

**CHARTER TOWNSHIP OF COMSTOCK
KALAMAZOO COUNTY, MICHIGAN**

**AMENDMENT TO COMSTOCK TOWNSHIP ZONING MAP AND ORDINANCE
TO REFLECT A CONDITIONAL REZONING**

ORDINANCE NO. 522

Adopted: _____

Effective: Eight days after publication after adoption

An ordinance amending the Comstock Charter Township Zoning Ordinance, by amending the Zoning Map incorporated therein, to reflect a conditional rezoning agreement respecting certain property in Land Section 6, from a "B-1, Neighborhood Business" zoning classification to a "B-3, General Business" zoning classification and to an "OW, Open Wetlands" zoning classification; and to repeal all ordinances or parts of ordinances in conflict herewith, and to provide an effective date.

**CHARTER TOWNSHIP OF COMSTOCK
KALAMAZOO COUNTY, MICHIGAN**

ORDAINS:

SECTION I
CONDITIONAL REZONING OF PROPERTIES IN LAND SECTION 6

The Zoning Map as incorporated by reference in the Comstock Charter Township Zoning Ordinance is hereby amended as to conditionally rezone a property comprising 30.8-acres on the south side of East G Avenue at Sprinkle Road in Land Section 6, approximately 10.3 acres from "B-1, Neighborhood Business" zoning classification to "B-3, General Business" zoning classification and approximately 5.5 acres from "B-1, Neighborhood Business" zoning classification to "OW, Open Wetlands" zoning classification which lands are further described as:

Tax parcel: #3907-06-130-041

The legal description for the entire parcel:

Commencing at the Northwest corner of Section 6, Town 2 South, Range 10 West, Township of Comstock, County of Kalamazoo, Michigan; thence South 89 degrees 26 minutes 50 seconds East, along the North line of said Section, 1032.81 feet to the point of beginning; thence continuing South 89 degrees 26 minutes 50 seconds East,

along said North line, 882.89 feet; thence South 00 degrees 10 minutes 00 seconds East 1201.86 feet; thence North 89 degrees 26 minutes 50 seconds West 882.89 feet; thence North 00 degrees 10 minutes 00 seconds West 1201.86 feet to the point of beginning.

ALSO A parcel of land situated in the Northwest Quarter of Section 6, Town 2 South, Range 10 West, Township of Comstock, County of Kalamazoo, Michigan, being more particularly described as follows: Commencing at the Northwest corner of Section 6; thence North 90 degrees 00 minutes 00 seconds East 1915.15 feet, along the North line of the Northwest Quarter of said Section 6, to a point Westerly 3156.40 feet from the Northeast corner of said Section 6; thence South 00 degrees 41 minutes 35 seconds East 60.00 feet, parallel with the East line of the Northeast Quarter of said Section 6, to the place of beginning; thence continuing South 00 degrees 41 minutes 35 seconds East 1141.85 feet parallel with said East line; thence North 90 degrees 00 minutes 00 seconds East 186.50 feet parallel with said North line of the Northwest Quarter; thence North 05 degrees 23 minutes 22 seconds East 424.09 feet; thence Northerly 326.83 feet along the arc of a curve to the left having a radius of 2764.93 feet and a chord of North 02 degrees 00 minutes 31 seconds East 326.12 feet; thence North 02 degrees 29 minutes 48 seconds West 379.00 feet, along a non-tangent line, to a point South 02 degrees 29 minutes 48 seconds East 75.06 feet from said North line of the Northwest Quarter; thence North 46 degrees 14 minutes 54 seconds West 21.67 feet to a point South 00 degrees 00 minutes 00 seconds East 60 feet from said North line of the Northwest Quarter; thence South 90 degrees 00 minutes 00 seconds West 219.41 feet, parallel with said North line of the Northwest Quarter, to the place of beginning.

The legal description of the portion of the parcel to conditionally rezone from B-1, Neighborhood Business zoning classification to B-3, General Business zoning classification:

A parcel of land situated in the Northwest quarter of Section 6, Town 2 South, Range 10 West, Comstock Township, Kalamazoo County, Michigan being more particularly described as follows:

