



City Hall  
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Alpena, Michigan 49707  
[www.alpena.mi.us](http://www.alpena.mi.us)

*Planning, Development, & Zoning*

**City of Alpena Planning Commission**

Regular Meeting

Monday, November 13th, 2023 @ 6:00 p.m.

This meeting will be held in Council Chambers as well as virtually.

Please join my meeting from your computer, tablet or smartphone.

<https://www.gotomeet.me/CityofAlpena/planning-commission>

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**AGENDA**

CALL TO ORDER;

ROLL CALL;

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

APPROVAL OF MINUTES – Regular meeting October 10, 2023

Joint meeting October 11, 2023

PUBLIC HEARING AND COMMISSION ACTION:

**1. Case TXT23-01 Text Amendment – Tattoo & Piercing Studios**

Memo and History of Tattoo/Piercing Parlors – Appendix A

Suggested Ordinance Modification – Appendix B

BUSINESS

a) **UNFINISHED:**

b) **NEW:**

c) **COMMUNICATIONS OR REPORTS:**

d) **CONTINUING EDUCATION:** All articles are from MSU Exchange:

a. Overlay Zoning Districts Can Be a Valuable Tool

b. Zoning and Police Power Ordinances are Not the Same

c. Understanding Nonconformity – Are You “Grandfathered” In?

PUBLIC COMMENT

MEMBER COMMENTS

ADJOURNMENT



MINUTES  
City of Alpena Planning Commission  
Regular Meeting (Council Chambers and Virtual)  
October 10, 2023 Alpena, Michigan

CALL TO ORDER:

Prior to calling the meeting to Order, Chairman Boboltz welcomed Logan Kemp as a new member of the Planning Commission.

The regular meeting of the Planning Commission was called to order at 6:00 p.m. by Randy Boboltz, Planning Commission Chairman.

ROLL CALL: PLANNING COMMISSION

PRESENT: Wojda, Boboltz, VanWagoner, Gilmore, Moses, Kostelic, Sundin, Kemp

ABSENT: Peterson

STAFF: Montiel Birmingham (Planning, Development, and Zoning Director), Kathleen Sauve (Recording Secretary)

PLEDGE OF ALLEGIANCE: Pledge of Allegiance was recited.

APPROVAL OF AGENDA: Agenda was approved as printed.

APPROVAL OF MINUTES: Meeting September 12, 2023, minutes were approved as printed.

Boboltz explained the order of procedures for the public hearing.

**PUBLIC HEARING AND COMMISSION ACTION: Case # SU-23-04** – Miranda Plume, homeowner, requested to operate a group childcare (7-12 children) out of her home located at 1312 South First Avenue. The home is currently licensed as a family childcare for 1-6 children, which is permitted by right in the R-2 District.

Birmingham presented the Finding of Fact report (see Appendix A), Rezoning Standards (see Appendix B), and Supplemental Regulations (Appendix C) as included in the meeting packet provided to the public and all members of the Planning Commission.

**FAVOR:** Plume, applicant, stated that she has a special endorsement for seven children rather than six, and did not have anything else to add.

Jennifer Young spoke in favor stating that her and husband both work in Alpena County and have three boys. She said that finding childcare in this county is very difficult and finding someone that you can trust your children with is also very difficult; Miranda provides excellent care, and she is never worried about how they are going to be when they come home. Furthermore, if she can provide that service to more children in an area that she knows is needed, [Alpena] would be a lot better off. She went on to say that she takes very good care of her children, she has been a blessing to her family, and she hopes that she will be able to bless other families too.

OPPOSITION: None.

Boboltz closed the public hearing at 6:10 pm.

Sundin asked what the minimum staff requirement would be to care for twelve children. Plume said there would be two and verified that she does have the staff.

Wojda ***motioned*** to adopt the factual findings outlined in the report and approve the Special Land Use request with the requirement that she maintain and comply with all necessary licensing requirements through the State of Michigan.

Kostelic ***seconded*** the motion.

Motion ***approved*** by unanimous vote.

**Case # PMA23-05** – Kelco, Inc. requested to rezone a portion of the property located at 350 Pinecrest Street, from R-2 to OS-1 to allow the development of an individual and family services facility.

Birmingham reviewed the Finding of Fact report (see Appendix D), the Rezone Standards (see Appendix E) as included in the meeting packet provided to the public and all members of the Planning Commission.

Sundin asked if this would be considered spot zoning since the property to the north is not a PUD, but still single family residential, and therefore should have been a Conditional Rezoning rather than a full Rezoning. Birmingham said she reviewed this with Northeast Michigan Council of Governments, and they were not concerned.

FAVOR: Bill Kelly, property owner and part of the development plan with his son Mitchell, said that this property that they purchased was an abandoned church. He said that their purpose for the request is to accommodate a medical facility that is looking at either staying in the City or moving to the County. They are trying to keep them in the City, close to their clients. In reference to Greg's comment earlier, Kelly said that to the south of this property is about a 100-foot wooded area which is owned by the Power Company and it will never be developed. It goes out to Long Rapids Road, and it is an easement to access underground or overhead

utilities. There is a thirty-foot stretch that abuts a residential lot and the owner of that property came in to his business and said he does not have a problem with it because the use of it is not anywhere close to him as the building is back far enough onto the property. He said that they thought the best approach to do this would be to take a piece that could be functionally used for this and possibly allow for another one if the demand grew; just do this change because there is already so much office service and medical back in that area and along with that, there is so much residential across the street, multiple residential zones, because some of those people would be using this facility, plus it is close to the hospital as well as other medical facilities. That is why they made their decision to do it this way, to accommodate the situation.

Sundin asked if the building would be torn down or used. Kelly said that the building is in great shape and was well built about thirty years ago; just internal renovations will be done such as new paint, carpet, bathrooms, and things of that nature.

OPPOSITION: None.

Chairman Boboltz closed the Public hearing at 6:20 pm for deliberation.

Gilmore said he had the same impression that Sundin had, in that it did look somewhat like a spot zoning. Birmingham again said she consulted with NEMCOG and based on the uses that are very nearby and OS-1 is meant to be a transitional zone between residential and other uses, those other uses are already existing to the north, albeit not touching, so she felt that the intent was in line. She said the future of the property is to be determined. Wojda said that when he reads the description of the district they are looking at, it seems like it fits, it may not touch, but you can see some similar setups.

