



Agenda
City of Charlevoix City Council Regular Meeting
Monday, October 14, 2024 - 4:00 PM
Council Chambers, 210 State Street, Charlevoix, MI

- 1. Pledge of Allegiance**
- 2. Roll Call**
- 3. Inquiry Regarding Conflicts of Interest**
- 4. All Other Actions and Requests**
 - A. Conditional Rezone of a portion of 743 Petoskey Avenue
Jonathan Scheel, Director of Planning & Zoning
Mark Heydlauff, City Manager
- 5. Reports and Communications**
 - A. Public Comment
- 6. Adjourn**

Persons with disabilities who need an accommodation to fully participate in these meetings should contact the City Clerk's Office at 231-547-3250 or by email clerk@charlevoixmi.gov. A 24-hour notice may be needed for certain accommodations. An attempt will be made to grant all reasonable accommodations requests.

Charlevoix City Council

All Other Actions and Requests

Title: Conditional Rezone of a portion of 743 Petoskey Avenue

Date: October 14, 2024

Presented By: Jonathan Scheel, Director of Planning & Zoning
Mark Heydlauff, City Manager

Background:

This item was presented to you for a public hearing back on September 16 and was scheduled for the public hearing which was held on October 7. During the October 7 meeting, not all members of Council were present to act on the ordinance as required by Charter. As such, the item is considered again today with all Council in attendance.

This is a request for the conditional rezone of the front portion of the parcel at 743 Petoskey Avenue. The entire parcel is 1.401 acres. The rezone request is from Multi-Family R-4 to General Commercial (GC). There is an existing building (former gas station) on the parcel. The proposed rezoned area fronts Petoskey Ave. (US 31) and accounts for approximately 1/3 of the entire parcel (20,000 sq ft). The remainder of the parcel would remain R-4 and has access/frontage to Division Street. Over the last 50 +- years, this and neighboring properties were zoned General Commercial (GC). This property specifically was a gas station but was abandoned approximately 30 years ago. In the last 30 years there has been no commercial development in this area. There have been on-again-off-again actions to rid this specific lot of ongoing blight. In the last few years, the lot has been cleaned up, and the building has been refurbished to meet all ordinance standards and overall be a positive sight for the neighborhood. Because of the lack of commercial activity and the need for housing, the city recently rezoned the area, including this lot, to R-4 Multi-Family Housing. Multifamily housing is a use allowed in General Commercial, but the Planning Commission was concerned that high intensity uses allowed in General Commercial was hindering developers from committing to housing if a high intensity commercial use was allowed by right and could be built next door with a simple site plan approval.

The City's Master Plan does consider this area as a place for small walkable low impact businesses. A conditional rezone works very well in this situation. A small appropriate business would be allowed with no concerns of a higher intensity business replacing it if the business moves, fails or otherwise is no longer there. A conditional rezone agreement, (which is part of this agenda item) states what is allowed and anything else simply wouldn't be allowed. The parcel would revert to its original zoning if this or other approved business were to stop its use.

During the Council discussion, there was a question about screening this use from adjacent properties. While not part of the conditions for the rezone, it was included in the site plan. The Planning Commission conditionally approved a site plan for the new proposed business at it's September meeting. Besides meeting all the Site Plan requirements of 153.230 of the current City of Charlevoix Zoning Ordinance, the Planning Commission required additional vegetative screening between the commercial property and the residential property to the east. The Planning Commission then made the approved site plan a part of the Conditional Rezone Agreement.

Master Plan page 88, Community Goals and Objectives. GOAL 2: Maintain a diverse, regional economy

that supports sustainable year-round housing and business development.

Recommendation:

Motion to approve Conditional Rezone Agreement and Ordinance 852 of 2024.

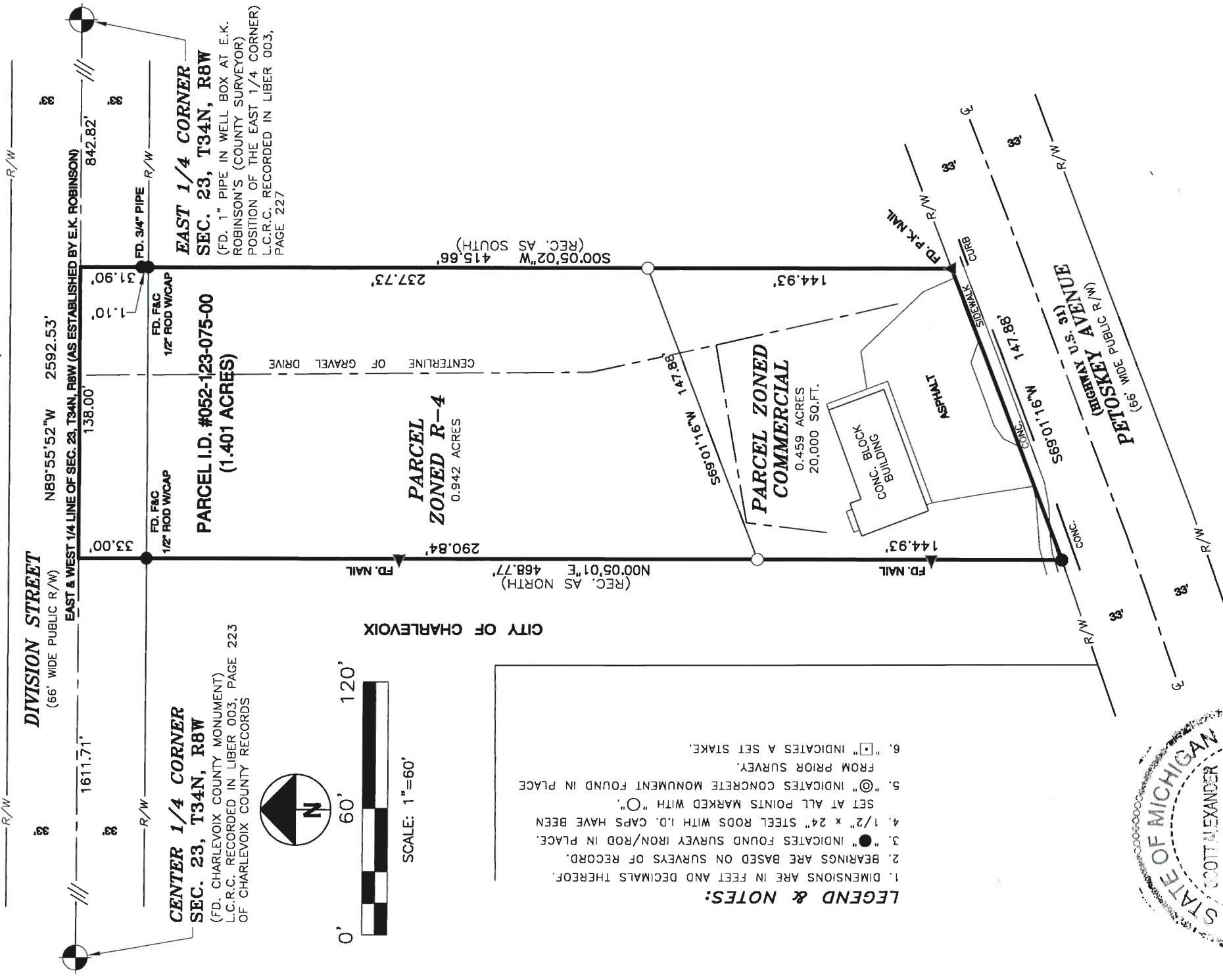
Attachments:

1. Survey.Legal Description.8.14.24 (2) (1)-1
2. C100 Stiggs ReZoning Siteplan 9-9-24-1
3. Council Rezone report 743 Petoskey Ave(1)
4. Description of Conditional Rezone.CityCouncil.9.10.24 (1)-1
5. 852 of 2024 rezone 743 Petoskey(1)
6. 2024-09-12 Conditional Rezone Agreement Stiggs(2)

CERTIFICATE OF BOUNDARY SURVEY
PART OF GOVERNMENT LOT 4 &

SHEET 1 OF 2

PART OF GOVERNMENT LOT 4 &
 % JOHN MURRAY
 203 BRIDGE STREET
 CHARLEVOIX, MI 49720
 TAX I.D. #: 15-052-123-075-00
 CITY OF CHARLEVOIX, CHARLEVOIX COUNTY, MICHIGAN
 PART OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4
 SECTION 23, TOWN 34 NORTH, RANGE 8 WEST
 CITY OF CHARLEVOIX, CHARLEVOIX COUNTY, MICHIGAN



LEGEND & NOTES:

1. DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.
2. BEARINGS ARE BASED ON SURVEYS OF RECORD.
3. "●" INDICATES FOUND SURVEY IRON/ROD IN PLACE.
4. 1/2" x 24" STEEL RODS WITH I.D. CAPS HAVE BEEN SET AT ALL POINTS MARKED WITH "○".
5. "◎" INDICATES CONCRETE MONUMENT FOUND IN PLACE FROM PRIOR SURVEY.
6. "◻" INDICATES A SET STAKE.

SCOTT A. PAPINEAU
P.S. NO. 4001050446

I HEREBY CERTIFY that I have surveyed and mapped the parcels herein described and that the relative positional precision of each corner is within the limits accepted by the practice of professional surveying and that all the requirements of P.A. 132 of 1970, as amended, have been complied with.

This survey plat was prepared for the exclusive use of the person, persons, or entity named in the certification hereon. Said certificate does not extend to any unnamed third person without an express recertification by the surveyor naming said third person.

FERGUSON & CHAMBERLAIN ASSOCIATES, INC.
PROFESSIONAL SURVEYORS

103 W. UPRIGHT STREET, CHARLEVOIX, MICHIGAN 49720
(231)547-6882 - FAX (231) 547-0021

EMAIL: info@fcasurveying.com

August 7, 2024

Job No. SB-29899C-24

Legal Description for: LSB Ventures LLC

Parcel Zoned Commercial

In the City of Charlevoix, Charlevoix County, Michigan, Commencing at the East one-quarter corner of Section 23, Township 34 North, Range 8 West; thence along the East and West one-quarter line as established by E.K. Robinson (County Surveyor), North 89°55'52" West 842.82 feet (recorded as West 840.4 feet & measured 840.60 feet from D.C. Nettleton's East one-quarter corner); thence South 0°05'02" West (recorded as South) 31.90 feet to a ¾" iron pipe; thence continuing South 0°05'02" West (recorded as South) 1.10 feet to a ½" iron rod on the South line of Division Street; thence continuing South 0°05'02" West 237.73 feet to a ½" iron rod, being the POINT OF BEGINNING; thence continuing South 0°05'02" West (recorded as South) 144.93 feet to a PK Nail on the North line of Petoskey Avenue (AKA Highway US-31); thence along said North road line South 69°01'16" West 147.88 feet to a ½" iron rod; thence North 0°05'01" East (recorded as North) 144.93 feet to a ½" iron rod; thence parallel to the said North road line, North 69°01'16" East 147.88 feet to the Point of Beginning, being a part of Government Lot 4, Section 23, Township 34 North, Range 8 West and containing 20,000 square feet (0.459 acres). Subject to the rights of the public and of any governmental unit in any part thereof taken, used or deeded for street, road, or highway purposes.

Parcel Zoned R-4

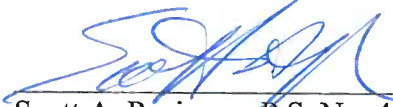
In the City of Charlevoix, Charlevoix County, Michigan, Commencing at the East one-quarter corner of Section 23, Township 34 North, Range 8 West; thence along the East and West one-quarter line as established by E.K. Robinson (County Surveyor), North 89°55'52" West 842.82 feet (recorded as West 840.4 feet & measured 840.60 feet from D.C. Nettleton's East one-quarter corner) to the POINT OF BEGINNING; thence South 0°05'02" West (recorded as South) 31.90 feet to a ¾" iron pipe; thence continuing South 0°05'02" West (recorded as South) 1.10 feet to a ½" iron rod on the South line of Division Street; thence continuing South 0°05'02" West 237.73 feet to a ½" iron rod; thence parallel to the North line of Petoskey Avenue (AKA Highway US-31), South 69°01'16" West 147.88 feet to a ½" iron rod; thence North 0°05'01" East (recorded as North) 290.84 feet to the said South line of Division Street; thence continuing North 0°05'01" East (recorded as North) 33.00 feet to the said established one-quarter line; thence along said established one-quarter line, South 89°55'52" East 138.00 feet to the Point of Beginning, being a part of Government Lot 4, Section 23, Township 34 North, Range 8 West and containing 0.942 acres. Subject to the rights of the public and of any governmental unit in any part thereof taken, used or deeded for street, road, or highway purposes.

