

MEMORANDUM

TO: Cleveland Township Planning Commission
c/o Tim Ewing, Chairperson
FROM: Michael A. Kronk
DATE: August 23, 2007
SUBJECT: Proposed Amendment (#2 of 2007) - Residential District

Dear Planning Commission Members:

Pursuant to Mr. Ewing's request, I have reviewed draft 4 of a proposed ordinance amendment relating to residential districts. In responding to the same, I will address the specific questions first, and then offer general comments.

2. Section 5.2.B: As a suggestion only, if the PC decides to allow "guest houses", simply remove the word "main" from the first and second lines of Section 5.2.B.

In addition, the Planning Commission may wish to clarify/expand the words "guest house" in the definitional section to include the minimum size and the fact that it cannot be occupied for over six months in any one calendar year. In other words, have the language of 3.26 more closely follow 5.2.B.

3. Section 5.2.F and Section 3.X (Amendment 4): As the PC appreciates, the concept of "residential care facilities" continues to be an evolving process. At one point, neither type could be regulated by townships. Then there was a ruling that some limitations could be imposed regarding how close each facility could be to another, and unless the Planning Commission desires me to research the issue, I would simply leave with the comment that the easiest way to address such use would be by reference to the statutes.

Thus, Section 5.2.F might read, at the start, as follows: "Residential Care Facilities: Such facilities as are defined under Michigan law including the MZEA, and are permitted as follows: (and then put in there the first sentence and under subparagraph B, put in the second sentence).

As far as the definitions, it strikes me that the amendment might inadvertently be addressing two different types of activities. Specifically, I believe a "childcare organization" relates to daycare facilities rather than residential placement (such as a juvenile who is in foster care).

The PC may wish to check the citations and be certain the appropriate designations are used distinguishing foster care and day care.

4. Section 5.4.C.g: In general, it would be my recommendation that the Township Board be the body to accept or reject the proposed deed restrictions, with the Planning Commission providing a "recommendation". That would make this consistent with Section 14 of the ordinance.

Phrasing this in another fashion, whichever body will be making the final decision should make it on both the site plan and the deed restrictions. If that process was not followed, there could be a situation where deed restrictions had been approved, but the site plan rejected (or vice versa) and I think that would only lead to further legal challenges.

5. Amendment 3: Basically, the provisions do address nonconforming lots. However, there is one point of clarification, and one suggestion for further review.

It would be my recommendation to have subparagraph (D), on page 7, read as follows: "The lot was 'conforming' under zoning restrictions in place at the time it was recorded." This avoids someone holding on to a deed for five or ten years and then claiming that it was lawfully created in 1980, even though it may not have become of record until 2007.

As to subparagraph (E), what if the single lot is contiguous to another lot under the same ownership? Is it still buildable as a separate lot? What if the two lots are both "nonconforming" (like some very old subdivisions around the lake), how would those be treated. If there is a contiguous lot, must the two lots be treated as one? This section may need some additional detail.

6. Reference Material: Given the reason for the PC's recommendation, there should be substantial background information that would justify the same. In that regard, the Planning Commission might ask the Leelanau Conservancy, or the Northern Michigan Environmental Action Council, or Leelanau County Planning, or other similar entities for any reports they have pertaining to Cleveland Township or to the general area, perhaps including townships to the north, south and east. Further, there may be reports available from the Park Service at Sleeping Bear.

My recommendation to the Planning Commission is to obtain the background documentation and information that

would justify the proposed amendment. That each Planning Commission member take the time to review it or you could allocate a certain number of reports to each member, and then at some time during the public hearing process, the Planning Commission member would offer one or all of the reports that he/she has reviewed explaining briefly what they say, but making the background information part of the "record".

As a example, unrelated to anything that is before the township, if I wanted to build a large airport in the township, and zoning directly prohibited it, hopefully, there would be documentation in the township records that show why Cleveland Township chose to prohibit airports. This would include studies and information from Cherry Capital Airport showing that they serve all of Leelanau County and that another airport would simply be duplicating existing services and that the cost would be prohibitive, and perhaps there might be other noise issues, etc. That type of information in the township records would probably justify excluding airports from the township.

1. & 7. These items in Mr. Ewing's memorandum requested some general comments and a review of the Residential 3 Zoning District. In order to expedite your receipt of the answers to the above, I will conclude and be submitting, in the very near future, a supplemental memo responding to items 1 and 7 as requested by Mr. Ewing.

Respectfully submitted.