Wojda ***motioned*** to adopt the factual findings proposed in the report and approve the rezoning request subject to any additional notes and conditions contained in the report.

Moses ***seconded*** the motion to approve.

Motion ***approved*** by unanimous vote.

UNFINISHED BUSINESS: None.

NEW BUSINESS: 555 South Fifth Avenue Façade Request (Hope Network Project) – Birmingham explained that Hope Network recently went through City Council to update the PILOT that they had to extend it to December 31<sup>st</sup> of 2024. She said that they have been working diligently on many different pieces of financing to make this project go forward. She explained that it was the former Bingham School that is going to be used as a senior independent living facility with staff on site for people aged 55 and older. They are getting funding from a variety of sources such as a State appropriation, State Historic Tax credits, funding through MSHDA, grants from

the MEDC, and also some other funding where the PILOT comes into play as well as their own funds. From an expense perspective, costs have gone up from when they originally submitted their proposal. When the State Historic Preservation Office (SHPO), they have to meet the SHPO standards in order to receive those funds. Hope Network has an architecture firm working with the SHPO to ensure that the façade for the addition specifically, will meet the requirements of the SHPO. Birmingham said that she received confirmation today that they have a verbal approval agreement that their material choice that they are proposing does meet that standard. However, the SHPO is looking for differentiation. She said that the City has been working with an architectural historian recently for a [historic] district listing, and it is very common that the SHPO wants to maintain integrity between what the original structure was and any additions, so they do not want any additions to match or be very close to matching because they want to show what the historic portion looks like versus the new. Birmingham provided the members with pictures of the previous façade rendering, a brick façade rendering, and the newly proposed rendering of the façade on the addition. In addition, there were pictures of a completed project in Grand Rapids that used the same material along with brick as an example. She said that it is not a concern to her especially since the State Historic Preservation Office has given verbal approval, and because their standards would be high since tax credits would be part of that approval process. The reason that it coming before this board is because when it was approved, there was a condition that the new addition be constructed to a style consistent with the existing building with a flat roof and masonry exterior. She said that they are looking to amend that condition of approval. Hope Network was not available to represent themselves, so Birmingham said she is representing them.

Boboltz asked if the first set of drawings would still be possible in terms of being verbally approved by SHPO. Birmingham said that it was one of the original conditions for it to be changed to have a flat roof so the gables were removed, which is what they would see in the updated renderings. Wojda said he was concerned it may end up looking like the jail with the contrast of the original building and the new part, but the fact that SHPO gave approval, makes him feel more comfortable with it. Birmingham said the updated color scheme looks better. The siding material is called Boral Siding and is a quality product. Sundin said he was working for the City at the time the original was done and was involved in the discussions. He said he was surprised that SHPO approved the new renderings because they used to be so strict. He would like to see more brick incorporated such as around corners, trim or accents to it all ties together better but still distinctively looks not original. Boboltz asked if the new rendering is meant to be *the* final look. Birmingham said that she was unsure. Boboltz said he agreed with Sundin in that the new building is more of a stark contrast to the other building, as opposed to the [photos] of the other building that have a mixture of brick and other materials. Kostelic asked if there are windows missing in the rendering because it would look better if there were windows and mixed material; right now, it looks funky because it is a large empty space, but when you start breaking it up a bit, the overall look and feel will change. Sundin asked if the end of the building would have windows. Birmingham said she could get clarification. She also said

that this is a Planned Unit Development which is where the Planning Commission can throw in some conditions. Her concern was that if they did want something to come back in front of them to approve that has it very specifically laid out, [Hope Network] is trying to get all their financing completed and closed within the next few weeks and she did not want to delay that process if at all possible. Moses said they should be careful putting too many additions or restrictions because the whole idea was to reduce their costs. VanWagoner said a lot of the changes could be done with color; so that it is not all just one dark addition. Moses said it would be more cost effective. Kemp said as long as it is consistent with the rest of the neighborhood too. Birmingham said that the proposed façade changes will save them roughly a little over \$300,000. Wojda asked Birmingham if it would be possible to get a proposed rendering that would have some element of brick in it and come back for a special meeting. He said otherwise, they would be making a motion that is ambiguous. Birmingham asked what specific direction she could give them such as color variation or (inaudible, interference from speaker). Sundin said the white entrances do not relate to anything else. Moses asked if it requires a hearing process again if any modifications are made. Birmingham said no. Sundin said that even though some may have concerns, majority rules. VanWagoner said that he appreciates that they are trying to save money and it is a good use of the facility, but he is not excited about the color scheme and if they could make some adjustments to the colors so it does not look like a big brown or green chunk added on and try to get it to tie in more but their back is up against a wall and they have a couple weeks to get it done. Birmingham said she does not know the specific timing, but when they did the Ordinance update for the PILOT, they were about 4-6 weeks from closing and that was about 3-4 weeks ago. VanWagoner asked for [Hope Network] to give them a rendition of a different color scheme to try to tie it in to the existing building a little bit more. Birmingham suggested updating the conditions so that it wouldn't require a masonry exterior and could be administratively approved, but still get their feedback; so it would not be a motion per say, but she could at least get their feedback on options. Wojda said they would have to be very careful on how that feedback would be obtained. Birmingham said she agreed and that the feedback would have to be sent back to her individually. Sundin said that contradicts what was said earlier, that a change needs to be made at a meeting. Sundin said that another concern of his is that they did not see this last month after the PILOT was extended; why are they seeing it now a couple weeks before their closing. Birmingham said that she had discussed with them about having a special meeting, but they opted not to; they had the drawings 3 or 4 weeks ago but had to wait for a Planning Commission meeting. She said that there are a lot moving parts on this project and they are going through every single detail of the construction costs; they have reached out to confirm permitting fees and going through every line item. Gilmore said that the Boral siding could be custom fit with different colors. VanWagoner agreed. Boboltz recapped saying that they were not concerned about the Boral siding. They understand that this siding is available in different colors and textures, SHPO is okay with that and they are not concerned about this looking like a duplicate of the original building; they are concerned about the original Bingham School still having its historic appeal. Boboltz said he would be in favor of different colors and textures

