

**WHITEWATER TOWNSHIP PLANNING COMMISSION AGENDA Special MEETING**

November 24<sup>th</sup>, 2025, 6:00 p.m.

Whitewater Township Hall in person (**Zoom not available**)

5777 Vinton Road, Williamsburg, MI 49690

Phone 231-267-5141 Fax 231-267-9020

**1. Call to Order**

- a. **Pledge of Allegiance**
- b. Microphone Check
- c. Roll Call of PC Members (Denise Peltonen excused absence)
- d. Set/Adjust Meeting Agenda
- e. Declaration of Conflict of Interest pertinent to agenda items
- f. Record number of people in attendance.

**2. Public Comment**

- a. Response to past meeting public comment
- b. For public comment there are two opportunities. The 1<sup>st</sup> now and the 2<sup>nd</sup> at the end of the meeting.
- c. In house - Any person shall be permitted to address a meeting of the PC. Public comments shall be carried out in accordance with the following rules and procedures:
  - i. Comments shall be directed to the PC, with questions directed to the Chair.
  - ii. Any person wishing to address the PC shall speak from the lectern.
  - iii. Persons may address the PC on matters that are relevant to Township planning and zoning issues.
  - iv. No person shall be allowed to speak more than once on the same matter, excluding the time needed to **answer a PC member's questions**.
  - v. Public comment shall be limited to 3 minutes per person.
  - vi. To avoid unscheduled debates, the **PC generally will not comment** or respond to public comment other than to ask a question. Silence or non-response from the PC should not be interpreted as disinterest.

**3. Public Hearings (None)**

**4. Approval of Minutes of Previous Regular Meeting**

- a. None

**5. Correspondence:**

- a. None

**6. Reports/Presentations/Announcements/Comments**

- a. Zoning Administrator's report (None)

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- b. Chair – Keith DeYoung
  - c. Vice Chair – Rene Stratton
  - d. Secretary – Denise Peltonen
  - e. Township Board Representative – Randy Mielnik
  - f. ZBA Representative – Carl Wroubel
- 7. Unfinished Business**
- a. Zoning Ordinance – Giffels Webster ordinance review.
- 8. New Business**
- 9. Next Meeting: December 3<sup>rd</sup>, 2025, 7:00 p.m.**
- 10. Public Comment**
- 11. PC Discussion/Comments**
- a. Action Items for PC Members reviewed (Discussion)
- 12. Continuing Education**
- 13. Adjournment**

# memorandum

**DATE:** October 30, 2025  
**TO:** The Whitewater Township Planning Commission  
**FROM:** Andy Aamodt and Stephanie Osborn, Giffels Webster  
**SUBJECT:** Zoning Amendment Meeting #2 Overview

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## Introduction

Since the October 4 regular planning commission meeting, our team has considered how to best incorporate your feedback about the development process, site condominium development regulations and the planned unit development (PUD) and corridor overlay planned unit development (COPUD) options. After reviewing your current standards and processes again more closely following the meeting, we recommend and propose organizing these development tools in the following way:

- Development processes for site plan review (Article 12) and special land uses (Article 13) – The content and process here will mostly remain the same, with a few changes to better support applicants and staff in working together to bring the planning commission complete applications. The process, standards, and requirements detailed in Article 12 should be used for uses that are permitted by right in the respective district and can meet the dimensional requirements of the district. The process, standards, and requirements detailed in Article 13 should be used for uses that are special land uses in the respective district and can meet the dimensional requirements.
- The current PUD option described in Article 7 appears to be more similar to a residential cluster option, given that it is focused solely on housing provision and open space preservation. This significantly limits the possibilities that a PUD can provide a community, particularly with regard to the interest in mixed use development and additional economic development in specific areas. To streamline information and processes and more fully utilize the PUD tool, we have:
  - Updated the condominium development regulations in Article 8 to allow for residential clustering. We have also moved the open space requirements from the PUD article into this article instead.
  - Updated the PUD to be clearer about the process and have left a placeholder to add information based on planning commission direction regarding which uses and zoning districts, besides residential, may be acceptable for a PUD, as flexibility with housing can be obtained via the residential clustering option in the condominium standards and will not require a PUD.
- The current COPUD option described in Article 6 appears to be a mix of a PUD and an overlay. Since we recommend making the PUD option available to commercial uses and given the interest in specific goals for the M-72 corridor, we recommend that the COPUD become a true overlay district as opposed to a PUD. An applicant may still choose to obtain use and/or dimensional flexibility by using the PUD option but would then be subject to the requirements of the overlay if located within its boundaries.

## How to Work Through the Memos

We have provided memos on each of these four development areas. We recommend working through them in the order described above so you can see how they flow and complement each other, from the most simple of applications to the most complex or unique. Each memo contains an introduction and some background, an overview of the list of changes made, questions for consideration, redlined text,

and a clean copy of the proposed text. You can navigate to each of these sections by clicking on the section title on the first page of each amendment. Please pay special attention to the questions for consideration, as these will be key areas where your feedback is sought to create language that best represents the goals and values of the township.

## The Memos

[Development processes for site plan review \(Article 12\) and special land uses \(Article 13\)](#)

[Condominium Development](#)

[Planned Unit Development](#)

[Corridor Overlay Planned Unit Development](#)

# memorandum

**DATE:** October 30, 2025  
**TO:** Whitewater Township Planning Commission  
**FROM:** Andy Aamodt and Stephanie Osborn, Giffels Webster  
**SUBJECT:** Bundle 1: Development process section update

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## Introduction

Several needed updates to the development process section of the zoning ordinance have been identified through the zoning audit. Clear standards and processes are needed to support economic development in the ways and places desired by the Township. This memo will review Articles 12 and 13 as well as section 19.05 through 19.08 of the zoning ordinance, focused on site plan review, special uses, and land use permits, respectively. While standards related to special land uses are included in section 13.17 and we have provided some minor suggested changes, we did not do a thorough review of the standards themselves and are not providing suggestions on those standards as part of the work associated with this amendment.

This memo is divided into the sections below. You can click on each section to move to that section.

[Amendment History](#)

[Overview of Proposed Changes](#)

[Questions for Consideration](#)

[Next Steps](#)

[Items for Consideration in a Later Text Amendment](#)

[Clean Language](#)

[Proposed Marked Up Language](#)

[Master Plan Guidance \(provided in October's meeting memo\)](#)

[Zoning Audit Guidance \(provided in October's meeting memo\)](#)

## Amendment History

- **October 1, 2025** – The Planning Commission reviewed the existing language and discussed what is working and what could be improved regarding the Township's development process. Section 12.04 was discussed in particular, highlighting what is needed to clarify standards for decision for consistent application and the need to connect those standards to application materials. The commission also reviewed scenarios when plot plans are sufficient, and

suggested changes to the list. Finally, the need for annual permits for home occupations was discussed. Proposed changes reflect these conversations.

## Overview of Proposed Changes

In addition to the changes suggested above from the audit, we recommend the following changes:

1. Combine sections 12.02 and 12.03.A that discuss when site plan review is required into one section, section 12.02. Require uses and redevelopments in environmentally sensitive areas undergo site plan review.
2. Remove the note about there being no fee for a pre-application meeting to avoid conflicts with a fee schedule elsewhere.
3. Add a “completeness review” by the zoning administrator to confirm the application materials are complete before the proposal is sent to the Planning Commission for review.
4. Add a “final decision” step that outlines the Planning Commission’s duties and the Fire Department’s scope to review.
5. Require plans to be sealed by an engineer, architect, planner and/or land surveyor.
6. Remove the required scale for the vicinity map and requirement to provide land uses, zoning classification, and existing structures within 300 feet of the subject site.
7. Update DEQ to EGLE and added missing words in sections 12.04.G and 12.06.
8. Update the list of uses that can be approved with a plot plan in section 12.12 to include single family dwellings and remove dog kennels. Require building setbacks to be included on plot plans.
9. Remove fee information that does not belong in the zoning ordinance from section 13.05.
10. Combine noticing and public hearing information into one section, section 13.03.
11. Remove section 13.12 about security requirements. It is not necessary to have a separate form of security for a special land use, as special land uses have conditions associated with it that, if not met, result in the loss of the special land use permit. All other references to this security have been proposed to be removed. If it is needed, guidance on when such a security is required should be added to the section. This section also references action 25.16 Site Plan Performance Guarantee. Should this reference another ordinance or elsewhere in the code instead?
12. Update section 13.13 to clarify that major amendments to special land uses go through the usual special land use process, not the condominium review process.
13. Remove the language in section 3.14 that requires the Zoning Administrator to contact the new property owner about continuing the special land use and providing the security requirement and change the language to put the responsibility on the new landowner.
14. Section 3.15 really has two separate issues: construction code permits and validity/duration of approval of special land uses. We recommend moving the second paragraph related to special land uses to a separate section, section 13.13.
15. Minor formatting changes to standards in section 13.17 of the original ordinance.
16. Remove the requirement for an annual permit for major home-based occupations in section 13.17.
17. Clarify when a land use permit is required by adding section 19.05 and clarify what is required to be submitted for land use permit review in section 19.06; Renumber subsequent sections in that article

## Questions for Consideration

1. **Process.** Section 12.03 added an administrative completeness review for new applications and clarified what occurs during the final decision step of a site plan review. Does this proposed process seem helpful and workable between staff and the Planning Commission? What other changes or detail is needed?
2. **Standards for hazardous substances.** Should the information in sections 12.04.O and 12.04.P about aboveground storage tanks and use areas for hazardous substances and polluting materials and underground storage tanks be moved to a separate section for environmental or site standards?
3. **Paper (hard) copies.** Sections 12.03.D indicate that ten hard copies are needed for preliminary site plan review in addition to an electronic copy. Are hard copies still needed or that number of them needed?
4. **Approval standards.** Section 12.04 provides a list of standards for decisions on site plans. Is this list complete in terms of considerations for making a decision on a site plan? Should any items be removed?

## Next Steps

The Planning Commission will have the opportunity to discuss these proposed changes and questions for consideration which will inform proposed changes to the existing language.

## Items for Consideration in a Later Text Amendment

- Define “environmentally sensitive area.”
- Place site standards in a separate section instead of embedding them in the development process. For example, section 12.04.G discusses specific loading and unloading requirements within the list of standards that site plans are held to.
- Define “commercial dog kennel.”
- Move the standards for specific special land uses detailed in section 13.17 to separate sections for each use.

## Clean Language

### ARTICLE 12 - SITE PLAN REVIEW

#### 12.01 SITE PLAN REVIEW / SPECIAL USE PERMIT (SUP) -AUTHORIZATION AND PROCEDURES

- A. The Zoning Administrator and/or Planning Commission as specified in this section shall review and approve, approve with conditions or deny all site plans and special use permit applications submitted under this Ordinance. Each action taken shall be duly recorded in the official record by the Zoning Administrator or in the minutes of the Planning Commission. Those applications which require Planning Commission review will then be submitted to the Planning Commission for action along with the recommendation of the Zoning Administrator as to compliance with Ordinance requirements. The Zoning Administrator shall also seek the recommendation of the Fire Chief, Road Commission, Drain Commission, Health Department, and Michigan Department of Environment Great Lakes and Energy (EGLE), or their successors, where applicable.
- B. Following approval of a site plan or special use permit application, the applicant shall comply with all other local and state laws, including any applicable permits or approvals.

#### 12.02 SITE PLAN REVIEW: WHERE REQUIRED

Site plan review shall be required for any of the following activities:

- A. Erection, moving, conversion or structural alteration to a building or structure other than a single-family dwelling.
- B. Development of non single-family residential uses in single-family districts and development of non-agricultural uses in the agricultural district except for a single-family dwelling.
- C. All special land uses.
- D. Any excavation, filling, soil removal or mining, except for the creation of ponds for agricultural use.
- E. All site condominiums, condominium subdivisions and PUD's.
- F. All proposed uses or redevelopments in environmentally sensitive areas as required.

#### 12.03 SITE PLAN REVIEW: REQUIREMENTS AND PROCEDURES:

Procedures and Requirements: The Township has established a range of site plan review procedures intended to allow the appropriate level of review relative to the scope of the project. The more complex the project, the more detailed the review process. The Township has also established two optional review procedures with staff and with the Planning Commission intended to provide applicants an opportunity to discuss projects on a conceptual level with minimal upfront expenditure.

- A. **Optional Pre-Application Conference:** In order to facilitate processing of a site plan in a timely manner, the applicant may request a pre-application conference with the Zoning Administrator, up to three (3) members of the Planning Commission and such other Township representatives as appropriate. The purpose of such a conference is to provide information and guidance to the applicant that will assist in preparation of the site plan. The applicant is encouraged to provide rough conceptual drawings or site plans indicating the location and boundaries of the subject property. No formal action shall be taken on a site plan at a pre-application conference.
- B. **Completeness Review:** The Zoning Administrator shall conduct a completeness review to determine that all required information has been submitted on or with the site plan application, and that any significant deficiencies, as cited by the Zoning Administrator, have been corrected. This completeness review shall not constitute an official decision on whether an application complies with the provisions of this Ordinance.
- C. **Planning Commission Site Plan Review:** The applicant shall submit the following prior to being scheduled for Planning Commission review:
  -

- 1) Township Review Fee (if applicable).
  - 2) Township Application (if applicable).
  - 3) A written description of the proposed of the proposed project or use.
  - 4) Any additional information the Planning Commission finds necessary to make determinations required herein.
  - 5) A ten complete site plans that include the information listed in Section 12.03 (F) below, Required Information.
  - 6) One digital copy of the site plan in a form acceptable to the Township.
- D. Final Decision:
- 1) Upon review, the Planning Commission may approve, approve with conditions or deny the site plan. If the site plan is denied, the Planning Commission shall state the reasons for such denial. If conditions are included, the Zoning Administrator shall ensure the conditions are met prior to issuance of building permits relevant to site construction, issuance of land use permit, and/or issuance of a certificate of occupancy.
  - 2) Fire Department shall grant approval of the site plan, prior to issuance of building permits relevant to site construction, issuance of land use permit, and/or issuance of a certificate of occupancy. Fire Department's scope of review shall be limited to the protection of site users' health and safety, including review of Fire Code, emergency access, and storage of materials.
- E. Required Information: Each submittal for site plan review shall contain all information required in this Ordinance including the following:
- 1) The applicant's name, address and phone number in full.
  - 2) Proof of property ownership, and whether there are any options on the property, or liens against it.
  - 3) A signed statement that the applicant is the owner of the property or officially acting on the owner's behalf.
  - 4) The name and address of the owner(s) of record if the applicant is not the owner of record (or firm or corporation having a legal or equitable interest in the land) and the signature of the owner(s).
  - 5) The address and/or parcel number of the property.
  - 6) Name and address of the developer (if different from the applicant).
  - 7) Name, address, and seal of engineer, architect, planner and/or land surveyor.
  - 8) Project title.
  - 9) Project description, including the total number of structures, units, bedrooms, offices, square feet, total and usable floor area, parking spaces, carports or garages, employees by shift, amount of recreation and open space, type of recreation facilities to be provided, and related information as pertinent or otherwise required by the Ordinance.
  - 10) A vicinity map with the north point indicated.
  - 11) The gross and net acreage of all parcels in the project.
  - 12) Land uses, zoning classification and existing structures on the subject parcel and adjoining parcels.
  - 13) Project completion schedule/development phases.
  - 14) Written statements relative to project impacts on existing infrastructure (including traffic capacity of streets, schools and existing utilities) and on the natural environment of the site and adjoining lands. A formal impact statement may be required by the Planning Commission.
  - 15) A listing of types and quantities of hazardous substances and polluting materials which will be used, stored or generated on-site at the facility, and completion of the "Hazardous Substance Reporting Form for Site Plan Review."
- F. Required Site Plan: The site plan shall consist of an accurate, reproducible drawing at a scale of not less than 1" = 20' or more than 1"=200', showing the site. If multiple sheets are used, each shall be labeled and the preparer identified. Each site plan shall depict the following:
- 1) Location of proposed and/or existing property lines, dimensions, legal descriptions, setback lines and monument locations.

- 2) Existing topographic elevations at two foot intervals, proposed grades and direction of drainage flows.
- 3) The location and type of existing soils on the site at least to the detail provided by U. S. Soil Conservation Service and any certification of borings.
- 4) Location and type of significant existing vegetation.
- 5) Location and elevations of existing water courses and water bodies, including county drains and man-made surface drainage ways, floodplains and wetlands.
- 6) Location of existing and proposed buildings and intended uses thereof, as well as the length, width, and height of each building and typical elevation views of proposed structures.
- 7) Proposed location of accessory structures, buildings and uses, including but not limited to all flagpoles, light poles, bulkheads, docks, storage sheds, transformers, air conditioners, generators and similar equipment, and the method of screening where applicable.
- 8) Location of existing public roads, rights-of-way and private easements of record and abutting streets.
- 9) Location of and dimensions of proposed streets, drives, curb cuts, and access easements, as well as acceleration, deceleration and passing lanes (if any) serving the development. Details of entryway and sign locations should be separately depicted with an elevation view.
- 10) Location, design and dimensions of existing and/or proposed curbing, barrier free access, carports, parking areas (including indication of all spaces and method of surfacing), fire lanes and all lighting thereof.
- 11) Location, size and characteristics of all loading and unloading areas.
- 12) Location and design of all sidewalks, walkways, bicycle paths and areas for public use.
- 13) Location, design and specifications of existing and proposed service facilities and structures, above and below ground, including:
  - a. Public and private groundwater supply wells on-site and related distribution systems including fire hydrants and shut off valves.
  - b. Septic systems and other waste water treatment systems
  - c. Areas to be used for the storage, use, loading/unloading, recycling, or disposal of hazardous substances and polluting materials, including interior and exterior areas as well as any containment structures or clear zones required by government regulation or designed to meet the standards of this Article.
  - d. Underground storage tank locations together with connected distribution and collection systems.
  - e. Location of exterior drains, dry wells, catch basins, retention/detention areas, sumps and other facilities designed to collect, store or transport wastewater or stormwater to the naturally occurring aquifer. The point of discharge for all drains and pipes shall be specified on the site plan.
- 14) Location of all other utilities on the site including, but not limited to natural gas, electric, cable TV, telephone and steam.
- 15) Proposed location, dimensions and details of common open spaces and common facilities such as community buildings or swimming pools if applicable.
- 16) Location, size and specifications of all signs, both temporary and permanent, and advertising features, with cross-sections, if applicable.
- 17) Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be used.
- 18) Location and specifications for all fences, walls, and other screening features with cross sections.
- 19) Location and specifications for all proposed perimeter and internal landscaping and other buffering features. For each new landscape material the proposed size at the time of planting must be indicated. All vegetation to be retained on the site must also be indicated,
- 20) Location, size and specifications for screening and fencing of all trash receptacles and other solid waste or liquid waste disposal facilities.

- 21) Delineation of areas on the site which are known or suspected to be contaminated, together with a report on the status of site clean-up.
- 22) Identification of any significant site amenities or unique natural features.
- 23) Identification of any significant views onto or from the site to or from adjoining areas.
- 24) A scale model of the proposed development may be required for all projects greater than 40 acres, with more than 200 dwelling units, more than 40,000 square feet of building space or a proposed height of a principal structure of greater than 35 feet.
- 25) North arrow, scale and date of original submittal and last revision.
- 26) Seal of the registered engineer, architect, landscape architect, surveyor, or planner who prepared the plan.

#### 12.04 STANDARDS FOR DECISIONS:

Each site plan shall conform to all provisions of the Zoning Ordinance and the standards listed below (unless variances have been granted):

- A. All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of the lot or unit, the character of adjoining property and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development or improvement of the surrounding property for uses permitted in this Ordinance.
- B. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas and will not adversely affect adjacent properties.
- C. Special attention shall be given to proper site drainage so that removal of storm waters will not adversely affect neighboring properties.
- D. The site plan shall provide reasonable visual and sound privacy for all dwelling units located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants. **[Removed and Fire Department approval was added under 12.03(D) above]**
- E. Every structure or dwelling unit shall have access to a public street, walkway or other area dedicated to common use.
- F. **T**here shall be provided a pedestrian circulation system which is insulated as completely as reasonably possible from the vehicular circulation system.
- G. All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential districts or public thoroughfares, shall be screened, by a vertical screen consisting of structural or plant materials no less than six feet in height unless modified by the Planning Commission.
- H. Site plans shall conform to the standards required in this Ordinance.
  - I. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern which serves adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way equal to that specified in the Master Plan.
  - J. All streets including streets in condominium developments shall be developed in accordance with the Land Division Subdivision Control Ordinance and County Road Commission or Township Private Road Standard specifications.
  - K. Site plans shall conform to all applicable requirements of state and federal statutes and approval may be conditioned on the applicant receiving necessary state and federal permits before final site plan approval or an occupancy permit is granted.
  - L. All land use developments shall be consistent with and promote the intent and purpose of this ordinance and shall not be contrary to the public health, safety and welfare.
  - M. All land uses and developments shall conform with the applicable goals, policies and objectives in the Township Master Plan.

N. Standards for Groundwater Protection:

- 1) The project and related improvements shall be designed to protect the natural environment, including lakes, ponds, streams, wetlands, floodplains, groundwater and steep slopes.
- 2) Stormwater management and drainage facilities shall be designed to retain the natural retention and storage capacity of any wetland, water body or watercourse and shall not increase flooding or the potential for pollution of surface or groundwater, on-site or off-site.
- 3) General purpose floor drains shall be allowed only if they are connected to a public sewer system, an on-site holding tank, or a system authorized through a state groundwater discharge permit.
- 4) Sites at which hazardous substances or polluting materials are stored, used, or generated shall be designed to prevent spills and discharges to the air, surface of the ground, groundwater, lakes, streams, rivers or wetlands. In addition, an up-to-date contingency plan for the handling and clean-up of uncontained spills of hazardous substances and polluting materials shall be placed on file in the offices of the Zoning Administrator and the Fire Chief. The requirement to report all uncontained spills immediately to both the Zoning Administrator and the Fire Chief shall be required as a condition of Site Plan approval.
- 5) Local, State and Federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.
- 6) In determining conformance with the standards in this Zoning Ordinance, the municipality shall take into consideration the publication titled "Small Business Guide to Secondary Containment" and other references.

O. Standards for Aboveground Storage and Use Areas for Hazardous Substances and Polluting Materials:

- 1) Secondary containment, for above ground areas where hazardous and polluting materials are stored or used, shall be provided. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance.
- 2) Outdoor storage of hazardous substances and polluting materials shall be prohibited except in product-tight containers which are protected from weather, leakage, accidental damage and vandalism.
- 3) Secondary containment structures such as out buildings, storage rooms, sheds and pole barns, shall not have floor drains which outlet to soils, groundwater, or nearby drains or rivers.
- 4) Areas and facilities for loading and unloading of hazardous substances and polluting materials, as well as areas where such materials are handled and used, shall be designed and constructed to prevent discharge or runoff to floor drains, rivers, lakes, wetlands, groundwater and soils.

P. Standards for Underground Storage Tanks when Permitted:

- 1) Existing and new underground storage tanks shall be registered with the authorized state agency in accordance with the requirements of the U. S. Environmental Protection Agency and the State Police Fire Marshal Division.
- 2) Installation, operation, maintenance, closure and removal of underground storage tanks shall be in accordance with the requirements of the Michigan Department of Environment, Great Lakes, and Energy. Leak detection, corrosion protection, spill prevention and overflow protection requirements shall be met. Records of monthly monitoring or inventory control must be retained and available for review by government officials.
- 3) Out-of-service abandoned underground tanks shall be emptied and removed from the ground in accordance with the requirements of the Michigan Department of Environment, Great Lakes, and Energy.

12.05 CONFORMITY TO APPROVED SITE PLANS

Following final approval of a site plan by the Zoning Administrator or the Planning Commission, the applicant shall construct the site plan improvements in complete conformity with the approved plan. Failure to do so is a violation of this ordinance and subject to the sanctions of Article 22 Violations.

#### 12.06 MODIFICATIONS TO APPROVED SITE PLANS

If the Zoning Administrator finds that a proposed amendment to an approved site plan does not qualify for administrative approval as defined in Section 12.10, Zoning Administrative Approval, he or she shall forward the proposed amendment to the Planning Commission for consideration.

#### 12.07 FAILURE TO INITIATE CONSTRUCTION

- A. Failure to initiate construction of an approved site plan within 365 days of approval shall require the applicant to appear before the Planning Commission and demonstrate why the approval should not be revoked. After a hearing the Planning Commission may revoke a previously approved site plan for property on which no physical development activity has occurred upon making written findings that one or more of the following circumstances exist:
  - 1) An error in the original approval is discovered either because of inaccurate information supplied by the applicant or administrative error by a staff member or other agency;
  - 2) Zoning regulations applicable to the project have been changed and the previously approved site plan does not comply with them;
  - 3) A change in state law, local charter, or other local ordinance affecting the previous approval has occurred;
  - 4) Pollution, impairment or destruction of the environment or to another legally protected public interest would occur if the project were to be constructed as previously approved.
- B. Thirty days prior to expiration of an approved site plan, an applicant may make application for a one-year extension of the site plan at no fee. The applicant shall explain in writing why the development has not proceeded, what the current time frame is and why an extension should be granted. If the original approval of the site plan was by the Planning Commission, the applicant shall present his/her case in person or by representative at the next meeting of the Planning Commission.
- C. Revocation of an approved site plan shall be communicated in writing by certified mail to the property owner.
- D. Any subsequent re-submittal shall be processed as a new request with new fees.

#### 12.08 PERFORMANCE GUARANTEE

In the interest of ensuring compliance with the Zoning Ordinance provisions, protecting the natural resources and the health, safety and welfare of the residents of the Township and future users or inhabitants of an area for which a site plan for a proposed use has been submitted, the Planning Commission or Zoning Administrator may require the applicant to deposit a performance guarantee as set forth herein. In accordance with MCL 1125.3505, the purpose of the performance guarantee is to ensure the completion of improvements connected with the proposed use as required by this Ordinance, including, but not limited to, roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls and landscaping.

- A. Performance guarantee as used herein shall mean a cash deposit, certified check or irrevocable bank letter of credit in the amount of 125% of the estimated cost of the improvements to be made as determined by the applicant and verified by the Zoning Administrator.
- B. Where the Zoning Administrator or Planning Commission requires a performance guarantee, said performance guarantee shall be deposited with the Treasurer prior to the issuance of a Land Use Permit for the development and use of the land. Upon the deposit of the performance guarantee the Township shall deposit the performance guarantee, if in the form of cash deposit or certified check, in an interest bearing escrow account.

- C. An approved site plan shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The period will begin from the date of the issuance of the Land Use Permit.
- D. In the event the performance guarantee deposited is a cash deposit or certified check, the township shall rebate to the applicant fifty (50) percent of the deposited funds when sixty (60) percent of the required improvements are completed as confirmed by the Zoning Administrator, and the remaining fifty (50) percent of the deposited funds when one hundred (100) percent of the required improvements are completed as confirmed by the Zoning Administrator.
- E. In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the Township, the Township shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make improvements. If the performance guarantee is not sufficient to allow the Township to complete the improvements for which it was posted, the applicant shall be required to pay the township the amounts by which the costs of completing the improvements exceeds the amount of the performance guarantee deposited. Should the Township use the performance guarantee or a portion thereof, to complete the required improvements, any amounts remaining after said completion shall be applied first to the Township administrative costs in completing the improvement with any balance remaining being refunded to the applicant. If the applicant has been required to post a performance guarantee or bond with another governmental agency other than the Township to ensure completion of an improvement associated with the proposed use before the Township's conditional approval, the applicant shall not be required to deposit with the township a performance guarantee for that specific improvement. At the time the performance guarantee is deposited with the township and before the issuance of a Land Use Permit, the applicant shall enter an agreement incorporating the provisions hereof with the township regarding the performance guarantee.

#### 12.09 AS-BUILT SITE PLAN

Upon completion of the installation of required improvements as shown on the approved site plan, including changes and/or amendments, the property owner shall submit to the Zoning Administrator 3 copies of an "as built" site plan, certified by the engineer or surveyor, at least one week prior to the anticipated occupancy of any building. The Zoning Administrator shall circulate the "as built" plans among the appropriate departments for review to insure conformity with the approved site plan and other township requirements. Once each department has approved the "as built" plans the Zoning Administrator may make the final inspection and issue the Occupancy Permit.

#### 12.10 ZONING ADMINISTRATIVE APPROVAL

- A. The Zoning Administrator shall review and approve, approve with conditions or deny the following site plans without their submission to the Planning Commission except where the applicant so requests:
  - 1) Accessory uses or buildings not to exceed 400 square feet, incidental to a conforming existing use where said use does not require any variance and where said site plan conforms with all requirements of this Ordinance.
  - 2) Expansion and/or addition to an existing conforming use where said site plan conforms with all requirements of this Ordinance and does not increase the size of the existing or proposed structure by more than 1000 square feet or does not increase the existing or proposed use by more than ten (10) percent, whichever is less.
  - 3) A change in the internal floor plan which does not increase the intensity of use or parking requirements.

- 4) Movement of a building, drive, road or parking by up to twenty (20) feet during construction due to unanticipated and documented constraint, to improve safety or to preserve natural features. The site plan shall still meet all required setbacks and other standards of this Ordinance.
  - 5) An existing building and site to be re-occupied by a use permitted in the subject zoning district where the new use will not require significant changes in the existing site facilities.
  - 6) Expansion and alterations of landscaping areas, sidewalks, bike paths and fences consistent with this Ordinance.
  - 7) Relocation of a trash receptacle and/or installation of screening.
  - 8) Relocation or replacement of a sign meeting the dimensional and locational standards.
  - 9) Modifications to upgrade a building to state barrier free design.
  - 10) Increases in off-street parking areas, parking buildings and/or structures, increases in loading/unloading spaces in commercial and industrial Zoning Districts, and landscape improvements as required by this Ordinance.
  - 11) Alterations to the off-street parking layout or installation of pavement and curbing improvements provided that the total number of spaces remains constant and meets, or if necessary has been modified to meet, the ordinance requirements for the building and/or use.
  - 12) Changes to lighting consistent with this Ordinance.
  - 13) Situations similar to the above.
- B. The Zoning Administrator shall apply all applicable standards and procedures of this Ordinance in approving, conditionally approving or denying site plans and determine if the submittal shall comply with Section 12.03 (F), Required Information, or Section 12.12, Plot Plans in Lieu of a Site Plan below.
- C. The applicant shall submit the Township application and established fee.
- D. The Zoning Administrator shall make a report of all administrative approvals to the Planning Commission.

#### 12.11 APPEALS OF FINAL SITE PLANS

- A. Any person aggrieved by a decision of the Planning Commission or Zoning Administrator in granting or denying approval of a final site plan may appeal the decision to the Zoning Board of Appeals. The appeal must be filed within seven (7) days of the decision and shall state the factual basis for the appeal. An appeal shall stay action on the issuance of any permit pursuant to an approved site plan.
- B. The Zoning Board of Appeals shall review the record of action taken on the final site plan and shall determine whether the record supports the action taken. No new evidence shall be presented. The Zoning Board of Appeals shall approve the final site plan if the requirements of this Section and other applicable ordinance requirements are met. The Zoning Board of Appeals shall make written findings in support of its opinion on the appeal.

#### 12.12 PLOT PLANS IN LIEU OF A SITE PLAN

- A. The Zoning Administrator may accept plot plan in specific instances upon determining a complete site plan is not considered essential to ensure compliance with the intent and standards of this Ordinance.
- B. A plot plan may be permitted for the following uses, when permitted in the zoning district:
- 1) Group Day Care Homes.
  - 2) Essential Services Buildings.
  - 3) Home Occupations.
  - 4) Single- and Two-family Dwellings.
  - 5) Accessory Open Air Businesses.
  - 6) Accessory Buildings and Structures.
  - 7) Outdoor Recreational Facilities.
  - 8) Temporary Uses and Seasonal Sales.
  - 9) Bed and Breakfast Establishments.

- C. Plot plan submittals shall include the following:
- 1) Application form and fee.
  - 2) Name, address and phone number of the applicant.
  - 3) North arrow.
  - 4) Legal description of the property.
  - 5) A plan drawn to scale.
  - 6) Property lines and dimensions.
  - 7) Building setbacks.
  - 8) Existing and proposed parking including the number of spaces provided and the number required according to Article 9, Off Street Paring and Loading. If changes are made to the parking area, a detail of the pavement, storm water runoff calculations and a description of detentions methods shall be provided.
  - 9) Details of any existing, new, or changes to driveways.
  - 10) Location and details of existing or proposed signage.
  - 11) General illustration of existing or proposed landscaping.
  - 12) Layout of existing or proposed utilities.
  - 13) Layout of existing or proposed drainage.
  - 14) Floor plan of the building under consideration and building elevations if applicable.
  - 15) Any other items as requested by the Zoning Administrator.

## **ARTICLE 13 - SPECIAL USES**

### **13.01 PURPOSE**

This Ordinance divides the Township into districts in which specific uses are permitted which are mutually compatible. In addition, there may be certain other uses which may be appropriate to include in a district due to the specific circumstances surrounding the use, the impact on neighboring uses and public facilities. Such uses, because of their particular location or the particular nature of the service offered, may be established in a district through a special use permit.

### **13.02 AUTHORITY TO GRANT PERMITS**

The Planning Commission has the authority to approve, deny or approve with conditions special use permits in accordance with this Ordinance. If approved or conditionally approved by the Planning Commission, the Zoning Administrator shall issue special use permits.

### **13.03 APPLICATION AND FEE**

Application for any special use permit permissible under the provisions of this Ordinance shall be made to the Zoning Administrator by filing a completed special use permit application form, including all required data, exhibits and information, and depositing the required minimum fee. Such application shall be accompanied by the minimum fee as established from time to time by the Township Board. No part of such fee shall be refundable to the Applicant.

### **13.04 PRE-APPLICATION CONFERENCE**

Applicant(s) may request a meeting with the Zoning Administrator and not more than two (2) members of the Planning Commission before submitting an application. The purpose of the meeting is to discuss special use permit processing procedures, explanation of this Zoning Ordinance, what has been required of similar applications in the past, and to assist the Applicant and Township with understanding of general concepts and design parameters prior to investment in preparation of a site plan or special use permit application. Township officials at this meeting shall not indicate or otherwise commit the Township to any particular action regarding the application.

13.05 INFORMATION REQUIRED IN APPLICATION

- A. The Applicant(s) name(s) and addresses).
- B. A signed affidavit identifying whether the Applicant(s) are the owner of the property, have an ownership interest in the property, or are acting on the behalf of owners of the property. If the Applicant(s) do not own the property, then the signed affidavit must also be approved and signed by the property's owner(s).
- C. The address and a legal description of the property.
- D. A project schedule and development plan.
- E. Land uses and existing structures on the subject parcel and adjoining parcels within 300 feet.
- F. A written statement regarding the project's effects on existing infrastructure, including but not limited to traffic, capacity of roads, schools, existing utilities, the natural environment, and water aquifer.
- G. A detailed site plan as specified in Article 12 et seq. of this Ordinance, unless waived or otherwise determined to be unnecessary by the Planning Commission.

13.06 REVIEW FOR COMPLETENESS

Upon receipt of the special use permit application, the Zoning Administrator will review the application for administrative completeness. If the application is not administratively complete, the Zoning Administrator will return the application to the Applicant(s) with a letter that specifies the additional material(s) required. If the application is deemed administratively complete, the Zoning Administrator and Chair of the Planning Commission shall establish a date to hold a public hearing on the special use permit application.

