deliberated by the new board and Agriculture Committee, and then integrated into an overall ordinance structure.

Best regards,

John Jacobs
5290 Forest Ave.
Old Mission

November 10, 2024

Ms. Becky Chown
Peninsula Township Clerk
Peninsula Township Commission
clerk@peninsulatownship.com

RE: Erin Hafeli/Lightwell Farms
1st Amendment to SUP #138
Township meeting - November 12, 2024

Dear Ms. Chown:

I write addressing the November 12, 2024 agenda item regarding the proposed first amendment to SUP 138 intending to allow an aromatherapy sauna and cold plunge activity as a legal or permitted extension to its existing ability to grow, process, and sell lavender, lavender-related goods, and associated agricultural products.

I respectfully urge caution and ask you table this amendment. My reasoning is as follows:

1. We do not know and essentially cannot predict what Judge Maloney will decide in the pending WOMP litigation. It is and will continue to be a legal albatross hanging on the neck of the residents of our township until his decision and the decision of the 6th circuit court of appeals in Cincinnati are finalized. Without the decision's guidance (or mandate), this board should tread lightly and not assume what you, as trustees believe is in the best interests of our land use future. Your common sense knowledge of what is best for the township is not necessarily what a downstate member of the judiciary will decide (with finality), what is in fact, best for us. This is the unfortunate reality of WOMP's decision to file suit in a federal court versus filing in Grand Traverse circuit court, a venue of experience and knowledge of state and local land use and zoning. Until the federal courts speak, I suggest you table SUP decisions that expand the basis for determinations of what is an accessory use "compatible or allowable to the production and processing" of an ag product, in this case lavender.
2. In reading and attempting to digest the 9 page PT Planning Commission Findings of Fact and Conditions, I could not get out of my mind, the "slippery slope" of applications that will come after a sauna and cold plunge "activity" is a permitted extension to the ability to "grow, process and sell" an ag product grown on ag land. First coming to mind - cannabis oils and salves to treat aches and pains grown on our cannabis farms? Cannabis retreats? Smoke and gummy tastings? I try not to put a negative light on this but I do suggest this is a slippery slope that deserves your study and consideration before granting this amendment.

3. I understand and acknowledge that Lightwell Farms is zoned A-1 Agricultural and is not presently part of the township's PDR program. Regardless, I suggest the PDR program impacts all of our township's zoning classification. And by its intended nature, all SUP applications and amendments should articulate how such a permitted extension or exception enhances the goals of our PDR program. No doubt the applicant's request for a sauna and cold plunge activity is due in part to the benefits derived from PDR – "If you seek a pleasant peninsula – look about you". I suggest as township trustees, you hold a fiduciary responsibility to guard our investment in the PDR program and determine what is in the best interest of all of our 6,000 residents when considering any SUP exception or amendment.

In this case further study and consideration is in order as well as a pause for the courts to provide some mandate or direction. A motion to table is appropriate.

Thank you for your hard work and service.

Michael Dettmer
7003 Leorie Dr.
Traverse City.

Re: SUP #138 Amendment #1, Old Mission Lavender Farm

I am writing to respectfully request the Town Board seek and evaluate more information before voting on the Lavender Farm SUP amendment.

- 1) **A commercial sauna and plunge pool operation are not allowed in the Ag zone under any reasonable reading of the Peninsula Township Zoning Ordinance.** The Green House section of the ordinance does not mention such uses, unless you torture the language to allow any accessory imaginable.
- 2) **My fear is based on the Town Board's bitter experience.** Creative entrepreneurs will use saunas and plunge pools as a precedent to rationalize every imaginable use of agricultural land. We will find ourselves with another WOMP-type lawsuit over commercial activities on farmland.
- 3) **What is good for Lavender Farm must be good for all, for all time.** The rights you give today become "vested" and you cannot take them back later. What you give to Lavender Farm's current owner, you give to every future owner. How many extra saunas will they "need" to justify their investment? How many more plunge pools will they "need" to make a go of it? How about adding a coffee and tea bar that uses lavender notes? How can you convince residents that operating a commercial sauna and plunge pool 12 ½ hours a day, 7 days a week, 365 days a year, is "just growing lavender"?
- 4) **And for others as well...** What winery wouldn't love to install 10 saunas and 10 hot-tubs for its wine tasters to bask in and watch the sunset? What'll you tell them?
- 5) **History suggests being nice is a trap.** The Township survey in 2019 established that almost 70% of residents do not want to expand commercial activities on farmland. You were elected to serve those residents, as well as farmers.