Commencing at the Northwest corner of Section 6, Town 2 South, Range

10 West, thence N. 90°00'00" E. 1915.15 feet along the North line of the Northwest quarter to a point S. 90°00'00" W. 3156.40 feet from the Northeast corner of said Section 6; thence S. 00°41'35" E. 1201.85 feet parallel with the East line of said Section 6 to reference point "A"; thence N. 00°41'35" W. 1141.85 feet parallel with said East line to the Place of Beginning; thence continuing N. 00°41'35" W. 60.00 feet parallel with said East line to said North line; thence S. 90°00'00" W. 66.00 feet along said North line; thence S. 00°41'35" E. 830.00 feet parallel with said East line; thence S. 90°00'00" W. about 280 feet parallel with said North line to the West line of the B-1 Neighborhood Business Zoning District and the East line of the OW Open Wetlands Zoning District; thence Southerly about 372 feet along said Zoning District Line to a line extending S. 90°00'00" W. parallel with said North line from said Reference Point "A"; thence N. 90°00'00" E. about 350 feet parallel with said North line to said Reference Point "A"; thence continuing N. 90°00'00" E. 186.50 feet parallel with said North line; thence N. 05°23'22" E. 424.09 feet; thence Northerly 326.83 feet along the arc of a curve to the left having a radius of 2764.93 feet and a chord of N. 02°00'31" E. 326.12 feet; thence N. 02°29' 48"W. 379.00 feet along a non-tangent line to a point S. 02°29'48" E. 75.06 feet from said North line; thence N. 46°14'54" W. 21.67 feet to a point S. 00°00'00" E. 60.00 feet from said North line; thence S. 90°00'00" W. 219.41 feet parallel with said North line to the Place of Beginning.

The legal description of the portion of the parcel to conditionally rezone from B-1, Neighborhood Business zoning classification to OW, Open Wetlands zoning classification:

A parcel of land situated in the Northwest quarter of Section 6, Town 2 South, Range 10 West, Comstock Township, Kalamazoo County, Michigan being more particularly described as follows:

Commencing at the Northwest corner of Section 6, Town 2 South, Range 10 West, thence N. 90°00'00" E. 1915.15 feet along the North line of the Northwest quarter to a point S. 90°00'00" W. 3156.40 feet from the Northeast corner of said Section 6; thence S. 90°00'00" W. 66.00 feet along said North line to the Place of Beginning.; thence S. 00°41'35" E. 830.00 feet parallel with the East line of the Northeast quarter of said Section 6; thence S. 90°00'00" W. about 280 feet parallel with said North line to the West line of the B-1 Neighborhood Business Zoning District and

the East line of the OW Open Wetlands Zoning District; thence Northerly about 830 feet along said Zoning District Line to said North line; thence N. 90°00'00" E. about 280 feet along said North line to the Place of Beginning.

Said rezoning is further conditioned on the mutual signing and recording of a certain document, entitled "Conditional Rezoning Agreement" for the above-described property and is subject to those conditions which are established within the document, an unofficial and unexecuted copy of which is attached hereto as Exhibit "A", said conditions to be fully incorporated as if restated herein.

SECTION II **SEVERABILITY**

Should any section, clause or provision of this Ordinance be declared unconstitutional, illegal or of no force and effect by a court of competent jurisdiction, then and in that event, such portion thereof shall not be deemed to affect the validity of any other part or portion of this Ordinance.

SECTION III **REPEAL OF CONFLICTING ORDINANCES**

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION IV **EFFECTIVE DATE**

This Ordinance shall take effect eight days after publication after adoption.

Nicole Beauchamp, Clerk
Charter Township of Comstock

Exhibit A

Conditional Rezoning Agreement

CONDITIONAL REZONING AGREEMENT

THIS CONDITIONAL REZONING AGREEMENT, dated December 20, 2021, (“Agreement”), is between WEATHERVANE GROUP, LLC, a Michigan Limited Liability Company whose address is 2111 Idlewild Drive, Richland, MI 49083 (“Weathervane”) and THE CHARTER TOWNSHIP OF COMSTOCK, a Michigan Municipal Corporation whose address is 6138 King Highway, P.O. Box 449, Comstock, Michigan 49041 (“Township”) and is as follows:

RECITALS

- A. Weathervane owns certain real property located at 5376 East G Avenue within the Charter Township of Comstock, Kalamazoo County, Michigan (Parcel No. 3907-06-130-041 and more fully described as follows (the “Property”):

Commencing at the Northwest corner of Section 6, Town 2 South, Range 10 West, Township of Comstock, County of Kalamazoo, Michigan; thence South 89 degrees 26 minutes 50 seconds East, along the North line of said Section, 1032.81 feet to the point of beginning; thence continuing South 89 degrees 26 minutes 50 seconds East, along said North line, 882.89 feet; thence South 00 degrees 10 minutes 00 seconds East 1201.86 feet; thence North 89 degrees 26 minutes 50 seconds West 882.89 feet; thence North 00 degrees 10 minutes 00 seconds West 1201.86 feet to the point of beginning.