13.07 NOTICE OF PUBLIC HEARING

- A. If the application is administratively complete, the Zoning Administrator shall notify the following persons of the application being considered. This notice must be sent not less than fifteen (15) days before the date of the public hearing. These notices shall be sent to:
  - 1) The Applicant(s).
  - 2) The owner of the property, if different.
  - 3) To all persons to whom real property is assessed within 300 feet of the property that is the subject of the request.
  - 4) To the occupants of all structures within 300 feet of the subject property regardless of whether the property or structure is located in the Township.
  - 5) The public by notification in a newspaper of general circulation in Whitewater Township.
  - 6) The members of the Planning Commission.
  - 7) Utility providers, when requested by a utility or otherwise deemed necessary.
  - 8) Michigan Department of Transportation, if within 300 feet of a state highway.
  - 9) Michigan Department of Environment Great Lakes and Energy (EGLE) if the proposed Special Use is on property with surface water, wetlands, groundwater, or otherwise requires a permit from EGLE.
- B. Failure of the Zoning Administrator to notify those persons and entities listed in Subsection A above, shall not be grounds to challenge the validity of the proposed special use permit, provided notice has been given in accordance with the Michigan Zoning Enabling Act. The notice shall include:
  - 1) A description of the nature of the special use permit being requested.
  - 2) The property(-ies) for which the request has been made. A listing of all existing street addresses within the property(-ies) subject of the Special Use (i.e., street addresses do not need to be created and listed if no such addresses currently exist and another means of identification may be used.)
  - 3) Where the application documents can be viewed prior to the date of its consideration.
  - 4) When and where written comments will be received concerning the request.

- 5) The date, time and location of the public hearing where the request will be considered.
  - 6) The address at which written comments may be directed prior to Township consideration.
  - 7) For members of the Planning Commission only, a complete copy of the special use permit application and supporting documents in the record.
- C. Any person or entity that receives notice pursuant to this section of this Ordinance may choose to submit material to the Planning Commission. Such submissions shall be delivered to the Township at or before the hearing on the issue. Such submissions shall be considered advice to the Planning Commission. The applicant may wish to review an application with Grand Traverse County, Grand Traverse Band, public utilities, EGLE, road agencies, and other governing authorities having jurisdiction over the proposed special use prior to the hearing, or prior to submitting the application to the Commission.

#### 13.08 HEARING AND DECISION

The Planning Commission shall either approve, approve with conditions, or deny the application. The decision shall be in writing and clearly state the reasons for the decision. At a minimum the record of the decision shall include:

- A. A summary of public comments made at the hearing;
- B. Formal finding of facts;
- C. The conclusions derived from the facts (reasons for the decision);
- D. The decision; and
- E. A listing of any conditions upon which issuing a permit is issued.

#### 13.09 SPECIAL USE PERMIT STANDARDS

- A. In addition to the standards established for specific uses herein, an application for a special use permit shall be reviewed for compliance with site plan review standards in Article 12 of this Ordinance. The Planning Commission may impose reasonable conditions upon a special use permit.
- B. No special use permit shall be approved unless all of the following standards are met. Each application shall be reviewed for the purpose of determining that the proposed Special Use shall:
  - 1) Be designed, constructed, operated and maintained so as to be harmonious and compatible with the existing or intended character of the general vicinity, and that the use will not change the essential character of the area in which it is proposed.
  - 2) Be adequately served by essential public facilities and services such as highways, streets, fire and safety, drainage, refuse disposal, water and sewage treatment, etc.
  - 3) Not create excessive additional public costs for essential public services or facilities.
  - 4) Not involve activities, processes, materials, equipment or conditions that will be detrimental to any persons, property, or the public from the traffic, noise, smoke, vibration, fumes, glare, odors, etc.
  - 5) Be sufficiently designed to maintain adequate provision for the protection of the health, safety, and welfare of those proposing the special use, residents and adjoining landowners and the community as a whole.
  - 6) Be consistent with the intent of this Zoning Ordinance and the Master Plan.
  - 7) Not create or substantially add to traffic hazards.
  - 8) Not have significant adverse impacts to environmental, ecological, or natural resources.
  - 9) Be in compliance with the requirements of the applicable local, county, state, and federal laws or regulations.
  - 10) Not have significant adverse impacts on adjoining properties, or to allowed or established uses.

#### 13.10 SPECIAL LAND USE PERMIT CONDITIONS

Special Land Use Permits can be granted with conditions imposed by the Planning Commission consistent with MCL 125.3504 (4). Any conditions, limitations or requirements upon which approval is based shall be based upon findings of fact and be:

- A. Reasonable and designed to protect natural resources, the health, safety and welfare of the public;
- B. Relevant to the social and economic well-being of the owners and occupants of the lot in question, of the area adjacent thereto and of the community as a whole;
- C. Related to the purposes which are affected by the proposed use or activity;
- D. Consistent with the intent and purpose of this Ordinance, generally and specifically, for the respective zoning district;
- E. Designed to ensure compatibility with adjacent uses of land and the natural environment; and the proposed special use or activity will be designed to ensure compatibility with public services and facilities.

#### 13.11 RECORD OF SPECIAL LAND USE PERMIT

Following approval of a SUP the Zoning Administrator shall generate a report incorporating the approved findings, conditions, and any applicable restrictions. This report shall be signed by the applicant and the Chair or Secretary of the Planning Commission and the applicant. A copy of the signed report will be provided to the applicant and retained in the township's files.

A notice of the special use permit shall be recorded with a property description with the Grand Traverse County Register of Deeds. The applicant shall provide proof of recording to the Township. The application and all other information relating to the special use permit shall be filed with the Township by the Zoning Administrator.

#### 13.12-DURATION OF SPECIAL LAND USE APPROVAL

A special use permit shall be valid for as long as the approved special use continues in accordance with the terms and conditions of the approved permit. The special use permit will expire on the occurrence of one or more of the following conditions:

- A. If replaced or superseded by a subsequent special use permit.
- B. If replaced or superseded by a permitted use.
- C. If the applicant requests the rescinding of the special use permit.
- D. If the use is discontinued, relocated, or vacated for a period of one (1) year. Notice of the expiration shall be given to the property owner in writing.
- E. If the construction or use has not commenced and proceeded meaningfully toward completion within one (1) year of issuance

#### 13.13 AMENDMENT OF SPECIAL USE PERMITS

Minor amendments are those which are determined by the Zoning Administrator to have no foreseeable effect beyond property receiving a special use permit such as minor changes in the location of buildings, the alignment of utilities, and the alignment of interior roadways. Minor amendments for good cause may be authorized by the Zoning Administrator provided that no such changes shall increase the size or height of structures, reduce the efficiency of public facilities serving the property, reduce usable open space, or encroach on natural features proposed by the plan to be protected.

Any amendment not qualifying as a minor amendment as determined by the Zoning Administrator shall be considered a major amendment and must be approved by the Planning Commission.

Major amendments to special use permits shall be handled in the same manner as the initial special use permit application. Minor special use permit amendments shall be reviewed by the Zoning Administrator. Major special use permit amendments, requests falling outside the scope of the Zoning Administrator's authority, or any item the Zoning Administrator deems necessary shall be presented to the Planning Commission for their consideration.

13.14 TRANSFER OF SPECIAL USE PERMIT

A special use permit, with any and all associated benefits and conditions shall run with the land and shall be binding on the landowner, and his or her successors, heirs and assigns. The responsibility for effecting the transfer of required security shall be the original landowner (or their heir(s) if the original landowner is deceased), who shall request a return of their required security, if any, from the Township Zoning Administrator. It is the responsibility of the new landowner to request a continuation of the special land use approval, if desired.

13.15 CONSTRUCTION CODE PERMITS

A special use permit shall be required prior to the issuance of a building permit from the Grand Traverse County Building Department pursuant the then-applicable construction code pursuant to the State Construction Code Act.

13.16 VIOLATION OF SPECIAL USE PERMIT

Any violation of the terms, conditions or limitations of a special use permit shall be cause for revocation or suspension of the special use permit. The Planning Commission may either revoke or suspend, pending correction of the violation, any special use permit. The act to revoke or suspend the special use permit shall occur after giving notice to the permit holder, specifying the violation(s) alleged to exist and when a hearing will be held on the matter. The notice shall be delivered by registered mail. Any interested party may appear in person or by attorney at the hearing. The act to revoke or suspend the special use permit shall occur after or at the hearing on the matter. Before revoking or suspending the permit the Zoning Administrator shall make a finding that a material violation of the special use permit exists and shall provide written notice to the applicant and the landowner of record, if different parties. The permit holder shall be given a reasonable opportunity to correct the violation(s).

13.17 ADDITIONAL CONDITIONS OF SPECIAL USES.

- A. Bed and Breakfast Establishments.
  - 1) Statement of Intent. It is the intent of this Section to establish reasonable standards for Bed and Breakfast Establishments to assure that:
    - a. The property is suitable for transient lodging facilities.
    - b. The use is compatible with other uses in the residential and agricultural districts.
    - c. Residential and agricultural lands shall not be subject to increased trespass.
    - d. The impact of the establishment is no greater than that of a private home with house guests.
  - 2) Minimum Requirements. The following requirements for Bed and Breakfast Establishments together with any other applicable requirements of this Ordinance shall be complied with:
    - a. The minimum lot size shall be one (1) acre.
    - b. Off-street parking shall be provided (one space per room). Vehicle parking is prohibited between the front of the building and public right-of-way.
    - c. One non-illuminated sign, identifying the establishment, not to exceed four (4) square feet in area and not closer to the street line than fifteen (15) feet shall be allowed.
    - d. Such Bed and Breakfast Establishments shall not be located less than fifteen hundred (1500) feet apart.
    - e. The residence shall be the principal dwelling unit on the property and shall be owneroccupied at all times.
    - f. The residence shall have at least two (2) exits to the outdoors.
    - g. Not more than three (3) sleeping rooms in the residence may be used for rental purposes.
    - h. Not more than eight (8) overnight guests may be accommodated at any time.
    - i. The rooms utilized for sleeping shall be a part of the primary residential use and not specifically constructed for rental purposes.

- j. The rental sleeping rooms shall have a minimum size of one hundred (100) square feet for each two occupants with an additional thirty (30) square feet for each occupant to a maximum of four (4) occupants per room.
  - k. Proof of evaluation of the well and septic system by the Health Department and conformance to the agency's requirements shall be supplied by the owner/occupant.
  - l. The Planning Commission shall require that a floor plan drawn to an architectural scale of not less than 1/8 inch = 1 foot be on file with the Fire Department.
  - m. Each owner/operator of a Bed and Breakfast Establishment shall keep a guest registry which shall be available for inspection by the Zoning Administrator, police and fire officials during normal business hours.
  - n. The length of stay for each guest shall not exceed seven (7) days within any thirty (30) day period.
  - o. In the event that the Planning Commission determines that noise generation may be disturbing to neighbors, or that the location of the establishment is in an area where trespass onto adjacent properties is likely to occur, then the Planning Commission may require that fencing and/or a planting buffer be constructed and maintained.
  - p. Rental of snowmobiles, ATVs or similar vehicles, boats and other marine equipment, in conjunction with the operation of the establishment shall be prohibited.
  - q. A special use permit shall not be granted if the essential character of a lot or structure within a residential or agricultural district, in terms of use, traffic generation or appearance will be changed substantially by the occurrence of the bed and breakfast use.
- B. Sexually Oriented Businesses.
- 1) Intent: Sexually oriented businesses require special supervision in order to protect and preserve the health, safety, and welfare of the patrons of such business as well as the citizens of the communities where they are located.

There is convincing documented evidence that sexually oriented businesses, because of their nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime and downgrading of property values.

It is recognized that sexually oriented businesses, due to their nature, have serious objectionable characteristics, particularly when they are located in close proximity to each other, thereby contributing to urban blight and downgrading the quality of life in the adjacent area.

The Township of Whitewater desires to prevent these adverse affects and thereby protect the health, safety, and welfare of the citizenry, preserve the property values and character of surrounding neighborhoods and deter the spread of urban blight.

It is not the intent of this Ordinance to suppress any activity protected by the First Amendment of the United States Constitution or the Michigan Constitution, but to enact a content neutral Ordinance which addresses the adverse secondary effects of sexually oriented businesses.

It is not the intent of the Township of Whitewater to condone or legitimize the distribution of the obscene materials, and the Township of Whitewater recognizes that state and federal law prohibits the distribution of obscene materials and expects and encourages state enforcement officials to enforce state and federal obscenity statutes against any such illegal activities within the Township of Whitewater.

- 2) Purpose: It is the purpose of this ordinance to regulate sexually oriented businesses and related activities to promote the health, safety, and general welfare of the citizens of the Township, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Township. The provisions of this

Ordinance do not have the purpose of imposing a limitation or restriction on the content of any communicative material, including sexually oriented materials. Similarly, it is not the intent of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment of the United States Constitution, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent of this Ordinance to condone or legitimize the distribution of obscene materials.

- 3) Special land use permit requirements: In addition to the requirement for Site Plan Review Article 12.
  - a. It shall be unlawful for a person to operate a sexually oriented business without a valid Special Use Permit issued by the Planning Commission.
  - b. An application for a permit must be made on a form provided by the Township of Whitewater. The Township of Whitewater must provide the application. A sketch or diagram showing the configuration of the premises, including a statement of display area occupied by the business, must accompany the application. This sketch or diagram need not be professionally prepared if the building is already established in the township, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.
  - c. Applications for a permit shall be made and delivered to the Zoning Administrator. The applicant shall be required to give the following information on the application form:
    - i. The name, street address, and mailing address, if different, and driver's license number of the applicant if he/she has such a driver's license.
    - ii. The name, street address, and mailing address, if different, of the owner(s), if different.
    - iii. The name under which the establishment is to be operated and a general description of the services to be provided.
    - iv. The telephone number of the establishment or, if unavailable, the applicant's.
    - v. The address and legal description of the tract of land on which the establishment is to be located.
  - d. All information necessary to answer the requirements in subsection 4 below.
  - e. The fact that a person possesses other types of state or county permits and/or licenses does not exempt him/her from the requirement of obtaining a Special Land Use Permit to run a sexually oriented business from the Township of Whitewater.
  - f. The application shall be accompanied by the following:
    - i. Payment of the application fee in full;
    - ii. Proof of current fee simple ownership of the tract of land on which the establishment is to be situated in the form of a copy of the recorded deed, land contract, or other instrument of conveyance;
    - iii. The lease, purchase contract, purchase option contract, lease option contract or other document(s) evidencing the legally enforceable right of the ownership or proposed by owners of the establishment to have or obtain the use and possession of the tract or portion thereof that is to be used for the establishment for the purpose of the operation of the establishment, if the persons identified as the fee simple owners(s) of the subject tract of land are not also the owners of the establishment.
    - iv. A letter from the owner acknowledging the building is to be used for a Sexually Oriented Business, if the applicant is not in fact the owner of the building or tract of land.
    - v. Proof of application to Grand Traverse County Health Department, Construction Code, Drain Commission or Department of Environmental Quality or other agency for the required permits, if applicable.
  - g. The application shall contain a notarized statement under oath that: o The applicant has personal knowledge of the information contained in the application and that the information contained therein and furnished therewith is true and correct; and o The applicant has read the provisions of Article 12 (Site Plan Review).
- 4) Issuance of permit:

- a. The Planning Commission shall approve the issuance of a Special Land Use Permit so long as the applicant conforms to all the terms and conditions of this Zoning Ordinance specifically Article 12 (Site Plan Review). The Planning Commission shall issue a permit within Ninety (90) days after receipt of a complete application unless they find one or more of the following to be true:
    - i. An applicant is under eighteen (18) years of age.
    - ii. An applicant is overdue in his payment of taxes, fines, or penalties assessed against him or imposed upon him in relation to a sexually oriented business.
    - iii. An applicant has failed to provide information required by this Ordinance or has falsely answered a question or request for information on the application form.
    - iv. An applicant who has been denied a permit by the township to operate a sexually oriented business within the preceding twenty-four (24) months, or whose permit to operate a sexually oriented business has been revoked within the proceeding twenty-four (24) months.
    - v. The permit fee required by this Ordinance has not been paid.
    - vi. The proposed establishment is in violation of or is not in compliance with any of the provisions of the Whitewater Township Zoning Ordinance.
    - vii. An applicant has been convicted of any of the following criminal offenses in any jurisdiction:
      - A) prostitution, procuring a prostitute, or solicitation of a prostitute;
      - B) sale, distribution or display of obscene material;
      - C) soliciting, procuring or aiding and abetting an unlawful sexual performance by a minor;
      - D) possession, sale or distribution of child pornography;
      - E) public lewdness;
      - F) indecent exposure;
      - G) indecent conduct with a child;
      - H) sexual assault or rape;
      - I) incest;
      - J) sexual solicitation of a child.

The applicant shall certify, as a part of the application, that he/she has not been convicted of any one or more of the foregoing criminal offenses.
  - b. The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, and the address of the sexually oriented business. The permit shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.
  - c. In the event that the Planning Commission determines that an applicant is not eligible for a permit, the applicant shall be given notice in writing of the reasons for the denial within sixty (60) days of the receipt of a complete application to the Zoning Administrator. The applicant shall have 10 days from the date of the notice to correct the grounds for denial. If the corrections are not made and notice of the corrections are not received in writing to the Township within the 10 days then the denial shall be deemed to be in effect.
  - d. An applicant may appeal the decision of the Planning Commission regarding a denial to the Whitewater Township Zoning Board of Appeals by filing a written notice of appeal within twenty-one (21) days after the applicant is provided with notice of the Planning Commission's decision.
  - e. The Zoning Administrator may also take all steps necessary to revoke a permit if he/she determines that a permittee gave false or misleading information in the material submitted during the application process.
- 5) Inspection: An applicant or permittee shall allow the Township Zoning Administrator or his appointed representative to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law at any time it is occupied or open for business.

- 6) Fees: An annual fee for a sexually oriented business permit will be assessed. This fee is to be used to pay for the cost of the administration and enforcement of this ordinance. The Township Board will determine this annual fee.
- 7) Action To Revoke Permit: The Whitewater Township Board shall take enforcement action, including the commencement of suit seeking revocation of a permit, if any of the following occurs:
  - a. A permittee gave false or materially misleading information in the application process.
  - b. A permittee has been convicted of using and/or allowing the use of controlled substances within the establishment.
  - c. A permittee has been convicted of prostitution or other activity fostering, promoting or otherwise facilitation prostitution, within the establishment or elsewhere.
  - d. A permittee or employee of the sexually oriented business has been convicted of any crime of a sexual nature or involving sexual conduct or the solicitation thereof within the establishment or elsewhere.
  - e. A permittee has been convicted of knowingly allowing a person under eighteen (18) years of age to enter the establishment.
  - f. There has been a transfer of ownership or control of an establishment without the prior consent of the Planning Commission, as required herein.
- 8) Transfer Of Permit: A permittee shall not transfer his permit to another without prior approval of the Planning Commission, nor shall a permittee operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application. An application must be completed by the proposed permittee prior to the transfer and reviewed by the Planning Commission for continued compliance with this Article.
- 9) Location Restrictions:
  - a. A sexually oriented business may not be operated within 750 feet of:
    - i. a church, synagogue or regular place of religious worship;
    - ii. a public or private elementary or secondary school;
    - iii. a boundary of any residential zoned district or any residential structure within or without a zoned area;
    - iv. a boundary of a public park;
    - v. a boundary of a licensed day-care center; and/or
    - vi. another sexually oriented business.
  - b. A sexually oriented business may not be operated in the same building, structure, or portion thereof, containing another sexually oriented business.
  - c. For the purpose of this Ordinance, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted to the nearest property line of the premises of a church, synagogue, regular place of worship, or public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district, or licensed day-care center or residential structure in a non-residential district.
  - d. For purposes of this Subsection, the distance between any two sexually oriented businesses shall be made from the closest roofline of the structure in which each business is located.
- 10) Regulations Pertaining to Adult Entertainment Establishments:
  - a. A person who operates or causes to be operated an adult entertainment establishment which presents live entertainment for the enjoyment of an audience which has paid or promised to pay an admission fee and which depicts specified sexual activities or displays specified anatomical areas, shall comply with the following requirements.
    - i. Upon application for a sexually oriented business permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures (indicating the type of illumination intensity of each such fixture) and designating any portion of the premises in excess of thirty (30) square feet of floor area. The diagram

shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required, however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises.

- ii. The application shall be sworn to be true and correct by the applicant.
  - iii. No alteration in the configuration or location of a manager's station may be made without the prior approval the Township Zoning Administrator.
  - iv. It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
  - v. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
  - vi. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises to ensure that the view area specified in this Subsection remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times, and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to this Subsection.
  - vii. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1.) foot-candle as measured at the floor level.
  - viii. It shall be the duty of the owners and operator and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described above is maintained at all times that any patron is present in the premises.
  - ix. The premises shall meet all barrier free requirements and building code requirements imposed by the County Building and Inspections Department.
- 11) Exterior Portions of Sexually Oriented Businesses:
- a. It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from a point that is outside the establishment.
  - b. It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have any words, lettering, photographs, silhouettes, drawing, or pictorial representations of a sexual or explicit manner except to the extent otherwise permitted by the provisions of this Ordinance.
  - c. Proposed signage shall not include animated or flashing illumination of any type and otherwise conforms to the requirements of Township Zoning Ordinance Article 14 (Signs). Proposed signage may contain only the name of the sexually oriented business and shall not include photographs, silhouettes, drawings, or pictorial representations of any type.
  - d. All off-street parking areas shall be illuminated during all hours of operation in accordance with Article 11 (Exterior Lighting Regulations) of the Whitewater Township Zoning Ordinance and shall otherwise be open to view from the adjacent roadway.
  - e. A sexually oriented business may not have outside speakers on the exterior of any buildings or anywhere on the outside of their property.

12) Persons Younger Than Eighteen Prohibited from Entry- Attendant Required:

- a. It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter the premises of a sexually oriented business at any time that the sexually oriented business is open for business.
- b. It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during such sexually oriented business's regular business hours. It shall be the duty of the attendant to not allow any person under the age of eighteen (18) years to enter the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished:
  - i. a valid operator's commercial operator's or chauffeur's license; or
  - ii. a valid personal identification certificate reflecting that such person is eighteen (18) years of age or older.
- c. Entrances to the proposed Sexually Oriented Business will be posted on both the exterior and interior walls, clearly visible to the public, indicating in lettering no less than one and one-half inches in height that (a) "No one under the age of eighteen is permitted to enter the premises" and (b) "No alcoholic beverages of any type are permitted within the premises" unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission.

13) General And Specific Requirements:

- a. General requirements: In reviewing an application for special use permit for a sexually oriented business, the Planning Commission shall determine whether the following general standards have been met:
  - i. that the applicant has met all the requirements for Article 12 (Site Plan Review) which pertain to one's application.
  - ii. that all required information has been provided.
  - iii. That the proposed use conforms to all specific density and setback regulations, etc. of the zoning district and this Article.
  - iv. That the plan for the proposed use meets all applicable written and duly promulgated requirements of Whitewater Township for fire and enforcement protection, water supply, sewage disposal or treatment, storm drainage and other public facilities and services.
  - v. That the submitted Landscape Plan complies with this Ordinance.
  - vi. That parking layout will not adversely affect the flow of traffic within the site, or to and from the adjacent streets.
  - vii. That the outdoor storage of garbage and refuse is contained, screened from view and located so as not to be visible from neighboring properties or the adjacent roadways.
- b. Specific requirements: To operate a sexually oriented business within the boundary of Whitewater Township the following specific requirements must be met and agreed upon by the owner (s), applicant and operators of the sexually oriented business:
  - i. Hours of operation shall be limited to 10:00 a.m. to 2:00 a.m.
  - ii. The proposed business will not have a detrimental impact upon the property values of properties located within 750 feet of such a proposed sexually oriented business.
  - iii. The proposed sexually oriented business applicant shall have provided an exterior maintenance program to the Township Zoning Administrator, together with its special use permit. The Applicant shall provide for the routine clearing of trash and rubbish from all parking areas and other portions of the premises not less than once-per-week. Continued adherence to such exterior maintenance program shall be a condition to the issuance of any special use permit pursuant to this section.
  - iv. Persons may not reside in a sexually oriented business establishment. It may be allowed by permit only and based on the issuance of a permit on inspection of living arrangements.

- v. The Planning Commission may impose such additional conditions and safeguards deemed necessary to mitigate negative secondary effect reasonably documented to emanate from sexually oriented businesses for the protection of the general welfare and individual property rights of affected property owners, and for insuring that the intent and objectives of this Ordinance will be observed. The breach of any condition, safeguard or requirement shall serve as grounds for revocation of the permit, after written notice and an opportunity to be heard.
- 14) Exemption: It is a defense to prosecution under this Ordinance that a person appearing in a state of nudity did so in a modeling class operated:
- a. by a proprietary school, licensed by the State of Michigan, a college, junior college, or university supported entirely or partly by taxation;
  - b. by a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.
- 15) Notices:
- a. Any notice required or permitted to be given by the Township or other agency under t his Ordinance to any applicant, operator or owner of an establishment may be given either by prepaid, return receipt requested, addressed to the most recent
  - b. address as specified in the application for the permit, or transfer Application that has been received by the Township, or any notice of address change that has been received by the Township. Notices mailed as above shall be deemed given upon their deposit in the United States Mail. In the event that any notice given by mail is returned by the postal service, the Township shall cause it to be posted at the principal entrance to the establishment.
  - c. Any notice required or permitted to be given to the Township by any person under this Ordinance shall not be deemed given until and unless it is received in the principal office of the Township.
  - d. It shall be the duty of each owner who is designated on the permit application and each operator to furnish notice to the Township in writing of any change of a residence or mailing address.
- 16) Injunction: A person who operates or causes to be operated a sexually oriented business without a valid permit or otherwise violates this Ordinance shall be subject to a suit for injunctive relief and/or revocation of the sexually oriented business permit, as well as fines or other penalties as provided by the Whitewater Township Zoning Ordinance.
- C. Special Use provisions for Major Home Occupations: Minimum Requirements:
- 1) At no time shall the number of vehicles on site impose a negative impact on adjacent uses. Frequent shipments or deliveries by vehicles having more than two drive axles are prohibited.
  - 2) The occupation may offer for sale any article or service provided that the sale of any articles or services shall not have a negative impact on the surrounding areas with regard to noise, light, odors, etc.
  - 3) Hours of operation shall be stipulated by the Planning Commission.
  - 4) Signage size and number(s) shall be determined by the Planning Commission.
  - 5) Home Occupations shall only be permitted when endorsed by the property owner (if applicant is not the property owner). All application materials, site/plot plans and final conditions shall be authorized by the property owner.
  - 6) Such other conditions as may be determined by the Planning Commission.  
In the event the Zoning Administrator determines that the occupation no longer complies with the original approval by the Planning Commission, the applicant will be required to submit a revised application for special use approval to the Planning Commission.
- D. Commercial Campgrounds.
- 1) Commercial campgrounds shall only be allowed on parcels of 40 acres or greater.
  - 2) All requirements of Public Act 368 of 1978 regulating Campgrounds shall be met.
  - 3) Permanent cabins.

- 4) Each dwelling or pad shall be provided water and sanitary service approved by the Grand Traverse County Health Department or have convenient access to approved service building(s).
- 5) The campground shall have access to an all season road, either public or private.
- 6) All campgrounds shall be designed to blend in with the surrounding environment to the greatest possible extent. Buffers or screening may be required.
- 7) Internal road systems shall be a minimum of 20' travel width.
- 8) Permanent residency is prohibited on the property with the exception of one residential home/office to be used and occupied by the campground owner or manager and his/her immediate family.
- 9) Campsites or structures may be rented by the day, week or an indefinite period of time.
- 10) No structures or campsites shall be located within 100 feet of a property line.
- 11) Accessory/service buildings such as storage facilities, restrooms, kitchens, pavilions, etc. shall be allowed.
- 12) Recreational elements shall not have a negative impact on the surrounding areas with regard to noise, light, odors, etc.
- 13) As part of the submittal, the applicant shall present a detailed management plan for the campground. The plan shall include continued compliance with the terms of the management plan and the following information:
  - a. The total number of campsites, cabins and accessory buildings proposed.
  - b. The maximum permitted duration of residency.
  - c. Policies and enforcement procedures to deal with noise, rowdy behavior and similar nuisance activities.
  - d. The hours and seasons the campground will operate.
  - e. Disclosure of all recreational elements.
- 14) Campground cabins shall not exceed 650 square feet of floor area, including covered porches.

## **Article 19 - ADMINISTRATION**

### **19.05 LAND USE PERMIT: WHERE REQUIRED**

A land use permit is required when a change of use to a conforming land use in the district in which it is located is proposed that does not involve building or site alterations and does not require site plan review, special land use review, or planned unit development review as required by this Ordinance.

### **19.06 LAND USE PERMIT REVIEW.**

- A. The Zoning Administrator shall verify that all applications for land use permits shall be accompanied by a clearly drawn plot plan which contains the following:
  - 1) Owner Information
  - 2) Parcel ID Number
  - 3) Property Address
  - 4) North Arrow
  - 5) Scale
  - 6) Existing and/or Proposed Structures (including fencing) and their setbacks
  - 7) Existing and/or Proposed Driveways and their setbacks
  - 8) Road Right of Way and/or Utility Easements
  - 9) Sanitary Facilities and Well
  - 10) Water Bodies on the Site
  - 11) Wetlands

- B. The Zoning Administrator shall request that the applicant submit with the application such additional materials as may be needed to determine whether or not a permit should be issued, such as surveys, soil suitability tests, surface water disposal surveys, erosion control surveys and excavation disposal plans, abstracts, building plans, and permits from other government agencies.
- C. Evidence of Ownership. The Zoning Administrator shall review evidence of ownership for all property affected by the permit application.
- D. Voiding of Permit. The Zoning Administrator may suspend or revoke a permit issued under the provisions of this Ordinance whenever the permit is issued erroneously on the basis of incorrect information supplied by the applicant or his agent and is in violation of any of the provisions of this Ordinance or of any other Ordinances or regulations of the Township.
- E. The Zoning Administrator shall require submission of an application for Site Plan Review or Plot Plan Review in accord with the provisions of Article 12 as required.

#### 19.07 LAND USE PERMITS INSPECTIONS

- A. The construction or usage covered by any land use permit shall be subject to the inspection by the Zoning Administrator to ensure compliance with the provisions of this Ordinance and the approved plot or site plan.
- B. The Zoning Administrator shall clearly communicate the inspections schedule to the applicant. It shall be the duty of the holder of every permit to notify the Zoning Administrator when the construction or usage is ready for inspection.
- C. Inspections shall be made by the Zoning Administrator at the following intervals:
  - 1) At the time of staking out lot corners and proposed structures.
  - 2) When the building foundation forms are in place and/or poles are set, if required and noted on the permit.
  - 3) Upon completion of the work authorized by the permit.

19.08 LAND USE PERMITS; DENIAL. The Zoning Administrator shall promptly inform the applicant, in writing, of the denial of a Land Use Permit if such planned building or structure or land use does not comply with the provisions of this Ordinance. Applicants that have been denied a land use permit may appeal Zoning Ordinance decisions in accordance with Section 20.06, duties and powers of the Zoning Board of Appeals.

19.09 LAND USE PERMITS; FEES. The fees for land use permits shall be established by the Township Board

## Proposed Marked Up Language

### ARTICLE 12 - SITE PLAN REVIEW

#### 12.01 SITE PLAN REVIEW / SPECIAL USE PERMIT (SUP) -AUTHORIZATION AND PROCEDURES

A. The Zoning Administrator and/or Planning Commission as specified in this section shall review and approve, approve with conditions or deny all site plans and special use permit applications submitted under this Ordinance. Each action taken shall be duly recorded in the official record by the Zoning Administrator or in the minutes of the Planning Commission. Those applications which require Planning Commission review will then be submitted to the Planning Commission for action along with the recommendation of the Zoning Administrator as to compliance with Ordinance requirements. The Zoning Administrator shall also seek the recommendation of the Fire Chief, Road Commission, Drain Commission, Health Department, and Michigan Department of Environment Great Lakes and Energy (EGLE), or their successors, where applicable.

B. Following approval of a site plan or special use permit application, the applicant shall comply with all other local and state laws, including any applicable permits or approvals.

#### 12.02 SITE PLAN REVIEW: WHERE REQUIRED

Site plan review shall be required for any of the following activities:

- A. Erection, moving, conversion or structural alteration to a building or structure other than a single-family dwelling.
- B. Development of non single-family residential uses in single-family districts and development of non-agricultural uses in the agricultural district except for a single-family dwelling.
- C. All special land uses.
- D. Any excavation, filling, soil removal or mining, except for the creation of ponds for agricultural use.

E. All site condominiums, condominium subdivisions and PUD's.

~~E.F.~~ All proposed uses or redevelopments in environmentally sensitive areas as required.

#### 12.03 SITE PLAN REVIEW: REQUIREMENTS AND PROCEDURES:

~~A. Site Plan Review: Where Required: Site plan review shall be required for any of the following activities:~~

- ~~1) Erection, moving, conversion or structural alteration to a building or structure other than a single-family dwelling.~~
- ~~2) Development of non single-family residential uses in single-family districts and development of non-agricultural uses in the agricultural district except for a single-family dwelling.~~
- ~~3) All special land uses.~~
- ~~4) Any excavation, filling, soil removal or mining, except for the creation of ponds for agricultural use.~~
- ~~5) All site condominiums, condominium subdivisions and PUD's.~~
- ~~6) All proposed uses or developments in environmentally sensitive areas as required.~~

B-A. Procedures and Requirements: The Township has established a range of site plan review procedures intended to allow the appropriate level of review relative to the scope of the project. The more complex the project, the more detailed the review process. The Township has also established two optional review procedures with staff and with the Planning Commission intended to provide applicants an opportunity to discuss projects on a conceptual level with minimal upfront expenditure.