I support farmers. But I do not want the word "farming" to become a fake excuse for siting commercial activity on Ag-zoned land. Our property taxes are low because we are rural; our quality of life is better because we are rural; our environment is cleaner because we limit commercial activities, traffic, parking, and noise. We voted to remain rural with our PDR.

Please go back to the drawing board and consider if there is a better way to help Lavender Farm, without setting a bad precedent that will haunt our future. Thank you.

Grant Parsons

6936 Mission Ridge

Becky Chown

From: Peter Cohl <petecohl@gmail.com>
Sent: Friday, November 8, 2024 2:39 PM
To: Becky Chown
Subject: Lavender farm SUP regarding sauna

Dear Peninsula Township Board Members,

It is my understanding that the lavender farm SUP may be coming up for a vote next week. I suggest good governance would be to postpone the vote until the new board members take office. Currently you are a lame duck board with new members coming on shortly. This issue could have an impact on other matters and effect the entire township.

Thank you for your consideration.

Peter Cohl

9466 Rolling Ridge.

Becky Chown

From: chaddox75@gmail.com
Sent: Monday, November 11, 2024 12:44 AM
To: Becky Chown
Subject: FW: Requests and Suggestions/Peninsula Shores Revised Amendment 5
Attachments: Google Earth Peninsula Shores Trees 5.11.23.pdf; Peninsula Shores Amendment 5 modified site plan.pdf

Hi Becky, could you please include the below and the attached in a packet addition for this Tuesday's Trustees meeting? Thanks

The proposed amendment 5 will move the existing lot on the north end much closer to us and greatly enlarge it, thus eliminating even more of the open space along the northern boundary of the project contrary to the intent and spirit of the original SUP approval. The change in this lot is a significant detriment to the properties in the neighborhood. For these reasons, we opposed this amendment. We recognize, however, that the Board views the reduction of density as a significant factor.

We have reviewed the proposed findings of fact in the packet for Tuesday's meeting, and have the following requests and suggestions if the Board is going to approve this amendment.

Additional Conditions and Safeguards

As the planner has stated at a previous meeting, the Board has the ability to add conditions of approval.

We are requesting that the Board add a condition in amendment 5 that proposed Unit 1 by us will remain as one unit in perpetuity and will not be split or divided into more than one unit. Neighbors to the north have a great concern that if the applicant is successful in getting the unit by us significantly enlarged in amendment 5, the applicant will apply for another amendment at a later date which would divide Unit 1 into 2 units, and combine two other units elsewhere (or eliminate a unit elsewhere) so as to maintain the proposed 40 unit density. That would result in there being another lot added on the north end by us which Board members indicated was not a substantial improvement and would be inconsistent with the original intent of the SUP. Adding a condition to prevent the split of this unit will prevent further project creep and should lock in the north end of this development so that no more amendments will arise. The applicant has stated that the reason for increasing the size of the lot by us is to make it more buildable. We don't understand why this is so - the existing lot by us is pretty much level with only a gentle slope. If the applicant opposes this condition, that merely confirms our concerns that he wants to expand Unit 1 now so he will be able to split Unit 1 into two units in the future.