also. He said he would like to entertain a motion. Kemp said that as soon as they tell them to start changing materials, the cost goes back up, which is what they are trying to avoid; but if they can have cohesion with the rest of the neighborhood, that would be ideal. Birmingham said she has confidence in the fact that it has been approved by the State Historical Preservation Office, but she did hear the concerns of the members. She said that she also knows that SHPO is extremely particular and if they feel that this fits, she feels good about it. Boboltz said that when they approved the site plan for the hospital big addition, they had indicated that they were going to stripe the parking lot with nine feet wide parking spaces; he compared them to the Aplex parking spots which are very tight. He said they did not demand it in their motion but suggested that the spaces be made wider, and they did stripe them wider, so they could take that approach. He asked if they knew for certain that [what they proposed] is exactly what they are intending it to look like with that color. Birmingham said she did not know for certain if it was an exact rendering. Moses expressed that it is important that they not jeopardize a housing project right now at a time when they just had a meeting about housing and how short of housing in this town; he would hate to kill a project just before fruition just because they put too many demands on them. VanWagoner said he would be in favor of approving it and just making a request that they try to have more of a mix of materials to make it more in harmony with the existing structure; if they don't, he is okay with that too, but it is a request.

Wojda **motioned** to update the condition to allow the new façade as requested and authorize Montiel Birmingham to communicate with the developers the intent of their discussion today and the requests that they have made.

Kemp **seconded** the motion to update the condition for approval.

Motion **approved** by a vote of 7-1.

Yay – Wojda, Boboltz, VanWagoner, Gilmore, Moses, Kostelic, Kemp

Nay – Sundin

COMMUNICATIONS OR REPORTS: None.

CONTINUING EDUCATION: None.

PUBLIC COMMENT: None.

MEMBERS' COMMENTS: None.

ADJOURNMENT: There being no further business, the meeting was adjourned at 7:03 p.m., by Boboltz, Planning Commission Chairman.

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Clayton C. VanWagoner, Secretary

MINUTES  
City of Alpena Planning Commission  
Special Joint Meeting with Recreation Advisory Board (Council Chambers and Virtual)  
October 11, 2023 Alpena, Michigan

CALL TO ORDER:

The regular meeting of the Planning Commission was called to order at 5:00 p.m. by Randy Boboltz, Planning Commission Chairman.

ROLL CALL: PLANNING COMMISSION

PRESENT: Wojda, Sundin, Boboltz, VanWagoner, Gilmore, Moses, Kostelic, Kemp

ABSENT: Peterson

STAFF: Rachel Smolinski (City Manager), Montiel Birmingham (Planning, Development, and Zoning Director), Steve Shultz (City Engineer), Kathleen Sauve (Recording Secretary for Planning Commission), Cassie Stone (Recording Secretary for Recreation Advisory Board), Denise Cline (NEMCOG)

RECREATION ADVISORY BOARD: Barr, Lee, Saddler, McCumber, Mellville-Hall, Pattison

PLEDGE OF ALLEGIANCE: Pledge of Allegiance was recited.

BUSINESS: Recreation Plan Review – Review 2021-2025 Recreation Plan goals to Capital Improvement Plan and Recreation Plan Survey results – After introductions, Birmingham handed the meeting over to Denise Cline (Northeast Michigan Council of Governments – contractual staff), who explained what NEMCOG has been working on with the Recreation Plan so far. She said they did the survey over the summer and into fall, they have been working in the background to collect data such as recreation plan inventory and barrier free assessments, and working in conjunction with Alpena County, Alpena Township, Green Township, Wilson Township, Ossineke Township and Sanborn Township. She said the City’s plan is separate from the other Townships plans and they are updating it early in order to get the City on the same schedule as the County and the other Townships so they could be part of the survey. This was useful, as they had people from the City talking about the Township parks and people from the Township talking about the City parks because everyone uses them. There will be a joint meeting of all the communities on November 9<sup>th</sup> at six o’clock at Ossineke Township hall. The purpose of that meeting will be to talk about how it all fits together, general planning goals, how everybody can work together, how funding is going to work, and general collaborative discussion. She said she would also like to talk about trails and updating the MDOT non-motorized trail plan.

Birmingham followed with reviewing what is in the current Recreation Plan, and then going forward with what is in the survey, and how it correlates to the Recreation Plan as well as the

Capital Improvement Plan. All board members were provided with packets that included Chapter 5 of the Recreation Plan and the survey results. Feedback was given on the Goals and Objectives. Saddler inquired about the Development Objective #3, and what the sediment at the beaches was from. Shultz said that was written at a time when the water was really low; that particular deposit was due to the water being low and the under current was pulling up stuff that they had never seen before because for our lumber history, the water had never been that low; different material is being seen now though and it is not as prevalent. This Objective was aimed at that previous material but could still be relevant. There is not much that can be done.

Smolinski suggested bringing recreation programming or natural features programming into the plan so that they can be more strategic about that in the future. Birmingham said it would offer more opportunity for organized programming within the parks; it would help people find out about different opportunities that are open to the public.

Sundin spoke about Goal #8 land acquisition, and how it is specific to those two parks. Smolinski said that it is too specific to certain parks and should be made broader to include other parks for when adjacent property may come up for sale, but they also must consider if they have the resources to take on additional park land that they must maintain and manage. She said that from time to time, land is offered to the City, and although it may be a no-brainer to accept it, they have to consider location, etc., but there are also opportunities that may be explored down the line, certain pieces of land that may be recreational resources.

Birmingham then explained that the Development Objectives tie into the Recreation Goals. Shultz elaborated on Development Objective number 4 and said that the Land Acquisition and McClay Trust funds are both at zero.