ALSO A parcel of land situated in the Northwest Quarter of Section 6, Town 2 South, Range 10 West, Township of Comstock, County of Kalamazoo, Michigan, being more particularly described as follows: Commencing at the Northwest corner of Section 6; thence North 90 degrees 00 minutes 00 seconds East 1915.15 feet, along the North line of the Northwest Quarter of said Section 6, to a point Westerly 3156.40 feet from the Northeast corner of said Section 6; thence South 00 degrees 41 minutes 35 seconds East 60.00 feet, parallel with the East line of the Northeast Quarter of said Section 6, to the place of beginning; thence continuing South 00 degrees 41 minutes 35 seconds East 1141.85 feet parallel with said East line; thence North 90 degrees 00 minutes 00 seconds East 186.50 feet parallel with said North line of the Northwest Quarter; thence North 05 degrees 23 minutes 22 seconds East 424.09 feet; thence Northerly 326.83 feet along the arc of a curve to the left having a radius of 2764.93 feet and a chord of North 02 degrees 00 minutes 31

seconds East 326.12 feet; thence North 02 degrees 29 minutes 48 seconds West 379.00 feet, along a non-tangent line, to a point South 02 degrees 29 minutes 48 seconds East 75.06 feet from said North line of the Northwest Quarter; thence North 46 degrees 14 minutes 54 seconds West 21.67 feet to a point South 00 degrees 00 minutes 00 seconds East 60 feet from said North line of the Northwest Quarter; thence South 90 degrees 00 minutes 00 seconds West 219.41 feet, parallel with said North line of the Northwest Quarter, to the place of beginning.

The right of ingress and egress along the East property line adjacent to the West North Sprinkle Road right of way line is prohibited.

Also the right of ingress and egress along the North property line adjacent to the South G Avenue road right of way, commencing at the intersection of the said North property line and the West line North Sprinkle Road right of way line; thence West along said North property line 200 feet to the point of ending, is prohibited.

- B. Weathervane requested that approximately 10.3 acres be conditionally rezoned from the B-1, Neighborhood Business zoning classification to B-3, General Business zoning classification and approximately 5.5 acres rezoned from B-1, Neighborhood Business zoning classification to OW, Open Wetlands zoning classification.

The legal description of the portion of the parcel to conditionally rezone from B-1, Neighborhood Business zoning classification to B-3, General Business zoning classification:

A parcel of land situated in the Northwest quarter of Section 6, Town 2 South, Range 10 West, Comstock Township, Kalamazoo County, Michigan being more particularly described as follows:

Commencing at the Northwest corner of Section 6, Town 2 South, Range 10 West, thence N. 90°00'00" E. 1915.15 feet along the North line of the Northwest quarter to a point S. 90°00'00" W. 3156.40 feet from the Northeast corner of said Section 6; thence S. 00°41'35" E. 1201.85 feet parallel with the East line of said Section 6 to reference point "A"; thence N. 00°41'35" W. 1141.85 feet parallel with said East line to the Place of Beginning; thence continuing N. 00°41'35" W. 60.00 feet parallel with said East line to said North line; thence S. 90°00'00" W. 66.00 feet along said North line; thence S. 00°41'35" E. 830.00 feet parallel with said East line; thence S. 90°00'00" W. about 280 feet parallel with said North line to the West line of the B-1 Neighborhood Business Zoning District and the East line of the OW Open Wetlands Zoning District; thence Southerly about 372 feet along said Zoning District Line to a line extending S.

90°00'00" W. parallel with said North line from said Reference Point "A"; thence N. 90°00'00" E. about 350 feet parallel with said North line to said Reference Point "A"; thence continuing N. 90°00'00" E. 186.50 feet parallel with said North line; thence N. 05°23'22" E. 424.09 feet; thence Northerly 326.83 feet along the arc of a curve to the left having a radius of 2764.93 feet and a chord of N. 02°00'31" E. 326.12 feet; thence N. 02°29' 48"W. 379.00 feet along a non-tangent line to a point S. 02°29'48" E. 75.06 feet from said North line; thence N. 46°14'54" W. 21.67 feet to a point S. 00°00'00" E. 60.00 feet from said North line; thence S. 90°00'00" W. 219.41 feet parallel with said North line to the Place of Beginning.