B. Optional Pre-Application Conference: In order to facilitate processing of a site plan in a timely manner, the applicant may request a pre-application conference with the Zoning Administrator, up to three (3) members of the Planning Commission and such other Township representatives as

appropriate. The purpose of such a conference is to provide information and guidance to the applicant that will assist in preparation of the site plan. The applicant is encouraged to provide rough conceptual drawings or site plans indicating the location and boundaries of the subject property. No formal action shall be taken on a site plan at a pre-application conference. ~~There is no fee to the applicant for the pre-application conference.~~

~~C. Preliminary Site Plan Review: The applicant shall submit the following prior to being scheduled for Planning Commission review:~~

~~Township Review Fee.~~

~~Township Application.~~

~~The name and address of the owner and any designated representative of the owner.~~

~~Written description of the proposed use.~~

~~Ten copies of the preliminary site plan, illustrating existing features, lot dimensions, general footprints for proposed buildings and parking, relationship to adjacent land uses and a location map.~~

~~One digital copy of the site plan in a form acceptable to the Township.~~

~~Upon review, the Planning Commission may approve, approve with conditions or deny the preliminary site plan. If the site plan is denied, the Planning Commission shall state the reasons for such denial.~~

~~D.C. The Zoning Administrator may waive the preliminary site plan review step upon a written request by the applicant provided that all information required for final site plan review is provided by the applicant. Completeness Review: The Zoning Administrator shall conduct a completeness review to determine that all required information has been submitted on or with the site plan application, and that any significant deficiencies, as cited by the Zoning Administrator, have been corrected. This completeness review shall not constitute an official decision on whether an application complies with the provisions of this Ordinance.~~

~~E.D. Final Planning Commission Site Plan Review: The applicant shall submit the following prior to being scheduled for Planning Commission review:~~

- ~~1) Township Review Fee (if applicable).~~
- ~~2) Township Application (if applicable).~~
- ~~3) A written description of the proposed of the proposed project or use.~~
- ~~4) Any additional information the Planning Commission finds necessary to make determinations required herein.~~
- ~~5) A ten complete site plans that include the information listed in Section 12.03 (F) below, Required Information.~~
- ~~6) One digital copy of the site plan in a form acceptable to the Township.~~

~~Upon review, the Planning Commission may approve, approve with conditions or deny the preliminary site plan. If the site plan is denied, the Planning Commission shall state the reasons for such denial.~~

~~E. Final Decision:~~

- ~~1) Upon review, the Planning Commission may approve, approve with conditions or deny the site plan. If the site plan is denied, the Planning Commission shall state the reasons for such denial. If conditions are included, the Zoning Administrator shall ensure the conditions are met prior to issuance of building permits relevant to site construction, issuance of land use permit, and/or issuance of a certificate of occupancy.~~
- ~~2) Fire Department shall grant approval of the site plan, prior to issuance of building permits relevant to site construction, issuance of land use permit, and/or issuance of a certificate of occupancy. Fire Department's scope of review shall be limited to the protection of site users' health and safety, including review of Fire Code, emergency access, and storage of materials.~~

~~F. Required Information: Each submittal for site plan review shall contain all information required in this Ordinance including the following:~~

- ~~1) The applicant's name, address and phone number in full.~~

- 2) Proof of property ownership, and whether there are any options on the property, or liens against it.
  - 3) A signed statement that the applicant is the owner of the property or officially acting on the owner's behalf.
  - 4) The name and address of the owner(s) of record if the applicant is not the owner of record (or firm or corporation having a legal or equitable interest in the land) and the signature of the owner(s).
  - 5) The address and/or parcel number of the property.
  - 6) Name and address of the developer (if different from the applicant).
  - 7) Name ~~and~~ address, and seal of engineer, architect, planner and/or land surveyor.
  - 8) Project title.
  - 9) Project description, including the total number of structures, units, bedrooms, offices, square feet, total and usable floor area, parking spaces, carports or garages, employees by shift, amount of recreation and open space, type of recreation facilities to be provided, and related information as pertinent or otherwise required by the Ordinance.
  - 10) A vicinity map ~~drawn at a scale of 1" = 2000'~~ with the north point indicated.
  - 11) The gross and net acreage of all parcels in the project.
  - 12) Land uses, zoning classification and existing structures on the subject parcel and adjoining parcels ~~within 300 feet of the site.~~
  - 13) Project completion schedule/development phases.
  - 14) Written statements relative to project impacts on existing infrastructure (including traffic capacity of streets, schools and existing utilities) and on the natural environment of the site and adjoining lands. A formal impact statement may be required by the Planning Commission.
  - 15) A listing of types and quantities of hazardous substances and polluting materials which will be used, stored or generated on-site at the facility, and completion of the "Hazardous Substance Reporting Form for Site Plan Review."
- G. Required Site Plan: The site plan shall consist of an accurate, reproducible drawing at a scale of not less than 1" = 20' or more than 1"=200', showing the site ~~and all land within 300' of the site.~~ If multiple sheets are used, each shall be labeled and the preparer identified. Each site plan shall depict the following:
- 1) Location of proposed and/or existing property lines, dimensions, legal descriptions, setback lines and monument locations.
  - 2) Existing topographic elevations at two foot intervals, proposed grades and direction of drainage flows.
  - 3) The location and type of existing soils on the site at least to the detail provided by U. S. Soil Conservation Service and any certification of borings.
  - 4) Location and type of significant existing vegetation.
  - 5) Location and elevations of existing water courses and water bodies, including county drains and man-made surface drainage ways, floodplains and wetlands.
  - 6) Location of existing and proposed buildings and intended uses thereof, as well as the length, width, and height of each building and typical elevation views of proposed structures.
  - 7) Proposed location of accessory structures, buildings and uses, including but not limited to all flagpoles, light poles, bulkheads, docks, storage sheds, transformers, air conditioners, generators and similar equipment, and the method of screening where applicable.
  - 8) Location of existing public roads, rights-of-way and private easements of record and abutting streets.
  - 9) Location of and dimensions of proposed streets, drives, curb cuts, and access easements, as well as acceleration, deceleration and passing lanes (if any) serving the development. Details of entryway and sign locations should be separately depicted with an elevation view.
  - 10) Location, design and dimensions of existing and/or proposed curbing, barrier free access, carports, parking areas (including indication of all spaces and method of surfacing), fire lanes and all lighting thereof.
  - 11) Location, size and characteristics of all loading and unloading areas.

- 12) Location and design of all sidewalks, walkways, bicycle paths and areas for public use.
- 13) Location, design and specifications of existing and proposed service facilities and structures, above and below ground, including:
  - a. Public and private groundwater supply wells on-site and related distribution systems including fire hydrants and shut off valves.
  - b. Septic systems and other waste water treatment systems
  - c. Areas to be used for the storage, use, loading/unloading, recycling, or disposal of hazardous substances and polluting materials, including interior and exterior areas as well as any containment structures or clear zones required by government regulation or designed to meet the standards of this Article.
  - d. Underground storage tank locations together with connected distribution and collection systems.
  - e. Location of exterior drains, dry wells, catch basins, retention/detention areas, sumps and other facilities designed to collect, store or transport wastewater or stormwater to the naturally occurring aquifer. The point of discharge for all drains and pipes shall be specified on the site plan.
- 14) Location of all other utilities on the site including, but not limited to natural gas, electric, cable TV, telephone and steam.
- 15) Proposed location, dimensions and details of common open spaces and common facilities such as community buildings or swimming pools if applicable.
- 16) Location, size and specifications of all signs, both temporary and permanent, and advertising features, with cross-sections, if applicable.
- 17) Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be used.
- 18) Location and specifications for all fences, walls, and other screening features with cross sections.
- 19) Location and specifications for all proposed perimeter and internal landscaping and other buffering features. For each new landscape material the proposed size at the time of planting must be indicated. All vegetation to be retained on the site must also be indicated,
- 20) Location, size and specifications for screening and fencing of all trash receptacles and other solid waste or liquid waste disposal facilities.
- 21) Delineation of areas on the site which are known or suspected to be contaminated, together with a report on the status of site clean-up.
- 22) Identification of any significant site amenities or unique natural features.
- 23) Identification of any significant views onto or from the site to or from adjoining areas.
- 24) A scale model of the proposed development may be required for all projects greater than 40 acres, with more than 200 dwelling units, more than 40,000 square feet of building space or a proposed height of a principal structure of greater than 35 feet.
- 25) North arrow, scale and date of original submittal and last revision.
- 26) Seal of the registered engineer, architect, landscape architect, surveyor, or planner who prepared the plan.

#### 12.04 STANDARDS FOR DECISIONS:

Each site plan shall conform to all provisions of the Zoning Ordinance and the standards listed below (unless variances have been granted):

- A. All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of the lot or unit, the character of adjoining property and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development or improvement of the surrounding property for uses permitted in this Ordinance.
- B. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas and will not adversely affect adjacent properties.

- C. Special attention shall be given to proper site drainage so that removal of storm waters will not adversely affect neighboring properties.
- D. The site plan shall provide reasonable visual and sound privacy for all dwelling units located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants. ~~All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means to all sides.~~ **[Removed and Fire Department approval was added under 12.03(D) above]**
- E. Every structure or dwelling unit shall have access to a public street, walkway or other area dedicated to common use.
- F. There shall be provided a pedestrian circulation system which is insulated as completely as reasonably possible from the vehicular circulation system.
- G. All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential districts or public thoroughfares, shall be screened, by a vertical screen consisting of structural or plant materials no less than six feet in height unless modified by the Planning Commission.
- ~~H. Exterior lighting shall be designed and installed to conform with the standards required in Article 11, Exterior Lighting Regulations.~~
- ~~I.H. All signs and advertising features shall be designed and installed to conform with the standards and requirements of Article 14, Sign Regulations. Site plans shall conform to the standards required in this Ordinance.~~
- J.I. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern which serves adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way equal to that specified in the Master Plan.
- K.J. All streets including streets in condominium developments shall be developed in accordance with the Land Division Subdivision Control Ordinance and County Road Commission or Township Private Road Standard specifications.
- L.K. Site plans shall conform to all applicable requirements of state and federal statutes and approval may be conditioned on the applicant receiving necessary state and federal permits before final site plan approval or an occupancy permit is granted.
- M.L. All land use developments shall be consistent with and promote the intent and purpose of this ordinance and shall not be contrary to the public health, safety and welfare.
- N.M. All land uses and developments shall conform with the applicable goals, policies and objectives in the Township Master Plan.
- O.N. Standards for Groundwater Protection:
  - 1) The project and related improvements shall be designed to protect the natural environment, including lakes, ponds, streams, wetlands, floodplains, groundwater and steep slopes.
  - 2) Stormwater management and drainage facilities shall be designed to retain the natural retention and storage capacity of any wetland, water body or watercourse and shall not increase flooding or the potential for pollution of surface or groundwater, on-site or off-site.
  - 3) General purpose floor drains shall be allowed only if they are connected to a public sewer system, an on-site holding tank, or a system authorized through a state groundwater discharge permit.
  - 4) Sites at which hazardous substances or polluting materials are stored, used, or generated shall be designed to prevent spills and discharges to the air, surface of the ground, groundwater, lakes, streams, rivers or wetlands. In addition, an up-to-date contingency plan for the handling and clean-up of uncontained spills of hazardous substances and polluting materials shall be placed on file in the offices of the Zoning Administrator and the Fire Chief. The requirement to report all uncontained spills immediately to both the Zoning Administrator and the Fire Chief shall be required as a condition of Site Plan approval.

- 5) Local, State and Federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.
- 6) In determining conformance with the standards in this Zoning Ordinance, the municipality shall take into consideration the publication titled "Small Business Guide to Secondary Containment" and other references.

P.O. Standards for Aboveground Storage and Use Areas for Hazardous Substances and Polluting Materials:

- 1) Secondary containment, for above ground areas where hazardous and polluting materials are stored or used, shall be provided. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance.
- 2) Outdoor storage of hazardous substances and polluting materials shall be prohibited except in product-tight containers which are protected from weather, leakage, accidental damage and vandalism.
- 3) Secondary containment structures such as out buildings, storage rooms, sheds and pole barns, shall not have floor drains which outlet to soils, groundwater, or nearby drains or rivers.
- 4) Areas and facilities for loading and unloading of hazardous substances and polluting materials, as well as areas where such materials are handled and used, shall be designed and constructed to prevent discharge or runoff to floor drains, rivers, lakes, wetlands, groundwater and soils.

Q.P. Standards for Underground Storage Tanks when Permitted:

- 1) Existing and new underground storage tanks shall be registered with the authorized state agency in accordance with the requirements of the U. S. Environmental Protection Agency and the State Police Fire Marshal Division.
- 2) Installation, operation, maintenance, closure and removal of underground storage tanks shall be in accordance with the requirements of the Michigan Department of ~~Environmental Quality~~Environment, Great Lakes, and Energy. Leak detection, corrosion protection, spill prevention and overfill protection requirements shall be met. Records of monthly monitoring or inventory control must be retained and available for review by government officials.
- 3) Out-of-service abandoned underground tanks shall be emptied and removed from the ground in accordance with the requirements of the Michigan Department of ~~Environmental Quality~~Environment, Great Lakes, and Energy.

12.05 CONFORMITY TO APPROVED SITE PLANS

Following final approval of a site plan by the Zoning Administrator or the Planning Commission, the applicant shall construct the site plan improvements in complete conformity with the approved plan. Failure to do so is a violation of this ordinance and subject to the sanctions of Article 22 Violations.

12.06 MODIFICATIONS TO APPROVED SITE PLANS

If the Zoning Administrator finds that a proposed amendment to an approved site plan does not qualify for administrative approval as defined in Section 12.10, Zoning Administrative Approval, he or she shall forward the proposed amendment to the Planning Commission for consideration.

12.07 FAILURE TO INITIATE CONSTRUCTION

- A. Failure to initiate construction of an approved site plan within 365 days of approval shall require the applicant to appear before the Planning Commission and demonstrate why the approval should not be revoked. After a hearing the Planning Commission may revoke a previously approved site plan for property on which no physical development activity has occurred upon making written findings that one or more of the following circumstances exist:

- 1) An error in the original approval is discovered either because of inaccurate information supplied by the applicant or administrative error by a staff member or other agency;
  - 2) Zoning regulations applicable to the project have been changed and the previously approved site plan does not comply with them;
  - 3) A change in state law, local charter, or other local ordinance affecting the previous approval has occurred;
  - 4) Pollution, impairment or destruction of the environment or to another legally protected public interest would occur if the project were to be constructed as previously approved.
- B. Thirty days prior to expiration of an approved site plan, an applicant may make application for a one-year extension of the site plan at no fee. The applicant shall explain in writing why the development has not proceeded, what the current time frame is and why an extension should be granted. If the original approval of the site plan was by the Planning Commission, the applicant shall present his/her case in person or by representative at the next meeting of the Planning Commission.
- C. Revocation of an approved site plan shall be communicated in writing by certified mail to the property owner.
- D. Any subsequent re-submittal shall be processed as a new request with new fees.

#### 12.08 PERFORMANCE GUARANTEE

In the interest of ensuring compliance with the Zoning Ordinance provisions, protecting the natural resources and the health, safety and welfare of the residents of the Township and future users or inhabitants of an area for which a site plan for a proposed use has been submitted, the Planning Commission or Zoning Administrator may require the applicant to deposit a performance guarantee as set forth herein. In accordance with MCL 1125.3505, the purpose of the performance guarantee is to ensure the completion of improvements connected with the proposed use as required by this Ordinance, including, but not limited to, roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls and landscaping.

- A. Performance guarantee as used herein shall mean a cash deposit, certified check or irrevocable bank letter of credit in the amount of 125% of the estimated cost of the improvements to be made as determined by the applicant and verified by the Zoning Administrator.
- B. Where the Zoning Administrator or Planning Commission requires a performance guarantee, said performance guarantee shall be deposited with the Treasurer prior to the issuance of a Land Use Permit for the development and use of the land. Upon the deposit of the performance guarantee the Township shall deposit the performance guarantee, if in the form of cash deposit or certified check, in an interest bearing escrow account.
- C. An approved site plan shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The period will begin from the date of the issuance of the Land Use Permit.
- D. In the event the performance guarantee deposited is a cash deposit or certified check, the township shall rebate to the applicant fifty (50) percent of the deposited funds when sixty (60) per cent of the required improvements are completed as confirmed by the Zoning Administrator, and the remaining fifty (50) percent of the deposited funds when one hundred (100) percent of the required improvements are completed as confirmed by the Zoning Administrator.
- E. In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the Township, the Township shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make improvements. If the performance guarantee is not sufficient to allow the Township to complete the improvements for which it was posted, the applicant shall be required to pay the township the amounts by which the costs of completing the improvements exceeds the amount of the performance guarantee deposited. Should the Township use the performance guarantee or a portion thereof, to complete the required improvements, any

amounts remaining after said completion shall be applied first to the Township administrative costs in completing the improvement with any balance remaining being refunded to the applicant. If the applicant has been required to post a performance guarantee or bond with another governmental agency other than the Township to ensure completion of an improvement associated with the proposed use before the Township's conditional approval, the applicant shall not be required to deposit with the township a performance guarantee for that specific improvement. At the time the performance guarantee is deposited with the township and before the issuance of a Land Use Permit, the applicant shall enter an agreement incorporating the provisions hereof with the township regarding the performance guarantee.

#### 12.09 AS-BUILT SITE PLAN

Upon completion of the installation of required improvements as shown on the approved site plan, including changes and/or amendments, the property owner shall submit to the Zoning Administrator 3 copies of an "as built" site plan, certified by the engineer or surveyor, at least one week prior to the anticipated occupancy of any building. The Zoning Administrator shall circulate the "as built" plans among the appropriate departments for review to insure conformity with the approved site plan and other township requirements. Once each department has approved the "as built" plans the Zoning Administrator may make the final inspection and issue the Occupancy Permit.

#### 12.10 ZONING ADMINISTRATIVE APPROVAL

- A. The Zoning Administrator shall review and approve, approve with conditions or deny the following site plans without their submission to the Planning Commission except where the applicant so requests:
- 1) Accessory uses or buildings not to exceed 400 square feet, incidental to a conforming existing use where said use does not require any variance and where said site plan conforms with all requirements of this Ordinance.
  - 2) Expansion and/or addition to an existing conforming use where said site plan conforms with all requirements of this Ordinance and does not increase the size of the existing or proposed structure by more than 1000 square feet or does not increase the existing or proposed use by more than ten (10) percent, whichever is less.
  - 3) A change in the internal floor plan which does not increase the intensity of use or parking requirements.
  - 4) Movement of a building, drive, road or parking by up to twenty (20) feet during construction due to unanticipated and documented constraint, to improve safety or to preserve natural features. The site plan shall still meet all required setbacks and other standards of this Ordinance.
  - 5) An existing building and site to be re-occupied by a use permitted in the subject zoning district where the new use will not require significant changes in the existing site facilities.
  - 6) Expansion and alterations of landscaping areas, sidewalks, bike paths and fences consistent with this Ordinance.
  - 7) Relocation of a trash receptacle and/or installation of screening.
  - 8) Relocation or replacement of a sign meeting the dimensional and locational standards.
  - 9) Modifications to upgrade a building to state barrier free design.
  - 10) Increases in off-street parking areas, parking buildings and/or structures, increases in loading/unloading spaces in commercial and industrial Zoning Districts, and landscape improvements as required by this Ordinance.
  - 11) Alterations to the off-street parking layout or installation of pavement and curbing improvements provided that the total number of spaces remains constant and meets, or if necessary has been modified to meet, the ordinance requirements for the building and/or use.
  - 12) Changes to lighting consistent with this Ordinance.
  - 13) Situations similar to the above.

- B. The Zoning Administrator shall apply all applicable standards and procedures of this Ordinance in approving, conditionally approving or denying site plans and determine if the submittal shall comply with Section 12.03 (F), Required Information, or Section 12.12, Plot Plans in Lieu of a Site Plan below.
- C. The applicant shall submit the Township application and established fee.
- D. The Zoning Administrator shall make a report of all administrative approvals to the Planning Commission.

12.11 APPEALS OF FINAL SITE PLANS

- A. Any person aggrieved by a decision of the Planning Commission or Zoning Administrator in granting or denying approval of a final site plan may appeal the decision to the Zoning Board of Appeals. The appeal must be filed within seven (7) days of the decision and shall state the factual basis for the appeal. An appeal shall stay action on the issuance of any permit pursuant to an approved site plan.
- B. The Zoning Board of Appeals shall review the record of action taken on the final site plan and shall determine whether the record supports the action taken. No new evidence shall be presented. The Zoning Board of Appeals shall approve the final site plan if the requirements of this Section and other applicable ordinance requirements are met. The Zoning Board of Appeals shall make written findings in support of its opinion on the appeal.

12.12 PLOT PLANS IN LIEU OF A SITE PLAN

- A. The Zoning Administrator may accept plot plan in specific instances upon determining a complete site plan is not considered essential to ensure compliance with the intent and standards of this Ordinance.
- B. A plot plan may be permitted for the following uses, when permitted in the zoning district:
  - 1) Group Day Care Homes.
  - 2) Essential Services Buildings.
  - 3) Home Occupations.
  - 4) ~~Single- and~~ Two-family Dwellings.
  - 5) Accessory Open Air Businesses.
  - 6) Accessory Buildings and Structures.
  - 7) Outdoor Recreational Facilities.
  - 8) Temporary Uses and Seasonal Sales.
  - 9) Bed and Breakfast Establishments.
  - 10) ~~Dog Kennels~~ **[Removed. Commercial dog kennels will need to be defined in another text amendment]**
- C. Plot plan submittals shall include the following:
  - 1) Application form and fee.
  - 2) Name, address and phone number of the applicant.
  - 3) North arrow.
  - 4) Legal description of the property.
  - 5) A plan drawn to scale.
  - ~~6)~~ 6) Property lines and dimensions.
  - ~~7)~~ 7) ~~Building setbacks.~~
  - ~~7)~~ 8) Existing and proposed parking including the number of spaces provided and the number required according to Article 9, Off Street Paring and Loading. If changes are made to the parking area, a detail of the pavement, storm water runoff calculations and a description of detentions methods shall be provided.
  - ~~8)~~ 9) Details of any existing, new, or changes to driveways.
  - ~~9)~~ 10) \_\_\_\_\_ Location and details of existing or proposed signage.
  - ~~10)~~ 11) \_\_\_\_\_ General illustration of existing or proposed landscaping.
  - ~~11)~~ 12) \_\_\_\_\_ Layout of existing or proposed utilities.

- ~~12)~~13) Layout of existing or proposed drainage.
- ~~13)~~14) Floor plan of the building under consideration and building elevations if applicable.
- ~~14)~~15) Any other items as requested by the Zoning Administrator.

**ARTICLE 13 - SPECIAL USES**

13.01 PURPOSE

This Ordinance divides the Township into districts in which specific uses are permitted which are mutually compatible. In addition, there may be certain other uses which may be appropriate to include in a district due to the specific circumstances surrounding the use, the impact on neighboring uses and public facilities. Such uses, because of their particular location or the particular nature of the service offered, may be established in a district through a special use permit.

13.02 AUTHORITY TO GRANT PERMITS

The Planning Commission has the authority to approve, deny or approve with conditions special use permits in accordance with this Ordinance. If approved or conditionally approved by the Planning Commission, the Zoning Administrator shall issue special use permits.

13.03 APPLICATION AND FEE

Application for any special use permit permissible under the provisions of this Ordinance shall be made to the Zoning Administrator by filing a completed special use permit application form, including all required data, exhibits and information, and depositing the required minimum fee. Such application shall be accompanied by the minimum fee as established from time to time by the Township Board. No part of such fee shall be refundable to the Applicant.

~~If an application of a complex nature is received, the Zoning Administrator may determine that the application requires the assistance of expert(s) resulting in additional costs. Upon the Zoning Administrator's determination that expert review is required requiring additional fees, review of the application shall stop until the applicant has paid a minimum additional fee of up to two thousand five hundred (\$2,500.00) dollars. The applicant shall deposit the additional fee with Whitewater Township which shall keep an accurate accounting of the funds in a separate account. If the applicant does not deposit the required amount, no further action on the application shall be taken and it will be deemed denied without prejudice. In consultation with the Township Board, the Zoning Administrator shall use the additional fee to contact and select necessary experts or consultants, receive a work proposal and estimate from the experts on their fees and costs for the application, and for the services of the expert(s) or consultant(s) (i.e., legal opinions or studies).~~

~~At the next meeting of the Planning Commission, or prior to the next meeting of the Planning Commission the Zoning Administrator in consultation with the Chair of the Planning Commission, shall: a) establish a budget for the services of the expert(s), meeting costs, zoning administration expenses; and b) send an invoice to the applicant for the amount of the budget established with a request the applicant notify the township within ten (10) days, in writing, that he will withdraw the application, or will proceed and pay the balance of the additional fees based on the budget.~~

~~The applicant shall deposit the additional fee with the Township which shall keep an accurate accounting of the funds in the same account. If the applicant does not deposit the required amount, no further action on the application shall be taken and it will be deemed denied without prejudice. The Planning Commission shall use the additional fee to pay the services of the expert(s), meeting costs, and zoning administration expenses.~~

~~During the application process, the Planning Commission may from time to time modify the budget for such costs. Any additional actual costs incurred in processing such application shall be paid before a permit is issued and may be required to be payable in increments as review of the application progresses. The additional costs shall be for no more than the actual costs incurred by the Township processing the application. No part of such actual cost shall be returnable to the applicant. If there are any remaining monies in the Township's account upon conclusion of the application, those monies shall be returned to the Applicant.~~

~~The deposit required by this section is in addition to any security required elsewhere in this Ordinance.~~ [Note: this level of detail on fees should be placed in a general ordinance or a Township fee policy, not the zoning ordinance.]

#### 13.04 PRE-APPLICATION CONFERENCE

Applicant(s) may request a meeting with the Zoning Administrator and not more than two (2) members of the Planning Commission before submitting an application. The purpose of the meeting is to discuss special use permit processing procedures, explanation of this Zoning Ordinance, what has been required of similar applications in the past, and to assist the Applicant and Township with understanding of general concepts and design parameters prior to investment in preparation of a site plan or special use permit application. Township officials at this meeting shall not indicate or otherwise commit the Township to any particular action regarding the application.

#### 13.05 INFORMATION REQUIRED IN APPLICATION

- A. The Applicant(s) name(s) and addresses).
- B. A signed affidavit identifying whether the Applicant(s) are the owner of the property, have an ownership interest in the property, or are acting on the behalf of owners of the property. If the Applicant(s) do not own the property, then the signed affidavit must also be approved and signed by the property's owner(s).
- C. The address and a legal description of the property.
- D. A project schedule and development plan.
- E. Land uses and existing structures on the subject parcel and adjoining parcels within 300 feet.
- F. A written statement regarding the project's effects on existing infrastructure, including but not limited to traffic, capacity of roads, schools, existing utilities, the natural environment, and water aquifer.
- G. A detailed site plan as specified in Article 12 et seq. of this Ordinance, unless waived or otherwise determined to be unnecessary by the Planning Commission.

#### 13.06 REVIEW FOR COMPLETENESS

Upon receipt of the special use permit application, the Zoning Administrator will review the application for administrative completeness. If the application is not administratively complete, the Zoning Administrator will return the application to the Applicant(s) with a letter that specifies the additional material(s) required. If the application is deemed administratively complete, the Zoning Administrator and Chair of the Planning Commission shall establish a date to hold a public hearing on the special use permit application.

#### 13.07 NOTICE OF PUBLIC HEARING

- A. If the application is administratively complete, the Zoning Administrator shall notify the following persons of the application being considered. This notice must be sent not less than fifteen (15) days before the date of the public hearing. These notices shall be sent to:
  - 1) The Applicant(s).
  - 2) The owner of the property, if different.

- 3) To all persons to whom real property is assessed within 300 feet of the property that is the subject of the request.
  - 4) To the occupants of all structures within 300 feet of the subject property regardless of whether the property or structure is located in the Township.
  - 5) The public by notification in a newspaper of general circulation in Whitewater Township.
  - 6) The members of the Planning Commission.
  - 7) Utility providers, when requested by a utility or otherwise deemed necessary.
  - 8) Michigan Department of Transportation, if within 300 feet of a state highway.
  - 9) Michigan Department of Environment Great Lakes and Energy (EGLE) if the proposed Special Use is on property with surface water, wetlands, groundwater, or otherwise requires a permit from EGLE.
- B. Failure of the Zoning Administrator to notify those persons and entities listed in Subsection A above, shall not be grounds to challenge the validity of the proposed special use permit, provided notice has been given in accordance with the Michigan Zoning Enabling Act. The notice shall include:
- 1) A description of the nature of the special use permit being requested.
  - 2) The property(-ies) for which the request has been made. A listing of all existing street addresses within the property(-ies) subject of the Special Use (i.e., street addresses do not need to be created and listed if no such addresses currently exist and another means of identification may be used.)
  - 3) Where the application documents can be viewed prior to the date of its consideration.
  - 4) When and where written comments will be received concerning the request.
  - 5) The date, time and location of the public hearing where the request will be considered.
  - 6) The address at which written comments may be directed prior to Township consideration.
  - 7) For members of the Planning Commission only, a complete copy of the special use permit application and supporting documents in the record.
- C. Any person or entity that receives notice pursuant to this section of this Ordinance may choose to submit material to the Planning Commission. Such submissions shall be delivered to the Township at or before the hearing on the issue. Such submissions shall be considered advice to the Planning Commission. The applicant may wish to review an application with Grand Traverse County, Grand Traverse Band, public utilities, EGLE, road agencies, and other governing authorities having jurisdiction over the proposed special use prior to the hearing, or prior to submitting the application to the Commission.

#### 13.08 HEARING AND DECISION

~~The Planning Commission shall hold a public hearing on the special use permit application to receive input from the general public. Anyone who receives notice pursuant to Section 13.07 may choose to submit material to the Planning Commission. Such submissions shall be delivered to the Township at or before the public hearing. Such submissions shall be considered advice to the Planning Commission. [This is covered in the preceding section.]~~

The Planning Commission shall either approve, approve with conditions, or deny the application. The decision shall be in writing and clearly state the reasons for the decision. At a minimum the record of the decision shall include:

- A. A summary of public comments made at the hearing;
- B. Formal finding of facts;
- C. The conclusions derived from the facts (reasons for the decision);
- D. The decision; and
- E. A listing of any conditions upon which issuing a permit is issued.

#### 13.09 SPECIAL USE PERMIT STANDARDS

- A. In addition to the standards established for specific uses herein, an application for a special use permit shall be reviewed for compliance with site plan review standards in Article 12 of this Ordinance. The Planning Commission may impose reasonable conditions upon a special use permit.
- B. No special use permit shall be approved unless all of the following standards are met. Each application shall be reviewed for the purpose of determining that the proposed Special Use shall:
  - 1) Be designed, constructed, operated and maintained so as to be harmonious and compatible with the existing or intended character of the general vicinity, and that the use will not change the essential character of the area in which it is proposed.
  - 2) Be adequately served by essential public facilities and services such as highways, streets, fire and safety, drainage, refuse disposal, water and sewage treatment, etc.
  - 3) Not create excessive additional public costs for essential public services or facilities.
  - 4) Not involve activities, processes, materials, equipment or conditions that will be detrimental to any persons, property, or the public from the traffic, noise, smoke, vibration, fumes, glare, odors, etc.
  - 5) Be sufficiently designed to maintain adequate provision for the protection of the health, safety, and welfare of those proposing the special use, residents and adjoining landowners and the community as a whole.
  - 6) Be consistent with the intent of this Zoning Ordinance and the Master Plan.
  - 7) Not create or substantially add to traffic hazards.
  - 8) Not have significant adverse impacts to environmental, ecological, or natural resources.
  - 9) Be in compliance with the requirements of the applicable local, county, state, and federal laws or regulations.
  - 10) Not have significant adverse impacts on adjoining properties, or to allowed or established uses.

#### 13.10 SPECIAL LAND USE PERMIT CONDITIONS

Special Land Use Permits can be granted with conditions imposed by the Planning Commission consistent with MCL 125.3504 (4). Any conditions, limitations or requirements upon which approval is based shall be based upon findings of fact and be:

- A. Reasonable and designed to protect natural resources, the health, safety and welfare of the public;
- B. Relevant to the social and economic well-being of the owners and occupants of the lot in question, of the area adjacent thereto and of the community as a whole;
- C. Related to the purposes which are affected by the proposed use or activity;
- D. Consistent with the intent and purpose of this Ordinance, generally and specifically, for the respective zoning district;
- E. Designed to ensure compatibility with adjacent uses of land and the natural environment; and the proposed special use or activity will be designed to ensure compatibility with public services and facilities.

#### 13.11 RECORD OF SPECIAL LAND USE PERMIT

Following approval of a SUP the Zoning Administrator shall generate a report incorporating the approved findings, conditions, and any applicable restrictions. This report shall be signed by the applicant and the Chair or Secretary of the Planning Commission and the applicant. A copy of the signed report will be provided to the applicant and retained in the township's files.

A notice of the special use permit shall be recorded with a property description with the Grand Traverse County Register of Deeds. The applicant shall provide proof of recording to the Township. The application and all other information relating to the special use permit shall be filed with the Township by the Zoning Administrator.

### 13.12 ~~SECURITY REQUIREMENT~~ DURATION OF SPECIAL LAND USE APPROVAL [Moved from section 3.15]

~~To ensure compliance with relevant sections of the Zoning Ordinance, site plan, and any special use permit conditions, limitations or requirements imposed by the Planning Commission as necessary to protect natural resources or the health, safety, and welfare of the residents of the Township and future users or inhabitants of the proposed project or project area, in addition to action 25.16 Site Plan Performance Guarantee the Planning Commission, may require a cash deposit, certified check, irrevocable bank letter of credit or surety bond in an amount and under the conditions permitted by law. Such security shall be deposited with the Township at the time of the issuance of the special use permit authorizing the commencement of such project. Where the project will take more than ninety (90) days to be completed, the Planning Commission may authorize a rebate of any cash deposit in reasonable proportion to the ratio of the work completed as the work progresses. Such security shall not exceed the estimated cost of the required conditions, limitations, requirements for which the security is designed to ensure compliance.~~

A special use permit shall be valid for as long as the approved special use continues in accordance with the terms and conditions of the approved permit. The special use permit will expire on the occurrence of one or more of the following conditions:

- A. If replaced or superseded by a subsequent special use permit.
- B. If replaced or superseded by a permitted use.
- C. If the applicant requests the rescinding of the special use permit.
- D. If the use is discontinued, relocated, or vacated for a period of one (1) year. Notice of the expiration shall be given to the property owner in writing.
- E. If the construction or use has not commenced and proceeded meaningfully toward completion within one (1) year of issuance

### 13.13 AMENDMENT OF SPECIAL USE PERMITS

Minor amendments are those which are determined by the Zoning Administrator to have no foreseeable effect beyond property receiving a special use permit such as minor changes in the location of buildings, the alignment of utilities, and the alignment of interior roadways. Minor amendments for good cause may be authorized by the Zoning Administrator provided that no such changes shall increase the size or height of structures, reduce the efficiency of public facilities serving the property, reduce usable open space, or encroach on natural features proposed by the plan to be protected.

Any amendment not qualifying as a minor amendment as determined by the Zoning Administrator shall be considered a major amendment and must be approved by the Planning Commission. ~~according to the procedures authorized by this Article for approval of a condominium development.~~

Major amendments to special use permits shall be handled in the same manner as the initial special use permit application. Minor special use permit amendments shall be reviewed by the Zoning Administrator. Major special use permit amendments, requests falling outside the scope of the Zoning Administrator's authority, or any item the Zoning Administrator deems necessary shall be presented to the Planning Commission for their consideration.

### 13.14 TRANSFER OF SPECIAL USE PERMIT

A special use permit, with any and all associated benefits, and conditions ~~and required security~~ shall run with the land and shall be binding on the landowner, and his or her successors, heirs and assigns. The responsibility for effecting the transfer of required security shall be the original landowner (or their heir(s) if the original landowner is deceased), who shall request a return of

~~their required security, if any, from the Township Zoning Administrator. The Zoning Administrator shall contact the new property owner to see if they wish to continue the authorized special use permit by providing the security requirement. Upon the new property owner providing the Township the required security or an affirmative statement they wish to rescind the special use permit, the Zoning Administrator shall return the required security provided by the original property owner to the original property owner. It is the responsibility of the new landowner to request a continuation of the special land use approval, if desired.~~

13.15 CONSTRUCTION CODE PERMITS

A special use permit shall be required prior to the issuance of a building permit from the Grand Traverse County Building Department pursuant the then-applicable construction code pursuant to the State Construction Code Act.

~~A special use permit shall be valid for as long as the approved special use continues in accordance with the terms and conditions of the approved permit. The special use permit will expire on the occurrence of one or more of the following conditions:~~

- ~~F. If replaced or superseded by a subsequent special use permit.~~
- ~~G. If replaced or superseded by a permitted use.~~
- ~~H. If the applicant requests the rescinding of the special use permit.~~
- ~~I. If the use is discontinued, relocated, or vacated for a period of one (1) year. Notice of the expiration shall be given to the property owner in writing.~~
- J. If the construction or use has not commenced and proceeded meaningfully toward completion within one (1) year of issuance, the special use permit. **[Move to new section 3.13 above and remove the last 4 words of item E]**

13.16 VIOLATION OF SPECIAL USE PERMIT

Any violation of the terms, conditions or limitations of a special use permit shall be cause for revocation or suspension of the special use permit. The Planning Commission may either revoke or suspend, pending correction of the violation, any special use permit. The act to revoke or suspend the special use permit shall occur after giving notice to the permit holder, specifying the violation(s) alleged to exist and when a hearing will be held on the matter. The notice shall be delivered by registered mail. Any interested party may appear in person or by attorney at the hearing. The act to revoke or suspend the special use permit shall occur after or at the hearing on the matter. Before revoking or suspending the permit the Zoning Administrator shall make a finding that a material violation of the special use permit exists and shall provide written notice to the applicant and the landowner of record, if different parties. The permit holder shall be given a reasonable opportunity to correct the violation(s).

13.17 ADDITIONAL CONDITIONS OF SPECIAL USES.

- A. Bed and Breakfast Establishments.
  - 1) Statement of Intent. It is the intent of this Section to establish reasonable standards for Bed and Breakfast Establishments to assure that:
    - e. The property is suitable for transient lodging facilities.
    - f. The use is compatible with other uses in the residential and agricultural districts.
    - g. Residential and agricultural lands shall not be subject to increased trespass.
    - h. The impact of the establishment is no greater than that of a private home with house guests.
  - 2) Minimum Requirements. The following requirements for Bed and Breakfast Establishments together with any other applicable requirements of this Ordinance shall be complied with:
    - a. The minimum lot size shall be one (1) acre.