Birmingham, Shultz, and Cline then reviewed the Current Recreation Plan Comparison to the CIP, Recreation Survey, and Current Project Status. Sundin asked if the US-23 North Heritage Route is still active. Cline said it is and explained that it is a promotional tourism program; it is a Pure Michigan Byway and there is still a committee made up of people from all six counties that make up the route, called the Management Council. She said that US-23 is the most active Byway in the State right now. NEMCOG provides promotional materials for the six-county area, to all the Welcome Centers in the State, and they get contacted by visitors from every state in the Country and even other countries, every week of the year asking for promotional materials. Birmingham continued her review of the document. Cline said not every community includes dollar amounts in their Recreation Plan and it is not required to be in the final product. She would be in favor of not having a price on the action items. Shultz agreed because they cannot interpret what will happen in five years with prices. Sundin suggested that they could adjust the dollar amounts each year with the CIP. Smolinski suggested they keep it as an internal document and update those figures annually. Boboltz asked if when talking about Riverscapes, are they just talking about the land surrounding the river on the land, how they make that look. He told everyone that there is a huge invasive species problem in the Sanctuary, and it has not specifically been included in the CIP or the Rec Plan because it is not necessarily considered a park, per say. Smolinski said that there is a direct tie because it prevents recreation when you can't get kayaks through there. Huron Pines has been having a lot of activity with Lake Huron

recently but including that in the plans should be on the radar. Birmingham said that invasive species is included in the Master Plan.

Birmingham moved on to Arthur Sytek Park, saying that there have been shelter upgrades, upgraded site amenities and a new kayak launch coming, along with a fish sculpture and sign. A bathroom option was called out in the survey and different options will be investigated.

Birmingham said Avery Park currently has \$315,000 for 2023-2028 allocated in the CIP for it, but that may not make sense based on the survey results, not that there shouldn't be improvements, but maybe different improvements. Shultz said the Parks CIP was previously always worked on alone and the Rec Plan was never really considered. Two years ago, Shannon Smolinski said that didn't make sense, so she built the CIP based on what was in the Rec plan and that is why there is so much money because that is what people thought the community wanted back then. All of the items will be reviewed in the CIP this coming year. Boboltz said that it is a nice park to walk through or sit down and take a break or plug in an amp to do music there, but that seemed like a lot of money that could be not spent or spent elsewhere. Smolinski asked if the music played there was all acoustic. Shultz said that there may be one plug at the base of the clock. McCumber said per the results of the recreation survey, more people seemed interested in utilizing Culligan Plaza for that type of thing, over putting the money in at a different park when the funds are already put forth to redo Culligan Plaza in full. Smolinski explained that they can put money into the CIP but whether it is approved is a different question; the majority of the park improvements have occurred because they have received grants. Shultz said that they get the grants because it is in the CIP. Sundin said that they have primarily focused on Starlight Beach, Mich-e-ke-wis, Bay View and the Marina area, but does it make sense on some of the smaller parks; they may not be used by the same number of people, but they may be important for the neighborhood. Setting up some priorities, maybe not doing all those things at one time, but focusing on putting concerted efforts on these [smaller] parks.

Birmingham went on to discuss results for Bay View park. Boboltz said that the tennis court resurfacing and net replacement should be a priority more than in the past because there are no longer tennis courts at McRae Park or Mich-e-ke-wis Park. Sundin said that the maintenance should be done on a scheduled basis as well as the wind screens maintained. Shultz said they would have to get a handle on the price of those because he was told that they would not be able to resurface what is there, they would have to pull out all the concrete. Barr suggested also looking at the adjacent basketball courts because they are in pretty rough shape as well. Shultz said with concrete they will get reflective cracking right away. Birmingham said that the bathroom construction is being reviewed by the DNR currently and the playground equipment update was brought up frequently in the survey. She said that there is nothing funded in the budget, but it was her understanding that a club installed the equipment, and their next step would be to contact that club to see what kind of upgrades they could make. Smolinski said the construction [of the bathroom facility] will begin next year.

The City of Alpena Bi-Path was ranked number one favorite. Birmingham said that a lot of people requested more signage and maps. Cline asked Shultz if there are any maps already out there. Shultz said they used to have some that were provided, but now it is on the website and

haven't had any requests for them. He said that their thoughts now are to get something similar to the NOAA signs, that are decent signs that will take the weather in those locations. McCumber said that downstate they have QR codes that you can scan as you are walking. Smolinski said that certain sections of the Bi-path are in really rough shape and it should be a priority to resurface some of those. Tree roots are affecting some of those sections; it might be a good project just to do an evaluation of the entire path. Birmingham said that safety concerns along the Bagley Street stretch were a priority. Shultz said that the stretch along Bagley is not City, it is Road Commission, so it will also involve an agreement with them. He said that there are some grants out there, as far as doing an elevated path. Shultz then expanded on the Besser Lake Shoreline Improvements. He said most cannot be done without grants available and in order to get grants, it has to be in the CIP. A lot of the land is privately owned and the City would need to get in touch with them and get agreements in place.

Birmingham said the only thing noted for Blair Street park was lighting upgrades. She then reviewed the City Marina notations. At Duck/Island Park, the need for more picnic tables was called out, along with the need to repair the fishing platforms. The pavilions and bathrooms are in progress and will hopefully be built next year. Lamarre Park was not called out much in the survey, but she said the slope stabilization was done but the terracing still needs to be done. Site amenities were called out along with a picnic pavilion. She asked how they differentiate between the parks; it may not be necessary or feasible to have bathrooms and pavilions in every park; every park should look a little bit different, feel a little bit different, and be unique. Smolinski said Lamarre Park is well suited for fishing, and education because of the Milkweeds and Monarch butterflies.