Attached is a Google Earth photograph showing the tree coverage and the current proposed site plan for Amendment 5. It seems clear to us that some of the trees are located within the buildable area of proposed unit 1, and some of the trees are located due east of the buildable area in proposed unit 1

so that removing trees would improve the view due east of proposed unit 1. Ordinance Section 8.1.3(3)(f) is a standard “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.” The applicant has not designated anything to be left undisturbed on his site plan. Ordinance Section 8.3.2(1) states that a PUD objective is to “provide a more desirable living environment by preserving the natural character of open fields, stand of trees, steep slopes, brooks, ponds, lake shore, hills, and similar natural assets.” We fear that some of these trees will be cut or trimmed if this proposed expanded unit 1 is approved, and that will reduce the existing natural screening between the development and our property and result in even more trees being removed as a result of this development. In order to protect these trees and maintain the existing tree buffer, we request that the Township adds a condition in Amendment 5 that these existing trees within or to the north and east of proposed Unit 1 be documented and not be removed or trimmed.

Proposed Changes to Draft Findings of Fact and Conditions

The Board, to its credit, has spent meaningful time considering and discussing how the substantial improvement standard should be applied in general and to this amendment. Various township officials have indicated they wish that the original approval provided more detail about that Board’s thinking and intent in granting that original approval. The proposed findings for amendment 5 do not reflect the process amendment 5 has been through or the thinking that has gone into the Board recommending denial of the original amendment 5 and then approval of the modified amendment 5. The proposed findings state in the “Recommendation” section that the Planning Commission recommended approval of amendment 5 even though the Planning Commission has not reviewed or made a recommendation about the amendment 5 that is now before you. The proposed findings should be revised to accurately reflect what has occurred and the board’s determinations and intent during this process, and to provide a concise history for the benefit of future Township officials.

The proposed findings do not include the developer’s agreement that 40 units will be the maximum number of units in perpetuity. We all recognize that the conditions can be changed by later amendments so long as the Ordinance standards are met. That should not stop the Findings of Fact from stating that the current intent is that some conditions contained in it will be for perpetuity. The applicant has said that his prior site plans and applications were not a promise to do something, and that they did not agree to keep anything as set forth in those prior approvals. The applicant also said they keep the promises that they do make. Here the applicant agreed to making certain conditions in perpetuity. Those promises need to be documented in the Findings of Fact. It would be remiss of the Township to not document the applicant’s agreement by leaving the perpetuity aspect out of the findings and conditions. Further, leaving out “in perpetuity” makes it easier and likelier that the density will be increased back to 41 units in the future. Again, future boards need to be made aware of what is occurring here and what the applicant is agreeing to.

Below are suggested changes to the proposed Findings for your consideration that I believe would accomplish the above:

Replace the first sentence in the fourth paragraph in the “Introduction and Background” section with the following: The 81 Development Company has submitted an application to amend the approved

SUP #123 that will amend the configuration of the approved PUD. The Planning Commission recommended that this initial application be approved. After extensive discussion, the Township Board tabled the application at its August 13, 2024 meeting to allow township staff to prepare a recommendation of denial consistent with the deliberation of the Board due to lack of improvements for the neighboring properties and the community as a whole and concerns over moving another lot to the north section of the development. The applicant subsequently requested the opportunity to revise the application so that it could be approved. At its September 10, 2024 meeting the Board gave the applicant the opportunity to propose modifications to address the Board's concerns. The applicant provided the modifications to its application attached as Exhibit 1, which modifications would combine into one unit the two units on the northern edge of the development which were proposed by the original amendment 5 application, provide for a maximum of 40 units in perpetuity, and maintain in perpetuity the boundary lines of the open space as proposed in the amendment.

Everywhere the Findings refer to a reduction in density or in the number of lots, the references should be changed to a reduction in density or lots "in perpetuity". This change should be made in the first full paragraph on page 3, the last paragraph on page 3, the fourth paragraph on page 4, paragraph (k) on page 6, paragraph 3 on the bottom of page 7 and on the top of page 8, and paragraph 5 on page 8.