- b. Off-street parking shall be provided (one space per room). Vehicle parking is prohibited between the front of the building and public right-of-way.
  - c. One non-illuminated sign, identifying the establishment, not to exceed four (4) square feet in area and not closer to the street line than fifteen (15) feet shall be allowed.
  - d. Such Bed and Breakfast Establishments shall not be located less than fifteen hundred (1500) feet apart.
  - e. The residence shall be the principal dwelling unit on the property and shall be owneroccupied at all times.
  - f. The residence shall have at least two (2) exits to the outdoors.
  - g. Not more than three (3) sleeping rooms in the residence may be used for rental purposes.
  - h. Not more than eight (8) overnight guests may be accommodated at any time.
  - i. The rooms utilized for sleeping shall be a part of the primary residential use and not specifically constructed for rental purposes.
  - j. The rental sleeping rooms shall have a minimum size of one hundred (100) square feet for each two occupants with an additional thirty (30) square feet for each occupant to a maximum of four (4) occupants per room.
  - k. Proof of evaluation of the well and septic system by the Health Department and conformance to the agency's requirements shall be supplied by the owner/occupant.
  - l. The Planning Commission shall require that a floor plan drawn to an architectural scale of not less than 1/8 inch = 1 foot be on file with the Fire Department.
  - m. Each owner/operator of a Bed and Breakfast Establishment shall keep a guest registry which shall be available for inspection by the Zoning Administrator, police and fire officials during normal business hours.
  - n. The length of stay for each guest shall not exceed seven (7) days within any thirty (30) day period.
  - o. In the event that the Planning Commission determines that noise generation may be disturbing to neighbors, or that the location of the establishment is in an area where trespass onto adjacent properties is likely to occur, then the Planning Commission may require that fencing and/or a planting buffer be constructed and maintained.
  - p. Rental of snowmobiles, ATVs or similar vehicles, boats and other marine equipment, in conjunction with the operation of the establishment shall be prohibited.
  - q. A special use permit shall not be granted if the essential character of a lot or structure within a residential or agricultural district, in terms of use, traffic generation or appearance will be changed substantially by the occurrence of the bed and breakfast use.
- B. Sexually Oriented Businesses.
- 1) Intent: Sexually oriented businesses require special supervision in order to protect and preserve the health, safety, and welfare of the patrons of such business as well as the citizens of the communities where they are located.

There is convincing documented evidence that sexually oriented businesses, because of their nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime and downgrading of property values.

It is recognized that sexually oriented businesses, due to their nature, have serious objectionable characteristics, particularly when they are located in close proximity to each other, thereby contributing to urban blight and downgrading the quality of life in the adjacent area.

The Township of Whitewater desires to prevent these adverse affects and thereby protect the health, safety, and welfare of the citizenry, preserve the property values and character of surrounding neighborhoods and deter the spread of urban blight.

It is not the intent of this Ordinance to suppress any activity protected by the First Amendment of the United States Constitution or the Michigan Constitution, but to enact a content neutral Ordinance which addresses the adverse secondary effects of sexually oriented businesses.

It is not the intent of the Township of Whitewater to condone or legitimize the distribution of the obscene materials, and the Township of Whitewater recognizes that state and federal law prohibits the distribution of obscene materials and expects and encourages state enforcement officials to enforce state and federal obscenity statutes against any such illegal activities within the Township of Whitewater.

- 2) Purpose: It is the purpose of this ordinance to regulate sexually oriented businesses and related activities to promote the health, safety, and general welfare of the citizens of the Township, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the Township. The provisions of this Ordinance do not have the purpose of imposing a limitation or restriction on the content of any communicative material, including sexually oriented materials. Similarly, it is not the intent of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment of the United States Constitution, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent of this Ordinance to condone or legitimize the distribution of obscene materials.

**Note—**

- 3) SPECIAL LAND USE PERMIT REQUIREMENTS: In addition to the requirement for Site Plan Review Article 12. **[Formatting note: bullet-points shall be replaced with numbering]**
- It shall be unlawful for a person to operate a sexually oriented business without a valid Special Use Permit issued by the Planning Commission.
  - An application for a permit must be made on a form provided by the Township of Whitewater. The Township of Whitewater must provide the application. A sketch or diagram showing the configuration of the premises, including a statement of display area occupied by the business, must accompany the application. This sketch or diagram need not be professionally prepared if the building is already established in the township, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.
  - Applications for a permit shall be made and delivered to the Zoning Administrator. The applicant shall be required to give the following information on the application form:
    - o The name, street address, and mailing address, if different, and driver's license number of the applicant if he/she has such a driver's license.
    - o The name, street address, and mailing address, if different, of the owner(s), if different.
    - o The name under which the establishment is to be operated and a general description of the services to be provided.
    - o The telephone number of the establishment or, if unavailable, the applicant's.
    - o The address and legal description of the tract of land on which the establishment is to be located.
  - All information necessary to answer the requirements in subsection 4 below.

- The fact that a person possesses other types of state or county permits and/or licenses does not exempt him/her from the requirement of obtaining a Special Land Use Permit to run a sexually oriented business from the Township of Whitewater.
- The application shall be accompanied by the following:
  - o Payment of the application fee in full;
  - o Proof of current fee simple ownership of the tract of land on which the establishment is to be situated in the form of a copy of the recorded deed, land contract, or other instrument of conveyance;
  - o The lease, purchase contract, purchase option contract, lease option contract or other document(s) evidencing the legally enforceable right of the ownership or proposed by owners of the establishment to have or obtain the use and possession of the tract or portion thereof that is to be used for the establishment for the purpose of the operation of the establishment, if the persons identified as the fee simple owners(s) of the subject tract of land are not also the owners of the establishment.
  - o A letter from the owner acknowledging the building is to be used for a Sexually Oriented Business, if the applicant is not in fact the owner of the building or tract of land.
  - o Proof of application to Grand Traverse County Health Department, Construction Code, Drain Commission or Department of Environmental Quality or other agency for the required permits, if applicable.
- The application shall contain a notarized statement under oath that:
  - o The applicant has personal knowledge of the information contained in the application and that the information contained therein and furnished therewith is true and correct; and
  - o The applicant has read the provisions of Article 12 (Site Plan Review).

4) ISSUANCE OF PERMIT:

- The Planning Commission shall approve the issuance of a Special Land Use Permit so long as the applicant conforms to all the terms and conditions of this Zoning Ordinance specifically Article 12 (Site Plan Review). The Planning Commission shall issue a permit within Ninety (90) days after receipt of a complete application unless they find one or more of the following to be true:
  - o An applicant is under eighteen (18) years of age.
  - o An applicant is overdue in his payment of taxes, fines, or penalties assessed against him or imposed upon him in relation to a sexually oriented business.
  - o An applicant has failed to provide information required by this Ordinance or has falsely answered a question or request for information on the application form.
  - o An applicant who has been denied a permit by the township to operate a sexually oriented business within the preceding twenty-four (24) months, or whose permit to operate a sexually oriented business has been revoked within the proceeding twenty-four (24) months.
  - o The permit fee required by this Ordinance has not been paid.
  - o The proposed establishment is in violation of or is not in compliance with any of the provisions of the Whitewater Township Zoning Ordinance.
  - o An applicant has been convicted of any of the following criminal offenses in any jurisdiction:
    - ♣ prostitution, procuring a prostitute, or solicitation of a prostitute;
    - ♣ sale, distribution or display of obscene material;
    - ♣ soliciting, procuring or aiding and abetting an unlawful sexual performance by a minor;
    - ♣ possession, sale or distribution of child pornography;
    - ♣ public lewdness;
    - ♣ indecent exposure;
    - ♣ indecent conduct with a child;
    - ♣ sexual assault or rape;
    - ♣ incest;
    - ♣ sexual solicitation of a child.

The applicant shall certify, as a part of the application, that he/she has not been convicted of any one or more of the foregoing criminal offenses.

- The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, and the address of the sexually oriented business. The permit shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.
  - In the event that the Planning Commission determines that an applicant is not eligible for a permit, the applicant shall be given notice in writing of the reasons for the denial within sixty (60) days of the receipt of a complete application to the Zoning Administrator. The applicant shall have 10 days from the date of the notice to correct the grounds for denial. If the corrections are not made and notice of the corrections are not received in writing to the Township within the 10 days then the denial shall be deemed to be in effect.
  - An applicant may appeal the decision of the Planning Commission regarding a denial to the Whitewater Township Zoning Board of Appeals by filing a written notice of appeal within twenty-one (21) days after the applicant is provided with notice of the Planning Commission's decision.
  - The Zoning Administrator may also take all steps necessary to revoke a permit if he/she determines that a permittee gave false or misleading information in the material submitted during the application process.
- 5) Inspection: An applicant or permittee shall allow the Township Zoning Administrator or his appointed representative to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law at any time it is occupied or open for business.
  - 6) Fees: An annual fee for a sexually oriented business permit will be assessed. This fee is to be used to pay for the cost of the administration and enforcement of this ordinance. The Township Board will determine this annual fee.
  - 7) Action To Revoke Permit: The Whitewater Township Board shall take enforcement action, including the commencement of suit seeking revocation of a permit, if any of the following occurs:
    - a. A permittee gave false or materially misleading information in the application process.
    - b. A permittee has been convicted of using and/or allowing the use of controlled substances within the establishment.
    - c. A permittee has been convicted of prostitution or other activity fostering, promoting or otherwise facilitation prostitution, within the establishment or elsewhere.
    - d. A permittee or employee of the sexually oriented business has been convicted of any crime of a sexual nature or involving sexual conduct or the solicitation thereof within the establishment or elsewhere.
    - e. A permittee has been convicted of knowingly allowing a person under eighteen (18) years of age to enter the establishment.
    - f. There has been a transfer of ownership or control of an establishment without the prior consent of the Planning Commission, as required herein.
  - 8) Transfer Of Permit: A permittee shall not transfer his permit to another without prior approval of the Planning Commission, nor shall a permittee operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application. An application must be completed by the proposed permittee prior to the transfer and reviewed by the Planning Commission for continued compliance with this Article.
  - 9) Location Restrictions:
    - a. A sexually oriented business may not be operated within 750 feet of:
      1. a church, synagogue or regular place of religious worship;
      2. a public or private elementary or secondary school;
      3. a boundary of any residential zoned district or any residential structure within or without a zoned area;

4. a boundary of a public park;
5. a boundary of a licensed day-care center; and/or
6. another sexually oriented business.
- b. A sexually oriented business may not be operated in the same building, structure, or portion thereof, containing another sexually oriented business.
- c. For the purpose of this Ordinance, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted to the nearest property line of the premises of a church, synagogue, regular place of worship, or public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district, or licensed day-care center or residential structure in a non-residential district.
- d. For purposes of this Subsection, the distance between any two sexually oriented businesses shall be made from the closest roofline of the structure in which each business is located.

10) Regulations Pertaining to Adult Entertainment Establishments:

- a. A person who operates or causes to be operated an adult entertainment establishment which presents live entertainment for the enjoyment of an audience which has paid or promised to pay an admission fee and which depicts specified sexual activities or displays specified anatomical areas, shall comply with the following requirements.

o Upon application for a sexually oriented business permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures (indicating the type of illumination intensity of each such fixture) and designating any portion of the premises in excess of thirty (30) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required, however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises.

o The application shall be sworn to be true and correct by the applicant.

o No alteration in the configuration or location of a manager's station may be made without the prior approval the Township Zoning Administrator.

o It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

o The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

o It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises to ensure that the view area specified in this Subsection remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times, and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to this Subsection.

o The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1.) foot-candle as measured at the floor level.

o It shall be the duty of the owners and operator and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

o The premises shall meet all barrier free requirements and building code requirements imposed by the County Building and Inspections Department.

11) Exterior Portions of Sexually Oriented Businesses:

- a. It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from a point that is outside the establishment.
- b. It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have any words, lettering, photographs, silhouettes, drawing, or pictorial representations of a sexual or explicit manner except to the extent otherwise permitted by the provisions of this Ordinance.
- c. Proposed signage shall not include animated or flashing illumination of any type and otherwise conforms to the requirements of Township Zoning Ordinance Article 14 (Signs). Proposed signage may contain only the name of the sexually oriented business and shall not include photographs, silhouettes, drawings, or pictorial representations of any type.
- d. All off-street parking areas shall be illuminated during all hours of operation in accordance with Article 11 (Exterior Lighting Regulations) of the Whitewater Township Zoning Ordinance and shall otherwise be open to view from the adjacent roadway.
- e. A sexually oriented business may not have outside speakers on the exterior of any buildings or anywhere on the outside of their property.

12) Persons Younger Than Eighteen Prohibited from Entry- Attendant Required:

- a. It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter the premises of a sexually oriented business at any time that the sexually oriented business is open for business.
- b. It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during such sexually oriented business's regular business hours. It shall be the duty of the attendant to not allow any person under the age of eighteen (18) years to enter the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished:

o a valid operator's commercial operator's or chauffeur's license; or

o a valid personal identification certificate reflecting that such person is eighteen (18) years of age or older.

- c. Entrances to the proposed Sexually Oriented Business will be posted on both the exterior and interior walls, clearly visible to the public, indicating in lettering no less than one and one-half inches in height that (a) "No one under the age of eighteen is permitted to enter the premises" and (b) "No alcoholic beverages of any type are permitted within the premises" unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission.

13) General And Specific Requirements:

- a. General requirements: In reviewing an application for special use permit for a sexually oriented business, the Planning Commission shall determine whether the following general standards have been met:

- o that the applicant has met all the requirements for Article 12 (Site Plan Review) which pertain to one's application.
- o that all required information has been provided.
- o That the proposed use conforms to all specific density and setback regulations, etc. of the zoning district and this Article.
- o That the plan for the proposed use meets all applicable written and duly promulgated requirements of Whitewater Township for fire and enforcement protection, water supply, sewage disposal or treatment, storm drainage and other public facilities and services.
- o That the submitted Landscape Plan complies with this Ordinance.
- o That parking layout will not adversely affect the flow of traffic within the site, or to and from the adjacent streets.
- o That the outdoor storage of garbage and refuse is contained, screened from view and located so as not to be visible from neighboring properties or the adjacent roadways.
- b. Specific requirements: To operate a sexually oriented business within the boundary of Whitewater Township the following specific requirements must be met and agreed upon by the owner (s), applicant and operators of the sexually oriented business:
  - o Hours of operation shall be limited to 10:00 a.m. to 2:00 a.m.
  - o The proposed business will not have a detrimental impact upon the property values of properties located within 750 feet of such a proposed sexually oriented business.
  - o The proposed sexually oriented business applicant shall have provided an exterior maintenance program to the Township Zoning Administrator, together with its special use permit. The Applicant shall provide for the routine clearing of trash and rubbish from all parking areas and other portions of the premises not less than once-per-week. Continued adherence to such exterior maintenance program shall be a condition to the issuance of any special use permit pursuant to this section.
  - o Persons may not reside in a sexually oriented business establishment. It may be allowed by permit only and based on the issuance of a permit on inspection of living arrangements.
  - o The Planning Commission may impose such additional conditions and safeguards deemed necessary to mitigate negative secondary effect reasonably documented to emanate from sexually oriented businesses for the protection of the general welfare and individual property rights of affected property owners, and for insuring that the intent and objectives of this Ordinance will be observed. The breach of any condition, safeguard or requirement shall serve as grounds for revocation of the permit, after written notice and an opportunity to be heard.
- 14) Exemption: It is a defense to prosecution under this Ordinance that a person appearing in a state of nudity did so in a modeling class operated:
  - a. by a proprietary school, licensed by the State of Michigan, a college, junior college, or university supported entirely or partly by taxation;
  - b. by a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.
- 15) NOTICES:
  - a. Any notice required or permitted to be given by the Township or other agency under t his Ordinance to any applicant, operator or owner of an establishment may be given either by prepaid, return receipt requested, addressed to the most recent
  - b. address as specified in the application for the permit, or transfer Application that has been received by the Township, or any notice of address change that has been received by the Township. Notices mailed as above shall be deemed given upon their deposit in the United States Mail. In the event that any notice given by mail is returned by the postal service, the Township shall cause it to be posted at the principal entrance to the establishment.
  - c. Any notice required or permitted to be given to the Township by any person under this Ordinance shall not be deemed given until and unless it is received in the principal office of the Township.

- d. It shall be the duty of each owner who is designated on the permit application and each operator to furnish notice to the Township in writing of any change of a residence or mailing address.
- 16) INJUNCTION: A person who operates or causes to be operated a sexually oriented business without a valid permit or otherwise violates this Ordinance shall be subject to a suit for injunctive relief and/or revocation of the sexually oriented business permit, as well as fines or other penalties as provided by the Whitewater Township Zoning Ordinance.
- C. Special Use provisions for Major Home Occupations: Minimum Requirements:
  - 1) At no time shall the number of vehicles on site impose a negative impact on adjacent uses. Frequent shipments or deliveries by vehicles having more than two drive axles are prohibited.
  - 2) The occupation may offer for sale any article or service provided that the sale of any articles or services shall not have a negative impact on the surrounding areas with regard to noise, light, odors, etc.
  - 3) Hours of operation shall be stipulated by the Planning Commission.
  - 4) Signage size and number(s) shall be determined by the Planning Commission.
  - 5) Home Occupations shall only be permitted when endorsed by the property owner (if applicant is not the property owner). All application materials, site/plot plans and final conditions shall be authorized by the property owner.
  - 6) Such other conditions as may be determined by the Planning Commission.
  - ~~7) The occupation shall be required to submit an annual permit for administrative review. All annual permits shall be received by the Zoning Administrator by January 15.~~

In the event the Zoning Administrator determines that the occupation no longer complies with the original approval by the Planning Commission, the applicant will be required to submit a revised application for special use approval to the Planning Commission.
- D. Commercial Campgrounds.
  - 1) Commercial campgrounds shall only be allowed on parcels of 40 acres or greater.
  - 2) All requirements of Public Act 368 of 1978 regulating Campgrounds shall be met.
  - 3) Permanent cabins.
  - 4) Each dwelling or pad shall be provided water and sanitary service approved by the Grand Traverse County Health Department or have convenient access to approved service building(s).
  - 5) The campground shall have access to an all season road, either public or private.
  - 6) All campgrounds shall be designed to blend in with the surrounding environment to the greatest possible extent. Buffers or screening may be required.
  - 7) Internal road systems shall be a minimum of 20' travel width.
  - 8) Permanent residency is prohibited on the property with the exception of one residential home/office to be used and occupied by the campground owner or manager and his/her immediate family.
  - 9) Campsites or structures may be rented by the day, week or an indefinite period of time.
  - 10) No structures or campsites shall be located within 100 feet of a property line.
  - 11) Accessory/service buildings such as storage facilities, restrooms, kitchens, pavilions, etc. shall be allowed.
  - 12) Recreational elements shall not have a negative impact on the surrounding areas with regard to noise, light, odors, etc.
  - 13) As part of the submittal, the applicant shall present a detailed management plan for the campground. The plan shall include continued compliance with the terms of the management plan and the following information:
    - The total number of campsites, cabins and accessory buildings proposed.
    - The maximum permitted duration of residency.
    - Policies and enforcement procedures to deal with noise, rowdy behavior and similar nuisance activities.

- The hours and seasons the campground will operate.
  - Disclosure of all recreational elements.
- 14) Campground cabins shall not exceed 650 square feet of floor area, including covered porches.

**Article 19 - ADMINISTRATION**

19.05 LAND USE PERMIT: WHERE REQUIRED

A land use permit is required when a change of use to a conforming land use in the district in which it is located is proposed that does not involve building or site alterations and does not require site plan review, special land use review, or planned unit development review as required by this Ordinance.

19.~~05-06~~ LAND USE PERMIT REVIEW.

- A. The Zoning Administrator shall verify that all applications for land use permits shall be accompanied by a clearly drawn plot plan which contains the following:
- 1) Owner Information
  - 2) Parcel ID Number
  - 3) Property Address
  - 4) North Arrow
  - 5) Scale
  - 6) Existing and/or Proposed Structures (including fencing) and their setbacks
  - 7) Existing and/or Proposed Driveways and their setbacks
  - 8) Road Right of Way and/or Utility Easements
  - 9) Sanitary Facilities and Well
  - 10) Water Bodies on the Site
  - 11) Wetlands
- B. The Zoning Administrator shall request that the applicant submit with the application such additional materials as may be needed to determine whether or not a permit should be issued, such as surveys, soil suitability tests, surface water disposal surveys, erosion control surveys and excavation disposal plans, abstracts, building plans, and permits from other government agencies.
- C. Evidence of Ownership. The Zoning Administrator shall review evidence of ownership for all property affected by the permit application.
- D. Voiding of Permit. The Zoning Administrator may suspend or revoke a permit issued under the provisions of this Ordinance whenever the permit is issued erroneously on the basis of incorrect information supplied by the applicant or his agent and is in violation of any of the provisions of this Ordinance or of any other Ordinances or regulations of the Township.
- E. The Zoning Administrator shall require submission of an application for Site Plan Review or Plot Plan Review in accord with the provisions of Article 12 as required.

19.06-07 LAND USE PERMITS INSPECTIONS

A. The construction or usage covered by any land use permit shall be subject to the inspection by the Zoning Administrator to ensure compliance with the provisions of this Ordinance and the approved plot or site plan.

B. The Zoning Administrator shall clearly communicate the inspections schedule to the applicant. It shall be the duty of the holder of every permit to notify the Zoning Administrator when the construction or usage is ready for inspection.

C. Inspections shall be made by the Zoning Administrator at the following intervals:

- 1) At the time of staking out lot corners and proposed structures.
- 2) When the building foundation forms are in place and/or poles are set, if required and noted on the permit.
- 3) Upon completion of the work authorized by the permit.

19.07-08 LAND USE PERMITS; DENIAL. The Zoning Administrator shall promptly inform the applicant, in writing, of the denial of a Land Use Permit if such planned building or structure or land use does not comply with the provisions of this Ordinance. Applicants that have been denied a land use permit may appeal Zoning Ordinance decisions in accordance with Section 20.06, duties and powers of the Zoning Board of Appeals.

19.08-09 LAND USE PERMITS; FEES. The fees for land use permits shall be established by the Township Board

## Master Plan Guidance

Principle #4 of the Master Plan, “Encourage economic opportunities” has a goal to “Pursue designation as a ‘Redevelopment Ready Community’” (4-A). Updates to the zoning ordinance, particularly the sections pertaining to development processes, support this goal as well as goal 1-A of having “a clear and well-organized Whitewater Township Zoning Ordinance.” Additionally, clear and streamlined processes can also help facilitate other Township goals related to development, such as goal 3-A “Attract and encourage redevelopment in the ‘V’ Village Zoning District.” It is important to note that changes to development processes were not well supported by residents at the open house. When asked to evaluate whether to keep (or not) goals from the 2015 Master Plan, over half of the respondents indicated that they do not want to keep the goal of streamlining the application process for development, while only five were in favor of these updates. However, almost half of respondents indicated support for encouraging new development in areas with infrastructure that is available or attainable.

## Zoning Audit Guidance

The Zoning Audit identified several areas of improvement related to the process for development. These include the following:

**Site Plan Review** – The ordinance allows for a variety of review processes, including administrative review. Organizing these in a table by the type of plan and review could be helpful. Reorganizing the section to move information about administrative review earlier in the section and putting the appeals provisions in the ZBA section could also be helpful. Finally, allowing for extensions for the duration of approval and potentially allowing for administrative extensions could be useful.

**Special Land Uses** – The fee structure should be updated to note that fees may be established by the Township Board via a resolution that may be updated. This will avoid an overly cumbersome process of having to amend the zoning ordinance for fee changes. A reorganizing of this section would also be useful, specifically removing the additional standards for special land uses and putting them in their own section on use standards. Other concerns about special land use standards include:

1. The provisions for bed and breakfast establishments allow no more than three bedrooms, but the definition says the structure has 10 or fewer sleeping rooms. This should be removed to avoid confusion. For this use, is a traffic generation study needed for a use that hosts up to 8 people?
2. There seems to be text missing in Section 13.17.B – between 2 and 3 (“Note-”). That section also includes additional information for a special land use review that may be redundant. The section should be numbered instead of using bullets to keep the formatting consistent throughout the document. Some of the provisions related to adult entertainment establishments may be more appropriate in the general code.

**Land Use Permits** - The provisions for issuing land use permits address the process and approving body, but does not define what a land use permit is and when it is required. This section should be clarified to state that land use permits are required for the establishment of a use (which may not require on-site construction), and that permits issued by agencies other than the Township may also be required prior to Township approval. Consideration should also be given to changing the name of these permits to “zoning compliance permits” to avoid confusion between these and “special land use permits.”

**Noticing Requirements** - Public hearing noticing requirements should be updated to be consistent with the Michigan Zoning Enabling Act.

# memorandum

**DATE:** October 13, 2025

**TO:** Whitewater Township Planning Commission

**FROM:** Andy Aamodt and Stephanie Osborn, Giffels Webster

**SUBJECT:** Bundle 1: Condominium development regulations section update

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## Introduction

Several needed updates to the condominium development regulation section of the zoning ordinance have been identified through the master plan, zoning audit, and conversations with staff. This memo reviews Article 8 of the Zoning Ordinance and provides existing language and suggests a question to guide updates to this section.

This memo is divided into the sections below. You can click on each section to move to that section.

[Amendment History](#)

[Overview of Proposed Changes](#)

[Questions for Consideration](#)

[Next Steps](#)

[Clean Language](#)

[Proposed Marked Up Language](#)

[Master Plan Guidance \(provided in October's meeting memo\)](#)

## Amendment History

- **October 1, 2025** – The Planning Commission reviewed the existing language and discussed priorities for condo development standards. Changes related to encouraging cluster development and permanently protecting sensitive natural features were identified as the highest priority, followed by access management to reduce curb cuts and promote internal street connectivity. Proposed changes to section 8.05.C reflect these priorities.

## Overview of Proposed Changes

- Update to correct information about how planned unit developments (PUDs) are processed
- Add a residential cluster option to promote open space preservation

- Move open space preservation standards from the PUD section to this section. These standards will be referenced in the PUD section.
- Add a note that additional studies may be required

## Questions for Consideration

- What concerns do you have about the new proposed subsection C in Section 8.05 focused on incentivizing cluster developments? Does this address the priority areas for updating this section as discussed at the October meeting? Should the standards related to open space preservation that are currently in the PUD section also be applied to the residential cluster option?
- What other changes would you like to see to the condominium development standards?

## Next Steps

- The Planning Commission will have the opportunity to discuss the proposed language and questions for consideration which will inform any additional changes to the text. The Planning Commission may wish to set a public hearing for the amendment when they are comfortable with the proposed changes.

## Clean Language

### ARTICLE 8 - CONDOMINIUM DEVELOPMENT REGULATIONS

#### 8.01 INTENT

The intent of this Article is to provide procedures and standards for the review and approval, or denial of condominium projects implemented under the provisions of the Condominium Act (Act 59 of 1978, as amended) and to ensure that such developments are consistent and compatible with conventional platted subdivisions as provided for through the Land Division Act (P.A 288 of 1967, as amended), and promote the orderly development of adjacent areas. These regulations are enacted by authority of the Condominium Act, the Michigan Zoning Enabling Act, and this Ordinance, as amended, whereby all developments utilizing any form of condominium ownership shall be reviewed, approved or disapproved by the Township.

#### 8.02 APPLICABILITY

- A. General Provisions: Prior to recording of the master deed, required by Section 72 of the Condominium Act, a condominium project shall undergo a site plan review and approval by the Township in accordance with the provisions of this section. Approval under this section shall be required as a condition to the right to construct, expand or amend a condominium project in the Township.
- B. Plat Approval: There shall be no requirement for plat approval for a condominium project under the Township Subdivision Control Ordinance, General Ordinance 16.
- C. Planned Unit Developments: The procedural provisions of this section shall not apply to Planned Unit Developments, which are reviewed and approved through the Planned Unit Development procedures in Article 7 of this Ordinance.
- D. Condominium Conversion: All individuals proposing a Condominium Conversion shall present the township with two copies of all required documents as indicated in the Condominium Act (Act 59 of 1978, as amended). Said review shall be conducted by the township Zoning Administrator and township attorney for compliance with the Condominium Act (Act 59 of 1978, as amended). Applicant shall be provided with a written response of approval or specific reason for failure to approve within 60 days of submission.
- E. Mobile/Manufactured Home Condominium Project: Mobile/Manufactured home condominium projects shall conform to the requirements of this Ordinance, in accordance with the Condominium Act and other applicable Local, State laws, ordinances and regulations. Such projects shall be located only in a zoning district that provides for mobile/manufactured home. The review and approval shall be processed in accordance with this Article as a site condominium subdivision.
- F. Site Condominium Subdivisions
  - 1) Site Condominium Definition. For this section, a site condominium subdivision shall include all developments, in any zoning district, proposed under the provisions of the Condominium Act (Act 59 of 1978, as amended).
  - 2) Site Condominium General Requirements. The site condominium subdivision plan indicates specific unit dimensions with front, rear and side lot lines. These parcels are also referred to as site condominium lots, and the size, location and arrangement of these site condominium lots shall conform to the requirements of this ordinance. A condominium project is designed to function in a similar manner, or as an alternative to, a platted subdivision. Outside of the condominium lots, common elements of the development are defined for co-owners.

### 8.03 CONSULTATION

In determining whether to approve a condominium development plan, the Township may charge for consultation with the Township Attorney and other experts, regarding the adequacy of the master deed, deed restrictions, utility systems, and streets, site layout and design, and compliance with all requirements of the Condominium Act and this Ordinance. Estimated costs related to said consultation, shall be placed in an escrow account in addition to the standard nonrefundable application fee.

The Township may require that the applicant place additional funds in escrow if deemed necessary. Any unused consultation funds shall be returned to the applicant with an itemized record of distributions.

### 8.04 GENERAL REQUIREMENTS

- A. Compliance with Federal, State and Local Laws: All condominium projects shall comply with all applicable Federal, State and local laws and ordinances. No condominium documents shall conflict with the standards of this Ordinance.
- B. Fee Required: Before the Township reviews a condominium development plan, the applicant shall submit to the Township a nonrefundable application fee or preliminary review fee as established by resolution of the Board to cover the Township's cost of internal review. Such application fee shall be independent of any required consultation costs as described in Section 8.03 above.
- C. Information Required: All condominium development plans shall include the information required by Section 66 of the Condominium Act and the material required in Section 12.03 (F). A person, firm, or corporation intending to develop a condominium development shall provide the following information:
  - 1) Size and Scale - Plans may be on paper and shall not be less than 24 inches by 36 inches, at a scale of at least 1 inch to 200 feet showing the date and north arrow.
  - 2) The name of the proposed condominium development.
  - 3) The name, address, telephone number of:
    - a. All persons, firms, or corporations with an ownership interest in the land on which the condominium development will be located and a description of the nature of each entity's interest (for example, fee owner, optionee, or land contract vendee)
    - b. All engineers, attorneys, architects, landscape architects, or registered land surveyors associated with the condominium development.
    - c. The individual or entity applying for the condominium development.
  - 4) The legal description of the land on which the condominium development will be developed together with any expansion plans and appropriate tax identification numbers.
  - 5) The acreage of the land on which the condominium development will be developed located.
  - 6) The land use and existing zoning of the proposed condominium development.
  - 7) The following information for subject parcel and all parcels within 300 feet of the proposed site: a. Name and address of the owners b. The zoning classifications c. Existing structures or significant landmarks
  - 8) Location, type, dimensions, and proposed use of all existing structures.
  - 9) A location map showing the relationship of the proposed condominium development plan to the surrounding area.

- 10) Statement of intended use(s). Such as, residential single-family, residential multi-family, commercial, industrial, etc. and the number of acres of each type of land use proposed.
  - 11) Condominium unit lot lines and the total number of condominium units to be developed on the subject parcel.
  - 12) Description of water system to be implemented.
  - 13) Description of sanitary waste disposal system to be implemented.
  - 14) Public roads, private roads, and right-of-way easements, showing location, width, and purpose. All private roads in a condominium subdivision shall comply with the specifications of any applicable ordinance, state law, or federal law.
  - 15) Existing topographic elevations at two (2) foot intervals, proposed grades, and direction of drainage flows.
  - 16) Location and types of all significant existing vegetation, water courses and bodies, flood plains and water retention areas, wetlands, and soil types. Significant vegetation includes all trees with a minimum trunk diameter of 18 inches at 4 1/2 feet above the surrounding grade.
  - 17) Any additional information deemed necessary during plan review.
- D. Utility Easements: The condominium development plan shall include and describe all necessary easements for the purpose of constructing, operating, inspecting, maintaining, repairing, altering, replacing, and/or removing pipelines, mains, conduits, and other installations of a similar character providing public utilities.
- E. Performance Guarantees: As a condition of approval of the condominium development plan by the Township, a performance guarantee may be required to ensure construction of required improvements and the completion of filing requirements before land use permits are issued. Upon fulfillment of all requirements and filings, the applicant shall apply to the Township for release of performance guarantees. Performance guarantees shall comply with the requirements in Article 12, specifically Section 12.08 of this Ordinance.

#### 8.05 STANDARDS AND DESIGN FOR SITE CONDOMINIUM DEVELOPMENTS

- A. Site-Condominium Lots: The condominium development plan shall indicate specific parcel dimensions allocated to each condominium dwelling unit or lot.
- B. Site-Condominium Development Layout and Design: The description, size, location and arrangement of the site condominium lots shall conform to the requirements of this Ordinance. The design of a condominium development shall be subject to the following requirements and guidelines.
- 1) Should there be unusual topographic or other natural feature constraints, these requirements may be adjusted to unique site conditions in accordance with the judgement of the township Planning Commission.
  - 2) Each condominium lot shall comply with the requirements of each zoning district in which it is located, and all condominium lots and required setbacks shall be measured from the designated front, rear and side condominium lot lines. Residential Cluster Option developments may not meet the lot size, width, or lot coverage requirements of the zoning district the lot is located on, but must meet the standards described in subsection C below.
  - 3) Each condominium dwelling unit shall be located within a condominium lot. In a condominium development approved for single-family detached dwelling units, not more than one (1) dwelling unit shall be located on a condominium lot.

- 4) There shall be a proper relationship between existing streets and highways within the vicinity, and proposed deceleration lanes, service drives, entrance and exit driveways, and parking areas to assure the safety and convenience of pedestrian and vehicular traffic, and that the proposed streets and access plan conform to any street or access plan adopted by the Township or the County Road Commission.
- 5) Existing features, natural or otherwise, which add value to a residential development and enhance the attractiveness of the community shall be retained, insofar as possible, in the design of the condominium development.
- 6) Lands subject to flooding or otherwise deemed by the Township to be uninhabitable shall not be used for uses that may increase the danger to health, life, or property or increase the flood hazard. Such land within a condominium development may be set aside for other uses, such as parks or other open space.
- 7) Easements shall provide for utilities when necessary.
- 8) All condominium development units and accessory structures shall be accessible to emergency vehicles.
- 9) Common open space provided shall remain open for recreational and conservational purposes and recorded as part of the master deed.
- 10) Condominium development units having water frontage shall meet the requirements of Section 5.02 Shared Waterfront Easements.
- 11) A plan for erosion control and storm water discharge must be approved by the appropriate public agency.
- 12) All condominium developments shall obtain approval from all applicable governing agencies.
- 13) Environmental impact assessments, traffic studies, or other studies may be requested by the Planning Commission to better understand the impacts of the proposed development.

C. Residential Cluster Option

- 1) Purpose and applicability. To encourage the clustering of development and preservation of land, this residential cluster option is available to all condominium developments. All layout and design standards described in subsection B above still apply, except where otherwise noted.
- 2) Residential Cluster Option Layout and Design.
  - a. The subdivision shall consist of a minimum of four (4) residential lots.
  - b. Lot size and lot widths may be reduced compared to their respective values in their district based on the percentage of land area that will remain perpetually in an undeveloped state, as provided in the following table:

Minimum percentage of land area perpetually preserved	Lot size reduction	Lot width reduction
15%	30%	11%
25%	40%	22%
35%	50%	33%

- c. Open Space Preservation Requirements.