The legal description of the portion of the parcel to conditionally rezone from B-1, Neighborhood Business zoning classification to OW, Open Wetlands zoning classification:

A parcel of land situated in the Northwest quarter of Section 6, Town 2 South, Range 10 West, Comstock Township, Kalamazoo County, Michigan being more particularly described as follows:

Commencing at the Northwest corner of Section 6, Town 2 South, Range 10 West, thence N. 90°00'00" E. 1915.15 feet along the North line of the Northwest quarter to a point S. 90°00'00" W. 3156.40 feet from the Northeast corner of said Section 6; thence S. 90°00'00" W. 66.00 feet along said North line to the Place of Beginning.; thence S. 00°41'35" E. 830.00 feet parallel with the East line of the Northeast quarter of said Section 6; thence S. 90°00'00" W. about 280 feet parallel with said North line to the West line of the B-1 Neighborhood Business Zoning District and the East line of the OW Open Wetlands Zoning District; thence Northerly about 830 feet along said Zoning District Line to said North line; thence N. 90°00'00" E. about 280 feet along said North line to the Place of Beginning.

- C. As permitted by Public Act No. 110 of 2006, as amended, Weathervane voluntarily offered in writing to the Township certain conditions to be placed on the property if the rezoning is approved.

AGREEMENT

NOW, THEREFORE, in consideration of the promises and covenants set forth in this Agreement, the Township and Weathervane agree that the Property is rezoned to the B-3, General Business Zoning District Classification and OW, Open Wetlands Zoning District Classification as described above and the following conditions apply to the Property:

1. Use of the 10.3 acres rezoned to B-3, General Business Zoning District Classification will be limited to use as a mini-storage facility with associated administrative office.
2. The mini-storage facility will comply with the more restrictive lot size, setback and densities of the B-1, Neighborhood Business Zoning District Classification and B-3, General Business Zoning District Classification.
3. The mini-storage facility will not have outdoor storage on the premises. Storage areas will be completely enclosed and totally confined within a storage structure. Recreational vehicles, boats, campers, etc. will not be allowed to be stored outside.
4. The mini-storage facility will have the following:
 - a. The entrance and exit to the facility will be gated. The gates will be equipped with an emergency access keypad for fire and police.
 - b. There will be fencing around the facility to ensure safety and security. Around the office and entry gates, the fencing will be ornamental aluminum picket fencing. Around the property, the fencing will be chain link.
 - c. The northeast corner of the property, which consists of the clear vision area required by the Road Commission of Kalamazoo County, will be maintained to create an attractive portal to Comstock Township.
 - d. No wetlands will be adulterated or filled. Improvements will be designed to avoid wetlands areas.
5. The Agreement, once approved by Weathervane and Township, shall be recorded in the office of the Kalamazoo County Register of Deeds.
6. This Agreement shall be governed by the following miscellaneous provisions:
 - a. A copy of this Agreement shall be recorded with the Kalamazoo County Register of Deeds.
 - b. This Agreement shall run with the land and be binding on any successor owners of the land.
 - c. Any failure to comply with this Agreement shall constitute a violation of the Comstock Charter Township Zoning Ordinance and be punishable accordingly. This Agreement does not ratify any current Township Ordinance violations on the Property or estop enforcement.
 - d. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.

- e. This Agreement does not authorize any violation of Township Ordinances and any current violations on the Property may be enforced.
- f. This is the entire agreement between the parties with respect to its subject matter. It supersedes and replaces all other agreements, whether express or implied, written or verbal. There are no other agreements. Each party had the advice of legal counsel and was able to participate in its creation, so it shall be construed as mutually drafted. The captions are for convenience only. However, the recitals are deemed an integral part of this Agreement. More than one copy may be signed, but it shall constitute only one agreement. It was drafted in Kalamazoo County, Michigan and is to be interpreted in accordance with Michigan law. The interpretation of this Agreement shall not be affected by any course of dealing between the parties.
- g. All notices shall be complete when delivered to Weathervane and Township at the addresses given above or such other address as a party shall be provided to the parties hereto or at which said person shall request by notice. It may be made by personal delivery or express courier such as FedEx. Delivery shall be deemed complete when actually received.
- h. The parties agree to execute such other documents that any one of them may reasonably request to fully implement this Agreement.
- i. This Agreement may only be amended in writing, signed by all parties, and must be recorded with the Kalamazoo County Register of Deeds in order to become effective.
- j. This Agreement is made voluntarily by Weathervane and in accordance with the provisions of PA 110 of 2006, as amended and the Charter Township of Comstock's Zoning Ordinance, Section 300.2750, Conditional Rezoning.
- k. Use of the conditionally rezoned to B-3 land as a mini-storage facility pursuant to building and other required permits must commence upon the land within 18 months after the rezoning takes effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the Township Board if (1) it is demonstrated to the Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and (2) the Township Board finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