Item 4 in the "Findings-8.3.3 Qualifying Conditions" states "the board finds that the proposed amendments do not change past determinations of equivalent density." Isn't this amendment a reduction in density rather than maintaining equivalent density? If the current language is inaccurate, it should be revised to make it accurate.

The following conditions of approval should be added to the Approval Conditions and Safeguards Section:

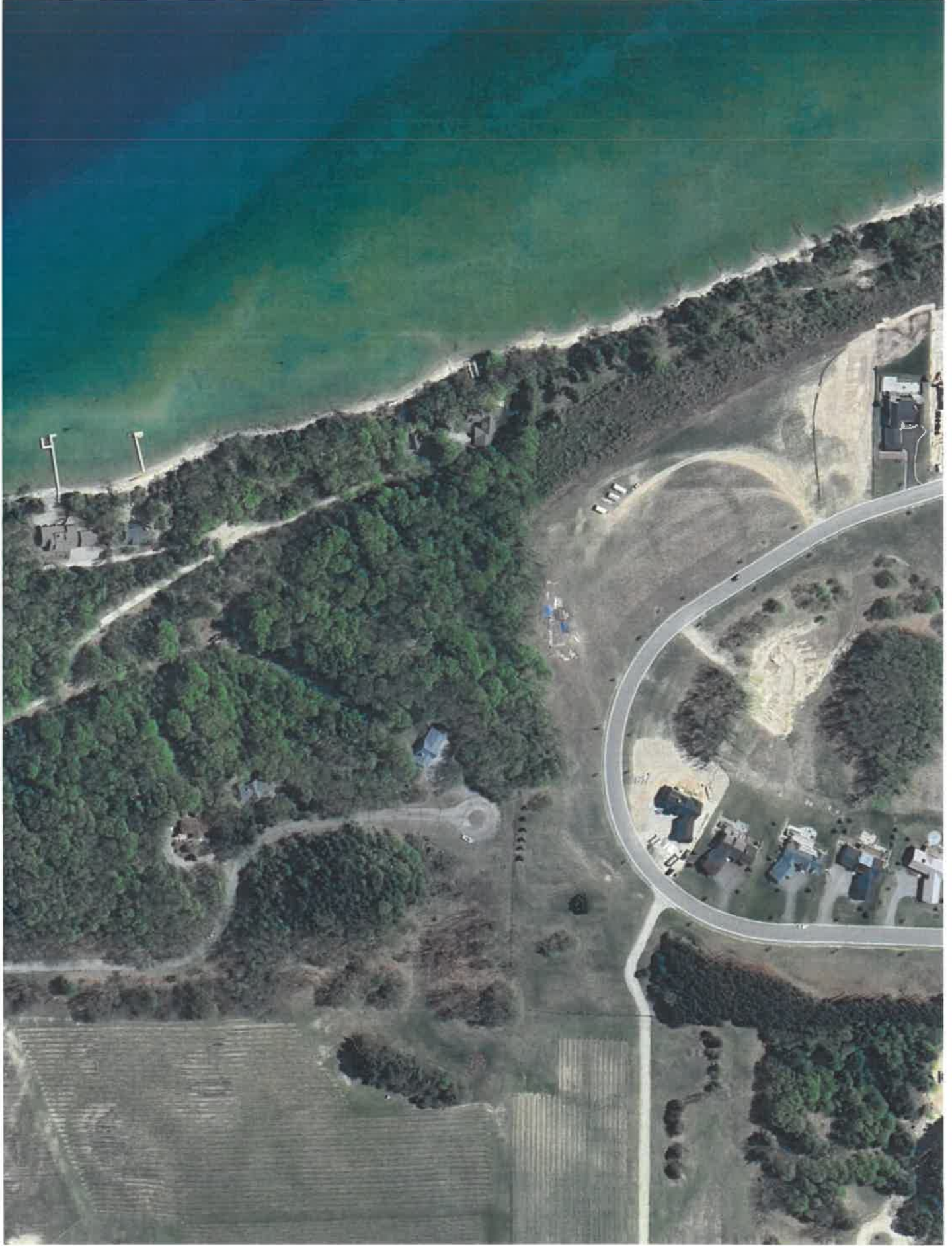
8. Forty Units will be the maximum number of units in perpetuity.
9. Unit 1 will remain as one unit in perpetuity and will not be split or divided into more than one unit.
10. All existing trees within Unit 1 and to the north and east of Unit 1 shall be documented and shall not be removed or trimmed.