1. It is intended that this space be used for recreation or use by the lot owners within the development and should be easily accessible to pedestrians. This cluster open space shall not include areas devoted to public or private vehicular streets.
2. The open space protected pursuant to subsection 7 below must have "conservation value," which may include recreational, historic, ecological, agricultural, water resource, scenic or other natural resource value. Examples of lands with conservation value include land in active agriculture, large areas of contiguous mature forest, stream corridors, ridgelines, and scenic areas including important vistas or viewsheds seen from public places. Wetlands are considered to have conservation value yet will not count towards density calculation. Land of conservation value shall be included for purposes of calculating density in Section 7.04 7.06. Whenever the Planning Commission approves a plan with protected open space, it shall make written findings identifying the specific conservation values protected and the reasons for protecting such land.
3. Such permanent open space may be determined through the preparation and submittal of a site analysis which identifies native soils, water features, wetlands, topography, vegetation, wildlife corridors, views to water, steep slopes, and other unique or aesthetic features. Any irreplaceable natural features located on the lot (such as, but not limited to stream beds, significant stands of trees, etc.) shall be included in the open space.
4. Preserved open space may be included as a portion of one or more large lots. Such open space may be owned by private landowner(s), a non-profit organization, the Township or another governmental entity, as provided in subsection 7 below, as long as it is protected from development by a conservation easement. The required open space land may not include land within a lot parcel or a site condo unit.
5. Any portion of the open space with at least one dimension of less than fifty (50) feet shall not be considered a part of the open space for the purpose of determining the percentage of lot area preserved.
6. Lands to be included within permanently dedicated open space may not include areas containing or impacted by gas or oil wells, personal wireless communication facilities, electrical transmission lines, or similar elements, but may include detention or retention facilities if designed to reflect a natural wetland.
7. Open space shall be permanently preserved as required by this Section. Land set aside as permanent open space may be included as a portion of one or more large parcels on which dwellings and other structures are permitted, provided that a conservation easement is placed on such land pursuant to subsection A) below, and provided that the Planning Commission approves such configuration. Any development permitted in connection with the setting aside of open space land shall not compromise the conservation value of such open space land.
  - A) Permanent preservation by conservation easement
    - i. A perpetual conservation easement restricting development of the open space land and allowing use only for agriculture (not including structures), forestry, recreation, protection of natural resources, or similar conservation purposes, pursuant to MCL 324.2140 - 2144, shall be granted to the Township, with the approval of the Township Board, or to a qualified not-for-profit conservation organization acceptable to the Planning Commission. Such conservation easement shall be approved by the Planning Commission and shall be required as a condition of municipal approval. The Planning Commission may require that the conservation easement be enforceable by the Township if the Township is not the holder of the conservation easement. The conservation easement shall

be recorded in the office of the Register of Deeds prior to or simultaneously with the recording of any final plat or Master Deed in the office of the Register of Deeds.

- ii. Access roads, driveways, water supply wells, septic waste disposal facilities, local utility distribution lines, trails, temporary structures for outdoor recreation, are permitted provided that they do not impair the conservation value of the land. The conservation easement shall prohibit residential, industrial, or commercial use of open space land.
  - iii. A development rights easement under MCL 324.36101 et seq. may be substituted for a conservation easement for purposes of permanently preserving the open space only if its term is perpetual.
- B) Ownership. Open space land may be dedicated to Township, County, or State governments, transferred to a nonprofit organization acceptable to the Planning Commission, or held in such other form of ownership as the Planning Commission finds adequate to properly manage the open space land and to protect its conservation value.
8. Recreational uses. Recreational areas are recommended to be incorporated in a portion of the open space in order to create a park-like setting and provide connectivity to other areas in the Township. Paths for walking throughout the open space are required in a planned unit development. Other desirable amenities include playgrounds, green space, a dog park, community gathering spaces, and bike paths that connect to paths beyond the development. Outdoor sports courts that create impervious surfaces may be allowed in 10% of the required open space in the planned unit development. Structures such as buildings are not allowed in the open space.
9. Notations on plat or site plan. Preserved open space land shall be clearly delineated and labeled on the final plat or Site Plan as to its use, ownership, management, method of preservation, and the rights, if any, of the owners of other lots in the development to such land. The plat or Site Plan shall clearly show that the open space land is permanently reserved for open space purposes, and shall contain a notation describing recording information for any conservation easements or restrictive covenants required to be filed to implement such restrictions.
10. Maintenance standards.
- A) Ongoing maintenance standards shall be established, enforceable by the Township against an owner of open space land as a condition of development approval, to ensure that the open space land is not used for storage or dumping of refuse, junk, or other offensive or hazardous materials.
  - B) If the Township Board finds that the provisions of ~~Subsection (A)~~ subsection G.1. above are being violated such that the condition of the land constitutes a public nuisance, it may, upon 30 days written notice to the owner, enter the premises for necessary maintenance, and the cost of such maintenance by the Township shall be assessed against the landowner or, the owners of properties within the development, and shall, if unpaid, become a tax lien on such property or properties.

#### 8.06 REVIEW PROCEDURES

- A. Preliminary Review: Any applicant can request a preliminary review of a proposed condominium development with the Planner, Zoning Administrator and one to two Planning Commissioners. This review allows an open dialogue and an opportunity to discuss proposed goals, features, location and scope of operations prior to a formal application. Preliminary Review is available as a sounding board only; no decisions or approvals shall be rendered, either stated or implied.
- B. Agency Submittal: The applicant shall provide necessary full size hard copies and an electronic file (.pdf) of the proposed condominium development plan to Whitewater Township and the

following Grand Traverse County Agencies: Health Department (or Department of Public Works if proposed on municipal water and/or sanitary sewer), Drain Commission, Soil Erosion, and Road Commission (or Michigan Department of Transportation if proposed on a state highway), as well as the Michigan Department of Environment, Great Lakes, and Energy (when sensitive areas and wetlands are a concern), and the Whitewater Township Fire Department or the respective successor for any of the above agencies. The Zoning Administrator shall distribute the proposed condominium development plans to the Planning Commission, Board of Trustees, and other parties as required.

- C. Site Plan Review and Public Hearing: The Planning Commission shall hold a public hearing on the proposed site condominium development plan in accordance with the requirements contained in Section 13.07 to receive input regarding the proposed development.
- D. Planning Commission Determination: After the public hearing held in accordance with Article 13, specifically, Sections 13.07, the Planning Commission shall make a determination and recommendation to the Township Board regarding whether the proposed plan meets all the requirements of this Ordinance and the Condominium Act. If the proposal is found in compliance, the Planning Commission shall recommend approval or approval with conditions of the site condominium development plan and shall send written notice of action taken with comments to the Township Board and applicant. If the Planning Commission determines that the condominium development plan does not meet all requirements, the Planning Commission shall state its reason in its official minutes and shall provide written notice of said decision to the Township Board and applicant. The Planning Commission shall not recommend approval of the project until all requirements of this Ordinance and the Condominium Act have been met.
- E. Township Board Procedure: The Township Board shall not review, approve or reject a condominium development until it has received from the Planning Commission its report and recommendations. The Township Board shall consider the condominium development plan at its next meeting after receipt of the report and recommendations from the Planning Commission provided all documents are received 15 days prior to meeting date. The Board shall render a written decision within 15 days of their meeting unless the applicant and Board agree to a later deadline.
- F. Township Board Determination: The Township Board shall approve the condominium development plan, with or without conditions, reject the plan and give its reasons, table the proceedings pending further review or pending changes to the plan to make it acceptable to the Board, or refer that application back to the Planning Commission for further review and report.

#### 8.07 CONDITIONS AND DURATION OF APPROVAL

- A. Conditions: The approval of the Board of Trustees will indicate that the proposed condominium development plan meets the ordinances and regulations of Whitewater Township but does not cover additional permits that may be required after the Master Deed has been recorded. The Township may impose reasonable conditions on the approval of any condominium development plan consistent with the Condominium Act, this Ordinance, and the protection of public health, safety and welfare.
- B. Duration: Approval of the condominium development plan by the Township shall be for a period of two (2) years from the date of approval. If no Master Deed is recorded with the Grand Traverse County Register of Deeds Office within two years of approval, such approval shall be considered null and void. The Zoning Administrator may extend the two-year period by one additional year if applied for by the applicant subject to satisfying all requirements of Article 12.
- C. Condominium Development Plan Approval Contract: If the Township Board approves the site condominium development plan, it shall prepare a written order setting forth the conditions upon which the approval is based. Such order shall be entered into between the Township and the

applicant prior to the issuance of a Land Use Permit for any construction in accordance with the approved site condominium development plan. All reasonable costs related to the preparation of said order, as established by the Township, shall be paid by the applicant to the Township Treasurer prior to Township signature and issuance of such order.

#### 8.08 FINAL FILINGS REQUIREMENTS

Prior to the recording of the Master Deed the Township Treasurer shall certify that all taxes and special assessments are not delinquent. A copy of the Master Deed, Bylaws/ Restrictive Covenants must be recorded with the County Register of Deeds. The Township shall be provided with two (2) copies of each document, including as-built prints, and all pertinent attachments which shall remain on file with the Township.

#### 8.09 CONDOMINIUM DEVELOPMENT AMENDMENTS

Condominium Development Plans may not be amended without Township consent. Condominium amendments which are recorded prior to the receipt of written Township approval are null and void. Condominium Development Plans may be amended as follows:

- A. Minor Amendments: Minor amendments are those which are determined by the Zoning Administrator to have no foreseeable effect beyond the condominium development boundary such as minor changes in the location of buildings, the alignment of utilities, and the alignment of interior roadways. Minor amendments for good cause may be authorized by the Zoning Administrator provided that no such changes shall increase the size or height of structures, reduce the efficiency of public facilities serving the site condominium, reduce usable open space, or encroach on natural features proposed by the plan to be protected.
- B. Major Amendments: Any amendment not qualifying as a minor amendment as determined by the Zoning Administrator shall be considered a major amendment and must be approved by the Planning Commission according to the procedures authorized by this Article for approval of a condominium development.

## Proposed Marked Up Language

New proposed language is noted in red underlined font. Text to be removed is shown in ~~red with a strikethrough~~. Notes are shown in bold and blue.

### ARTICLE 8 - CONDOMINIUM DEVELOPMENT REGULATIONS

#### 8.01 INTENT

The intent of this Article is to provide procedures and standards for the review and approval, or denial of condominium projects implemented under the provisions of the Condominium Act (Act 59 of 1978, as amended) and to ensure that such developments are consistent and compatible with conventional platted subdivisions as provided for through the Land Division Act (P.A 288 of 1967, as amended), and promote the orderly development of adjacent areas. These regulations are enacted by authority of the Condominium Act, the Michigan Zoning Enabling Act, and this Ordinance, as amended, whereby all developments utilizing any form of condominium ownership shall be reviewed, approved or disapproved by the Township.

#### 8.02 APPLICABILITY

- A. General Provisions: Prior to recording of the master deed, required by Section 72 of the Condominium Act, a condominium project shall undergo a site plan review and approval by the Township in accordance with the provisions of this section. Approval under this section shall be required as a condition to the right to construct, expand or amend a condominium project in the Township.
- B. Plat Approval: There shall be no requirement for plat approval for a condominium project under the Township Subdivision Control Ordinance, General Ordinance 16.
- C. Planned Unit Developments: The procedural provisions of this section shall not apply to Planned Unit Developments, which are reviewed and approved through the ~~Special Use Permit~~ Planned Unit Development procedures in ~~Article 6 or~~ Article 7 of this Ordinance. **PUDs are not approved through special use permits. Article 6 focuses on COPUD, which we are recommending to no longer be a PUD, but an overlay.**
- D. Condominium Conversion: All individuals proposing a Condominium Conversion shall present the township with two copies of all required documents as indicated in the Condominium Act (Act 59 of 1978, as amended). Said review shall be conducted by the township Zoning Administrator and township attorney for compliance with the Condominium Act (Act 59 of 1978, as amended). Applicant shall be provided with a written response of approval or specific reason for failure to approve within 60 days of submission.
- E. Mobile/Manufactured Home Condominium Project: Mobile/Manufactured home condominium projects shall conform to the requirements of this Ordinance, in accordance with the Condominium Act and other applicable Local, State laws, ordinances and regulations. Such projects shall be located only in a zoning district that provides for mobile/manufactured home. The review and approval shall be processed in accordance with this Article as a site condominium subdivision.
- F. Site Condominium Subdivisions
  - 1) Site Condominium Definition. For this section, a site condominium subdivision shall include all developments, in any zoning district, proposed under the provisions of the Condominium Act (Act 59 of 1978, as amended).
  - 2) Site Condominium General Requirements. The site condominium subdivision plan indicates specific unit dimensions with front, rear and side lot lines. These parcels are also referred to as

site condominium lots, and the size, location and arrangement of these site condominium lots shall conform to the requirements of this ordinance. A condominium project is designed to function in a similar manner, or as an alternative to, a platted subdivision. Outside of the condominium lots, common elements of the development are defined for co-owners.

### 8.03 CONSULTATION

In determining whether to approve a condominium development plan, the Township may charge for consultation with the Township Attorney and other experts, regarding the adequacy of the master deed, deed restrictions, utility systems, and streets, site layout and design, and compliance with all requirements of the Condominium Act and this Ordinance. Estimated costs related to said consultation, shall be placed in an escrow account in addition to the standard nonrefundable application fee.

The Township may require that the applicant place additional funds in escrow if deemed necessary. Any unused consultation funds shall be returned to the applicant with an itemized record of distributions.

### 8.04 GENERAL REQUIREMENTS

- A. Compliance with Federal, State and Local Laws: All condominium projects shall comply with all applicable Federal, State and local laws and ordinances. No condominium documents shall conflict with the standards of this Ordinance.
- B. Fee Required: Before the Township reviews a condominium development plan, the applicant shall submit to the Township a nonrefundable application fee or preliminary review fee as established by resolution of the Board to cover the Township's cost of internal review. Such application fee shall be independent of any required consultation costs as described in Section 8.03 above.
- C. Information Required: All condominium development plans shall include the information required by Section 66 of the Condominium Act and the material required in Section 12.03 (F). A person, firm, or corporation intending to develop a condominium development shall provide the following information:
  - 1) Size and Scale - Plans may be on paper and shall not be less than 24 inches by 36 inches, at a scale of at least 1 inch to 200 feet showing the date and north arrow.
  - 2) The name of the proposed condominium development.
  - 3) The name, address, telephone number of:
    - a. All persons, firms, or corporations with an ownership interest in the land on which the condominium development will be located and a description of the nature of each entity's interest (for example, fee owner, optionee, or land contract vendee)
    - b. All engineers, attorneys, architects, landscape architects, or registered land surveyors associated with the condominium development.
    - c. The individual or entity applying for the condominium development.
  - 4) The legal description of the land on which the condominium development will be developed together with any expansion plans and appropriate tax identification numbers.
  - 5) The acreage of the land on which the condominium development will be developed located.
  - 6) The land use and existing zoning of the proposed condominium development.

- 7) The following information for subject parcel and all parcels within 300 feet of the proposed site: a. Name and address of the owners b. The zoning classifications c. Existing structures or significant landmarks
  - 8) Location, type, dimensions, and proposed use of all existing structures.
  - 9) A location map showing the relationship of the proposed condominium development plan to the surrounding area.
  - 10) Statement of intended use(s). Such as, residential single-family, residential multi-family, commercial, industrial, etc. and the number of acres of each type of land use proposed.
  - 11) Condominium unit lot lines and the total number of condominium units to be developed on the subject parcel.
  - 12) Description of water system to be implemented.
  - 13) Description of sanitary waste disposal system to be implemented.
  - 14) Public roads, private roads, and right-of-way easements, showing location, width, and purpose. All private roads in a condominium subdivision shall comply with the specifications of any applicable ordinance, state law, or federal law.
  - 15) Existing topographic elevations at two (2) foot intervals, proposed grades, and direction of drainage flows.
  - 16) Location and types of all significant existing vegetation, water courses and bodies, flood plains and water retention areas, wetlands, and soil types. Significant vegetation includes all trees with a minimum trunk diameter of 18 inches at 4 1/2 feet above the surrounding grade.
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- D. Utility Easements: The condominium development plan shall include and describe all necessary easements for the purpose of constructing, operating, inspecting, maintaining, repairing, altering, replacing, and/or removing pipelines, mains, conduits, and other installations of a similar character providing public utilities.
- E. Performance Guarantees: As a condition of approval of the condominium development plan by the Township, a performance guarantee may be required to ensure construction of required improvements and the completion of filing requirements before land use permits are issued. Upon fulfillment of all requirements and filings, the applicant shall apply to the Township for release of performance guarantees. Performance guarantees shall comply with the requirements in Article 12, specifically Section 12.08 of this Ordinance.

#### 8.05 STANDARDS AND DESIGN FOR SITE CONDOMINIUM DEVELOPMENTS

- A. Site-Condominium Lots: The condominium development plan shall indicate specific parcel dimensions allocated to each condominium dwelling unit or lot.
- B. Site-Condominium Development Layout and Design: The description, size, location and arrangement of the site condominium lots shall conform to the requirements of this Ordinance. The design of a condominium development shall be subject to the following requirements and guidelines.
  - 1) Should there be unusual topographic or other natural feature constraints, these requirements may be adjusted to unique site conditions in accordance with the judgement of the township Planning Commission.
  - 2) Each condominium lot shall comply with the requirements of each zoning district in which it is located, and all condominium lots and required setbacks shall be measured from the designated front, rear and side condominium lot lines. Residential Cluster Option developments may not

meet the lot size, width, or lot coverage requirements of the zoning district the lot is located, but must meet the standards described in subsection C below.

- 3) Each condominium dwelling unit shall be located within a condominium lot. In a condominium development approved for single-family detached dwelling units, not more than one (1) dwelling unit shall be located on a condominium lot.
- 4) There shall be a proper relationship between existing streets and highways within the vicinity, and proposed deceleration lanes, service drives, entrance and exit driveways, and parking areas to assure the safety and convenience of pedestrian and vehicular traffic, and that the proposed streets and access plan conform to any street or access plan adopted by the Township or the County Road Commission.
- 5) Existing features, natural or otherwise, which add value to a residential development and enhance the attractiveness of the community shall be retained, insofar as possible, in the design of the condominium development.
- 6) Lands subject to flooding or otherwise deemed by the Township to be uninhabitable shall not be used for uses that may increase the danger to health, life, or property or increase the flood hazard. Such land within a condominium development may be set aside for other uses, such as parks or other open space.
- 7) Easements shall provide for utilities when necessary.
- 8) All condominium development units and accessory structures shall be accessible to emergency vehicles.
- 9) Common open space provided shall remain open for recreational and conservational purposes and recorded as part of the master deed.
- 10) Condominium development units having water frontage shall meet the requirements of Section 5.02 ~~Shared Waterfront Easements~~Easement to Waterfront.
- 11) A plan for erosion control and storm water discharge must be approved by the appropriate public agency.

12) All condominium developments shall obtain approval from all applicable governing agencies.

12)13) Environmental impact assessments, traffic studies, or other studies may be requested by the Planning Commission to better understand the impacts of the proposed development.

C. Residential Cluster Option

1) Purpose and applicability. To encourage the clustering of development and preservation of land, this residential cluster option is available to all condominium developments. All layout and design standards described in subsection B above still apply, except where otherwise noted.

2) Residential Cluster Option Layout and Design.

a. The subdivision shall consist of a minimum of four (4) residential lots.

b. Lot size and lot widths may be reduced compared to their respective values in their district based on the percentage of land area that will remain perpetually in an undeveloped state, as provided in the following table:

<u>Minimum percentage of land area perpetually preserved</u>	<u>Lot size reduction</u>	<u>Lot width reduction</u>
<u>15%</u>	<u>30%</u>	<u>11%</u>
<u>25%</u>	<u>40%</u>	<u>22%</u>

<u>35%</u>	<u>50%</u>	<u>33%</u>
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c. Open Space Preservation Requirements. [Sections 7.07, 7.08, 7.12, 7.14, 7.15, 7.16, 7.17, 7.18, and 7.19]

1. It is intended that this space be used for recreation or use by the lot owners within the development and should be easily accessible to pedestrians. This cluster open space shall not include areas devoted to public or private vehicular streets. [New content]
2. The open space protected pursuant to ~~Section 7.14~~ subsection 7 below must have "conservation value," which may include recreational, historic, ecological, agricultural, water resource, scenic or other natural resource value. Examples of lands with conservation value include land in active agriculture, large areas of contiguous mature forest, stream corridors, ridgelines, and scenic areas including important vistas or viewsheds seen from public places. Wetlands are considered to have conservation value yet will not count towards density calculation. Land of conservation value shall be included for purposes of calculating density in ~~Section 7.04~~ 7.06. Whenever the Planning Commission approves a plan with protected open space, it shall make written findings identifying the specific conservation values protected and the reasons for protecting such land. [Moved from section 7.15]
3. Such permanent open space may be determined through the preparation and submittal of a site analysis which identifies native soils, water features, wetlands, topography, vegetation, wildlife corridors, views to water, steep slopes, and other unique or aesthetic features. Any irreplaceable natural features located on the lot (such as, but not limited to stream beds, significant stands of trees, etc.) shall be included in the open space. [New content]
4. Preserved open space may be included as a portion of one or more large lots. Such open space may be owned by private landowner(s), a non-profit organization, the Township or another governmental entity, as provided in ~~Section 7.14~~ subsection 7 below, as long as it is protected from development by a conservation easement. The required open space land may not include land within a lot parcel or a site condo unit. [Moved from section 7.08 Open space land]
5. Any portion of the open space with at least one dimension of less than fifty (50) feet shall not be considered a part of the open space for the purpose of determining the percentage of lot area preserved. [New content]
6. Lands to be included within permanently dedicated open space may not include areas containing or impacted by gas or oil wells, personal wireless communication facilities, electrical transmission lines, or similar elements, but may include detention or retention facilities if designed to reflect a natural wetland. [New content]
7. Open space ~~set aside in a planned unit development~~ shall be permanently preserved as required by this Section. Land set aside as permanent open space may be included as a portion of one or more large parcels on which dwellings and other structures are permitted, provided that a conservation easement is placed on such land pursuant to ~~Section 7.17~~ subsection A) below, and provided that the Planning Commission approves such configuration of the open space as part of its Planned Unit Development/Subdivision and Site Plan approval. Any development permitted in connection with the setting aside of open space land shall not compromise the conservation value of such open space land. [Moved from section 7.14]
  - A) Permanent preservation by conservation easement [Moved from section 7.17]

- i. A perpetual conservation easement restricting development of the open space land and allowing use only for agriculture (not including structures), forestry, recreation, protection of natural resources, or similar conservation purposes, pursuant to MCL 324.2140 - 2144, shall be granted to the Township, with the approval of the Township Board, or to a qualified not-for-profit conservation organization acceptable to the Planning Commission. Such conservation easement shall be approved by the Planning Commission and shall be required as a condition of municipal approval. The Planning Commission may require that the conservation easement be enforceable by the Township if the Township is not the holder of the conservation easement. The conservation easement shall be recorded in the office of the Register of Deeds prior to or simultaneously with the recording of any final plat or Master Deed in the office of the Register of Deeds.
  - ii. Access roads, driveways, water supply wells, septic waste disposal facilities, local utility distribution lines, trails, temporary structures for outdoor recreation, are permitted provided that they do not impair the conservation value of the land. The conservation easement shall prohibit residential, industrial, or commercial use of open space land.
  - iii. A development rights easement under MCL 324.36101 et seq. may be substituted for a conservation easement for purposes of permanently preserving the open space only if its term is perpetual.
- B) Ownership. Open space land may be dedicated to Township, County, or State governments, transferred to a nonprofit organization acceptable to the Planning Commission, or held in such other form of ownership as the Planning Commission finds adequate to properly manage the open space land and to protect its conservation value. [Moved from section 7.18]
8. Recreational uses. Recreational areas are recommended to be incorporated in a portion of the open space in order to create a ~~park like~~ park-like setting and provide connectivity to other areas in the Township. Paths for walking throughout the open space are required in a planned unit development. Other desirable amenities include playgrounds, green space, a dog park, community gathering spaces, and bike paths that connect to paths beyond the development. [New] Outdoor ~~basketball or tennis~~ sports courts that create impervious surfaces may be allowed in 10% of the required open space in the planned unit development. Structures such as buildings are not allowed in the open space. [Moved from section 7.12]
9. Notations on plat or site plan. Preserved open space land shall be clearly delineated and labeled on the final plat or Site Plan as to its use, ownership, management, method of preservation, and the rights, if any, of the owners of other lots in the development to such land. The plat or Site Plan shall clearly show that the open space land is permanently reserved for open space purposes, and shall contain a notation describing recording information for any conservation easements or restrictive covenants required to be filed to implement such restrictions. [Moved from section 7.16]
- 8.10. Maintenance standards. [Moved from section 7.19]
- A) Ongoing maintenance standards shall be established, enforceable by the Township against an owner of open space land as a condition of development approval, to ensure that the open space land is not used for storage or dumping of refuse, junk, or other offensive or hazardous materials.
  - B) If the Township Board finds that the provisions of ~~Subsection (A)~~ subsection G.1. above are being violated such that the condition of the land constitutes a public nuisance, it may, upon 30 days written notice to the owner, enter the premises for necessary maintenance, and the cost of such maintenance by the Township shall be assessed against the landowner or, the owners of properties within the development, and shall, if unpaid, become a tax lien on such property or properties.

#### 8.06 REVIEW PROCEDURES

- A. Preliminary Review: Any applicant can request a preliminary review of a proposed condominium development with the Planner, Zoning Administrator and one to two Planning Commissioners. This review allows an open dialogue and an opportunity to discuss proposed goals, features, location and scope of operations prior to a formal application. Preliminary Review is available as a sounding board only; no decisions or approvals shall be rendered, either stated or implied.
- B. Agency Submittal: The applicant shall provide necessary full size hard copies and an electronic file (.pdf) of the proposed condominium development plan to Whitewater Township and the following Grand Traverse County Agencies: Health Department (or Department of Public Works if proposed on municipal water and/or sanitary sewer), Drain Commission, Soil Erosion, and Road Commission (or Michigan Department of Transportation if proposed on a state highway), as well as the Michigan Department of Environment, Great Lakes, and Energy (when sensitive areas and wetlands are a concern), and the Whitewater Township Fire Department or the respective successor for any of the above agencies. The Zoning Administrator shall distribute the proposed condominium development plans to the Planning Commission, Board of Trustees, and other parties as required.
- C. Site Plan Review and Public Hearing: The Planning Commission shall hold a public hearing on the proposed site condominium development plan in accordance with the requirements contained in Section 13.07 to receive input regarding the proposed development.
- D. Planning Commission Determination: After the public hearing held in accordance with Article 13, specifically, Sections 13.07, the Planning Commission shall make a determination and recommendation to the Township Board regarding whether the proposed plan meets all the requirements of this Ordinance and the Condominium Act. If the proposal is found in compliance, the Planning Commission shall recommend approval or approval with conditions of the site condominium development plan and shall send written notice of action taken with comments to the Township Board and applicant. If the Planning Commission determines that the condominium development plan does not meet all requirements, the Planning Commission shall state its reason in its official minutes and shall provide written notice of said decision to the Township Board and applicant. The Planning Commission shall not recommend approval of the project until all requirements of this Ordinance and the Condominium Act have been met.
- E. Township Board Procedure: The Township Board shall not review, approve or reject a condominium development until it has received from the Planning Commission its report and recommendations. The Township Board shall consider the condominium development plan at its next meeting after receipt of the report and recommendations from the Planning Commission provided all documents are received 15 days prior to meeting date. The Board shall render a written decision within 15 days of their meeting unless the applicant and Board agree to a later deadline.
- F. Township Board Determination: The Township Board shall approve the condominium development plan, with or without conditions, reject the plan and give its reasons, table the proceedings pending further review or pending changes to the plan to make it acceptable to the Board, or refer that application back to the Planning Commission for further review and report.

#### 8.07 CONDITIONS AND DURATION OF APPROVAL

- A. Conditions: The approval of the Board of Trustees will indicate that the proposed condominium development plan meets the ordinances and regulations of Whitewater Township but does not cover additional permits that may be required after the Master Deed has been recorded. The Township may impose reasonable conditions on the approval of any condominium development

plan consistent with the Condominium Act, this Ordinance, and the protection of public health, safety and welfare.

- B. Duration: Approval of the condominium development plan by the Township shall be for a period of two (2) years from the date of approval. If no Master Deed is recorded with the Grand Traverse County Register of Deeds Office within two years of approval, such approval shall be considered null and void. The Zoning Administrator may extend the two-year period by one additional year if applied for by the applicant subject to satisfying all requirements of Article 12.
- C. Condominium Development Plan Approval Contract: If the Township Board approves the site condominium development plan, it shall prepare a written order setting forth the conditions upon which the approval is based. Such order shall be entered into between the Township and the applicant prior to the issuance of a Land Use Permit for any construction in accordance with the approved site condominium development plan. All reasonable costs related to the preparation of said order, as established by the Township, shall be paid by the applicant to the Township Treasurer prior to Township signature and issuance of such order.

#### 8.08 FINAL FILINGS REQUIREMENTS

Prior to the recording of the Master Deed the Township Treasurer shall certify that all taxes and special assessments are not delinquent. A copy of the Master Deed, Bylaws/ Restrictive Covenants must be recorded with the County Register of Deeds. The Township shall be provided with two (2) copies of each document, including as-built prints, and all pertinent attachments which shall remain on file with the Township.

#### 8.09 CONDOMINIUM DEVELOPMENT AMENDMENTS

Condominium Development Plans may not be amended without Township consent. Condominium amendments which are recorded prior to the receipt of written Township approval are null and void. Condominium Development Plans may be amended as follows:

- A. Minor Amendments: Minor amendments are those which are determined by the Zoning Administrator to have no foreseeable effect beyond the condominium development boundary such as minor changes in the location of buildings, the alignment of utilities, and the alignment of interior roadways. Minor amendments for good cause may be authorized by the Zoning Administrator provided that no such changes shall increase the size or height of structures, reduce the efficiency of public facilities serving the site condominium, reduce usable open space, or encroach on natural features proposed by the plan to be protected.
- B. Major Amendments: Any amendment not qualifying as a minor amendment as determined by the Zoning Administrator shall be considered a major amendment and must be approved by the Planning Commission according to the procedures authorized by this Article for approval of a condominium development.

## Master Plan Guidance

The lack of housing, increased housing costs, and interest in housing with low maintenance are driving up the demand for “missing middle” housing throughout the state, including in Whitewater Township. The Master Plan notes that Whitewater Township currently has one area designated as High-Density Residential, located north of the new M-72 and east of Turtle Creek Casino. This area could potentially be developed with over 100 multi-family housing units, which could include missing middle housing under condominium ownership. The Master Plan suggests updating provisions related to condominium subdivisions to include steps to protect natural resources and mitigate the effects of increased traffic. Changes to the condominium development regulations section could support goals 1-D (“Update zoning regs concerning high-density residential development”) and 2-A (“Have regulatory tools in place to preserve and maintain rural character”).

# memorandum

**DATE:** October 30, 2025

**TO:** Whitewater Township Planning Commission

**FROM:** Andy Aamodt and Stephanie Osborn, Giffels Webster

**SUBJECT:** Bundle 1: PUD section update

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## Introduction

Several needed updates to the Planned Unit Development (PUD) section of the zoning ordinance have been identified through the zoning audit and conversations with staff. These include procedural improvements, development/site requirements, and alignment with the Michigan Zoning Enabling Act (MZEA). Additionally, Planning Commissioners have noted that requirements such as density, uses, clustering, and others should be reviewed. This memo serves as an introduction to discuss possible changes to the PUD section.

This memo is divided into the sections below. You can click on each section to move to that section.

[Amendment History](#)

[Overview of Proposed Changes](#)

[Questions for Consideration](#)

[Next Steps](#)

[Items for Consideration in a Later Text Amendment](#)

[Clean Language](#)

[Proposed Marked Up Language](#)

[Master Plan Guidance \(provided in October's meeting memo\)](#)

## Amendment History

- **October 1, 2025** – The Planning Commission reviewed the existing language and discussed additional purposes besides preserving open space that planned unit developments could serve in the Township. Possible developer incentives, desirable recreational amenities, and adjusting the minimum size for a PUD were also discussed. Proposed changes reflect these conversations.

## Overview of Proposed Changes

1. **Purpose.** Update the Purpose statement to focus generally on the benefits of a PUD and add an Intent section that expands the reasoning behind a PUD option beyond land preservation in Section 7.01
2. **Difference from PUD.** Add additional detail about conventional developments vs. PUDs in Sections 7.02 and 7.03, respectively
3. **Qualifying criteria.** Add Section 7.04 Qualifying Criteria (required by the MZEA), and include residential cluster development here
4. **Information required.** Create Section 7.05 Submission and Review Process section that details what is needed in an application and the review process, as required by the MZEA, instead of referencing other processes found throughout the zoning ordinance
5. **Needed integrations.** Integrate the relevant application requirements that were listed in the COPUD into Section 7.05.B, the phasing and commencement of construction requirements from Section 6.15 into Section 7.05.E.4, and the effect of approval from Section 6.16 into Section 7.05.G
6. **Consolidating language.** Combine existing language related to dimensional development requirements and permitted uses in PUDs into one section, Section 7.06 Use, Yard, Density and Lot Arrangement. Also reduced the minimum lot size from 20 acres to 12 acres.
7. **Open space information.** Group existing requirements for open space preservation and move them into the Condominium Development standards, Section 8.05.C.2)c
8. **Remove private road standards.** Remove references to private road standards as the Township currently does not have any
9. **Describe amenities.** Add desirable recreational amenities to Section 7.08
10. **Cross-referencing.** Add Section 7.09 Standards for PUD Approval, as required by the MZEA. Several sections from the COPUD (6.14 and 6.17) were included in this section.
11. **Process clarification.** Add Section 7.10 describing what happens if a PUD needs to be amended
12. **Deviations, not variances.** Update language in Section 6.3 of the Subdivision Ordinance to clarify that PUDs do not obtain variances for deviations from the standard zoning

## Questions for Consideration

1. **PUD option location.** The PUD is currently an option for parcels zoned A-1, R-1, R-2, and R-3. **Are there other districts that should be allowed to develop under a PUD? If so, which ones? Should any of the current districts be removed from this option?**
2. **Qualification criteria.** Qualification criteria was added, as required by the Michigan Zoning Enabling Act as a new section, Section 7.04. **Should any of the benefits be removed or should any additional benefits that the Township would like to promote and encourage be added?**
3. **PUD process.** Instead of referring to the special land use process in Article 13 and the Subdivision Ordinance #16 procedure, a process for PUDs was added as section 7.05 below. **Does this process work with how the staff and Planning commission would like to process these requests? What changes would you like to see to the process? Is the process clearly written?**

4. **Community impact statement.** Section 7.05.B.7 requires a community impact statement. The COPUD (section 6.03.F) only required a community impact statement if the site is 10 acres or more. **Should a community impact statement be required for all PUDs, or only those greater than 10 acres (or some other size)?**
5. **Dimensional standards and permitted uses.** Section 7.06 now combines all of the use, yard, and density standards into one section.
  - a. Section 7.06.B.5 (new section) notes that larger lots may be required for multifamily dwellings. **What is intended by the provision? Under what circumstances might a larger lot be required? How will an applicant and the approving body make this determination? How does this interact with the density calculations?**
  - a. The minimum lot size was reduced from 20 acres to a proposed 12 acres. **Should it be further reduced or increased closer to the current 20 acre minimum?**
  - b. **Should uses other than residential be added to the list of permitted uses?** The PUD is an option for parcels zoned A-1, R-1, R-2, and R-3, which primarily allows for residential uses and some institutional and a limited number of commercial uses. If there is a strong interest in a mixed-use development, additional uses should be permitted and/or the PUD should be allowed in additional districts.
2. **Additional amenities.** Section 8.05.C.2)c.4 lists desirable recreational amenities, which was previously section 7.08. **If PUDs become an option for more than just housing, what commercial-oriented amenities might you want to encourage?** More extensive landscaping, higher quality building materials, sidewalks, benches, etc. are some ideas.
3. **Other. What other changes would you like to see made to the PUD standards or flexibility that can be granted to developers.**

## Next Steps

The Planning Commission will have the opportunity to discuss the proposed language and questions for consideration which will inform any additional changes to the text.