Birmingham said that McRae Park did not receive any funding in the budget this year. What was most called out was upgraded playground equipment, sight lighting, community building upgrades or replacement, site amenities, and general upkeep and utilization. Smolinski said that there is a lot going on at that park, and it has a lot of opportunities. There are several different groups who use the park and nobody was communicating, and everything was falling into disrepair. The Lions Club have adopted it and there is now a coordinated effort and it will take a little while for them to come together. She said a McRae specific plan would be really smart, and it should be a goal to develop that plan; it doesn't need to be anything complicated or cost thousands of dollars. Sundin said the other parks have always been a priority because they are within the City for tourists, but McRae is more of a neighborhood park; the community building and concession stand need some attention. Melville-Hall said that a lot of the stuff at the park is old and has been beaten up and broken down because priorities were elsewhere; it is really the only neighborhood park for the Northside. She said that they need to recognize the fact that [McRae] needs some tender loving care; now is the time that they can do things with it and make it better so that the people who live on the Northside don't feel like they are second class citizens. She said she can see the recent changes being made and suggested bringing back an outdoor free ice-skating rink there. She also said everybody needs to know that their little part of town is just as important as those who live in another part of town. She said she supports getting some groups to come in and help do it for not a lot of money. Boboltz said that he is a long time Lions member and he has been there picking up trash and, to the best of his knowledge so far, policing that area and picking things up is about all the Lions club does right

now; the different groups that are involved there need to have better communication. Smolinski said that McRae Park is on her priority list; it does need some TLC, they have to get a plan together. Saddler said he uses McRae Park a lot because of the pickleball courts, but North Second Avenue is the worst road ever, almost like it is neglected on purpose. Shultz said that they are moving some funds around after trying three times to get a grant on Second Avenue. The utilities under the road need to be addressed, not just the road. It is a \$3–\$4-million-dollar project. He said they are in the beginning stages of plans and having meetings to possibly start that project in the coming year. McCumber said that the benches and picnic tables were replaced when they painted the swing sets, as well as replaced the swings themselves as well. She said she was unsure who added the mulch under the playground equipment, but it looks really nice, and there will be a group working on repainting the outside of the building, and another group coming in to do a mural as well.

Birmingham then covered the content for Mich-e-ke-wis Park, saying that the most called out items were play structure upgrades, parking area, and general upkeep and utilization. Smolinski and Birmingham both said it would be a good idea to update the plan for this park. Sundin said before, there was a focus on having year-round parking; there are people who do cross country skiing, and they could create a trail around Mich-e-ke-wis and Starlight and have it lit. It would be easier than a skating rink. He said there were other ideas for getting the park tied in together with Starlight and making them year-round activity centers rather than just summer parks and it should still be considered. Smolinski agreed and said they have been easing into that idea with the Ice Fest. The sledding hill was very popular among the hundreds of kids that used it and there are just a lot of low hanging fruit easy things that they could do on a low budget. She said a skating rink would have to be taken on by a business or volunteer group because it takes a lot of time to care for the ice. McCumber asked to look at the multiple parks that are being presented, with that option to add a sledding hill and keep up on that in a couple different areas of town.

North and South Riverfront Parks were discussed next, with shade trees called out for the North park. Shultz explained that the Lighthouse Walkway Construction was put together as part of the Thunder Bay Riverscape plan. A lot of non-City related things are in there as the City does not own any of the property leading up to it past North Riverfront Park. He said the owner of Little Red lighthouse requested a contact for DPI to make a walkway to the lighthouse and it should stay in the Rec Plan.

Birmingham then reviewed Starlight Beach, saying that more seating and trees, parking and a Splashpad expansion were requested. Smolinski said that someone had requested a changing area in the restrooms. Barr asked about the water recirculation system. Shultz said the recirculation system is for the Splash Pad. Smolinski said the current cost of the water is \$40,000 per year for the Splash Pad. Shultz said that someone will have to be there every day, adding chemicals and such, and it will likely be someone from the water treatment plant who will be trained to do that. Birmingham asked for feedback on parking at the park. Sundin said the south driveway is really rough. Shultz said a lot of people are unaware they can park at the north end of the park because part of the lot is private. Smolinski suggested signage for beach parking.

The discussion then turned to Thomson Park and Birmingham said it is a well-liked park. Parking and access were called out in the survey results, but everyone agreed that there is not much they can do about that. Safety with crossing the street was also a concern but it is an MDOT road, so the City would have to work with them. Sundin said there was discussion before about crosswalks, and Shultz said they are a lot more open to it now and the City will be getting two of them going across State Street. He said they will not stop traffic, but cars will have to yield for people crossing.

Washington Avenue Park had comments about parking lot upgrades as well as upgraded site amenities; goose poop issues were called out more at this location than any other park. The lighting upgrades have been completed.

In Other Parks, Birmingham said that Riverside Skate Park was not included in the Rec Plan but should have been. At the Eleventh Avenue boat launch, people requested a kayak launch and parking improvements. Boboltz said that it is not a bad idea to have a kayak launch there, but it may not be necessary with the one at Duck Park and the new one going in at Sytek Park. Shultz said that the new kayak launches are not like the one at Duck Park, they are more of something to ease your kayak into the water.

Cline said that she is going to put all of this information into one document by the end of October so they have it for their November 9<sup>th</sup> meeting. She suggested everybody give their input to MDOT on where they would like to see trails and paved shoulders.

PUBLIC COMMENT: None.

MEMBERS' COMMENTS: None.

ADJOURNMENT: There being no further business, the meeting was adjourned at 6:44 p.m., by Boboltz, Planning Commission Chairman.

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Clayton C. VanWagoner, Secretary



City Hall  
208 North First Avenue  
Alpena, Michigan 49707  
[www.alpena.mi.us](http://www.alpena.mi.us)

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## ***Planning, Development, & Zoning***

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**To:** City of Alpena Planning Commission  
**From:** Montiel Birmingham, Director  
**cc:** Rachel Smolinski, City Manager  
**Date:** October 18, 2023  
**RE:** Proposed Text Amendment – Tattoo/Piercing Studios

On September 28<sup>th</sup>, 2023, the department received an application for a sign permit for a Tattoo/Piercing Studio located at 125 River St. During the review of the application it was determined by City staff that the use was not allowed in the Central Business District. The applicant informed us at that time that they had signed a lease for the building, had moved into the location, had completed limited renovations, and had a health department inspection scheduled for the following day. Staff informed the applicant that they would be unable to issue the sign permit until a solution was found to properly zone the business and gave options to the applicant. The applicant shared examples of other businesses that were, or currently are, in conflict with the zoning ordinance. Staff reviewed property records of all businesses discussed and those findings are attached.