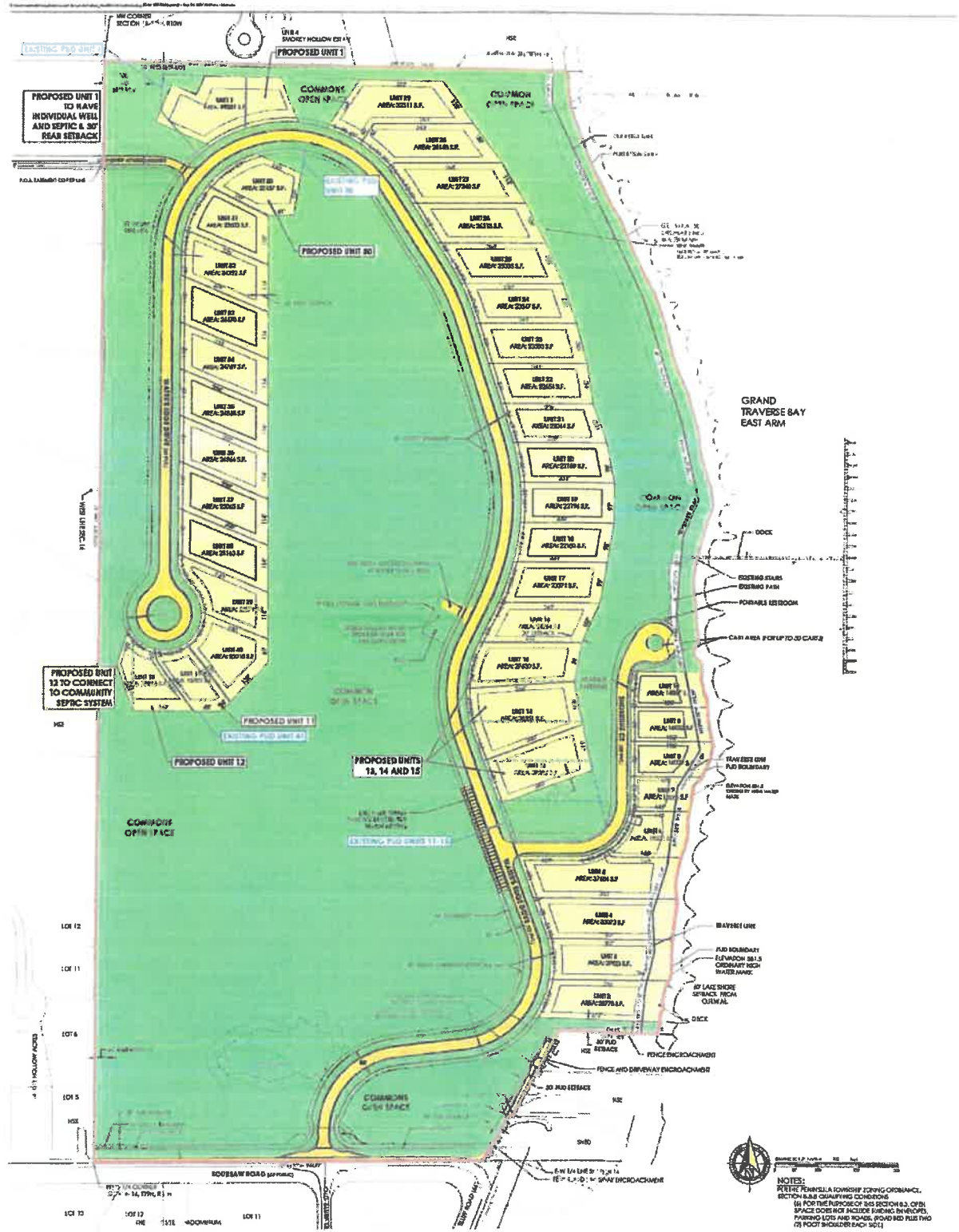
The Recommendation section should be either deleted, or revised to indicate that the Planning Commission never reviewed or made a recommendation on Amendment 5 as modified.