## Items for Consideration in a Later Text Amendment

- Section 13.07 is referenced several times throughout this section where noticing is required. While much of the legal noticing requirements are the same, that section is specific to special land uses and may cause confusion when noticing is needed for PUDs. We recommend creating a separate “Notices” section that has the noticing requirements for all development review types in one place with the nuances for each detailed.

## Clean Proposed Language

### ARTICLE 7 - PLANNED UNIT DEVELOPMENT

#### 7.01 PURPOSE, AUTHORITY, APPLICABILITY AND INTENT

- A. Purpose of this section: The purpose of this section is to provide standards for the submission, review, and approval of an application for a planned unit development (PUD).
- B. Authority: This Article is adopted pursuant to MCL 125.3503 of the Michigan Zoning Enabling Act of 2006.
- C. The provision of this option imposes no obligation upon the township to foster or encourage its use. The Township Board retains authority to determine if a PUD is appropriate for a particular development site and the sole discretion whether to approve the use of this option.
- D. Applicability: This section shall apply only in the A-1, RC-1, R2, and R3 Districts.
- E. Intent: The PUD concept is intended to provide a greater degree of flexibility in the regulation of land development and the arrangement of uses. Through this option, more creative approaches to development can be utilized which take advantage of the special characteristics of the land than would otherwise be possible through the strict enforcement of the ordinance. The specific objectives of the PUD are to:
  - 1) Preserve large tracts of intact open space land to maintain the rural landscape and environmental resources of Whitewater Township
  - 2) Allow for a variety of density and housing types within a single development
  - 3) Facilitate mixed-use development
  - 4) Provide transitions and buffers between less compatible uses

#### 7.02 CONVENTIONAL DEVELOPMENTS

Conventional developments are those that are not PUDs and that comply with the conventional development requirements. The Township discourages this type of development where it may detract from the Township's rural landscape and natural resources, result in a lesser quality or efficiency of development, when there are unique features of the property to be protected or that pose development challenges, where the flexibility permitted through the PUD could better further the vision of the master plan compared to conventional development, or there exists other circumstances unique to the site, use, or proposal.

#### 7.03 PLANNED UNIT DEVELOPMENTS

The Township encourages the use of Planned Unit Developments as an alternative to conventional developments. A PUD plan is a discretionary, optional form of development only permitted upon terms and conditions agreeable to the township, and is subject to approval by the Township Board following a recommendation by the Planning Commission.

The PUD is not intended to avoid the imposition of standards and requirements of the underlying district. Rather, flexibility is permitted so that the PUD plan provides advantages to both the developer and the Township.

As provided further below, the applicant for PUD approval must demonstrate that the proposed development represents an innovative, unified, planned approach to developing the site that would result in a significantly higher quality of development, the mitigation of potentially negative impacts of development, or more efficient development than conventional development will allow.

#### 7.04 QUALIFYING CRITERIA

The following provisions shall apply to all PUD projects:

- A. Unified control. The planned unit development shall be under the control of one owner or group of owners and shall be capable of being planned and developed as one integral unit.
- B. Recognizable benefit. The applicant shall demonstrate that the PUD provides as many of the following site design elements as the township determines to be appropriate under the circumstances of the proposed development that could not be attained through a project designed under conventional zoning:
  - 1. Clustering of housing units
  - 2. Preservation of contiguous open space
  - 3. Preservation, enhancement, or restoration of natural resources (trees, slopes, nonregulated wetland areas, etc.)
  - 4. Establishment of a mixed-used development with residential and non-residential uses or a variety of housing types
  - 5. Redevelopment of brownfield or greyfield sites
  - 6. Pedestrian-oriented design with buildings oriented to the sidewalk and parking to the side or rear of the site
  - 7. Enhancement of the aesthetic appearance of the township through high-quality building design and site development beyond the site plan requirements of this chapter
  - 8. Extensive landscaping beyond the site plan requirements of this chapter
  - 9. Preservation or restoration of historic resources
  - 10. Provision of open space or public plazas or features
  - 11. Use and improvement of existing sites when the uniform regulations contained in the underlying zoning district alone do not provide adequate protection and safeguards for the site or its surrounding areas or where the current ordinances do not permit flexibility to consider redevelopment, replacement, or adaptive reuse of existing structures or sites
  - 12. Effective transition between higher and lower density uses, and/or between nonresidential and residential uses or between incompatible adjacent land uses proposed to be developed in a manner that is not possible using a conventional approach
  - 13. Shared vehicular access between properties or uses
  - 14. Provision of a public improvement that would not otherwise be required to further the public health, safety, and welfare, protect existing or planned uses, or alleviate or lessen an existing or potential problem relating to public facilities (such as road improvements or the relocation of overhead utilities)
  - 15. Significant use of sustainable building and site design features such as: water use reduction, water-efficient landscaping, innovative wastewater technologies, low impact stormwater management, optimized energy performance, on-site renewable energy, passive solar heating, reuse/recycled/renewable materials, indoor air quality, or other elements identified as sustainable by established groups such as the U.S. Green Building Council (LEED) or ANSI National Green Building Standards
  - 16. Permanent establishment of land use patterns that are compatible with or will protect existing or planned uses, which may include the limitation of the permissible uses of the property
  - 17. Innovation in land use, form of ownership, and variety in design, layout, and type of structures constructed
  - 18. Other benefits as determined by the township
- C. Compatibility with adjacent uses. The proposed location of uses or structures that are of a significantly different scale or character than the abutting districts and uses, such as access drives, parking areas, waste receptacles, swimming pools, sports courts and facilities of a similar nature, shall not be located near the perimeter of the PUD unless adequately screened and buffered, so as to mitigate any negative impacts on adjacent lands.
- D. Master plan. The proposed PUD shall be consistent with the Whitewater Township Master Plan.

#### 7.05 SUBMISSION AND REVIEW PROCESS

- A. Pre-application. Prior to filing an application for a planned unit development, applicants may request an optional pre-application conference with the Zoning Administrator and no more than two (2) members of the Planning Commission. The purpose of the meeting is to discuss the PUD procedures, explanation of this zoning ordinance, and to assist the applicant and township with understanding of general concepts and design parameters prior to investment in preparation of a site plan and PUD application. Township officials at this meeting shall not indicate or otherwise commit the township to any particular action regarding the application.
- B. Application. The applicant shall submit the required number of prints of the preliminary development plan to the township. Application materials will be reviewed for completeness by the Zoning Administrator. If the application is not administratively complete, the Zoning Administrator will return the application to the Applicant(s) with a letter that specifies the additional material(s) required. If the application is deemed administratively complete, the Zoning Administrator will forward the application to the Planning Commission for consideration. The preliminary plan shall contain, in addition to the requirements of Article 13, the following:
- 1) A boundary survey by a registered civil engineer or land surveyor of the exact acreage being requested for development.
  - 2) A topography map of the entire area at contour intervals of at least two feet. This map shall indicate all major stands of trees, bodies of water, and unbuildable areas due to soil conditions, wetlands, and so forth.
  - 3) A preliminary site plan for the entire parcel carried out in such detail as to indicate the functional uses being requested (residential, commercial, office, etc.); the densities, number and types of units (if applicable) and floor area per habitable space; the traffic circulation plan; pedestrian circulation; type, location, height, bulk and capacity of structures; and automobile parking and loading.
  - 4) All open spaces, including preserves, recreational areas, and the like, and each purpose proposed for such areas together with copies of deeds, deed restrictions, easements, restrictive covenants or other legal instruments to be recorded as part of the development plan.
  - 5) All known natural resources and natural features to be preserved.
  - 6) A specific schedule of the intended development and construction details, including phasing or timing, and the general improvements to constitute a part of the development, including without limitation, lighting, signage, the mechanisms designed to reduce noise, utilities, and visual screening features.
  - 7) A separately delineated specification of all deviations from this Ordinance which would otherwise be applicable to the uses and development proposed in the absence of this planned unit development article.
  - 8) A written document detailing the community impact statement, suitability of the site, population densities, parking ratios, traffic generation, traffic impact analysis, and development schedule of buildings, units and uses supporting the proposed development.
  - 9) The preliminary plans for provision of any community water and sanitary sewer facilities.
  - 10) A fee as set by the Township Board from time to time.
- C. Planning Commission review.
- 1) Material submitted with the application or on subsequent requests shall include all plans, maps, studies, and reports that may reasonably be required to make the determinations called for in the particular case. Upon receipt of an application by the township, such request shall be referred to the Planning Commission for its review and recommendation.
  - 2) The Planning Commission shall hold a public hearing to hear and consider documents and comments related to the PUD proposal and rezoning. Notice and procedures for public hearings for PUDs shall be provided as required under state law and detailed in section 13.07. In its review, the Planning Commission shall determine whether the PUD plan meets the standards for qualification and approval set forth in sections 7.04 and 7.10, respectively

- 3) Assessments: The Planning Commission may require an Environmental Impact Statement, Traffic Impact Study, or any other assessment to ensure the public health, safety, and welfare of the Whitewater Township residents.
  - 4) Following said public hearing, the Planning Commission shall, within a reasonable time, forward their report and recommendation to the Township Board.
- D. Township Board review.
- 1) Upon receipt of the report and recommendation from the Planning Commission, the Township Board may approve said rezoning and the accompanying plan as a single unit following a public hearing on the proposal that was noticed as required by law and detailed in section 13.07.
    - a. If the Township Board shall determine to grant the application and approve the PUD zoning district with the accompanying plan, it shall do so by adopting an ordinance amending the zoning ordinance and establishing the site as the “PUD” zoning district.
    - b. If the application is denied, the Township Board shall specify, in writing, the reason for the denial.
  - 2) Once an area has been rezoned as a planned unit development and a plan has been approved by the Township Board, no development may take place in such area, nor may any use thereof be made, except in accordance with the plan approved or in accordance with a Township Board approved amendment thereto.
- E. Submission of site plans and engineering.
- 1) Final site plan/subdivision/condominium or other final development plans may be applied for simultaneously with the PUD application.
  - 2) The final site plan shall be in conformity with the preliminary original plan previously approved.
  - 3) For those improvements to be constructed following approval, final site plans or plats may be submitted simultaneously with a phase plan, if applicable. All such final plans shall include the following:
    - a. A detailed site plan, fully dimensioned, showing a fully scaled plan view of all buildings, all public road right-of-way and public streets, densities, parking areas, utilities, parks, playgrounds, and areas to be set aside for the use of the public or by residents within the development.
    - b. Floor plans and elevations typical of all buildings, except detached single family, shall be submitted.
    - c. Each plat or site plan submitted within the planned unit development shall, either individually or in combination with a previously approved project, meet the standards of this section as to density and open space requirements. Open space shall be computed as a proportionate amount of the total open space requirement.
    - d. All open space/common areas for use by the public of the residents shall be designated on the plan and shall be irrevocably committed to such uses by dedication, restrictive covenants, or in some manner satisfactory to the Township Board.
  - 4) Phasing and commencement of construction.
    - a. Phasing: Where a project is proposed for construction in phases, the planning and design shall be such that, upon completion, each phase shall be capable of standing on its own in terms of the presences of services, facilities, and open space, and shall contain the necessary components to insure protection of natural resources and the health, safety, and welfare of the users of the planned unit development and the residents of the surrounding area. In addition, in developments which include residential and non-residential uses, phasing shall contemplate that at least 35% of all proposed residential uses are completed concurrent with the first phase of any non-residential construction; completion of at least 75% of all proposed residential construction prior to the second phase of non-residential construction; and completion of 100% of all residential construction prior to the third phase of non-residential construction. For purposes of carrying out this provision, the percentages shall be approximations as determined in the discretion of the Planning Commission, and further, such percentage may be significantly varied should the Planning Commission determine, in

its discretion, that the applicant has presented adequate and effective assurances that the residential component or components of the project shall be completed within the specified period.

- b. Commencement and completion of construction: Construction shall be commenced within one year following final approval of a planned unit development, or within one year of any other necessary governmental approval for commencement of the project, whichever is later, provided all other necessary approvals have been actively pursued. Each phase of the project shall be commenced within one year of the schedule established for the same in the application submission for the planned unit development. If construction is not commenced within such time, any approval of the final plan for the project shall expire and be null and void, provided, an extension for a specified period may be granted by the Planning Commission upon good cause shown if such request is made to the Planning Commission prior to the expiration of the initial period.
- 5) Infrastructure approval. All infrastructure shall be approved by Grand Traverse County and any other entity with jurisdiction. Drainage structures such as detention / retention ponds shall be designed to blend with the landscaping features of the project.
- F. Performance guarantees. The Planning Commission may require reasonable performance guarantees, as authorized under the Michigan Zoning Enabling Act to insure completion of improvements.
- G. Effect of approval. If and when approved, the planned unit development, with all conditions imposed, if any, shall constitute the land use authorization for the property, and all improvement and use shall be in conformity with such approval. The applicant shall record an affidavit with the Register of Deeds containing the legal description of the entire project, specifying the date of approval of the planned unit development, and declaring that all future development of the planned unit development property has been authorized and required to be carried out in accordance with the approved planned unit development unless an amendment thereto is duly adopted by the Township upon the request and/or approval of the applicant, or applicant's transferee and/or assigns.

#### 7.06 USE, YARD, DENSITY, AND LOT ARRANGEMENT STANDARDS

- A. Uses
  - 1) Residential Uses. The allowable residential units may be developed as single-family in the RC-1, A-1, R-2 and R-3 districts, two-family in A-1, RC-1 and R-2 districts or multi-family residences in R-3 districts, provided that the planned unit development eligibility requirements are satisfied and the site plan approved. Planned unit development may be accomplished through the Subdivision Control Ordinance approval processes. Planned unit development/Subdivision and Site Plan reviews shall occur concurrently in one proceeding to the extent practical.
  - 2) Other uses [\[See Questions for Consideration\]](#)
- B. Yard
  - 1) The minimum parcel size for a planned unit development shall be twelve (12) acres.
  - 2) Unit/Lot size:
    - a. Without common or municipal sewage disposal services or water supply: The Planning Commission may allow for lots or units to be a minimum of 20,000 square feet with 100 feet of road frontage.
    - b. With common or municipal sewage disposal services or water supply: The Planning Commission may allow for lots or units to be a minimum of 12,000 square feet in area with 80 feet of road frontage.
    - c. With common or municipal sewage disposal services and water supply: The Planning Commission may allow for lots or units to be a minimum of 8,000 square feet with 50 ft. of road frontage.
  - 3) The applicant shall submit proposed setback requirements if they deviate from the required setbacks in the zoning district.

- 4) The above minimum requirements are subject to Health Department approval.
- 5) Larger lots or units may be required for multi-family dwellings.
- C. Density
  - 1) Density calculations shall be based on contiguous parcels of land. If the parcels are not contiguous each tract shall be a separate application (road rights-of-way do not break continuity).
  - 2) To determine the net acreage of a piece of property verify with Section 7.44-7.07.D that your property has conservation value then subtract from the total (gross) acreage of the site the total acreage of all the existing road rights-of-way.
  - 3) To determine the number of allowable residential units on the site, divide the net acreage by .92 in the A-1 District, by 4.0 in the RC District, .27 in R-2 and R-3 District. Fractional units shall be rounded up if .5 or greater and rounded down if less than .5. If the intent of this Article is met, the Planning Commission may also allow for additional lots or units up to 15% of the gross acreage.
  - 4) For parcels that are located within more than one district, calculations shall be made separately for the portion of the parcel in each district. This density may then be combined and distributed anywhere within the parcel, provided that the plan protects open space with conservation value (see Section 7.44 7.07.D).
- D. Arrangement of lots or suites. Lots or units shall be arranged in a manner that protects land of conservation value and facilitates pedestrian and bicycle circulation. The lot layout shall comply with applicable portions of any design guidelines provided in Conservation Design for Subdivisions published by Island Press in 1996 or establish the same intent with similar designs acceptable to the Whitewater Township Planning Commission. A copy of the publication is available for viewing in the Planning and Zoning office.

7.07 MINIMUM PRESERVED OPEN SPACE

Since a major purpose of a planned unit development is to preserve open space, all Planned Unit Developments shall preserve at least 50% of the parcel(s) as open space in the A-1, R2 and R3 districts, and 80% in the RC district. All standards in section 8.05.C.2)c Open Space Preservation Requirements apply.

7.08 STANDARDS FOR APPROVAL OF THE PUD PLAN

The following standards shall be considered by the Planning Commission and Township Board when reviewing the application and the proposed PUD plan:

- A. The PUD project meets the qualification requirements of sections 7.06 – 7.08 above.
- B. The uses proposed will have a beneficial effect in terms of public health, safety, welfare, or convenience, on present and future potential surrounding land uses.
- C. The uses proposed will not adversely affect the public utilities and traffic circulation system, adjacent properties, or the environment.
- D. The recognized public benefits of the project could not be achieved under the regulation of the underlying district alone.
- E. Conditions of approval, modification or waiver of standards or requirements: Reasonable conditions may be required with the approval of a planned unit development, to the extent authorized by law, for the purpose of insuring that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased services and facility loads caused by the land use or activity, protecting the natural environment and conserving natural resources and energy, insuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner. Conditions imposed shall be designed to protect natural resources and the public health, safety and welfare of the individuals in the project and those immediately adjacent, and the community as a whole, shall be

reasonably related to the purposes affected by the planned unit development, and shall be necessary to meet the intent and purposes of this Ordinance, and be related to the objective of insuring compliance with the standards of this Ordinance. All conditions imposed shall be made a part of the record of the approved planned unit development.

#### 7.09 AMENDMENTS TO THE PUD

Once a PUD is started, all land approved as part of the PUD shall be utilized only as approved in the PUD; applications for PUD amendments shall be submitted as for other amendments to the Zoning Ordinance, and the ordinance amendment procedures shall be followed. If, for any reason, the PUD development is not started, the underlying or original zoning district prevails.

### **SUBDIVISION ORDINANCE**

#### SECTION 6.3 DEVIATION FROM STANDARDS IN PLANNED UNIT DEVELOPMENTS

- A. The developer may deviate from specified portions of this Ordinance in the case of a planned unit development, provided the Planning Commission finds that such a plan meets the standards for approval as detailed in section 7.09 and all of the zoning ordinance, The Planning Commission shall take into account the nature of the proposed use of land and existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision, and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. The Planning Commission shall report to the Township Board whether:
  - 1) The proposed project will constitute a desirable and stable community development.
  - 2) The proposed project will be in harmony with adjacent areas.
  - 3) The proposed project will be consistent with the Township Master Plan.
- B. Modification or waiver of standards or requirements: Since the express purpose of this Article is to achieve better use of land than would be likely under strict adherence to the standards and requirements of the Zoning Ordinance, the Planning Commission may recommend and the Township Board may approve applications for rezoning to Planned Unit Development where the application requires the modification or waiving of specific standards or requirements contained within this Article provided that the proposed PUD complies with the full intent and purpose of this Article, and further that it is clearly shown that such modification or waiving of specific standards or requirements will result in a recognizable and substantial benefit which would not otherwise accrue to the community if all provisions of this Article were to be met.

## Proposed Marked Up Language

New proposed language is noted in red underlined font. Text to be removed is shown in ~~red with a strikethrough~~. Notes are shown in bold and blue.

### ARTICLE 7 - PLANNED UNIT DEVELOPMENT

#### 7.01 PURPOSE, AUTHORITY, APPLICABILITY, ~~AND INTENT AND PROCEDURES~~

- A. Purpose of this section: The purpose of this Planned Unit Development (PUD) section is to provide standards for the submission, review, and approval of an application for a planned unit development (PUD). ~~preserve large tracts of intact open space land in order to maintain the rural landscape and environmental resources of Whitewater Township by allowing planned unit development standards.~~
- ~~A.B. Authority: This Article is adopted pursuant to MCL 125.3503 of the Michigan Zoning Enabling Act of 2006, and shall apply only in the A-1, RC, R2, and R3 Districts.~~
- ~~B. The provision of this option imposes no obligation upon the township to foster or encourage its use. The Township Board retains authority to determine if a PUD is appropriate for a particular development site and the sole discretion whether to approve the use of this option.~~
- C. Applicability: This section shall apply only in the A-1, RC-1, R2, and R3 Districts.
- D. Intent: The PUD concept is intended to provide a greater degree of flexibility in the regulation of land development and the arrangement of uses. Through this option, more creative approaches to development can be utilized which take advantage of the special characteristics of the land than would otherwise be possible through the strict enforcement of the ordinance. The specific objectives of the PUD are to:
- 1) Preserve large tracts of intact open space land to maintain the rural landscape and environmental resources of Whitewater Township
  - 2) Allow for a variety of density and housing types within a single development
  - 3) Facilitate mixed-use development
  - 4) Provide transitions and buffers between less compatible uses

#### 7.02 CONVENTIONAL DEVELOPMENTS

Conventional developments are those that are not PUDs and that comply with the conventional development requirements ~~without setting aside land as permanently protected open space~~. The Township discourages this type of development where it may detract from the Township's rural landscape and natural resources, result in a lesser quality or efficiency of development, when there are unique features of the property to be protected or that pose development challenges, where the flexibility permitted through the PUD could better further the vision of the master plan compared to conventional development, or there exists other circumstances unique to the site, use, or proposal.

#### 7.03 PLANNED UNIT DEVELOPMENTS

The Township encourages the use of Planned Unit Developments as an alternative to conventional developments. A PUD plan is a discretionary, optional form of development only permitted upon terms and conditions agreeable to the township, and is subject to approval by the Township Board following a recommendation by the Planning Commission.

The PUD is not intended to avoid the imposition of standards and requirements of the underlying district. Rather, flexibility is permitted so that the PUD plan provides advantages to both the developer and the Township.

As provided further below, the applicant for PUD approval must demonstrate that the proposed development represents an innovative, unified, planned approach to developing the site that would result in a significantly higher quality of development, the mitigation of potentially negative impacts of development, or more efficient development than conventional development will allow.

~~Planned Unit Developments allow units to be clustered on those portions of a property most suitable for development, while leaving substantial portions as undeveloped open space. Planned Unit Developments also may include a variety of lot sizes, ranging from large farm lots to small village-size lots. Planned unit development results in the preservation of contiguous open space and important environmental resources, while allowing compact development, more walkable neighborhoods, and more flexibility than conventional developments. Planned Unit Developments commonly consist of clusters of three or more homes that share lot, parcel or site unit lines. Noncontiguous land shall not be considered open space.~~ **[This describes a cluster development, not a PUD. While PUDs can have the elements described here, this description of PUDs is very limiting compared to what they can accomplish. These possibilities will be included in the qualifying criteria section below.]**

#### 7.04 QUALIFYING CRITERIA

The following provisions shall apply to all PUD projects:

- A. Unified control. The planned unit development shall be under the control of one owner or group of owners and shall be capable of being planned and developed as one integral unit.
- B. Recognizable benefit. The applicant shall demonstrate that the PUD provides as many of the following site design elements as the township determines to be appropriate under the circumstances of the proposed development that could not be attained through a project designed under conventional zoning:
  - 1) Clustering of housing units
  - 2) Preservation of contiguous open space
  - 3) Preservation, enhancement, or restoration of natural resources (trees, slopes, nonregulated wetland areas, etc.)
  - 4) Establishment of a mixed-used development with residential and non-residential uses or a variety of housing types
  - 5) Redevelopment of brownfield or greyfield sites
  - 6) Pedestrian-oriented design with buildings oriented to the sidewalk and parking to the side or rear of the site
  - 7) Enhancement of the aesthetic appearance of the township through high-quality building design and site development beyond the site plan requirements of this chapter
  - 8) Extensive landscaping beyond the site plan requirements of this chapter
  - 9) Preservation or restoration of historic resources
  - 10) Provision of open space or public plazas or features
  - 11) Use and improvement of existing sites when the uniform regulations contained in the underlying zoning district alone do not provide adequate protection and safeguards for the site or its surrounding areas or where the current ordinances do not permit flexibility to consider redevelopment, replacement, or adaptive reuse of existing structures or sites
  - 12) Effective transition between higher and lower density uses, and/or between nonresidential and residential uses or between incompatible adjacent land uses proposed to be developed in a manner that is not possible using a conventional approach
  - 13) Shared vehicular access between properties or uses
  - 14) Provision of a public improvement that would not otherwise be required to further the public health, safety, and welfare, protect existing or planned uses, or alleviate or lessen an existing or potential problem relating to public facilities (such as road improvements or the relocation of overhead utilities)

- 2)15) Significant use of sustainable building and site design features such as: water use reduction, water-efficient landscaping, innovative wastewater technologies, low impact stormwater management, optimized energy performance, on-site renewable energy, passive solar heating, reuse/recycled/renewable materials, indoor air quality, or other elements identified as sustainable by established groups such as the U.S. Green Building Council (LEED) or ANSI National Green Building Standards
- 3)16) Permanent establishment of land use patterns that are compatible with or will protect existing or planned uses, which may include the limitation of the permissible uses of the property
- 4)17) Innovation in land use, form of ownership, and variety in design, layout, and type of structures constructed
- 18) Other benefits as determined by the township
- C. Compatibility with adjacent uses. The proposed location of uses or structures that are of a significantly different scale or character than the abutting districts and uses, such as access drives, parking areas, waste receptacles, swimming pools, sports courts and facilities of a similar nature, shall not be located near the perimeter of the PUD unless adequately screened and buffered, so as to mitigate any negative impacts on adjacent lands.
- D. Master plan. The proposed PUD shall be consistent with the Whitewater Township Master Plan.

#### 7.05 SUBMISSION AND REVIEW PROCESS

- A. Pre-application. Prior to filing an application for a planned unit development, applicants may request an optional pre-application conference with the Zoning Administrator and no more than two (2) members of the Planning Commission. The purpose of the meeting is to discuss the PUD procedures, explanation of this zoning ordinance, and to assist the applicant and township with understanding of general concepts and design parameters prior to investment in preparation of a site plan and PUD application. Township officials at this meeting shall not indicate or otherwise commit the township to any particular action regarding the application.
- B. Application. The applicant shall submit the required number of prints of the preliminary development plan to the township. Application materials will be reviewed for completeness by the Zoning Administrator. If the application is not administratively complete, the Zoning Administrator will return the application to the Applicant(s) with a letter that specifies the additional material(s) required. If the application is deemed administratively complete, the Zoning Administrator will forward the application to the Planning Commission for consideration. The preliminary plan shall contain, in addition to the requirements of Article 13, the following:
  - 1) A boundary survey by a registered civil engineer or land surveyor of the exact acreage being requested for development.
  - 2) A topography map of the entire area at contour intervals of at least two feet. This map shall indicate all major stands of trees, bodies of water, and unbuildable areas due to soil conditions, wetlands, and so forth.
  - 4)3) A preliminary site plan for the entire parcel carried out in such detail as to indicate the functional uses being requested (residential, commercial, office, etc.); the densities, number and types of units (if applicable) and floor area per habitable space; the traffic circulation plan; pedestrian circulation; type, location, height, bulk and capacity of structures; and automobile parking and loading. [Dwelling unit info is from section 6.12.D]
  - 4) All open spaces, including preserves, recreational areas, and the like, and each purpose proposed for such areas together with copies of deeds, deed restrictions, easements, restrictive covenants or other legal instruments to be recorded as part of the development plan. [This is section 6.12.B, but updated to be part of the development agreement and not a condition of approval]
  - 2)5) All known natural resources and natural features to be preserved. [Moved from section 6.12.C]
  - 6) A specific schedule of the intended development and construction details, including phasing or timing, and the general improvements to constitute a part of the development, including without

- limitation, lighting, signage, the mechanisms designed to reduce noise, utilities, and visual screening features. [Moved from section 6.12.H]
- 7) A separately delineated specification of all deviations from this Ordinance which would otherwise be applicable to the uses and development proposed in the absence of this planned unit development article. [Moved from section 6.12.E]
  - 8) A written document detailing the community impact statement, suitability of the site, population densities, parking ratios, traffic generation, traffic impact analysis, and development schedule of buildings, units and uses supporting the proposed development. [This aligns with section 6.12.F – see question for consideration above]
  - 9) The preliminary plans for provision of any community water and sanitary sewer facilities.
  - 10) A fee as set by the Township Board from time to time.
- C. Planning Commission review.
- 1) Material submitted with the application or on subsequent requests shall include all plans, maps, studies, and reports that may reasonably be required to make the determinations called for in the particular case. Upon receipt of an application by the township, such request shall be referred to the Planning Commission for its review and recommendation.
  - 2) The Planning Commission shall hold a public hearing to hear and consider documents and comments related to the PUD proposal and rezoning. Notice and procedures for public hearings for PUDs shall be provided as required under state law and detailed in section 13.07. In its review, the Planning Commission shall determine whether the PUD plan meets the standards for qualification and approval set forth in sections 7.04 and 7.10, respectively
  - 3) Assessments: The Planning Commission may require an Environmental Impact Statement, Traffic Impact Study, or any other assessment to ensure the public health, safety, and welfare of the Whitewater Township residents. [Moved from section 7.13 Assessments]
  - 4) Following said public hearing, the Planning Commission shall, within a reasonable time, forward their report and recommendation to the Township Board.
- D. Township Board review.
- 3) Upon receipt of the report and recommendation from the Planning Commission, the Township Board may approve said rezoning and the accompanying plan as a single unit following a public hearing on the proposal that was noticed as required by law and detailed in section 13.07.
    - a. If the Township Board shall determine to grant the application and approve the PUD zoning district with the accompanying plan, it shall do so by adopting an ordinance amending the zoning ordinance and establishing the site as the “PUD” zoning district.
    - b. If the application is denied, the Township Board shall specify, in writing, the reason for the denial.
  - 4) Once an area has been rezoned as a planned unit development and a plan has been approved by the Township Board, no development may take place in such area, nor may any use thereof be made, except in accordance with the plan approved or in accordance with a Township Board approved amendment thereto.
- E. Submission of site plans and engineering.
- 1) Final site plan/subdivision/condominium or other final development plans may be applied for simultaneously with the PUD application.
  - 2) The final site plan shall be in conformity with the preliminary original plan previously approved.
  - 3) For those improvements to be constructed following approval, final site plans or plats may be submitted simultaneously with a phase plan, if applicable. All such final plans shall include the following:
    - a. A detailed site plan, fully dimensioned, showing a fully scaled plan view of all buildings, all public road right-of-way and public streets, densities, parking areas, utilities, parks, playgrounds, and areas to be set aside for the use of the public or by residents within the development.
    - b. Floor plans and elevations typical of all buildings, except detached single family, shall be submitted.

- c. Each plat or site plan submitted within the planned unit development shall, either individually or in combination with a previously approved project, meet the standards of this section as to density and open space requirements. Open space shall be computed as a proportionate amount of the total open space requirement.
  - d. All open space/common areas for use by the public of the residents shall be designated on the plan and shall be irrevocably committed to such uses by dedication, restrictive covenants, or in some manner satisfactory to the Township Board.
- 4) Phasing and commencement of construction. [Moved from section 6.15]
- a. Phasing: Where a project is proposed for construction in phases, the planning and design shall be such that, upon completion, each phase shall be capable of standing on its own in terms of the presences of services, facilities, and open space, and shall contain the necessary components to insure protection of natural resources and the health, safety, and welfare of the users of the planned unit development and the residents of the surrounding area. In addition, in developments which include residential and non-residential uses, phasing shall contemplate that at least 35% of all proposed residential uses are completed concurrent with the first phase of any non-residential construction; completion of at least 75% of all proposed residential construction prior to the second phase of non-residential construction; and completion of 100% of all residential construction prior to the third phase of non-residential construction. For purposes of carrying out this provision, the percentages shall be approximations as determined in the discretion of the Planning Commission, and further, such percentage may be significantly varied should the Planning Commission determine, in its discretion, that the applicant has presented adequate and effective assurances that the residential component or components of the project shall be completed within the specified period.
  - b. Commencement and completion of construction: Construction shall be commenced within one year following final approval of a planned unit development, or within one year of any other necessary governmental approval for commencement of the project, whichever is later, provided all other necessary approvals have been actively pursued. Each phase of the project shall be commenced within one year of the schedule established for the same in the application submission for the planned unit development. If construction is not commenced within such time, any approval of the final plan for the project shall expire and be null and void, provided, an extension for a specified period may be granted by the Planning Commission upon good cause shown if such request is made to the Planning Commission prior to the expiration of the initial period.
- 5) Infrastructure approval. All infrastructure shall be approved by Grand Traverse County and any other entity with jurisdiction. ~~Private road development shall follow the Whitewater Township Private Road Ordinance.~~ Drainage structures such as detention / retention ponds shall be designed to blend with the landscaping features of the project. [Moved from section 7.11 Infrastructure]
- F. Performance guarantees. The Planning Commission may require reasonable performance guarantees, as authorized under the Michigan Zoning Enabling Act to insure completion of improvements. [Moved from section 6.13 Performance guarantees]
- G. Effect of approval. If and when approved, the planned unit development, with all conditions imposed, if any, shall constitute the land use authorization for the property, and all improvement and use shall be in conformity with such approval. The applicant shall record an affidavit with the Register of Deeds containing the legal description of the entire project, specifying the date of approval of the planned unit development, and declaring that all future development of the planned unit development property has been authorized and required to be carried out in accordance with the approved planned unit development unless an amendment thereto is duly adopted by the Township upon the request and/or approval of the applicant, or applicant's transferee and/or assigns. [Moved from section 6.16 Effect of approval]

7.064 USE, YARD, DENSITY, AND LOT ARRANGEMENT STANDARDS FOR PLANNED UNIT DEVELOPMENTS

D. Uses

- 1) Residential Uses. The allowable residential units may be developed as single-family in the RC-1, A-1, R-2 and R-3 districts, two-family in A-1, RC-1 and R-2 districts or multi-family residences in R-3 districts, provided that the planned unit development eligibility requirements are satisfied and the site plan approved. Planned unit development may be accomplished through the Subdivision Control Ordinance approval processes. Planned unit development/Subdivision and Site Plan reviews shall occur concurrently in one proceeding to the extent practical. [Moved from section 7.05 Types of residential development]
- 2) Other uses [See Questions for Consideration]

E. Yard [Moved from section 7.06 Minimum lot dimensions in planned unit developments]

- 1) The minimum parcel size for a planned unit development shall be twelve (12) ~~twenty (20)~~ acres.
- 2) Unit/Lot size:
  - a. Without common or municipal sewage disposal services or water supply: The Planning Commission may allow for lots or units to be a minimum of 20,000 square feet with 100 feet of road frontage.
  - b. With common or municipal sewage disposal services or water supply: The Planning Commission may allow for lots or units to be a minimum of 12,000 square feet in area with 80 feet of road frontage.
  - c. With common or municipal sewage disposal services and water supply: The Planning Commission may allow for lots or units to be a minimum of 8,000 square feet with 50 ft. of road frontage.
- 3) The applicant shall submit proposed setback requirements if they deviate from the required setbacks in the zoning district.
- 4) The above minimum requirements are subject to Health Department approval.
- 5) Larger lots or units may be required for multi-family dwellings.

F. Density [Moved from section 7.04 Standards for Planned Unit Developments]

- 1) Density calculations shall be based on contiguous parcels of land. If the parcels are not contiguous each tract shall be a separate application (road rights-of-way do not break continuity).
- 2) To determine the net acreage of a piece of property verify with Section 7.14-7.07.D that your property has conservation value then subtract from the total (gross) acreage of the site the total acreage of all the existing road rights-of-way.
- 3) To determine the number of allowable residential units on the site, divide the net acreage by .92 in the A-1 District, by 4.0 in the RC District, .27 in R-2 and R-3 District. Fractional units shall be rounded up if .5 or greater and rounded down if less than .5. If the intent of this Article is met ~~and Whitewater Township's private road requirements are used~~, the Planning Commission may also allow for additional lots or units up to 15% of the gross acreage.
- 4) For parcels that are located within more than one district, calculations shall be made separately for the portion of the parcel in each district. This density may then be combined and distributed anywhere within the parcel, provided that the plan protects open space with conservation value (see Section 7.14 7.07.D).