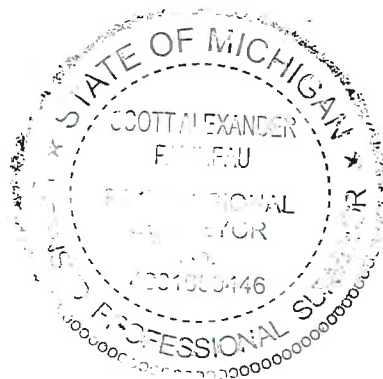
Prepared by:

Ferguson & Chamberlain Associates, Inc.

103 West Upright Street

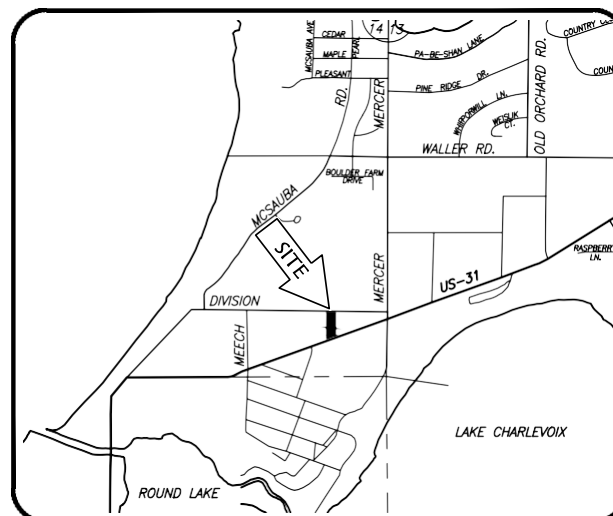
Charlevoix, Michigan 49720


Scott A. Papineau, P.S. No. 4001050446



VICINITY MAP

SCALE: 1"=2000'



ZONING INFORMATION

PROJECT DESCRIPTION: RE-ZONING FROM R4 TO GC.

PROPERTY IS ZONED R4

CURRENT USE:	FORMER COMMERCIAL
PROPOSED USE:	COMMERCIAL

MAXIMUM STRUCTURE HEIGHT: R4 = 35 FEET / GC = 26 FEET
MINIMUM FRONT YARD: R4 = 15 FEET / GC = 15 FEET
MINIMUM INTERIOR SIDE YARD: R4 = 15 FEET / GC = 10 FEET
MINIMUM STREET SIDE YARD: R4 = 15 FEET / GC = 15 FEET
MINIMUM REAR YARD: R4 = 25 FEET / GC = 25 FEET

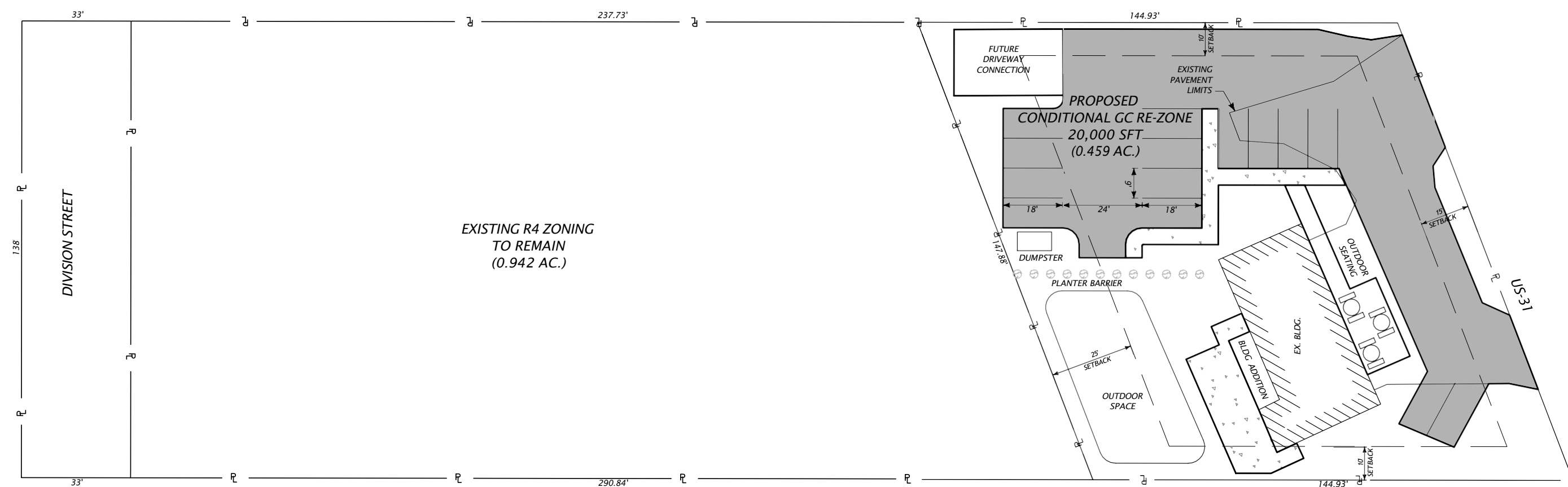
PARKING REQUIREMENTS: 1 per employee on the largest shift, plus 1 per 300 sq. ft. of UFA per Table 153.187

PARKING PROVIDED: THE COMMERCIAL USE WOULD REQUIRE 12 PARKING SPACES FOR BOTH EMPLOYEE AND PATRONS. ZONING REQUIREMENT IS 1 PER EMPLOYEE (ASSUMED 6), PLUS 1 PER 300 SF (6 REQUIRED). A TOTAL OF 14 SPACES ARE PROVIDED.