Prior to the above, staff had worked with NEMCOG in preparation for redoing Article 5 of the zoning ordinance; our recommended changes included removing the special land use requirement, allowing the use by right in the current districts (B2, B3, I1) and adding two additional districts (CBD, CDD). In light of the research conducted and above situation, staff is recommending to complete a text amendment prior to adoption of the completed zoning ordinance rewrite per the proposed ordinance amendment attached.



Paramount Tattoo (Old) 311 W Chisholm St (CCD)

- Ordinance does not allow Tattoo/Piercing Studios to be in the CCD at all
- Were issued a sign permit on 10/18/2021 by Building Official at that time shortly after they moved in
- Sign permit was approved on 11/10/2021 by Inspector

Paramount Tattoo (New) 125 River St (CBD)

- Business just moved from 311 W Chisholm to new location
- Came in on 9/28 to pull a new sign permit and were informed that they do not meet zoning requirements (ordinance does not allow Tattoo/Piercing studios in the CBD at all)
- Sign permit was not issued and discussed options including a conditional rezone or text amendment – said I would research their concerns and information provided and would get back to them next week (Week of 10/2)

Ink Concepts (Ripley)

- Same owners as Paramount Tattoo, but they closed their business during COVID
- They moved to a location on Ripley in 2019 (were at a previous location on Baldwin), and owner said they were never required to get a Special Land Use.
- She did not provide addresses, so I was not able to verify property records in our files.

Feral Cat 139 W Washington (CBD)

- In 2018/2019 was on Baldwin St on property that was Zoned B-2 – Required a Special Land Use to be there, which was never done
- W. Washington location since 2021-ish, which is the CBD district and should not have been allowed
- No sign permit pulled, no enforcement

Under the Gun 202 N 2<sup>nd</sup> Ave (CBD)

- Opened in 2011
- Ordinance does not allow Tattoo/Piercing studios in the CBD at all
- No sign permit pulled, no enforcement

Zoning Ordinance Use Matrix as of 2010:

TABLE OF PERMITTED USES & SPECIAL LAND USES																	
R = Permitted by right S = Permitted with a Special Use Permit	R1	R2	RT	RM 1	RM 2	OS1	CBD	CCD	B1	B2	B3	I1	I2	P1	WD	CR	PR
<b>COMMERCIAL/BUSINESS/SERVICE (continued)</b>																	
Professional Cleaning Services										R	R	R					
Professional Offices						R	R	R		R	R	R	R		R		
Professional Offices (associated with existing or proposed industrial use)													R	R			
Real Estate Offices						R	R	R		R	R				R		
Sexually Oriented Businesses													S	S			
<b>Tattoo/Piercing Parlor</b>										S	S	S					

City of Alpena  
Ordinance No. 23-xxx

An ordinance to amend the City of Alpena Zoning Ordinance Article 5 (District Regulations).

City of Alpena, Alpena County, Michigan ordains:

**SECTION 1: AMENDMENT TO THE CITY OF ALPENA ZONING ORDINANCE**

That the City of Alpena Zoning Ordinance, Article 5 (Zoning Districts) is hereby amended to read as follows:

Section 5.12 CBD: Central Business District

R = Permitted by right S = Permitted with a Special Use Permit	CBD
<b>COMMERCIAL/BUSINESS/SERVICE</b>	
Tattoo/Piercing Parlor Studio	R

Section 5.14 CCD: Commercial Corridor District

R = Permitted by right S = Permitted with a Special Use Permit	CCD
<b>COMMERCIAL/BUSINESS/SERVICE</b>	
Tattoo/Piercing Parlor Studio	R

Section 5.17 B2: General Business District

R = Permitted by right S = Permitted with a Special Use Permit	B2
<b>COMMERCIAL/BUSINESS/SERVICE</b>	
Tattoo/Piercing Parlor Studio	S R

Section 5.18 B3: Commercial District

R = Permitted by right S = Permitted with a Special Use Permit	B3
<b>COMMERCIAL/BUSINESS/SERVICE</b>	
Tattoo/Piercing Parlor Studio	S R

Section 5.19 I1: Light Industrial District

R = Permitted by right S = Permitted with a Special Use Permit	I1
<b>COMMERCIAL/BUSINESS/SERVICE</b>	
Tattoo/Piercing Parlor Studio	S R

Section 5.26 (Use Matrix)

TABLE OF PERMITTED USES & SPECIAL LAND USES																	
R = Permitted by right S = Permitted with a Special Use Permit	R1	R2	RT	RM 1	RM 2	OS1	CBD	CCD	B1	B2	B3	I1	I2	P1	WD	CR	PR
<b>COMMERCIAL/BUSINESS/SERVICE</b>																	
Tattoo/Piercing Parlor Studio							R	R		S R	S R	S R					

**SECTION 2: SEVERABILITY**

If any clause, sentence, paragraph or part of this Ordinance shall for any reason be finally adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment is rendered.

**SECTION 3: SAVING CLAUSE**

The City of Alpena Zoning Ordinance, except as herein or heretofore amended, shall remain in full force and effect. The amendments provided herein shall not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending fee, assessments, litigation, or prosecution of any right established, occurring prior to the effective date hereof.

**SECTION 4: EFFECTIVE DATE**

The ordinance changes shall take effect upon the expiration of seven days after the publication of the notice of adoption.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk

I, \_\_\_\_\_, Clerk for the City of Alpena, hereby certify that the foregoing is a true and correct copy of Ordinance No. 23-xxx of 2023 of the City of Alpena, adopted by at a meeting of the Alpena City Council held on \_\_\_\_\_.

A copy of the complete ordinance text may be inspected or purchased at the Alpena City Hall, at 208 N. First Avenue, Alpena, Michigan.

Adopted: \_\_\_\_\_ Published: \_\_\_\_\_ Effective: \_\_\_\_\_, subject to PA 110 of 2006 as amended.

## Overlay zoning districts can be a valuable tool

Mary Reilly, [Michigan State University Extension](#) - September 15, 2023

*Updated from an original article written by Kurt Schindler.*

Overlay zoning districts is a valid tool in some conditions. But be careful not to overuse it when more traditional zoning techniques can do the job.