These changes should make it much clearer to future officials what has occurred here and make it easier for them to consider future amendments, if any.

Please let us know if you have any questions. Thanks for your consideration.

Craig Haddox and Megan Haddox – 4150 Trevor Road





PUD BOUNDARY
 82.44 ACRES TOTAL GROSS (10 O.H.W.M.)
 OPEN SPACE REQUIRED-MINIMUM 63.59 ACRES (67%)
 NON-OPEN SPACE ALLOWED-MAXIMUM 28.85 ACRES (35%)

NON-OPEN SPACE PROVIDED
 UNITS 22.63 ACRES
 ROADS 4.98 ACRES
 27.61 ACRES (33.46%) PROVIDED

OPEN SPACE PROVIDED
 54.83 ACRES (66.52%)
 OPEN SPACE PROVIDED AMENDMENT #3
 54.28 ACRES (65.84%)
 00.55% INCREASE PROPOSED FROM AMENDMENT #3

91001
 PENINSULA SHORES - PUD #123
 SECTION 14, T.29N., R.10W.

THE B1 DEVELOPMENT COMPANY, LLC
 PENINSULA SHORES - PUD #123
 PROPOSED PUD AMENDMENT #5 - OPEN SPACE PLAN
 SECTION 14, T.29N., R.10W.
 PENINSULA TOWNSHIP, GRAND TRAVERSE COUNTY, MICHIGAN

NO.	DATE	BY	DESCRIPTION
1	08/11/11	PLM	Initial Sub 14.0000 and 12.0000
2	08/11/11	PLM	Initial Sub 14.0000 and 12.0000
3	08/11/11	PLM	Initial Sub 14.0000 and 12.0000
4	08/11/11	PLM	Initial Sub 14.0000 and 12.0000
5	08/11/11	PLM	Initial Sub 14.0000 and 12.0000
6	08/11/11	PLM	Initial Sub 14.0000 and 12.0000
7	08/11/11	PLM	Initial Sub 14.0000 and 12.0000
8	08/11/11	PLM	Initial Sub 14.0000 and 12.0000
9	08/11/11	PLM	Initial Sub 14.0000 and 12.0000
10	08/11/11	PLM	Initial Sub 14.0000 and 12.0000

Mansfield
 Land Use Consultants
 830 Conover Dr., Ste. 201
 P.O. Box 4915
 Traverse City, MI 49783
 Phone: (231) 946-5310
 www.mansfieldplanning.com
 info@mansfieldplanning.com

9/30/11
 10

Becky Chown

From: Llewelyn Seibold <lewseibold@icloud.com>
Sent: Monday, November 11, 2024 8:47 AM
To: Becky Chown
Cc: John | SBM
Subject: Comments regarding Hafeli request for services to be added to SUP

Hi Rebecca,

Could you include this in your packet of information as I will not be able to attend the Board Meeting on Tuesday evening.