NOTES

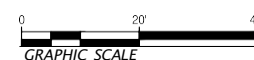
NOTES:

1. THE PROPERTY IS ZONED R4, BUT HAS AN HISTORIC COMMERCIAL USE ON THE US-31 FRONTAGE. THIS HISTORIC USE INCLUDED A GAS STATION THAT IS THE SOURCE OF ENVIRONMENTAL CONTAMINATION THAT MAKES THE REDEVELOPMENT OF THIS AREA INCOMPATIBLE WITH AN R4 USE WITHOUT SUBSTANTIAL MITIGATION COSTS. THEREFORE, THE US-31 FRONTAGE IS PROPOSED TO BE RE-ZONED BACK TO A COMMERCIAL USE THAT REQUIRES LESS MITIGATION OF THE CONTAMINATION IN ORDER FOR IT TO BE PUT BACK INTO A BENEFICIAL USE.
2. THE PROPOSED PROPERTY RE-ZONING BOUNDARY LEGAL DESCRIPTION HAS BEEN PROVIDED SEPARATELY BY FERGUSON & CHAMBERLAIN ASSOC.
3. THE SETBACKS DEPICTED HERE ASSUME A RE-ZONING OF THE SOUTHERLY AREA OF THE PROPERTY TO GENERAL COMMERCIAL (GC) AND THE NORTHERLY PROPERTY TO REMAIN R4.
4. THE LAYOUT CONCEPT PROPOSED INCLUDES A SOUTHERLY COMMERCIAL USE IN THE EXISTING BUILDING WITH AN OUTDOOR PATIO SPACE FOR BREWERY AND RESTAURANT SERVICE.
5. THE ASSUMED PARKING DENSITY AND CONFIGURATIONS PROPOSED HERE ARE CONCEPTUAL AND NEED TO BE VERIFIED BY THE CITY. PATIO SPACES AND OTHER FOOD SERVICE REQUIREMENTS COULD IMPACT THE NEEDED PARKING COUNT.
6. THIS CONCEPTUAL SITE PLAN DOES NOT INCLUDE LANDSCAPING, UTILITIES, AND OTHER POTENTIAL ZONING REQUIREMENTS, ASSUMING THAT THESE CONCERNS WILL BE ADDRESSED WITHIN A SITE PLAN REVIEW IF THE RE-ZONING REQUEST IS APPROVED.
7. THE MATERIAL USED FOR GRADING AND PARKING ARE UNSPECIFIED AND WILL BE DETERMINED SUBJECT TO THE SCHEDULED ENVIRONMENTAL ASSESSMENT, CITY OF CHLEVONK RECOMMENDATIONS, OVERALL DESIGN ELEMENTS AND BUDGET OF PROJECT.



SITE PLAN

1":20

[illegible]

PROJECT NO:	
CAD DWG FILE:	6529SITE.DWG
DRAWN BY:	WES
DESIGNED BY:	WES
CHECKED BY:	AEN

CONCEPTUAL
SITE PLAN

C100

SHEET 1 OF 1



CITY COUNCIL AGENDA ITEM

AGENDA TITLE: Rezone Application. Project CRZ 2024-03 743 Petoskey Ave

HEARING DATE: Monday, September 16, 2024, 6:00 PM

PRESENTED BY: Jonathan Scheel Director Planning and Zoning

ATTACHMENTS:

1. Application from the applicant
2. Project file CRZ 2024-03
3. Master Plan pages 93, 104, 107
4. Draft Conditional Rezone Agreement

I: GENERAL INFORMATION:

Applicant: Stiggs Brewing Company
112 S. Park Street
Boyne City, MI 49720

Property Owner: JJ's Library LLC
2726 Bissonnet Ste. 240 PMB 12
Houston, TX 77005

Requested Action: Conditional Rezone from Multi-family (R4) to General Commercial (GC)

Current Zoning: Muti-family (R4)

Project Location: 743 Petoskey Ave.

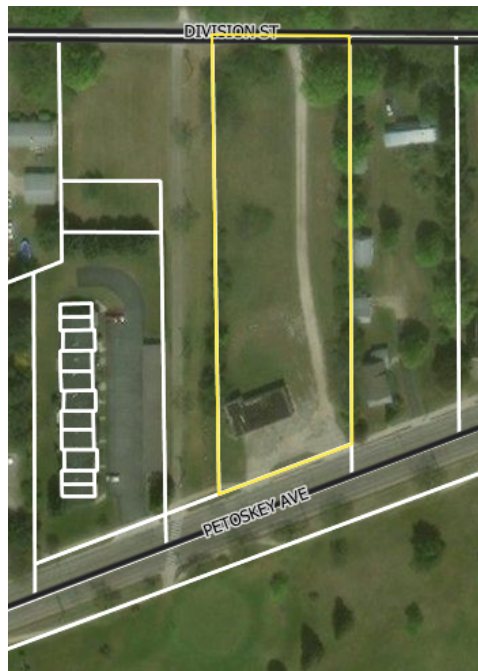
Legal Description: In the City of Charlevoix, Michigan Commencing at the East one-quarter corner of Section 23, Township 34 North, Range 8 West; thence along the East and West one-quarter line as established by E.K. Robinson (County Surveyor), North 89° 55' 52" West 842.82 feet (recorded as West 840.4 feet and measured 840.60 feet from D.C. Nettleton's East one-quarter corner); thence South 0°05'02" West (recorded as South) 31.90 feet to a ¾" iron pipe; thence continuing South 0°05'02" West (recorded as South) 1.10 feet to a ½" iron rod on the South line of Division Street; thence continuing South 0°05'02" West 237.73 feet to a ½" iron rod, being the POINT OF BEGINNING; thence continuing South 0°05'02" West (recorded as South) 144.93 feet to a PK Nail on the North line of Petoskey Avenue (AKA Highway US-31); thence along said North road line South 69°01' 16" West 147.88 feet to a ½" iron rod; thence North 0°05'01" East (recorded as North) 144.93 feet to

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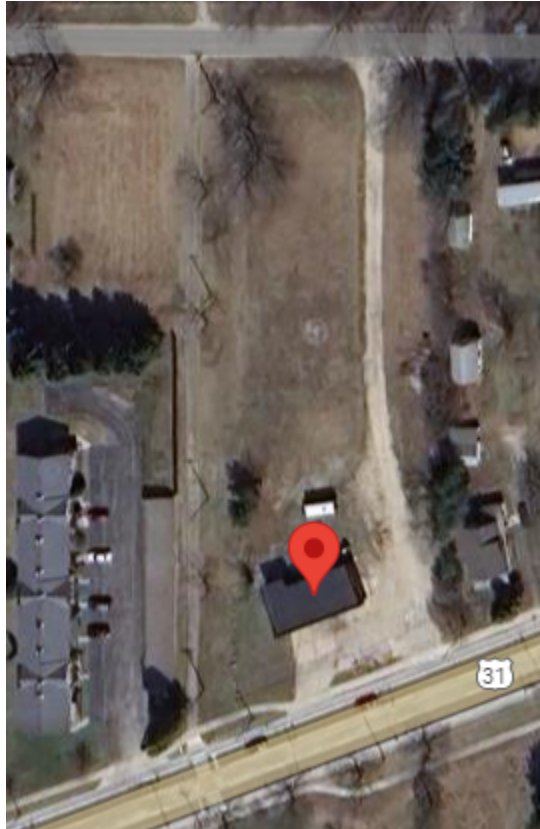
Project Site Size:	21,432 + - Square feet
Existing Land Use:	Undeveloped with the exception of an existing small commercial building
Adjacent Land Uses:	Multi Family to west. Public golf course to the south Single family to the east and undeveloped to the north.
Adjacent Zoning:	Multi family to the west, north and east. Public to the south.