A zoning ordinance will always include a zoning map that shows the municipality, or county, divided up into zoning districts. There may be residential, commercial, office, industrial, rural residential, and working lands (agriculture, forestry) zoning districts. Each zoning district has its own distinct list of permitted uses, special uses, and regulations. For example, a residential district may include dwellings and duplexes as permitted uses; apartment buildings as possible special uses; and other regulations such as minimum parcel size, setbacks, building height, and so on.

An overlay zone would be an additional zoning district that is laid over the top of two or more zoning districts – usually to introduce an additional standard(s) or regulation(s) along some feature. It is a second layer of district(s) on top of the zoning district map. Think of the standard colors of a zoning map illustrating where different zoning districts are located. Then think of a transparent plastic sheet laid on top of the zoning map, showing an additional boundary, to illustrate the overlay district.

In the zoning ordinance, the overlay district text might have additional, or different, regulations that apply within the overlay district shown on the zoning map. For example, an overlay district along the entire length of a river, that flows through several different zoning districts, may require a vegetation buffer and larger setback from the riverbank. The overlay district text in the zoning ordinance is where the larger setback and requirement for the vegetation buffer is written. The alternative would be to add those two regulations into each underlying zoning district – often making it necessary to have the same text in the zoning ordinance several times, once for each zoning district the river flows through.



A zoning map with traditional underlying zoning districts shown with the different colors. The overlay district is illustrated with the red boundary, superimposed over a number of underlying zoning districts. MSU Extension Citizen Planner illustration.

The overlay district tool can be used for several different things. It can be an overlay around an airport (height restrictions along the runway approach); municipal wellhead protection zones (around public water supply wells to prohibit certain polluting activities, to have stricter secondary containment to protect area from accidental spills); both sides of a river or lake; vegetation buffer areas; greater setbacks (along/around a lake shoreline, high risk erosion setbacks); DNR Critical Dune additional regulations; beach protection; along a scenic road or highway (aesthetic regulations, greater

setbacks); historic districts (facade plan reviews, historic integrity/preservation regulations); commercial corridor (driveway access management, landscaping standards); and more.

Common standards or regulations in an overlay zone may include building setbacks, density standards, lot sizes, impervious surface reduction, vegetation requirements, and building floor height minimums. Modification of the list of permitted uses or possible special uses is normally not a part of an overlay zone. There is increasing interest in using overlay zones for utility-scale renewable energy. A handful of Michigan communities adopted solar overlay zones, based on an evaluation of factors such as slope, ground cover, soil types, and the absence of wetlands/forests. Huron County was the first in Michigan to adopt a wind energy overlay zone.

An overlay zoning district is a zoning tool that can work well for certain situations, but maybe best avoided for other situations. If a proposed overlay district is only on top of one underlying zoning district, then creating an overlay district may not be the best approach. If it only affects one zoning district, then the additional text can just be added to that one zoning district. Adding it to the existing underlying zoning district is less work and makes for a more streamlined zoning ordinance. If the overlay is on top of two or more underlying zoning districts, then creation of the one overlay district may be less work than amending two or more underlying districts and makes for a more streamlined zoning ordinance.

If the regulation being thought about for a proposed overlay district is about changing the types of permitted uses, or possible special uses, then it may be more appropriate to create a new underlying zoning district for that territory. This is a judgement call, but usually when creating an area with different uses that will be allowed, it should be within its own underlying zoning district. An example of this would be a territory along a river that has very unique characteristics – such as a wide river valley, lots of wetlands, geologic features, and so on. The land along the river is more than just a ribbon along both sides of the river, it includes much more territory. That area deserves its own unique parcel sizes, setbacks, and specific list of permitted uses and special uses. That describes a new underlying zoning district, not an overlay district.

In another scenario, an overlay district around public water well would be drawn to mimic the area around the well where contaminants from the surface of the ground could move into the drinking water of the municipal water system. Often this overlay district will have additional site plan review requirements for secondary containment of

chemicals, no ground discharges, and may prohibit some high-risk land uses that would otherwise be allowed in the respective underlying zoning districts. This example may be a situation where an overlay district does include modification of what the allowed land uses are. This would be the appropriate exception, not the rule.

Michigan State University Extension land use educator provide various training programs on planning and zoning, which are available to be presented in your county. Contact your land use educator for more information.

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# Zoning and police power ordinances are not the same, and should not be mixed together

Mary Reilly, [Michigan State University Extension](#) - September 15, 2023

*Updated from an original article written by Kurt H. Schindler.*

There are three types of ordinances local government might adopt. Important to focus on the difference between police power ordinances and zoning ordinances.

An ordinance is a law adopted by a township, village, city, or county. There are distinct types of ordinances that a local government might adopt, and the process and procedures to adopt each are quite different. There are generally three types of ordinances:

- Police power ordinance (sometimes just called “an ordinance”)
- Zoning ordinance
- Budget or appropriations ordinance (also known by other names) (might also include personnel rules or addressing for 911.)

In Michigan, local governments do not have authority to do anything unless the state legislature delegates that authority. General police power ordinance authority is extended to Michigan’s municipalities (township, village, and city). By contrast, counties have extremely limited police power ordinance authority. All governments can adopt ordinances dealing with internal affairs, such as the annual budget. That ordinance would include the budget amounts for that government and may also include the rules and policies for management of the budget through the coming year.

A zoning ordinance can be adopted by a township, village, city, or county. The authority from the state for zoning comes from the [Michigan Zoning Enabling Act](#) (MZEA). Often, Michigan State University Extension educators explain the difference between a zoning ordinance and a police power ordinance because there are significant differences.



It is important not to go too far in mixing elements of each together. This is because the process to create and adopt a zoning ordinance (hearings, notices, based on a plan, appeals, nonconformities and much more) is designed to place many legal due process and property rights protections on zoning. This is because zoning regulates the use of land, and as a nation we value private property rights. When the government regulates land use, there are many more hoops through which the regulators need to jump. Such a rigorous process is not applied to the creation and adoption of police power ordinances. As a result, if a government attempts to regulate land use, but adopts a police power ordinance to do it, courts are not likely to uphold it. The differences between police power and zoning ordinances do not stop there.