- E. Arrangement of lots or suites. Lots or units shall be arranged in a manner that protects land of conservation value and facilitates pedestrian and bicycle circulation. The lot layout shall comply with applicable portions of any design guidelines provided in Conservation Design for Subdivisions published by Island Press in 1996 or establish the same intent with similar designs acceptable to the Whitewater Township Planning Commission. A copy of the publication is available for viewing in the Planning and Zoning office. [Moved from section 7.09 Arrangement of lots or suites.]

7.05 TYPES OF RESIDENTIAL DEVELOPMENT

~~The allowable residential units may be developed as single-family in the RC-1, A-1, R-2 and R-3 districts, two-family in A-1, RC-1 and R-2 or multi-family residences in R-3 districts, provided that applicable Special Use Permit requirements are satisfied. Planned unit development may be accomplished through the Subdivision Control Ordinance approval processes. Subdivision and Special Use Permit/Site Plan reviews shall occur concurrently in one proceeding to the extent practical. [Moved to section 7.06.A.]~~

#### ~~7.06 MINIMUM LOT DIMENSIONS IN PLANNED UNIT DEVELOPMENTS~~

~~The minimum parcel size for a planned unit development shall be twenty (20) acres.~~

- ~~A. Without common or municipal sewage disposal services or water supply: The Planning Commission may allow for lots or units to be a minimum of 20,000 square feet with 100 feet of road frontage.~~
- ~~B. With common or municipal sewage disposal services or water supply: The Planning Commission may allow for lots or units to be a minimum of 12,000 square feet in area with 80 feet of road frontage.~~
- ~~C. With common or municipal sewage disposal services and water supply: The Planning Commission may allow for lots or units to be a minimum of 8,000 square feet with 50 ft. of road frontage.~~
- ~~D. The applicant shall submit proposed setback requirements if they deviate from the required setbacks in the zoning district.~~
- ~~E. The above minimum requirements are subject to Health Department approval.~~
- ~~F. Larger lots or units may be required for multi-family dwellings. [Moved to section 7.06.B]~~

#### ~~7.07 MINIMUM PRESERVED OPEN SPACE~~

~~Since at the major purpose of a planned unit development is to preserve open space, all Planned Unit Developments shall preserve at least 50% of the parcel(s) as open space in the A-1, R2 and R3 districts, and 80% in the RC district. The requirements for preserving such open space are described in Section 7.14. All standards in section 8.05.C.2)c Open Space Preservation Requirements apply.~~

#### ~~7.08 OPEN SPACE LAND~~

~~Preserved open space may be included as a portion of one or more large lots. Such open space may be owned by private landowner(s), a non-profit organization, the Township or another governmental entity, as provided in Section 7.14, as long as it is protected from development by a conservation easement. The required open space land may not include land within a lot parcel or a site-condo unit. [Moved to section 8.05.C.2)c.4]~~

#### ~~7.09 ARRANGEMENT OF LOTS OR SITES~~

~~Lots or units shall be arranged in a manner that protects land of conservation value and facilitates pedestrian and bicycle circulation. The lot layout shall comply with applicable portions of any design guidelines provided in Conservation Design for Subdivisions published by Island Press in 1996 or establish the same intent with similar designs acceptable to the Whitewater Township Planning Commission. A copy of the publication is available for viewing in the Planning and Zoning office. [Moved to section 7.04.D.]~~

#### ~~7.10 PROJECT PHASING [Removed as it is covered in Section 7.05.E.4 which has more complete information from section 6.15.]~~

~~Each Planned unit development phase shall be designed to stand alone. Each phase shall be designed to provide the required amount of open space in relation to the acreage being developed.~~

#### 7.11 INFRASTRUCTURE

All infrastructure shall be approved by Grand Traverse County and any other entity with jurisdiction. Private road development shall follow the Whitewater Township Private Road Ordinance. Drainage structures such as detention / retention ponds shall be designed to blend with the landscaping features of the project. **[Moved to Section 7.05.E.5]**

#### 7.12 RECREATIONAL USES

Recreational areas are recommended to be incorporated in a portion of the open space in order to create a park like setting. Paths for walking throughout the open space are required in a planned unit development. Outdoor basketball or tennis courts that create impervious surfaces may be allowed in 10% of the required open space in the planned unit development, structures such as buildings are not allowed in the open space. **[Moved to section 8.05.C.2)c.8 with changes]**

#### 7.13 ASSESSMENTS

The Planning Commission may require an Environmental Impact Statement, Traffic Impact Study or any other assessment to ensure the public health safety and welfare of the Whitewater Township residents. **(Moved to section 7.05.C.3)**

#### 7.14 PERMANENT OPEN SPACE

Open space set aside in a planned unit development or as a condition of any Special Use Permit or Site Plan approval (see Article 12 and Article 13) shall be permanently preserved as required by this Section. Land set aside as permanent open space may be included as a portion of one or more large parcels on which dwellings and other structures are permitted, provided that a conservation easement is placed on such land pursuant to Section 7.17 below, and provided that the Planning Commission approves such configuration of the open space as part of its Subdivision, Special Use Permit, or Site Plan approval. Any development permitted in connection with the setting aside of open space land shall not compromise the conservation value of such open space land. **[Moved to section 8.05.C.2)c.7]**

#### 7.15 CONSERVATION VALUE OF OPEN SPACE

The open space protected pursuant to Section 7.14 must have "conservation value," which may include recreational, historic, ecological, agricultural, water resource, scenic or other natural resource value. Examples of lands with conservation value include land in active agriculture, large areas of contiguous mature forest, stream corridors, ridgelines, and scenic areas including important vistas or viewsheds seen from public places. Wetlands are considered to have conservation value yet will not count towards density calculation. Land of conservation value shall be included for purposes of calculating density in Section 7.04. Whenever the Planning Commission approves a plan with protected open space, it shall make written findings identifying the specific conservation values protected and the reasons for protecting such land. **[Moved to section 8.05.C.2)c.2]**

#### 7.16 NOTATIONS ON PLAT OR SITE PLAN

Preserved open space land shall be clearly delineated and labeled on the final plat or Site Plan as to its use, ownership, management, method of preservation, and the rights, if any, of the owners of other lots in the development to such land. The plat or Site Plan shall clearly show that the open space land is permanently reserved for open space purposes, and shall contain a notation describing recording information for any conservation easements or restrictive covenants required to be filed to implement such restrictions. **[Moved to section 8.05.C.2)c.9]**

#### 7.17 PERMANENT PRESERVATION BY CONSERVATION EASEMENT

- ~~A. A perpetual conservation easement restricting development of the open space land and allowing use only for agriculture (not including structures), forestry, recreation, protection of natural resources, or similar conservation purposes, pursuant to MCL 324.2140–2144, shall be granted to the Township, with the approval of the Township Board, or to a qualified not-for-profit conservation organization acceptable to the Planning Commission. Such conservation easement shall be approved by the Planning Commission and shall be required as a condition of municipal approval. The Planning Commission may require that the conservation easement be enforceable by the Township if the Township is not the holder of the conservation easement. The conservation easement shall be recorded in the office of the Register of Deeds prior to or simultaneously with the recording of any final plat or Master Deed in the office of the Register of Deeds.~~
- ~~B. Access roads, driveways, water supply wells, septic waste disposal facilities, local utility distribution lines, trails, temporary structures for outdoor recreation, are permitted provided that they do not impair the conservation value of the land. The conservation easement shall prohibit residential, industrial, or commercial use of open space land.~~
- ~~C.A. A development rights easement under MCL 324.36101 et seq. may be substituted for a conservation easement for purposes of Section 7.14 only if its term is perpetual. **[Moved to section 8.05.C.2)c.7.A.)]**~~

#### ~~7.18 OWNERSHIP OF OPEN SPACE LAND~~

~~Open space land may be dedicated to Township, County, or State governments, transferred to a nonprofit organization acceptable to the Planning Commission, or held in such other form of ownership as the Planning Commission finds adequate to properly manage the open space land and to protect its conservation value. **[Moved to section 8.05.C.2)c.7.B.)]**~~

#### ~~7.19 MAINTENANCE STANDARDS~~

- ~~A. Ongoing maintenance standards shall be established, enforceable by the Township against an owner of open space land as a condition of development approval, to ensure that the open space land is not used for storage or dumping of refuse, junk, or other offensive or hazardous materials.~~
- ~~B. If the Township Board finds that the provisions of Subsection (A) above are being violated such that the condition of the land constitutes a public nuisance, it may, upon 30 days written notice to the owner, enter the premises for necessary maintenance, and the cost of such maintenance by the Township shall be assessed against the landowner or, the owners of properties within the development, and shall, if unpaid, become a tax lien on such property or properties. **[Moved to section 8.05.C.2)c.10]**~~

#### ~~7.20 PROCEDURE FOR PUD APPROVAL~~

~~The procedure for Planned Unit Development review shall follow the Special Use Permit procedure and Subdivision Ordinance #16 procedure concurrently. **[Removed entirely and replaced with section 7.05]**~~

#### 7.08 STANDARDS FOR APPROVAL OF THE PUD PLAN

The following standards shall be considered by the Planning Commission and Township Board when reviewing the application and the proposed PUD plan:

- A. The PUD project meets the qualification requirements of sections 7.06 – 7.08 above.
- B. The uses proposed will have a beneficial effect in terms of public health, safety, welfare, or convenience, on present and future potential surrounding land uses.
- C. The uses proposed will not adversely affect the public utilities and traffic circulation system, adjacent properties, or the environment.
- D. The recognized public benefits of the project could not be achieved under the regulation of the underlying district alone.

E. Conditions of approval, modification or waiver of standards or requirements: Reasonable conditions may be required with the approval of a planned unit development, to the extent authorized by law, for the purpose of insuring that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased services and facility loads caused by the land use or activity, protecting the natural environment and conserving natural resources and energy, insuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner. Conditions imposed shall be designed to protect natural resources and the public health, safety and welfare of the individuals in the project and those immediately adjacent, and the community as a whole, shall be reasonably related to the purposes affected by the planned unit development, and shall be necessary to meet the intent and purposes of this Ordinance, and be related to the objective of insuring compliance with the standards of this Ordinance. All conditions imposed shall be made a part of the record of the approved planned unit development. [Moved from section 6.14 Conditions]

#### 7.09 AMENDMENTS TO THE PUD

Once a PUD is started, all land approved as part of the PUD shall be utilized only as approved in the PUD; applications for PUD amendments shall be submitted as for other amendments to the Zoning Ordinance, and the ordinance amendment procedures shall be followed. If, for any reason, the PUD development is not started, the underlying or original zoning district prevails.

### **SUBDIVISION ORDINANCE**

#### **SECTION 6.3 DEVIATION FROM STANDARDS IN PLANNED UNIT DEVELOPMENTS VARIANCE**

- A. The developer may deviate ~~request a variance~~ from specified portions of this Ordinance in the case of a planned unit development, provided the ~~if in the judgment of the~~ Planning Commission finds that such a plan ~~provides adequate public spaces and includes provisions for efficient circulation, light and air and other needs~~ meets the standards for approval as detailed in section 7.09 and all of the zoning ordinance, ~~it shall make findings, as required herein below.~~ The Planning Commission shall take into account the nature of the proposed use of land and existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision, and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. The Planning Commission shall report to the Township Board whether:
- 4) ~~\_\_\_\_\_~~ A. The proposed project will constitute a desirable and stable community development.
  - 5) ~~\_\_\_\_\_~~ B. The proposed project will be in harmony with adjacent areas.
  - 6) ~~\_\_\_\_\_~~ C. The proposed project will be consistent with the Township Master Plan.
- B. Modification or waiver of standards or requirements: Since the express purpose of this Article is to achieve better use of land than would be likely under strict adherence to the standards and requirements of the Zoning Ordinance, the Planning Commission may recommend and the Township Board may approve applications for rezoning to Planned Unit Development where the application requires the modification or waiving of specific standards or requirements contained within this Article provided that the proposed PUD complies with the full intent and purpose of this Article, and further that it is clearly shown that such modification or waiving of specific standards or requirements will result in a recognizable and substantial benefit which would not otherwise accrue to the community if all provisions of this Article were to be met. [Moved from section 6.17 Modification or waiver of standards or requirements]

## Master Plan Guidance

The first principle listed in the Township's Master Plan, adopted this past February, is to "Respect the rights of the Township residents and property owners." Goal 1-D under this principle is "Update zoning regulations concerning high-density residential development." Demographic data collected for the master plan indicates that the Township is likely to see continued growth and an aging population, increasing the need for additional housing. High-density residential housing is challenging throughout the Township as water and sewer systems are not generally available. Additionally, public input showed that residents want to preserve rural character, including orchards, farm stands, agricultural lands, woodlots, forests, and extended views of undeveloped land. However, the Master Plan emphasized that these rural areas are not there solely for the provision of a rural character to the community, but there as a business. Farming has become more and more challenging, leaving farmers looking for other ways to use their property. The Master Plan calls for updating the Planned Unit Development regulations to make this development approach more appealing to developers and suggests incentivizing the use of the PUD option by allowing a density bonus or other benefits.

# memorandum

**DATE:** October 30, 2025

**TO:** Whitewater Township Planning Commission

**FROM:** Andy Aamodt and Stephanie Osborn, Giffels Webster

**SUBJECT:** Bundle 1: COPUD section update

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## Introduction

Several needed updates to the Corridor Overlay Planned Unit Development (COPUD) section of the zoning ordinance have been identified through the zoning audit and conversations with staff. These include procedural improvements, development requirements, and alignment with the Michigan Zoning Enabling Act (MZEA). For example, parts of this section have been identified to be contradictory with the site plan and special land use review processes, as well as the Special Use Permits. Additionally, a review of the development standards such as density, uses, landscaping, building facades, and others have been called for.

M-72 is important both locally and regionally as a major access route to Traverse City and across (east-west) the Township. The COPUD currently applies to area 500 feet north and south of the centerline of M-72, from Cook Road westward to the west township line.

This memo is divided into the sections below. You can click on each section to move to that section.

[Amendment History](#)

[Overview of Proposed Changes](#)

[Questions for Consideration](#)

[Next Steps](#)

[Clean Language](#)

[Proposed Marked Up Language](#)

[Master Plan Guidance \(provided in October's meeting memo\)](#)

## Amendment History

- **October 1, 2025** – The Planning Commission reviewed the existing language. It was noted that the commission did not have any experience with the COPUD. Purposes of the COPUD that are provided in the language were rated, with the main purposes being to:
  - Provide applicants the greater flexibility of a PUD regulated via performance-based standards and cooperation in design (score: 4.0/5.0)

- Preserve/enhance the visual character of the corridor for the economic benefit to local landowners and the region (score: 3.6/5.0)
- Encourage the preservation of scenic vistas and viewsheds; Protection and enhancement of property values and encourage commercial/industrial development (score: 3.6/5.0)

## Overview of Proposed Changes

- Remove mention of PUD and convert this to an overlay district
- Update the applicability of the overlay to the parcels that are immediately adjacent to M-72, as well as those zoned V-1 Village (note, this is a question for consideration).
- Make the design requirements required for all parcels in the overlay area (note, this is a question for consideration).
- Create a new section, 6.04, that uses the development process for permitted and special land uses proposed within the overlay instead of the separate review process that is described in section 6.12 of the original language.
- Remove reference to the Whitewater Township Commercial/Industrial Designs Example Book, as this does not exist.
- Suggest a new intent for the Architectural Design Standards that is more specific to the vision and interests of the Township in this area.
- Reorganized the existing content, separating out items topically and listing objectives separately from standards.
- We also recommend showing the overlay district on the zoning map.

## Questions for Consideration

### 1. Overlay boundary.

- a. **Location.** Section 6.02 describes where the overlay applies. Previously it applied on the land within 500 ft. of the centerline of M-72. We have proposed that it would apply to the entire parcel adjacent to M-72, as well as the parcels zoned V-1 Village. Village-specific design standards are included throughout. **Does this seem appropriate, or should the parcels zoned V-1 that do not immediately abut M-72 have a different overlay to meet the vision and intent described in the master plan for this area? The map below shows the area proposed for the overlay as outlined in green, which includes all V-1 parcels.**
- b. **Expansion.** Section 6.03 states that “Development projects in this COPUD District on parcels of land fronting on M-72 but of greater depth than 500 hundred feet may extend the applicability of these procedures and design standards by means of rezoning or through variances.” **Under what circumstances are these standards extended to the areas beyond the overlay. For continuity, would it make sense that any parcel fronting M-72 would need to follow these standards for the entire parcel, regardless of the depth/distance from M-72?**



2. **Housing.** Section 6.01 mentions that housing is of interest in the area. The recent master plan states that there is support for higher density residential development along M-72 and near the Elk Lake Rd/M-72 intersection. **To that end, should this overlay encourage housing, or was the interest in housing intended to be more of an offshoot from M-72 as opposed to directly on M-72?**
3. **Design Standards.**
  - a. **Applicability.** Previously, section 6.03 noted that the design standards only applied to developments with greater than 4,000 square feet of gross floor area. This can lead to a variety of design choices throughout the corridor instead of creating one cohesive look and feel. **Should this, or another, threshold need to be met to require the design standards?**
  - b. **Consistency.** Section 6.08 provides architectural standards for COPUD sites. Subsections G (lighting) and I (streetscape improvements) provide standards for each. **Is there interest in a consistent look throughout the corridor with these elements? For example, are similar light fixtures, fences, or benches of interest?** This could help create a sense of place and continuity throughout the district, but it could also be seen as too restrictive and costly. The [Dixie Highway Overlay Design Guidelines](#) required in Springfield Township may serve as an example of the level of detail provided to obtain a more cohesive look for a corridor.

- c. **Style.** Section 6.09.B provides direction on architectural design of buildings. The master plan calls for “rural building design elements.” **Are the aspects provided in section 6.09.B enough to create the building types desired? If not, what additional direction and standards should be in place to achieve this aesthetic?**
  - d. **Streetscape.** Section 6.13 provides a list of street amenities and improvements that are encouraged in the overlay. **Is the Township interested in requiring one or more of these with each development and/or specifying these items, such as a particular type and shape of lighting, benches, planters, fences, bollards, bike racks or other amenities?** Should information about the **specifications for bike and pedestrian paths (widths, materials, etc.) be provided or standards elsewhere referenced?** These considerations could be made separately for the parcels zoned as V-1 compared to the entire overlay, if the main focus area for providing these amenities is in the Village.
4. **Setbacks.** Section 6.05.A mentions that the setbacks of the underlying district must be met, but then there is a separate section, section 6.06, that has standards that conflict and require further setbacks. The master plan states that, at least in the village area, more pedestrian-friendly development is desirable which will be hard to achieve with a minimum 75 ft front setback. **Does it make sense to maintain the 75 ft. setback (or another setback larger than the underlying district) for the parcels directly fronting M-72, should the setbacks match the underlying district, or should the setbacks be reduced in some or all areas of the overlay to increase the pedestrian and downtown feel of the area?**
5. **Review process.** Section 6.09 (new, 6.08 of the original) mentions a Site Plan Review Committee. **Is this a functioning committee? If so, what is their role? Would Planning Commission like to defer the review of the building and architecture design to this committee, or review those aspects as part of the site plan review?**
6. **Screening and Landscaping.**
  - a. **Parking screening.** Section 6.06.B discusses requirements for screening for parked vehicles in the C-1, R-3, and N districts. The overlay includes parcels that are zoned V-1, A-1, and R-1. **Are any screening requirements needed for these districts?**
  - b. **Buffer zone.** The minimum buffer zone width described in Article 10 is 10 ft. Section 6.06.B requires that at least 5 ft. of the required side yard setback be landscaped as described in Article 10. **Should these large side setbacks and buffer zone be required along this corridor, or should these requirements be reduced to allow for more compact development in the corridor? Also, if a buffer zone is required, would it be desirable to increase the requirements or be more specific about what should be included than Article 10 provides in order to create a cohesive look in the corridor?**
  - c. **Landscape standards.** Section 6.15 discusses landscaping objectives and requirements for sites in the Overlay. The Master Plan calls for “extensive” landscaping along M-72; therefore, standards above and beyond what is required per Article 10 Landscape Standards are needed. **What would the Township like to see in this area with regard to landscaping?**
7. **Lighting.** Section 6.10 discusses lighting requirements, which really just refers back to the standards for throughout the Township. The master plan calls for “limited lighting.” **Should other standards be in place in the Overlay or for the V-1 parcels, specifically? In either area, is there interest in requiring a consistent type of lighting or shape of a lighting fixture?**
8. **Signs.** Section 6.14 references Article 14 Signs for all standards, with the exception of noting that the site plan review committee and/or the Planning Commission are “authorized to approve or

disapprove the appearance of features on such proposed signs. Signs will be reviewed for compliance with the guidelines of this section and for compatibility with the township character.” The phrase “compatibility with the township character” is very subjective. Further, the master plan called for sign controls in this area. **Does the Township intend to be more prescriptive in the character of the signs (materials, colors, size, lighting, etc.) in this corridor?** If so, those standards should be provided here (or in Article 14 if they are applicable throughout the township).

## Next Steps

The Planning Commission will have the opportunity to discuss these proposed changes and questions for consideration which will inform proposed changes to the existing language.

## Clean Proposed Language

### ARTICLE 6 – M-72 CORRIDOR OVERLAY DISTRICT

#### 6.01 PURPOSE AND INTENT

A Corridor Overlay (CO) Zoning District is hereby established consistent with the goals and objectives of the Whitewater Township Master Plan and pursuant to the zoning enabling statutes of the State of Michigan.

- A. The intent of the M-72 Corridor Overlay District is to enhance the economic climate of the M-72 corridor while preserving the visual character of the corridor, including scenic vistas and viewsheds. Further, it is intended that the district provide for various types of land uses planned in a manner which shall encourage the use of land in accordance with its character and adaptability; conserve natural resources and energy, encourage innovation in land use planning, provide enhanced housing, employment, shopping, traffic circulation, and recreational opportunities for the people of the township; and bring about a greater compatibility of design and use.
- B. The purpose of the M-72 Corridor Overlay District shall be to encourage development and redevelopment of property in accordance with the township master plan and in a manner that will promote the image of the M-72 corridor as a high-quality corridor and an attractive investment environment; allow mixed-use development; promote development that is compatible with the character of the township; encourage the redevelopment and reuse of certain properties which are no longer capable of serving their intended purpose; ensure safe and complementary vehicular and pedestrian circulation patterns; and, control vehicular access to M-72.
- C. The provisions of this overlay district are specifically intended to establish the M-72 Corridor as an area which:
  - 1) Promotes the goals of the master plan
  - 2) Encourages economy and efficiency in the use of land, natural resources, energy and the provision of public services and utilities, thereby encouraging a compatible mixture of uses in close proximity to each other
  - 3) Enhances the visual appearance of the corridor by preserving scenic vistas and viewsheds and coordinating building design, site arrangement and landscaping, signage, lighting and other elements
  - 4) Encourages redevelopment of property by removing or making material modifications to the existing structures, discontinuing the existing nonconforming use on the property, and establishing a new use consistent with the intent and provisions of this section
  - 5) Manages access to existing properties and future development while simultaneously preserving and improving the flow of traffic on the surrounding road system in terms of safety, capacity needs, and speed

#### 6.02 DELINEATION OF THE CORRIDOR OVERLAY ZONING DISTRICT

The Corridor Overlay zoning district shall include all parcels fronting M-72 from Cook Road westward to the west township line and those designated as V-1 Village regardless of frontage on M-72.

#### 6.03 APPLICABILITY OF THIS ARTICLE

Within this Corridor Overlay, all development projects, both new uses and structures as well as newly installed or renovated features, must employ the design standards and applicable procedures of this article described in sections 6.05 to 6.16.

6.04 PROCEDURE FOR REVIEW AND APPROVAL:

- A. Site plan review. For those uses that are permitted principal uses in the underlying zoning districts, the site plan review procedures found in Article 12 must be met and all required materials for site plan review submitted.
- B. Special land use review. For those uses that are noted as special land uses in the underlying zoning districts, the special land use procedures found in Article 13 must be met and all required materials for special land use review submitted.

6.05 GENERAL DESIGN STANDARDS

- A. Subject to paragraph B of this section, all regulations applicable to lot size, lot width, lot coverage, setback, parking and loading, general provisions, and to other requirements and facilities, shall meet the regulations applicable in the underlying district in which the project is located. In addition, all projects in this M-72 Corridor Overlay District shall meet the design standards and guidelines of this article.
- B. The development shall be designed so as to further the intent of the overlay district as detailed in Section 6.01.C.
- C. Proposed development shall avoid excessive or unsightly grading, indiscriminate earth moving or clearing of property, and removal of trees and vegetation which could cause disruption of natural water courses or disfigure natural land forms.
- D. Proposed development shall be located and configured in a visually harmonious manner with the terrain and vegetation of the land parcel and surrounding parcels. Structures shall impede, as little as reasonably practical, scenic views of the natural environment from the corridor.
- E. To the extent that they relate to both appearance standards and resource conservation, the design standards and construction techniques of any proposed development shall be responsive to energy consumption and environmental quality considerations such as heat loss, heat gain, air emissions and runoff water retention and discharge quality.
- F. Where possible, buildings shall be oriented perpendicular to the roadway so that the front entrance faces the side of the site. This orientation supports the standards that limit building width along the frontage and protects viewsheds, as well as standards regarding limited parking in the front and promoting shared parking and site access.

6.06 SETBACKS FOR STRUCTURES ON PARCELS OR SITES FRONTING ON THE M-72 CORRIDOR

The following setbacks supersede the standards in the underlying zoning districts:

- A. Front Yard Setbacks: A seventy-five (75) foot setback is required for all buildings and a twenty-five (25) foot setback is required for parking when the underlying district is either A-1, C-1, R-3, or N. Parking is not permitted in the front yard in the V-1 district. No permanent structure other than a free-standing sign approved by the Township shall be constructed closer to a public right-of-way than seventy-five (75) feet.
- B. Side Yard Setbacks: No permanent or temporary structure shall be constructed or placed within twenty-five (25) feet of any side yard not facing a public right of way. Of this minimum side yard, an open strip of fifteen (15) feet in width shall be maintained as a service drive, as a lawn or planted in low-growing ground cover (such as myrtle or euonymous) to permit emergency equipment access. At least five (5) feet of the side yard adjacent to the property line shall be planted and maintained as a green-belt/buffer strip to the adjacent property (see Article 10). In no

case shall structures occupy more than sixty percent (60%) of the width of any parcel when measured along lines perpendicular to the centerline of the principal adjoining road.

- C. Rear Yard Setbacks: The rear yard setback shall be thirty (30) feet plus the width of any required green-belt or buffer zone.

#### 6.07 SCREENING REQUIREMENTS

Parking allowed in the front yard setback in excess of six (6) vehicles shall be screened from view of the adjoining roads as follows: In the A-1, C-1, R-3 and N zoning districts adjoining M-72, parking shall be screened in accordance with the requirements of Article 10. Similar screening by means of a six (6) foot high buffer zone shall be required along yards of corner lots where parking is located in the side yard adjoining the side street.

#### 6.08 ARTERIAL ROAD ACCESS, DRIVEWAY, AND SERVICE DRIVE REGULATIONS

- A. Site access and circulation shall be designed to promote vehicular and pedestrian safety. Site design shall minimize the appearance of off-street parking facilities. Site layout shall minimize curb cuts and reduce the potential for congestion and conflict between travel modes. Pedestrian mobility and safety should be further promoted by enhanced site design in the Village District.
- B. Access to arterial roads, side roads on corner lots, and other roads; driveways; connections between parking lots on adjacent parcels; and service drives shall comply with Article 9, Off-Street Parking and Loading.
- C. One access point from M-72 shall be permitted per site. Larger developments are encouraged to utilize side streets and shared access drives, or secure additional driveways through the site plan review process.
- D. Shared parking and common driveways are encouraged for all sites.
- E. Additional standards for sites where the underlying zoning district is V-1 Village District:
  - 1) Separate travel ways and/or grade separation for vehicular and pedestrian traffic is encouraged within and between sites.
  - 2) Parking lots shall incorporate pedestrian circulation paths, including special paving to define pedestrian crossings. Examples include brick or concrete pavers, colored concrete, or colored asphalt.

#### 6.09 ARCHITECTURAL DESIGN REVIEW AND STANDARDS

- A. Intent. In the Corridor Overlay District, building appearance is extremely important in the development of the M-72 Corridor. Buildings shall be designed in an attractive and interesting manner to create an identity consistent with the Township's rural character as outlined in the Whitewater Township Master Plan. Attractive and context-sensitive architectural design, including building materials and colors, shall be carried throughout the corridor so that the corridor will contain authentic, timeless, and sustainable places. Designs shall provide visual interest and variety, yet be consistent with the rural character of the area.
- B. Building design.
  - 1) Although maximum site densities and special site regulations listed in the particular zoning districts of Table 4-1, shall be preserved, proposed structures shall not dominate, in an incompatible manner, any existing general development or adjacent building which is substantially in compliance with this article. This may be accomplished by use of appropriate site design, architectural features, and/or landscaping to reduce the appearance of excessive and inappropriate height or mass of proposed structures.

- 2) When viewing the site in a direction perpendicular to the adjacent roadway, no more than sixty (60) percent of the view to property or open space beyond the site may be obstructed by structures and in no case will more than three hundred (300) feet of uninterrupted structure with no view to the property or open space beyond be allowed. Perpendicular building orientation will help promote this goal, as well as shared parking and access. [\[We can create a graphic for this if that would be helpful\]](#)
  - 3) Structures shall demonstrate the general principles of good design including, but not limited to those dealing with form, mass, scale, height, texture and color. Specific consideration shall be given to compatibility with adjacent structures where such structures are substantially in compliance with this Article.
  - 4) Pitched roofs with a minimum slope of 4/12 and with wide overhangs are strongly encouraged. False mansard roofs are not acceptable.
  - 5) Long monotonous facade designs including, but not limited to, those characterized by unrelieved repetition of shape and form or by unbroken extension of line shall be avoided. Excessive ornamentation shall be avoided to prevent visual clutter. All facades of a building or structure which may be visible from a roadway, an adjacent consideration. Exterior building components such as windows, doors, eaves and parapets shall have balanced proportions. Screening of monolithic or monotonous facades by means of trees or other vegetation may be considered in design reviews.
  - 6) All projections and mechanical details such as louvers, exposed flashing, flues, vents, gutters and downspouts are to be recognized as architectural features and are to be treated to match the color of the adjacent surface or an approved complementary color.
  - 7) Mechanical equipment or other utility hardware on the roof, ground, or elevations of a structure shall, whenever possible, be located so as not to be visible from any public ways or adjacent residential areas. Where such limitation on location is not possible, the facilities shall be screened from public view with materials harmonious with the building.
  - 8) In any design in which the structural frame or mechanical components are exposed to view as architectural features, the structural materials shall be compatible within themselves and the overall structure design and their surroundings.
  - 9) Structures shall be so sited or screened by means of berms and/or vegetation that garage doors and larger service entrance doors are not visible from the public roadways.
  - 10) Structures, whenever reasonably possible, shall be oriented to the sun, with window sizing and placement, roof overhangs or awnings, and landscaping designed to provide shade and wind protection to achieve economies in heating and cooling costs.
  - 11) Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form and siting may be used to provide visual interest. In multiple building projects, variable siting of individual buildings may be used to prevent a monotonous appearance.
  - 12) Buildings with smaller footprints (less than 75,000 square feet) are most desirable in this area.
- C. Building materials and colors.
- 1) The architectural design of structures and their materials and colors shall be visually harmonious with the overall traditional appearance and cultural history of the township and region, that is, structures which are designed to be unobtrusive and which are situated and landscaped in a manner to blend with or to be complementary to natural land forms and existing vegetation or vegetation indigenous to this region.
  - 2) Shingles, metal standing seam, tile or other roof materials which are nature-blending in texture and appearance are considered appropriate to the township and regional character.

- 3) Natural wood siding, log or quarter log siding, brick, stone, or other materials of similar texture and appearance are considered appropriate to the township character. Reflective surfaces are not acceptable. Metal or plastic surface materials which are visually similar in color and texture to natural materials may be considered.
- 4) Colors of paints, stains, and other finishes or materials shall be nature-blending in colors natural to the predominant hues of spring, summer and fall, with generally no more than three colors per building. Semi-transparent stains are recommended for application on natural wood finishes.

#### 6.10 LIGHTING

- A. Exterior architectural, display and decorative lighting visible from the roadway shall be generated from concealed light source, low level light fixtures
- B. Site lighting shall be low-level from a concealed light source fixture and shall not spill over into adjoining properties (except with the written consent of the adjoining property owner and the concurrence of the Site Plan Review Committee and the Planning Commission), road rights-of-way, waterfronts, parks or wetlands. Nor shall site lighting interfere in any way with the vision of motorists.
- C. Exterior lighting shall also comply with Article 11.

#### 6.11 WASTE MANAGEMENT, STORAGE AND SERVICE YARDS AND EXTERIOR WORK AREAS

Refuse and waste removal areas, service yards, storage yards, and exterior work areas shall be screened from view from public ways with materials harmonious with the building. Solid waste collection and storage facilities shall be designed to accommodate trash collection and recycling as well as composting, if the planned use will generate compostable waste.

#### 6.12 OUTDOOR DISPLAY OF MOTORIZED VEHICLES

The outdoor display of vehicles, equipment, boats, etc. for sale shall be limited to not more than four (4) representative units. All other such units, if not stored or displayed in a completely enclosed structure, shall be fully screened from view from public roads and all adjacent properties by means of berms and/or vegetation barriers or fences, approved by the Planning Commission, which shall be maintained to be fully effective year around. Units being serviced or stored shall be similarly enclosed or screened.

#### 6.13 STREETScape IMPROVEMENTS

- A. Streetscape improvements include those architectural or functional facilities or structures which occur on site but are not part of the building and which encourage and facilitate human interaction with the environment. Examples include, but are not limited to the following: decorative light fixtures, fountains, sculpture, benches and tables, planters, retaining walls, pedestrian and bicycle paths, bicycle parking structures, trash receptacles and enclosures, vendor areas, bollards and fences. These improvements shall be designed to be consistent with all guidelines of this section and shall be reviewed for design function and compatibility with the character of the Township.
- B. Decorative, low-level intensity, non-concealed source lighting which defines vehicular and/or pedestrian ways may be acceptable if part of a lighting masterplan. It is strongly discouraged as general lighting for a development. The plans must show the relationship of the fixtures and the light patterns to each other, to the overall sight, to other proposed or existing development (to the extent it is known), and the M-72 Corridor Overlay Zoning District.

#### 6.14 SIGNS

- A. All signs shall meet all requirements of Article 14. The Site Plan Review Committee and/or the Planning Commission may place further requirements on signs visible from adjacent roads if consistent with the provisions of this Article.

- B. New or replacement signs in the M-72 Corridor Overlay District shall receive approval from the Site Plan Review Committee prior to installation.
- C. The Site Plan Review Committee and/or the Planning Commission are authorized to approve or disapprove the appearance of features on such proposed signs. Signs will be reviewed for compliance with the guidelines of this section and for compatibility with the township character. The Zoning Administrator's approval shall be given only after the Site Plan Review Committee and/or the Planning Commission's approval is granted.
- D. Two two-square-foot signs are permitted to provide information on the premises.
- E. Flags: (1) Non-governmental flags are deemed to be signs and shall be subject to the provisions of this article and Article 14. Poles or any other means used to fly flags are deemed structures and shall be subject to the restrictions on structure heights (see Table 4.1).