II. PROJECT DESCRIPTION/LOCATION:

This is a request for the conditional rezone of the front portion of the parcel at 743 Petoskey Ave. The rezone request is from Multi-Family R-4 to General Commercial (GC). The entire parcel is 1.401 acres. There is an existing building (former gas station) on the parcel. The proposed rezoned area fronts Petoskey Ave. (US 31) and accounts for approximately 1/3 of the entire parcel. The remainder of the parcel would remain R-4 and has access/frontage on Division Street. The city golf course walkway is directly adjacent on the east and a single family home is on the west side adjacent parcel. This parcel and multiple parcels to the east had recently been rezoned by the Planning Commission from GC to R-4.



Charlevoix County Advanced Tax Parcel Map 2016.



Google Maps.



Google Maps.

The purpose of this Staff Report is to evaluate this proposal against the procedures and criteria outlined in Section 153.007 of the City of Charlevoix Zoning Ordinance.

III. TIMING AND AUTHORITY:

The Rezone application was submitted on August 6, 2024. The notice for the Planning Commission public hearing was advertised in the Charlevoix Courier on August 23, 2024. Notice of the hearing was sent to adjoining landowners and tenants within 300 feet of the property on August 20, 2024.

The public was given an opportunity to speak at the Planning Commission Public Hearing on September 9, 2024. After the public hearing, the **Planning Commission voted to recommend approval to the City Council with a unanimous vote based on their Findings of Fact.**

IV. ZONING ORDINANCE

§ 153.007 CONDITIONAL ZONING.

(A) An applicant requesting a rezoning may voluntarily offer a conditional zoning agreement along with an application for rezoning before, or following, the public hearing for a proposed rezoning. A decision to submit a conditional zoning agreement shall be pursuant to the Zoning Act and this chapter.

(B) The conditional zoning agreement shall be in writing, executed by the applicant and the city and recorded with the county's Register of Deeds.

(C) The conditional zoning agreement may include limitations on the uses permitted on the property in question, specification of lower density or less intensity of development and use; may impose greater restrictions on the location, size, height or other measure for buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture and other features; or may provide for financing and installation of public works necessary to serve the proposed project.

(D)(1) The conditional zoning agreement shall not authorize uses or developments of greater intensity or density, or uses and developments that are not permitted in the proposed zoning district.

(2) The conditional zoning agreement may not permit variations from height, area, setback or similar dimensional requirements that are less restrictive than the proposed zoning district; however, any variance approved by the Zoning Board of Appeals in accordance with §§ [153.035](#) through [153.042](#) of this chapter may be allowed as part of a conditional rezoning agreement.

(3) If a special land use or site plan review is required by this chapter for the use proposed or subject to conditions within the rezoning agreement, the use(s) shall comply with the review and approval requirements as applicable prior to establishing or commencing the use(s).

(E) The conditional zoning agreement shall include conditions that bear a reasonable and rational relationship and/or benefit to the property in question. The conditional zoning agreement may include conditions related to the use and development of the property that are necessary to:

(1) Serve the property with improvements including, but not limited to, the extension, widening or realignment of streets; construction or extension of utilities and other infrastructure improvements serving the site; or the construction of recreational facilities serving the site or uses thereon;

(2) Minimize the impact of the development on surrounding properties and the city overall; or

(3) Preserve natural features and open space beyond what is normally required.

(F) In addition to any limitations on use or development of the site, preservation of site features or improvements described above, the conditional zoning agreement shall also include the following:

(1) An acknowledgment that the conditional zoning agreement was proposed voluntarily by the applicant;

(2) A statement that the property shall not be developed or used in any manner that is not consistent with the conditional zoning agreement;

(3) A statement that the approval of the rezoning and the conditional zoning agreement shall be binding upon and inure to the benefit of the property owner and the city, and also their respective heirs, successors, assigns, receivers or transferees. Where the applicant for rezoning is acting on behalf of the landowner through some form of purchase agreement or other mechanism, then the landowner must also consent and sign the agreement;

(4) A statement that, if a rezoning with a conditional zoning agreement becomes void in accordance with this section, that no further development shall take place and no permits shall be issued unless and until a new zoning district classification for the property has been established;

(5) A statement that no part of the conditional zoning agreement shall permit any activity, use or condition that would otherwise violate any requirement or standard that is otherwise applicable in the new zoning district;

(6) A legal description of the land to which the agreement pertains; and

(7) Any other provisions as are agreed upon by the parties.

(G) The conditional zoning agreement shall be reviewed concurrently with the petition for rezoning following the process in § [153.006](#)(C) above and the following.

(1) The conditional zoning agreement may be submitted prior to or following the Planning Commission public hearing. If the agreement is provided following the public hearing it must be reviewed by the Planning Commission prior to the Planning Commission making its recommendation on the rezoning to the City Council. The conditional zoning agreement shall be reviewed by the City Attorney to determine that the conditional zoning agreement conforms to the requirements of this section and the Zoning Act and shall confirm that the conditional zoning agreement is in a form acceptable for recording with the county's Register of Deeds.

(2) Following the public hearing for a proposed zoning amendment, the Planning Commission shall make a recommendation to the City Council based upon the criteria listed in division (D)(1) above. In addition, the Planning Commission shall consider whether the proposed conditional zoning agreement:

(a) Is consistent with the intent of this section;

(b) Bears a reasonable and rational connection or benefit to the property being proposed for rezoning;

(c) Is necessary to ensure that the property develops in such a way that protects the surrounding neighborhood and minimizes any potential impacts to adjacent properties;

(d) Is necessary to allow the rezoning to be approved, in that the property could not or would not be rezoned without the proposed conditional zoning agreement;

(e) Leads to a development that is more compatible with abutting or surrounding uses than would have been likely if the property had been rezoned without a conditional zoning agreement or if the property were left to develop under the existing zoning classification; and

(f) Is clearly in the public interest and not inconsistent with the recommendations of the city's Master Plan.