Another key difference is that a zoning ordinance must be based on a master plan. That master plan must be adopted pursuant to the Michigan Planning Enabling Act. Police power ordinances do not have such a requirement. The process of adopting a master plan also has those same safeguards: a process that involves public involvement, hearings, notices and much more. (See the article “Consider government planning at two levels: internal plans and plans for the entire community” to learn the difference between master plans and local government’s internal plans.)

Local government has the authority to adopt police power ordinances regulating the public health, safety and general welfare of persons and property. For example, a “township board may, at a regular or special meeting by a majority of the members elect of the township board, adopt ordinances regulating the public health, safety, and general welfare of persons and property, including, but not limited to fire protection, licensing or use of bicycles, traffic and parking of vehicles . . .” (MCL 41.181).

A police power ordinance does not regulate the “**use of land**,” rather; it regulates an “**activity**.” Examples of “activity” include, among others, motor vehicle regulations, parking, health code, food safety, boats and marinas, blight, smoking, noise, and junk. But in these examples, the ordinances should not regulate where activities are located.

A zoning ordinance, on the other hand, regulates “**use of land**.” It might also regulate “activity,” but if an ordinance has regulation of land use, then it must be adopted as, and called, a zoning ordinance.

The Michigan Supreme Court said, in *Square Lake Condo Association v Bloomfield Twp*, 437 Mich 310 (1991), a zoning ordinance is defined as an ordinance which regulates the use of land and buildings according to districts, areas, or locations. The question of whether a particular ordinance is a zoning ordinance **may be determined by a consideration of the substance of its provisions and terms, and its relation to the general plan of zoning in the city**. Examples of “land use” regulation include, among other, setbacks, parcel size, maximum structure height, building form and principal and accessory use of the land or use within buildings allowed within particular locations.

Courts have also recognized that “use of land” and “activities” of persons or business entities are neither absolute nor mutually exclusive. That means there will be grey areas in between the two types of ordinances. For example, in one court case:

“Launching and docking boats on inland lakes are “activities,” and the number of boats that can be launched or docked is very much akin to a parking regulation on a residential street. It follows that since township parking regulations on residential streets are within the scope of a township’s regulatory police power, *Belanger v Chesterfield Twp, supra* at 541 [96 Mich App 539, 541; 293 NW2d 622 (1980)], a township regulation of docking and launching boats on its inland lake is within the same scope of regulatory police power.” (Brackets added)

Another aspect of zoning is the requirement that the regulation can never be retroactive. Existing land uses and activities must be allowed to continue. Those are called “nonconforming” uses, buildings or “parcels.” See MSU Extension articles:

- Understanding nonconformity: Are you 'grandfathered' in?
- Zoning decisions travel with the land and are not temporary
- Zoning runs with the land, except when it doesn't

Police power ordinances, however, can be retroactive. Everyone, not just those doing new construction, may have to comply with the regulations in a police power ordinance. If the regulation of activity is in a zoning ordinance, that regulation cannot be retroactive, as no regulations within a zoning ordinance can be retroactive. Remember, however, that the regulation of land use cannot be in a police power ordinance.

Further, in *Miller v Fabius Twp Bd*, 366 Mich 250 (1962) the court ruled a township cannot adopt a police power ordinance that conflicts with a county zoning ordinance. If that takes place, the county zoning ordinance has precedence. With any city, village, township, or county ordinance, the MZEA reads the zoning “ordinance adopted under this act shall be controlling in the case of any inconsistencies between the ordinance and an ordinance adopted under any other law” (MCL 125.3210). However, a township has the option to adopt its own zoning ordinance. If it does, the township has divested the county of the power to zone (MCL 125.3209). The MZEA reads “. . . a township that has enacted a zoning ordinance under this act is not subject to an ordinance, rule, regulation adopted by a county under this act.”

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## Understanding nonconformity: Are you 'grandfathered' in?

Ryan Coffey, [Michigan State University Extension](#) - April 04, 2013

Properties that qualify as nonconforming often have particular regulations that affect how an owner can make changes to the property. Understanding these regulations is important in order to avoid potential conflict with local government.

A nonconforming use, building or parcel is a use of land, a structure, or a parcel that was lawfully in existence prior to the adoption or amendment of the zoning ordinance that made it nonconforming. These are often referred to as *grandfathered in* or *grandparented in*.

In communities across Michigan, there are many homes, businesses, and parcels that have been grandfathered in under nonconforming status, since they were built or established prior to zoning taking effect. If you own a nonconforming use, structure or parcel, there are a few things you should know and consider before planning or making any changes.

Nonconformities are allowed to continue into the future in the same manner and same extent as they existed at the time they became nonconforming. A nonconforming property can be sold and the new owner is permitted to continue its use in the same fashion as the previous owner without any new zoning approvals. However, if a change in a nonconforming use, building, or parcel is proposed, it must conform to ordinance requirements. The ordinance should have established standards and procedures for treatment of nonconformities (the basic objective is gradual elimination of nonconformities). The three most basic types of regulation address enlargement, reconstruction and substitution.

Enlargement, expansion or extension of nonconforming uses is generally restricted because each is usually contrary to the intent of the ordinance. Many communities prohibit any enlargement or expansion of nonconforming uses because that usually

entrenches the use, when the ordinance objective is for nonconforming uses to either go away, or even better, changed to conform to the ordinance.

Reconstruction of a nonconforming building is usually prohibited if it is damaged greater than 50 percent. There are various ways of measuring damage and the method selected should be clearly spelled out in the zoning ordinance. This method provides a great opportunity for reconstruction in a manner that conforms to the ordinance and therefore replaces a nonconforming building with a conforming one.

Substitution of one nonconforming use for another is usually allowed if the change is *more conforming* or *no less conforming*, allowing for the property to move closer to conformity over time with district requirements.

Most nonconforming provisions are administered by your local zoning administrator. Ordinances, however, vary dramatically with regard to nonconforming requirements. Consequently, it is important to become familiar with the unique requirements in your zoning ordinance by reading the ordinance and speaking with your zoning administrator about the particulars of your nonconforming status. Michigan State University Extension's nationally recognized Michigan Citizen Planner program addresses nonconformity in greater detail.

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