Thank you,

Lew Seibold

Town Board,

The request for added services to the SUP in the AG zone should be delayed until the request can be fully vetted by the new Agriculture Advisory Committee and digested more fully by Old Mission Peninsula citizens. There is a principle in American governance of **subordination** which is normally applied to problems of authority between federal agencies, state, county and local interests. However in this case it may also apply to the relationship between levels of zoning where conflict is inevitable. Because farming involves diverse activities like raising raw materials, residing as caretaker of the land, as well as the buying and selling of raw produce or value-added product, tensions are inherent. The hierarchy of uses in a zoning code helps to sort out these conflicts by assigning **primary, ancillary, and auxiliary** levels of activity so that the primary use, is supported by ancillary and auxiliary uses..

Following is a way of illustrating the application of subordination to the Agricultural (AG) zone:

1. Establish through ordinance language the equitable application of all zoning to all forms of agriculture in Peninsula Township.
2. Establish through zoning language that farming of a raw products such as mushrooms, pears, apples, flowers, vegetables, cherries, grapes, pumpkins, corn, forage... and/or the nurture of domesticated animals such as pets, livestock, and beasts of burden is the primary activity in the AG zone. This is its **primary use** and all other purposes are secondary and in support of this purpose.
3. Establish through zoning language that the supportive use of residing on the land should be allowed by right for owners and employees who raise raw product or raise and nurture domesticated animals. It should also extend to the encouragement of ancillary hospitality (guest) uses such as short-term stays (3-7 days) in a use by right for Bed n' Breakfast, small cottages, carriage houses, etc. These should be scaled to the size of parcel and/or residual building rights left after a PDR contract has been consummated. This is a natural **ancillary use** to the farming activity.
4. Last, but not least, is to allow direct sales of product in accord with state right to farm law and in accordance with GAAMP. However, this activity is subordinate to, and in support of, the primary agricultural use, which is the growing of produce or the nurture of animals. As such it is an **auxiliary use** incidental to the cultivation of crops, animals, and residing on the land. It should be broad and varied in application, but fairly applied to everyone. It would

include processing, selling, and providing services supported by the primary use, not something outside of the primary use.

When the SUP application under question is considered it seems that the township residents and our guests lives would probably be enhanced by an offering of lavender service and product as an auxiliary use. However I do not think there is sufficient consideration of the extent to which the expansion of all types of auxiliary uses in the AG zone would impact the rest of the master plan in regard to potential transportation/parking nightmares and commerce morphing into undesirable blight on the landscape we steward. There are also forces that wish to invert the pyramid of uses making the auxiliary uses primary uses in the AG zone. These overlapping uses need study at the committee level and at the level of governance before moving forward.

Thank you for your consideration,

Lew Seibold

Llewellyn Seibold
3195 Cherry Hill Rd
Traverse City, MI 49686
231.499.4801
lewseibold@icloud.com

Re: Lavender Farm SUP amendment 2024

To: Peninsula Township Board

As Peninsula Township moves forward with introducing agritourism activities as an auxiliary support to farming, we need to explore and discover ways to do so in balance with traditional outward facing and cultural operations and with our residents. This creative idea should serve as a good example of how to accomplish that.

I believe a key success in that goal is scaling such auxiliary activities, both in terms of them not being the dominant use of the land, and not generating potentially problematic levels of traffic and activity.

To that end it is good to see that the proposed SUP amendment for the Lavender Farm does scale the number of participants in each session. However, it would be best to further scale in terms of how many events or sessions may occur in any given time. Should the potential use be up to 10 a day, which could potentially result in as many as 70 in a week? A less intensive limit should be considered, the eventual difference could be significant. Please consider this factor both for the sake of correctly scaling this particular proposed use, and for setting example of other uses on a similar sized parcel.

I recommend not only that this factor to be addressed, but that whatever use is put in place be specifically defined in an ordinance amendment, not just within an SUP amendment.

Finally, I would like to comment on the reference to amendment 201 as justification for the tasting/retail like feature of this proposal when the minimum acreage for a retail operation under 201 is 50 acres. I would not say that is a reason to not approve the use, but rather a reason to consider whether that use should be referenced in the findings that are used to justify this SUP amendment.

Thank You,

John A. Wunsch

17881 Center Rd.