(3) If a conditional zoning agreement has been offered by the applicant and recommended for approval by the Planning Commission, the City Council may approve the conditional zoning agreement as a condition to the rezoning if it meets all requirements of division (G)(2) above. The conditional zoning agreement shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the City Council to accomplish the requested rezoning.

(4) If the rezoning and conditional zoning agreements are approved, the zoning classification of the rezoned property shall consist of the district to which the property has been rezoned and a reference to the conditional zoning agreement. The Official Zoning Map shall specify the new district, plus a parenthetical "CZ" to indicate that the property is subject to a conditional zoning agreement (i.e., "R1 (CZ)"). The City Clerk shall maintain a listing of all properties subject to conditional zoning agreements and shall provide copies of the agreements upon request.

(5) The approved conditional zoning agreement shall be recorded with the county's Register of Deeds.

(6) Any uses proposed as part of a conditional zoning agreement that would otherwise require approval of a special land use or site plan approval shall be subject to the applicable review and approval requirements of §§ [153.230](#) through [153.239](#) and [153.243](#) through [153.257](#) of this chapter.

(H) (1) The rezoning and conditional zoning agreement shall expire one year after adoption of the rezoning and conditional zoning agreement, unless substantial construction on the approved development of the property pursuant to building and other required permits issued by the city commences within the one-year period and proceeds diligently to completion, unless extended by the City Council for good cause.

(2) In the event that substantial construction on the approved development has not commenced within one year, the conditional zoning agreement shall be void.

(3) Should the conditional zoning agreement become void, all development on the subject property shall cease and no further development shall be permitted. Until action satisfactory to the city is taken to bring the property into compliance with the conditional zoning agreement, the city may withhold or, following notice to the applicant and being given an opportunity to be heard, revoke permits and certificates, in addition to, or in lieu of, any other lawful action to achieve compliance.

(4) Notwithstanding the above, if the property owner applies in writing for an extension of the conditional zoning agreement at least 30 days prior to the expiration date, the City Council may grant an extension of up to one year. Further extensions may be granted by the City Council, although the number of previous extensions granted to a particular conditional zoning agreement shall be considered in relation to the diligent effort of the land owner to satisfy the conditions of the agreement.

(I) If the rezoning and conditional zoning agreement becomes void as previously outlined, then the land shall revert back to its prior zoning classification as set forth in the Zoning Act. The Zoning Administrator or designee shall initiate the rezoning to the prior zoning classification and notify the land owner and/or developer of the reversion of zoning by registered letter.

(J) Provided that, all development and/or use of the property in question is in compliance with the conditional zoning agreement, an authorized use or development may continue indefinitely; provided that, all terms of the conditional zoning agreement continue to be met.

(K) The conditional zoning agreement may be amended by the city with the landowner's consent in the same manner as was prescribed for the original rezoning and conditional rezoning agreement.

(L) Nothing in the conditional zoning agreement, nor any statement or other provision shall prohibit the city from later rezoning all or any portion of the property that is the subject of the conditional zoning agreement to another zoning classification. Any rezoning shall be conducted in compliance with this chapter and the Zoning Act.

(M) The city shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect the owner's rights under this chapter.

(N) The city is not required or obligated to accept any or all conditions offered by a developer on a rezoning application. In no way is an offer of a conditional zoning agreement the basis for requiring the city to approve a rezoning application.

V. FINDINGS OF FACT

- (1) In considering a rezoning application, the Planning Commission considered and adopted the following criteria in making their findings, recommendations and decisions:

The City Council will review Zoning Ordinance Section 153.007 and make their findings, recommendations and decisions along with the recommendation of the Planning Commission

(a) Consistency with the goals, policies and future land use map of the Charlevoix Master Plan, including all applicable subarea and corridor studies. If conditions have changed since the Master Plan was adopted, then consistency with recent development trends in the area shall be evaluated;

*Page 93 of the Master Plan and page 104, the Future Land Use Map shows this area as the start of the Charlevoix Corridor. **Key Characteristics:** "While these areas will still be predominantly residential, the district will allow for limited commercial that will provide services for surrounding residences within walking distance. The combination of home occupations, commercial, and residential spaces generates a high- to medium-level of intensity. Activity in this area will be less than the downtown core, but more than the surrounding residential neighborhood. Like the downtown core, this mix of uses encourages community connection and a variety of complimentary uses." **Appropriate Land Uses:** "The Charlevoix Corridor is a transitional zone that permits a mix of commercial, professional and medical offices, residential, and civic, and transitional or temporary spaces that can be used as business incubators." **Building and Site Design:** "Reuse and re-occupancy of existing buildings is preferred whenever possible." Page 107 describes General Commercial as a compatible Zoning District to the Charlevoix Corridor.*

(b) Whether development under current zoning is impractical or less reasonable than the requested or desired zoning district given factors such as development trends;

As described above, the requested rezone has uses promoted by the Master Plan. The city goals are to have a "mix" of pedestrian friendly businesses mixed in with housing to promote a vibrant lively neighborhood.

(c) Capability of the site's physical, geological, hydrological and other environmental features to accommodate the potential uses allowed in the proposed zoning district;

The existing developed site works very well for the reuse proposed.

(d) Compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, noise, density, nature of use, traffic impacts, aesthetics, infrastructure, impact on the ability to develop adjacent properties under existing zoning and potential influence on property values;

The proposed use will have no negative impact to the golf course to the south, little to no impact to the west which is the golf course crossing and a multi-family garage/carport separation from a condominium complex. The north is undeveloped, and the east has one single family home that is separated by the parking lot and driveway.

(e) Capacity of city infrastructure and services sufficient to accommodate the uses permitted in the requested district without compromising the health, safety and welfare of the city;

This parcel has all city infrastructure and facilities available onsite. The Public Works and Electrical Department Heads have given their approval

(f) The apparent need for the types of uses permitted in the requested zoning district in the city in relation to the amount of land in the city currently zoned to accommodate that need;

This area north of the bridge is the last area that has development potential. The other adjacent lots would all have the same conditions as this lot. The need for additional retail, entertainment, multifamily housing and parking is here with little land availability to develop those uses.

(g) Other factors as determined by the Planning Commission and the City Council.

(2) Where a rezoning is reasonable given the above criteria, a determination shall be made that the requested zoning district is more appropriate than another or by amending the list of permitted or special land uses within a district.

Because of the past use as a gas station, the State of Michigan Department of EGLE has determined that a commercial use is more appropriate than a residential use.

VI. CITY COUNCIL OPTIONS:

The City of Charlevoix Planning Commission has the following options for Rezone CRZ 2024-03

1. Approve Rezone 2024-03 CRZ based on specific findings of fact that the application does meet the review criteria in Section 153.007
2. Deny Rezone 2024-03 CRZ based on specific findings of fact that the application does not meet the review criteria in Section 153.007
3. Table Rezone 2024-03 based on the need for additional information.



Brewing Company

Description for Conditional Rezoning

Company Expansion

Stiggs Brewing Company is setting its sights on the overall brand expansion from the current brewpub model, into a microbrewery with increased production capabilities, wholesale distribution and additional revenue streams.

Since the inception of Stiggs Brewery & Kitchen in Boyne City in 2017, the primary goal was to make high quality craft beer for the local & regional market.

While the primary vision was well intended, the original concept of Stiggs Brewing Company was sidelined by operational direction, the Covid-19 Pandemic closures & overall limitations of the current physical space.

The property at 743 Petoskey Ave. (US Hwy 31) on the North end of Charlevoix Township, is nestled next to Charlevoix Municipal Golf Course, meets the demands for Stiggs expansion while providing additional opportunities for mixed development & diverse revenue sources.

Project Overview

Stiggs Brewing Company has located a prime mixed-use property for our microbrewery expansion in Charlevoix, MI. With its near turnkey structure, the proposed location fits the overall site demands for Stiggs 2.0 and is ideal for increased brand visibility on one of the most active commuter roads in all of Northern Michigan. Building on the original bones of the Old '76 Garage, this 1.4-acre property provides all amenities identified for the production brewery expansion while creating a family friendly atmosphere for locals & tourists to share alike. A second phase of the project allows for the development of a multi-family residence on the back portion of the property by the property owner.

The expansion project will finance a small 10 BBL production brewery providing Stiggs access to the wholesale market while also offering a secondary taproom with a 750 sq ft 3-season exterior patio. This no-frills facility supplies a 1,767 sq ft footprint for brewery operations, housed with 4 roll top doors for ease of workflow & flexibility of programming. This site **WILL NOT** operate as a food establishment. Food services, catering & events will be operated by Stiggs Catering Department & other 3rd party vendors while the exterior green space will support interactive activities, family friendly green space in summer, live music & community events.

Description of Conditional Zoning

Stiggs Brewing Company in partnership with LSB Ventures llc, seeks Conditional Zoning approval of the City of Charlevoix for the property located on 743 Petoskey Ave. The property is currently zoned R-4 for the total 1.401-acre parcel (61027.56 sq ft) but has an existing commercial use on the US-31 frontage. Our proposal is to amend the current zoning to allow for the mixed use depicted in the provided site plan.

- The front 20,000 sq ft of the property with road frontage on Petoskey Ave to be amended from R-4 to General Commercial for like businesses compatible for the residential adjacent property. Our intended mixed-use occupancy of F-2 Alcohol Manufacturing (under 16% alcohol) and 'B' Occupancy.
- The back 41,027 sq ft parcel with frontage on Division St will remain zoned R-4 for future, Phase II multi-family housing for future development.

The commercial use would require 12 parking spaces for both employees and patrons. Zoning requirement is 1 per employee (assumed 3), plus 1 per 300 sq ft (6 required). The current site plan shows 14 total parking spaces.

Proposed Improvements

- Proposed improvements to the Commercial portion of the parcel; once amended rezone is approved, will commence by updating use, submitting building permits and remodeling the existing 1,767 commercial space into a small 10 BBL production brewery & taproom under the Michigan Rehab Code, Level 3 Alterations. In addition to non-structural, interior modifications, the overall scope of the project will finalize existing & outstanding permits for recent exterior upgrades, improve the exterior space with landscape elements, pedestrian pathways, construct a 750 sq ft patio adjacent to the south wall, and pour a concrete pad adjacent to the north wall of the building.

Property Legal Description

Please see supplemental document "Site Plan.Legal Descrption.8.14.24" for the revised associated with the conditional rezone to create 2 separate parcels.

AN ORDINANCE TO AMEND TITLE XV, CHAPTER 153, SECTIONS 153.055, OF THE CHARLEVOIX CITY CODE

SECTION 1. Title XV, Chapter 153, Section 153.055 (B) of the City of Charlevoix Code is hereby amended to include a Conditional General Commercial Rezone as a District in the Zoning Use District Map as follows:

Conditional General Commercial Rezone District (front portion of parcel)

Parcel Zoned R-4 (description of the parcel that is remaining R-4)

SECTION 3. Severability

SECTION 4. Effective Date

This Ordinance shall become effective thirty (30) days after its enactment.

Ordinance No. 852 was adopted on the 7th day of October 2024 A.D., by the Charlevoix City Council as follows:

Motion by:

Seconded by:

Years:

Nays:

Absent:

State of Michigan } §
City of Charlevoix }

Sarah J. Dvoracek

Clerk

Lyle Gennett

Mayor

CERTIFICATION

I, the undersigned, the City Clerk of the City of Charlevoix, Charlevoix County, Michigan, do hereby certify that the foregoing is a true and complete copy of Ordinance No. 852 adopted by the City Council of the City of Charlevoix, County of Charlevoix, State of Michigan, at a regular meeting held on October 7, 2024 the original of which is on file in the Clerk's office and available to the public. Public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267 of the Michigan Public Acts of 1976.

Dated: 10/08/2024

Sarah J. Dvoracek, City Clerk

Conditional Rezone Agreement

This Conditional Rezoning Agreement (the "Agreement") is made this 7th day of October 2024, (the "Agreement") by and between the CITY OF CHARLEVOIX, a Michigan municipal corporation, with its offices at City Hall, 210 State Street Charlevoix, Michigan 49720 (the "City"), and JJ's Library LLC., (the "Owner") with offices at 2726 Bissonnet Ste. 240 PMB 12, Houston, TX 77005

THE PARTIES RECITE THAT:

WHEREAS, the City is a municipal corporation organized and existing under and pursuant to the Michigan Home Rules Cities Act, 1909 PA 279, as amended (codified at MCL 117.1 et seq.), and exercising all of the powers provided for therein and pursuant to Charlevoix City Charter, adopted, and as subsequently amended; and

WHEREAS, the Owner controls certain parcels of real property located within the City of Charlevoix at 743 Petoskey Avenue which is currently zoned R-4: Multi family Residential District (as specifically listed and legally described in this agreement) (the "Property"), and desires to proceed with a development on the Property; and

WHEREAS, under and pursuant to Section 405 of the Michigan Zoning Enabling Act, 2008 PA 110, as amended (codified at MCL 125.3405 et seq.), certain conditions voluntarily offered by the owner of land, including an agreement between the City and the Owner, may become a condition of rezoning of the Property; and

WHEREAS, on August 21, 2024, the Owner and the developer of the Property submitted a Conditional Rezoning Application for the Property with a conceptual site plan (attached as EXHIBIT A), voluntarily offering, in writing, certain conditions to rezone the Property from "R-4" Multi Family Residential District to "GC" General Commercial District with conditions as set forth in this Agreement; and

WHEREAS, the City Planning Commission on September 9, 2024, held a Public Hearing on the Amended Conditional Rezoning Application; and

WHEREAS, the City Planning Commission on September 9, 2024, voted to recommend approval of the amended request for Conditional Rezoning based upon this Agreement with the attached exhibits; and

WHEREAS, the City Council on October 7, 2024, voted to approve the request for Conditional Rezoning and adopted Ordinance No. _____ based upon the conditions set forth in this Agreement and the attached exhibits;

NOW, THEREFORE, in consideration of the foregoing and the mutual promises hereinafter set forth, the City and the Owner agree as follows:

1) THE DEVELOPMENT PROJECT

a) Project Definition. The Owner agrees to construct a 10 BBL brewery and tap room in the existing building (the "Project") on the Property substantially conforming to the approved site plan attached as Exhibit A. Other permitted uses are requested which align with like businesses compatible for the residential adjacent property stated in Section 153.086 to include Brewpub/Microbrewery, Wine/Beer Tasting Room, Retail Sales of durable and dry goods, Outdoor seating area, Outdoor display & sales, bakery and baked goods. Applicants agree to NO use associated with high impact commercial or industrial usage.

b) Zoning Use District Regulations. Except as modified herein, the zoning use district regulations for the Property shall be the "GC General Commercial District regulations of Chapter 153 Section 153.071, of the City Code and the Property shall remain subject to all other district use and development standards, and all other regulations of

the City Zoning Ordinance, Chapter 153 of the Code of the City of Charlevoix, and shall remain subject to all other state and local requirements for land development.

c) Additional Conditions: The Planning Commission approved Site Plan of 9/9/2024 will be followed.

d) Compliance with Conditions. Upon the Owner establishing a development or commencing a use upon the property subject to this Agreement, Owner and its successors or assigns shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in this Agreement. Any failure to comply with a condition contained herein shall constitute a violation of the Charlevoix zoning ordinance and be punishable accordingly against the owner of the property. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.

e) If this conditional rezoning agreement becomes void in accordance with the City's ordinance, no further development shall take place, and no permits shall be issued unless and until a new zoning district classification for the property has been established.

2) TIMING. The City and the Owner agree that the following approvals and activities are conditions to this Agreement and if not completed in the following time limits the Property will revert back to the "R-4", Multi Family Residential District: 5

a) The Owner obtains all of the necessary site plan and special use permit approvals; and building permits from the City and County for the Project within twelve (12) months of approval of this Agreement by the City.

b) The Owner commences construction of the Project within six months of issuance of building permit.

c) The Owner receives certificate of occupancy for the Project within eighteen (18) months of commencement of construction.

3) CITY RIGHT TO REZONE. Nothing in this Agreement shall be deemed to prohibit the City from rezoning all or any portion of the Property which is subject to this Agreement to another zoning classification. Any rezoning shall be conducted in compliance with the City's zoning ordinance – Chapter 153 – of the Charlevoix City Code and the Michigan Zoning Enabling Act, MCL 125.3405, et seq.; provided, however, that the City shall not rezone the property with a different zoning classification during the time period for commencement of the approved use as specified in Paragraph 2 above.

4) ENTIRE AGREEMENT. This Agreement, the exhibit attached hereto, and the instruments which are to be executed in accordance with the requirements hereof set forth all of the covenants, agreements, stipulations, promises, conditions and understandings between the City, and the Owner concerning the Project as of the date hereof, and there are no covenants, agreements, stipulations, promises, conditions or understandings, either oral or written, between them other than as set forth herein.

5) RELATIONSHIP OF THE PARTIES. The relationship of the City, and the Owner shall be defined solely by the expressed terms of this Agreement, including the implementing documents described or contemplated herein, and neither the cooperation of the parties hereunder nor anything expressly or implicitly contained herein shall be deemed or construed to create a partnership, limited or general, or joint venture between the City and the Owner, nor shall any party or their agent be deemed to be the agent or employee of any other party to this Agreement.

6) MODIFICATION. This Agreement can be modified or amended only by a written instrument expressly referring hereto and executed by the City and the Owner.

7) MICHIGAN LAW TO CONTROL. This Agreement and the rights and obligations of the parties hereunder shall be construed in accordance with Michigan law.

8) DUE AUTHORIZATION. The City and the Owner each warrant and represent to the other that this Agreement and the terms and condition thereof have been duly authorized and approved by, in the case of the City, its City Council and all other governmental agencies whose approval may be required as a precondition to the effectiveness hereof, in the case of the Authority by its members and all other applicable governmental agencies, and as to the Owner, by

the members thereof, and that the persons who have executed this Agreement below have been duly authorized to do so. The parties hereto agree to provide such opinions of counsel as to the due authorization and binding effect of this Agreement and the collateral documents contemplated hereby as the other party shall reasonably request.

9) ASSIGNMENT. It is understood and agreed that the Owner may assign all or a portion of its rights and duties hereunder to one or more entities.

10) NO PERSONAL LIABILITY. The obligations hereunder of the City and the Owner shall constitute solely the obligations of the respective entities to be satisfied solely from their respective assets, and no officer, agent, employee or partner of any of said entities shall have any personal obligation responsibility or liability for the performance of the terms of this Agreement.

11) RECORDING. The approved conditions of rezoning set forth in this ordinance, or an affidavit or memorandum giving notice thereof, shall be filed by the City Zoning Administrator with the Charlevoix County Register of Deeds.

Commented [AH1]: The ordinance requires that the zoning agreement needs to be in writing, signed by the applicant and recorded.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first set forth above.

By By WITNESS: [Owner, Property Owner]:

By By WITNESSES: CITY OF CHARLEVOIX:

By By , Mayor

By By , City Clerk.