6.15 LANDSCAPE STANDARDS

- A. Landscaping objectives: The information required for Site Plan Review shall include a detailed and comprehensive Landscape Plan for the entire project which achieves the following objectives:
  - 1) addresses the functional aspects of landscaping, such as drainage, erosion prevention, wind barriers, provision of shade, sound absorption, dust abatement, and reduction of glare.
  - 2) enhances architectural features, strengthens vistas and important axis and sight lines.
  - 3) achieves unity of design by repeating certain plant varieties and other materials and by correlation with adjacent developments.
  - 4) enhances parking areas and related vehicular and pedestrian trafficways with landscaped areas, including trees and tree groupings.
  - 5) protects plants from injury by pedestrians or motor traffic with appropriate curbs, tree guards, or other devices.
  - 6) controls run-off of fertilizers and pesticides.
  - 7) minimizes watering and maintenance requirements.
  - 8) avoids monotony by offering visual variety to structural masses and helps the man-made structures achieve harmonious appearance with the retained natural trees, vegetation and features and with the setting as a whole.
- B. Standards
  - 1) The landscape plan for any proposed development shall provide visually harmonious and compatible settings for structures on the same lot and on adjoining or nearby lots and shall blend with the landscape characteristic of the township and region.
  - 2) Natural appearing landscape forms are strongly encouraged as is the planting of indigenous plant species; formal plans and the appearance of straight hedges are discouraged.
  - 3) Landscaping shall be required between buildings and sidewalks, parking lots and driveways.
  - 4) The scale of the proposed landscaping shall be in proportion to the building.
  - 5) Existing trees shall be retained insofar as possible as well as natural or existing topographic patterns which contribute to the beauty and utility of the development.
  - 6) Plant material shall be selected for interest in its structure, texture, and color and also for its ultimate growth. Indigenous plant species and others that will be hardy, harmonious to the design and of attractive appearance shall be used. A list of species which are recommended to be used or to be avoided may be obtained from the Zoning Administrator.

- 7) Where landscaping is used as screening, it shall be equally effective in winter and summer and shall attain a height and density so that it provides the full desired effect within three (3) years growing time.
- 8) In areas where general plantings will not prosper, other material may be used such as wooden, brick or stone fences, wall, and pavings of wood, brick, stone, gravel or cobbles, subject to site plan review committee and/or Planning Commission approval. Suitable plants shall be combined with such materials where possible.

#### 6.16 INTERIOR ROADS, SERVICE DRIVE, AND PATHWAY STANDARDS

The interior road and service drive system shall conform to the standards for design and construction of the Grand Traverse County Road Commission if the road/drive system is to be dedicated as a public right-of-way. The interior road/drive system may however, consist of private roads and may, for the purpose of lessening impact on the site, have reduced right-of-way widths, turn radii, surface widths, and greater permissible grades provided that the standards for construction and quality meet or exceed the standards for paved local access roads of the County Road Commission and further provided that the road/drive system provides adequate and safe access for both ingress and egress of emergency equipment. When a development uses a private road/drive and/or a private pathway system, all deeds and agreements affecting lands having access to the private road/drive and/or path system shall mandate the formation of an association or corporation for the purpose of managing and maintaining the system and require the owners of those lands to approve a special assessment district if necessary as a means of funding the maintenance or improvement of the private road/drive and/or pathway system.

## Proposed Language

New proposed language is noted in red underlined font. Text to be removed is shown in ~~red with a strikethrough~~. Notes are shown in bold and blue.

### ARTICLE 6 — M-72 CORRIDOR OVERLAY ~~PLANNED UNIT DEVELOPMENT ZONING~~ DISTRICT

#### 6.01 PURPOSE AND INTENT

A Corridor Overlay ~~Planned Unit Development~~ (COPUD) Zoning District is hereby established consistent with the goals and objectives of the Whitewater Township Master Plan and pursuant to the zoning enabling statutes of the State of Michigan. ~~All developments proposed within this District shall be subject to the procedures, standards and guidelines specified in the following sections, in addition to those standards pertaining to the particular base zoning district in which the development occurs.~~

- A. The intent of the M-72 Corridor Overlay District is to enhance the economic climate of the M-72 corridor while preserving the visual character of the corridor, including scenic vistas and viewsheds. Further, it is intended that the district provide for various types of land uses planned in a manner which shall encourage the use of land in accordance with its character and adaptability; conserve natural resources and energy, encourage innovation in land use planning, provide enhanced housing, employment, shopping, traffic circulation, and recreational opportunities for the people of the township; and bring about a greater compatibility of design and use.
- A.B. The purpose of the M-72 Corridor Overlay District shall be to encourage development and redevelopment of property in accordance with the township master plan and in a manner that will promote the image of the M-72 corridor as a high-quality corridor and an attractive investment environment; allow mixed-use development; promote development that is compatible with the character of the township; encourage the redevelopment and reuse of certain properties which are no longer capable of serving their intended purpose; ensure safe and complementary vehicular and pedestrian circulation patterns; and, control vehicular access to M-72.
- C. The provisions of this overlay district are specifically intended to establish the M-72 Corridor as an area which:
- 1) Promotes the goals of the master plan
  - 2) Encourages economy and efficiency in the use of land, natural resources, energy and the provision of public services and utilities, thereby encouraging a compatible mixture of uses in close proximity to each other [The first part of this was item B of the original purpose section]
  - 3) Enhances the visual appearance of the corridor by preserving scenic vistas and viewsheds and coordinating building design, site arrangement and landscaping, signage, lighting and other elements [This is very similar to item C of the original purpose section]
  - 4) Encourages redevelopment of property by removing or making material modifications to the existing structures, discontinuing the existing nonconforming use on the property, and establishing a new use consistent with the intent and provisions of this section
  - 5) Manages access to existing properties and future development while simultaneously preserving and improving the flow of traffic on the surrounding road system in terms of safety, capacity needs, and speed
- B. The purposes of establishing this district are as follows:
- A. To encourage the use of land in accordance with its character and adaptability.

- ~~B. To encourage economy and efficiency in the use of land, natural resources, energy and the provision of public services and utilities.~~
- ~~C. To encourage the preservation of scenic vistas and viewsheds. Further, to establish site and structure design standards which will protect and enhance property values and encourage successful commercial and industrial development in the District.~~
- ~~D. To preserve or enhance the visual character of the corridor for the economic benefit to local land owners and the region by establishing and maintaining an orderly, well-designed corridor in keeping with the character and values of the Township and the region.~~
- ~~E. To afford applicants the greater flexibility of a Planned Unit Development regulated primarily through performance-based standards so that proposed designs can be reviewed with the applicant in a cooperative manner to determine whether the proposed plan meets the standards and guidelines of this zoning district.~~

#### 6.02 DELINEATION OF THE CORRIDOR OVERLAY ~~PLANNED UNIT DEVELOPMENT ZONING DISTRICT~~

The Corridor Overlay ~~Planned Unit Development~~ zoning district shall include all ~~those lands parcels fronting/adjointing~~ M-72 from Cook Road westward to the west township line ~~and those designated as V-1 Village regardless of frontage on M-72. and lying 500 feet north and 500 feet south of the centerline of the M-72 right-of-way.~~

#### 6.03 APPLICABILITY OF THIS ARTICLE

Within this ~~Corridor Overlay COPUD District~~, all development projects, both new uses and structures as well as newly installed or renovated features, must be eligible to employ the design standards and applicable procedures of this article described in sections 6.05 to 6.16. ~~Development projects entailing principal structures with an overall floor area in excess of 4,000 square feet shall be subject to the design standards and application procedures of this Article. Development projects in this COPUD District on parcels of land fronting on M-72 but of greater depth than 500 hundred feet may extend the applicability of these procedures and design standards by means of rezoning or through variances. There shall be no alteration of the existing condition of the lands, uses or structures within this COPUD Zoning District from the date of the enactment of this Article henceforth except as provided for by this section or by other sections of this Article.~~

#### 6.0412 PROCEDURE FOR REVIEW AND APPROVAL:

- A. Site plan review. For those uses that are permitted principal uses in the underlying zoning districts, the site plan review procedures found in Article 12 must be met and all required materials for site plan review submitted.
- B. Special land use review. For those uses that are noted as special land uses in the underlying zoning districts, the special land use procedures found in Article 13 must be met and all required materials for special land use review submitted.

#### 6.054 GENERAL DESIGN STANDARDS

- A. Subject to paragraph B of this section, all regulations applicable to lot size, lot width, lot coverage, setback, parking and loading, general provisions, and to other requirements and facilities, shall

meet the regulations applicable in the underlying district in which the project is located. In addition, all projects in this M-72 Corridor Overlay COPUD Zoning District shall meet the design standards and guidelines of this article.

~~B. Consistent with the planned unit development concept, and toward the end of encouraging flexibility and creativity in development, departures from compliance with the regulations provided elsewhere in this ordinance may be recommended in the discretion of the Planning Commission and granted by the Township Board as part of the approval of a planned unit development. Such departure may be authorized on the condition that there are features or planning mechanisms, deemed adequate by the Planning Commission and the Township Board, designed into the project for the purpose of achieving the objectives intended to be accomplished with respect to each of the regulations from which a departure is sought. [Remove, as this doesn't apply to the overlay]~~

~~C.B. The development shall be designed so as to further the intent of the overlay district as detailed in Section 6.01.C, promote preservation of natural resources and natural features. In the interpretation of this provision, natural resources and natural features may be impaired or altered, moved or removed if it is in the public interest to do so. In determining whether action is in the public interest, the benefit which would reasonably be expected to accrue from the proposal shall be balanced against the reasonably foreseeable detriments of the activity, taking into consideration the local, state and national concerns for the protection and preservation of natural resources and natural features, and taking into account the provisions and standards of Act 127 of the Public Acts of 1970, as amended, the Michigan Environmental Protection Act. [Remove, as this is heavily focused on preservation of natural features, and the corridor has been identified as the only area desirable for development per the master plan]~~

~~A. The Planning Commission and the Township Board shall take into account the following considerations, as the same may be relevant to a particular project and insure compliance with all related applicable regulations established elsewhere in the Ordinance including, but not limited to, architectural design standards, perimeter setbacks, grading and berming, roads and driveways, drainage, stormwater runoff, snow clearing and storage, underground installation of utilities, insulating the pedestrian circulation system from vehicular traffic, achievement of an integrated development with respect to signage, lighting, landscaping and building materials; and, noise reduction and visual screening mechanisms particularly in cases where nonresidential uses adjoin off-site residential uses or residentially zoned property. [Remove, as much of this will be covered either in the site plan/special land use review requirements of Articles 12 and 13 or the design standards that follow] The Whitewater Township Commercial/Industrial Designs Example Book, which is available in the office of the Zoning Administrator, contains graphic and photographic examples of structures and landscaping which would comply with or approach compliance with the design standards of this article. [Remove, as this example book does not exist]~~

~~C. Proposed development shall avoid excessive or unsightly grading, indiscriminate earth moving or clearing of property, and removal of trees and vegetation which could cause disruption of natural water courses or disfigure natural land forms. [Moved from Section 6.08.A Architectural and Design Review and Standards]~~

~~D. Proposed development shall be located and configured in a visually harmonious manner with the terrain and vegetation of the land parcel and surrounding parcels. Structures shall impede, as little as reasonably practical, scenic views of the natural environment from the corridor. [Moved from Section 6.08.B Architectural and Design Review and Standards]~~

~~E. To the extent that they relate to both appearance standards and resource conservation, the design standards and construction techniques of any proposed development shall be responsive to energy consumption and environmental quality considerations such as heat loss, heat gain, air~~

emissions and runoff water retention and discharge quality. [Moved from Section 6.08.H Architectural and Design Review and Standards]

- F. Where possible, buildings shall be oriented perpendicular to the roadway so that the front entrance faces the side of the site. This orientation supports the standards that limit building width along the frontage and protects viewsheds, as well as standards regarding limited parking in the front and promoting shared parking and site access.

#### 6.06 SETBACKS FOR STRUCTURES ON PARCELS OR SITES FRONTING ON THE M-72 CORRIDOR

The following setbacks supersede the standards in the underlying zoning districts:

- A. Front Yard Setbacks: A seventy-five (75) foot setback is required for all buildings and a twenty-five (25) foot setback is required for parking when the underlying district is either A-1, C-1, R-3, or N. Parking is not permitted in the front yard in the V-1 district. No permanent structure other than a free-standing sign approved by the Township shall be constructed closer to a public right-of-way than seventy-five (75) feet.
- B. Side Yard Setbacks: No permanent or temporary structure shall be constructed or placed within twenty-five (25) feet of any side yard not facing a public right of way. Of this minimum side yard, an open strip of fifteen (15) feet in width shall be maintained as a service drive, as a lawn or planted in low-growing ground cover (such as myrtle or euonymous) to permit emergency equipment access. At least five (5) feet of the side yard adjacent to the property line shall be planted and maintained as a green-belt/buffer strip to the adjacent property (see Article 10). In no case shall structures occupy more than sixty percent (60%) of the width of any parcel when measured along lines perpendicular to the centerline of the principal adjoining road.
- C. Rear Yard Setbacks: The rear yard setback shall be thirty (30) feet plus the width of any required green-belt or buffer zone.

#### ~~6.076 OFF-STREET PARKING AND LOADING-SCREENING REQUIREMENTS~~

- ~~A. All off-street parking and loading areas shall comply with the standards and regulations of Article 9, Off-Street Parking and Loading.~~

~~Parking allowed in the front yard setback in excess of six (6) vehicles shall be screened from view of the adjoining roads as follows:~~

~~In the A-1, C-1, R-3 and N zoning districts adjoining M-72, parking shall be screened in accordance with the requirements of Article 10. Similar screening by means of a six (6) foot high buffer zone shall be required along yards of corner lots where parking is located in the side yard adjoining the side street.~~

#### 6.087 ARTERIAL ROAD ACCESS, DRIVEWAY, AND SERVICE DRIVE REGULATIONS

- A. Site access and circulation shall be designed to promote vehicular and pedestrian safety. Site design shall minimize the appearance of off-street parking facilities. Site layout shall minimize curb cuts and reduce the potential for congestion and conflict between travel modes. Pedestrian mobility and safety should be further promoted by enhanced site design in the Village District.
- B. Access to arterial roads, side roads on corner lots, and other roads; driveways; connections between parking lots on adjacent parcels; and service drives shall comply with Article 9, Off-Street Parking and Loading.

- C. One access point from M-72 shall be permitted per site. Larger developments are encouraged to utilize side streets and shared access drives, or secure additional driveways through the site plan review process.
- D. Shared parking and common driveways are encouraged for all sites.
- E. Additional standards for sites where the underlying zoning district is V-1 Village District:
  - 1) Separate travel ways and/or grade separation for vehicular and pedestrian traffic is encouraged within and between sites.
  - 2) Parking lots shall incorporate pedestrian circulation paths, including special paving to define pedestrian crossings. Examples include brick or concrete pavers, colored concrete, or colored asphalt.

6.098 ARCHITECTURAL DESIGN REVIEW AND STANDARDS

- ~~A. Intent. The compatible relationship of the proposed development in the District is of critical public concern for any buildings or site improvements. The intent of the design review is not to stifle innovative architecture but to assure respect for existing designs that substantially comply with the intent and design standards of this article and to reduce incompatible and adverse impacts on the visual experience from the roadways in these corridors, parks, and residential districts. To accomplish this the Site Plan Review Committee and the Planning Commission shall exercise the following standards and guidelines in reviewing all such proposed development: In the Corridor Overlay District, building appearance is extremely important in the development of the M-72 Corridor. Buildings shall be designed in an attractive and interesting manner to create an identity consistent with the Township's rural character as outlined in the Whitewater Township Master Plan. Attractive and context-sensitive architectural design, including building materials and colors, shall be carried throughout the corridor so that the corridor will contain authentic, timeless, and sustainable places. Designs shall provide visual interest and variety, yet be consistent with the rural character of the area.~~
- B. Building design.
- ~~D. Proposed development shall avoid excessive or unsightly grading, indiscriminate earth moving or clearing of property, and removal of trees and vegetation which could cause disruption of natural water courses or disfigure natural land forms.~~
- ~~E. Proposed development shall be located and configured in a visually harmonious manner with the terrain and vegetation of the land parcel and surrounding parcels. Structures shall impede, as little as reasonably practical, scenic views of the natural environment from the corridor.~~
- 1) Although maximum site densities and special site regulations listed in the particular zoning districts of Table 4-1, shall be preserved, proposed structures shall not dominate, in an incompatible manner, any existing general development or adjacent building which is substantially in compliance with this article. This may be accomplished by use of appropriate site design, architectural features, and/or landscaping to reduce the appearance of excessive and inappropriate height or mass of proposed structures.
- 2) When viewing the site in a direction perpendicular to the adjacent roadway, no more than sixty (60) percent of the view to property or open space beyond the site may be obstructed by structures and in no case will more than three hundred (300) feet of uninterrupted structure with no view to the property or open space beyond be allowed. Perpendicular building orientation will help promote this goal, as well as shared parking and access. [We can create a graphic for this if that would be helpful]

- 3) Structures shall demonstrate the general principles of good design including, but not limited to those dealing with form, mass, scale, height, texture and color. Specific consideration shall be given to compatibility with adjacent structures where such structures are substantially in compliance with this Article. [Moved from Section 6.08.E]
- 4) Pitched roofs with a minimum slope of 4/12 and with wide overhangs are strongly encouraged. False mansard roofs are not acceptable. [Moved from Section 6.08.E.1]
- 5) Long monotonous facade designs including, but not limited to, those characterized by unrelieved repetition of shape and form or by unbroken extension of line shall be avoided. Excessive ornamentation shall be avoided to prevent visual clutter. All facades of a building or structure which may be visible from a roadway, an adjacent consideration. Exterior building components such as windows, doors, eaves and parapets shall have balanced proportions. Screening of monolithic or monotonous facades by means of trees or other vegetation may be considered in design reviews. [Moved from Section 6.08.E.2]
- 6) All projections and mechanical details such as louvers, exposed flashing, flues, vents, gutters and downspouts are to be recognized as architectural features and are to be treated to match the color of the adjacent surface or an approved complementary color. [Moved from Section 6.08.E.7]
- 7) Mechanical equipment or other utility hardware on the roof, ground, or elevations of a structure shall, whenever possible, be located so as not to be visible from any public ways or adjacent residential areas. Where such limitation on location is not possible, the facilities shall be screened from public view with materials harmonious with the building. [Moved from Section 6.08.E.8]
- 8) In any design in which the structural frame or mechanical components are exposed to view as architectural features, the structural materials shall be compatible within themselves and the overall structure design and their surroundings. [Moved from Section 6.08.E.9]
- 9) Structures shall be so sited or screened by means of berms and/or vegetation that garage doors and larger service entrance doors are not visible from the public roadways. [Moved from Section 6.08.E.11]
- 10) Structures, whenever reasonably possible, shall be oriented to the sun, with window sizing and placement, roof overhangs or awnings, and landscaping designed to provide shade and wind protection to achieve economies in heating and cooling costs. [Moved from Section 6.08.E.13]
- 11) Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form and siting may be used to provide visual interest. In multiple building projects, variable siting of individual buildings may be used to prevent a monotonous appearance. [Moved from Section 6.08.E.14]
- 4)12) Buildings with smaller footprints (less than 75,000 square feet) are most desirable in this area.

D. Building materials and colors.

- 5)1) The architectural design of structures and their materials and colors shall be visually harmonious with the overall traditional appearance and cultural history of the township and region, that is, structures which are designed to be unobtrusive and which are situated and landscaped in a manner to blend with or to be complementary to natural land forms and existing vegetation or vegetation indigenous to this region.

~~Structures shall demonstrate the general principles of good design including, but not limited to those dealing with form, mass, scale, height, texture and color. Specific consideration shall be given to compatibility with adjacent structures where such structures are substantially in compliance with this Article. [Moved to Section 6.09.B.3 above]~~

~~6)2) Pitched roofs with a minimum slope of 4/12 and with wide overhangs are strongly encouraged. False mansard roofs are not acceptable. [Moved to Section 6.09.B.4]~~ Shingles, metal standing seam, tile or other roof materials which are nature-blending in texture and appearance are considered appropriate to the township and regional character.

~~Long monotonous facade designs including, but not limited to, those characterized by unrelieved repetition of shape and form or by unbroken extension of line shall be avoided. Excessive ornamentation shall be avoided to prevent visual clutter. All facades of a building or structure which may be visible from a roadway, an adjacent consideration. Exterior building components such as windows, doors, eaves and parapets shall have balanced proportions. Screening of monolithic or monotonous facades by means of trees or other vegetation may be considered in design reviews. [Moved to Section 6.09.B.5 above]~~

~~7)3) Natural wood siding, log or quarter log siding, brick, stone, or other materials of similar texture and appearance are considered appropriate to the township character. Reflective surfaces are not acceptable. Metal or plastic surface materials which are visually similar in color and texture to natural materials may be considered.~~

~~8)4) Colors of paints, stains, and other finishes or materials shall be nature-blending in colors natural to the predominant hues of spring, summer and fall, with generally no more than three colors per building. Semi-transparent stains are recommended for application on natural wood finishes.~~

## 6.10 LIGHTING

- A. Exterior architectural, display and decorative lighting visible from the roadway shall be generated from concealed light source, low level light fixtures. ~~Refer to items (7) and (9)b in this section for other types of lighting and to Article 11 Exterior Lighting. The most restrictive regulations shall apply.~~
- ~~B. All interior lighting shall be so designed to prevent the light source or high levels of light from being visible from the corridor roadway. [Removed since it is covered more thoroughly below]~~
- ~~B. Site lighting shall be low-level from a concealed light source fixture and shall not spill over into adjoining properties (except with the written consent of the adjoining property owner and the concurrence of the Site Plan Review Committee and the Planning Commission), road rights-of-way, waterfronts, parks or wetlands. Nor shall site lighting interfere in any way with the vision of motorists. [Moved from Section 6.08.H. First clause was removed since it is already covered in A above. However, this could be entirely removed, as it is stated in Article 11]~~
- C. Exterior lighting shall also comply with Article 11. [Moved from Section 6.08.H.]

~~All projections and mechanical details such as louvers, exposed flashing, flues, vents, gutters and downspouts are to be recognized as architectural features and are to be treated to match the color of the adjacent surface or an approved complementary color. [Moved to Section 6.09.B.6 above]~~

~~Mechanical equipment or other utility hardware on the roof, ground, or elevations of a structure shall, whenever possible, be located so as not to be visible from any public ways or adjacent residential areas. Where such limitation on location is not possible, the facilities shall be screened from public view with materials harmonious with the building. [Moved to Section 6.09.B.7 above]~~

~~In any design in which the structural frame or mechanical components are exposed to view as architectural features, the structural materials shall be compatible within themselves and the overall structure design and their surroundings. [Moved to Section 6.09.B.8 above]~~

### 6.11 WASTE MANAGEMENT, STORAGE AND SERVICE YARDS AND EXTERIOR WORK AREAS

Refuse and waste removal areas, service yards, storage yards, and exterior work areas shall be screened from view from public ways with materials harmonious with the building. Solid ~~w~~Waste collection and storage facilities shall be designed to accommodate trash collection and recycling as well as composting, if the planned use will generate compostable waste.

- ~~D. Structures shall be so sited or screened by means of berms and/or vegetation that garage doors and larger service entrance doors are not visible from the public roadways. [Moved to Section 6.09.B.10 above]~~

### 6.12 OUTDOOR DISPLAY OF MOTORIZED VEHICLES

The outdoor display of vehicles, equipment, boats, etc. for sale shall be limited to not more than four (4) representative units. All other such units, if not stored or displayed in a completely enclosed structure, shall be fully screened from view from public roads and all adjacent properties by means of berms and/or vegetation barriers or fences, approved by the Planning Commission, which shall be maintained to be fully effective year around. Units being serviced or stored shall be similarly enclosed or screened.

~~Structures, whenever reasonably possible, shall be oriented to the sun, with window sizing and placement, roof overhangs or awnings, and landscaping designed to provide shade and wind protection to achieve economies in heating and cooling costs. [Moved to Section 6.09.B.10 above]~~

~~Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form and siting may be used to provide visual interest. In multiple building projects, variable siting of individual buildings may be used to prevent a monotonous appearance. [Moved to Section 6.09.B.11 above]~~

~~The landscape plan for any proposed development shall provide visually harmonious and compatible settings for structures on the same lot and on adjoining or nearby lots and shall blend with the landscape characteristic of the township and region. Natural appearing landscape forms are strongly encouraged as is the planting of indigenous plant species; formal plans and the appearance of straight hedges are discouraged. Landscaping shall be required between buildings and sidewalks, parking lots and driveways. The scale of the proposed landscaping shall be in proportion to the building. [Moved to Section 6.15]~~

~~Site lighting shall be low level from a concealed light source fixture and shall not spill over into adjoining properties (except with the written consent of the adjoining property owner and the concurrence of the Site Plan Review Committee and the Planning Commission), road right-of-ways, waterfronts, parks or wetlands. Nor shall site lighting interfere in any way with the vision of motorists. Exterior lighting shall also comply with Article 11. [Moved to Section 6.10.A above]~~

- ~~D. To the extent that they relate to both appearance standards and resource conservation, the design standards and construction techniques of any proposed development shall be responsive to energy consumption and environmental quality considerations such as heat loss, heat gain, air emissions and runoff water retention and discharge quality. [Moved to Section 6.05.D above]~~

### 6.13 STREETSCAPE IMPROVEMENTS Streetscape Improvements:

- A. Streetscape improvements include those architectural or functional facilities or structures which occur on site but are not part of the building and which encourage and facilitate human interaction with the environment. Examples include, but are not limited to the following: decorative light

fixtures, fountains, sculpture, benches and tables, planters, retaining walls, pedestrian and bicycle paths, bicycle parking structures, trash receptacles and enclosures, vendor areas, bollards and fences. These improvements shall be designed to be consistent with all guidelines of this section and shall be reviewed for design function and compatibility with the character of the Township.

- B. Decorative, low-level intensity, non-concealed source lighting which defines vehicular and/or pedestrian ways may be acceptable if part of a lighting masterplan. It is strongly discouraged as general lighting for a development. The plans must show the relationship of the fixtures and the light patterns to each other, to the overall sight, to other proposed or existing development (to the extent it is known), and the M-72 Corridor Overlay COPUD Zoning District.

#### 6.14 SIGNS Signs

- A. All signs shall meet all requirements of Article 14. The Site Plan Review Committee and/or the Planning Commission may place further requirements on signs visible from adjacent roads if consistent with the provisions of this Article.
- B. New or replacement signs in the M-72 Corridor Overlay COPUD District shall receive approval from the Site Plan Review Committee prior to installation.
- ~~C.~~ The Site Plan Review Committee and/or the Planning Commission ~~are~~ authorized to approve or disapprove the appearance of features on such proposed signs. Signs will be reviewed for compliance with the guidelines of this section and for compatibility with the township character. The Zoning Administrator's approval shall be given only after the Site Plan Review Committee and/or the Planning Commission's approval is granted.
- ~~D.~~ ~~The amount of information on signs shall be no more than is necessary to provide reasonable identification of the business and whether the business is open or, in the case of hotels or motels, whether there are vacancies. "Open" or "Vacancy" signs shall be no more than two (2) square feet in area and shall be incorporated in the free standing sign which identifies the business.~~  
[Violation of Reed]
- D. Two two-square-foot signs are permitted to provide information on the premises.
- ~~D-E.~~ Flags: (1) Non-governmental flags are deemed to be signs and shall be subject to the provisions of this article and Article 14. Poles or any other means used to fly flags are deemed structures and shall be subject to the restrictions on structure heights (see Table 4.1).

#### 6.1509 LANDSCAPE STANDARDS

- A. Landscaping objectives: The information required for Site Plan Review shall include a detailed and comprehensive Landscape Plan for the entire project which achieves the following objectives:
- ~~1) retains existing trees insofar as possible and retains natural or existing topographic patterns which contribute to the beauty and utility of the development. [Moved to 6.15.B.5 and updated]~~
  - 1) addresses the functional aspects of landscaping, such as drainage, erosion prevention, wind barriers, provision of shade, sound absorption, dust abatement, and reduction of glare.
  - 2) enhances architectural features, strengthens vistas and important axis and sight lines.
  - 3) achieves unity of design by repeating certain plant varieties and other materials and by correlation with adjacent developments.
  - 4) enhances parking areas and related vehicular and pedestrian trafficways with landscaped areas, including trees and tree groupings. [Moved from 6.09.F]

- 5) protects plants from injury by pedestrians or motor traffic with appropriate curbs, tree guards, or other devices. [Moved from 6.09.G]
- 6) controls run-off of fertilizers and pesticides. [Moved from 6.09.I]
- 7) minimizes watering and maintenance requirements. [Moved from 6.09.J]
- 8) avoids monotony by offering visual variety to structural masses and helps the man-made structures achieve harmonious appearance with the retained natural trees, vegetation and features and with the setting as a whole. [Moved from 6.09.L]

B. Standards

- 1) The landscape plan for any proposed development shall provide visually harmonious and compatible settings for structures on the same lot and on adjoining or nearby lots and shall blend with the landscape characteristic of the township and region. [Moved from Section 6.08.F]
- 4)2) Natural appearing landscape forms are strongly encouraged as is the planting of indigenous plant species; formal plans and the appearance of straight hedges are discouraged. [Moved from Section 6.08.F]
- 2)3) Landscaping shall be required between buildings and sidewalks, parking lotset and driveways. [Moved from Section 6.08.F]
- 3)4) The scale of the proposed landscaping shall be in proportion to the building. [Moved from Section 6.08.F]
- 4)5) Existing trees shall be retained insofar as possible as well as natural or existing topographic patterns which contribute to the beauty and utility of the development.
- 5)6) Pselects plant material shall be selected for interest in its structure, texture, and color and also for its ultimate growth. Indigenous plant species and others that will be hardy, harmonious to the design and of attractive appearance shall be used. A list of species which are recommended to be used or to be avoided may be obtained from the Zoning Administrator.
  - a. ~~enhances parking areas and related vehicular and pedestrian trafficways with landscaped areas, including trees and tree groupings. [Moved to 6.15.A.4 above]~~
  - b. ~~protects plants from injury by pedestrians or motor traffic with appropriate curbs, tree guards, or other devices. [Moved to 6.15.A.5 above]~~
- 7) Where landscaping is used as screening, it shall be equally effective in winter and summer and shall attain a height and density so that it provides the full desired effect within three (3) years growing time.
- 8) ~~controls run-off of fertilizers and pesticides. [Moved to 6.15.A.6 above]~~
- 9) ~~minimizes watering and maintenance requirements. [Moved to 6.15.A.7 above]~~
- 10)8) in areas where general plantings will not prosper, other material may be used such as wooden, brick or stone fences, wall, and pavings of wood, brick, stone, gravel or cobbles, subject to site plan review committee and/or Planning Commission approval. Suitable plants shall be combined with such materials where possible.
- ~~avoids monotony by offering visual variety to structural masses and helps the man-made structures achieve harmonious appearance with the retained natural trees, vegetation and features and with the setting as a whole. [Moved to 6.15.A.7 above]~~
- 11) ~~is consistent with the regulations, guidelines and intent of Article 10 Landscape Standards.~~

6.160 INTERIOR ROADS, SERVICE DRIVE, AND PATHWAY STANDARDS

The interior road and service drive system shall conform to the standards for design and construction of the Grand Traverse County Road Commission if the road/drive system is to be

dedicated as a public right-of-way. The interior road/drive system may however, consist of private roads and may, for the purpose of lessening impact on the site, have reduced right-of-way widths, turn radii, surface widths, and greater permissible grades provided that the standards for construction and quality meet or exceed the standards for paved local access roads of the County Road Commission and further provided that the road/drive system provides adequate and safe access for both ingress and egress of emergency equipment. When a development uses a private road/drive and/or a private pathway system, all deeds and agreements affecting lands having access to the private road/drive and/or path system shall mandate the formation of an association or corporation for the purpose of managing and maintaining the system and require the owners of those lands to approve a special assessment district if necessary as a means of funding the maintenance or improvement of the private road/drive and/or pathway system.

#### ~~6.11 SPECIAL DESIGN STANDARDS AND REGULATIONS~~

~~For Special Land Uses, the standards and requirements associated with Article 13 apply along with the design standards in this Article.~~ **[No longer needed, as this is addressed in section 6.04 above.]**

#### ~~6.12 PROCEDURE FOR REVIEW AND APPROVAL:~~

- ~~A. The grant of a planned unit development application shall require a rezoning, i.e., an amendment of the Zoning Map constituting a part of this ordinance so as to designate the property which is the subject of the application as planned unit development. Further, an approval granted under this Article, including all aspects of the final plan, and conditions imposed, shall constitute an inseparable part of the zoning amendment.~~
- ~~B. All planned unit developments shall be subject to the full site plan review procedure as set forth in Article 12 of the Ordinance, including not less than one public hearing, notice of which hearing shall be given by two publications in a newspaper of general circulation in the Township, the first to be printed not more than 30 days nor less than 20 days and the second not more than 8 days before the date of the hearing. Not less than 20 days' notice of the time and place of the hearing shall also be given by mail to each electric, gas, pipeline and telephone public utility company, and to each railroad operating within the district or zone affected, that registers its name and mailing address with the Township Planning Commission for the purpose of receiving the notice. Written notice of the hearing shall also be given to the owner of the property in question, to all persons to whom any real property within 300 feet of the premises in question is assessed, and to the occupants of a single and two family dwellings within 300 feet. The notice shall be delivered personally or by mail to the respective owners and tenants at the address given in the last assessment roll. If the tenant's name is not known, the term "occupant" may be used. If the notice is delivered by mail, an affidavit of mailing shall be filed with the Planning Commission before the meeting. The notice shall be made not less than 8 days before the hearing and shall state the time, place, date and purpose of the hearing.~~

~~In addition to the information required under Article 12, the application for a planned unit development shall include:~~

- ~~A. Statement of intent of proposed use of land and phasing of the project. Later phases of the development may be revised to allow for different building types when the possible need for such deviation is indicated on the approved plan.~~
- ~~B. All open spaces, including preserves, recreational areas, and the like, and each purpose proposed for such areas together with copies of deeds, deed restrictions, easements, restrictive~~

~~covenants or other legal instruments to be recorded as a condition of approval of the application and site plan.~~

~~C. All known natural resources and natural features to be preserved.~~

~~D. Density calculations, number and types of units (if applicable), and floor area per habitable space.~~

~~E. A separately delineated specification of all deviations from this Ordinance which would otherwise be applicable to the uses and development proposed in the absence of this planned unit development Article.~~

~~F. In the event the property on which the project is to be situated consists of ten (10) acres or more, a community impact statement shall be submitted as part of the application.~~

~~G. A detailed landscaping plan.~~

~~H. A specific schedule of the intended development and construction details, including phasing or timing, and the general improvements to constitute a part of the development, including without limitation, lighting, signage, the mechanisms designed to reduce noise, utilities and visual screening features.~~

~~I.A. Within a reasonable time following the public hearing and completion of the site plan review process, the Township Planning Commission shall consider the application and prepare a report recommending that the application be denied, approved or approved with conditions. The report shall include the basis for the recommendation together with the documents related to the planned unit development request. The report and documents shall be transmitted to the Township Board for consideration in making a final decision.~~

~~J. [Removed, as much of this is not necessary for an overlay. Some of the items A-I in the second section were added to the proposed PUD application requirements in Article 7.]~~

#### 6.13 PERFORMANCE GUARANTEES:

~~The Planning Commission may require reasonable performance guarantees, as authorized under the Michigan Zoning Enabling Act to insure completion of improvements. [Removed, as this is not necessary for an overlay. This was added to the proposed PUD application review process in Article 7 section 05.F]~~

#### 6.14 CONDITIONS:

~~Reasonable conditions may be required with the approval of a planned unit development, to the extent authorized by law, for the purpose of insuring that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased services and facility loads caused by the land use or activity, protecting the natural environment and conserving natural resources and energy, insuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner. Conditions imposed shall be designed to protect natural resources and the public health, safety and welfare of the individuals in the project and those immediately adjacent, and the community as a whole, shall be reasonably related to the purposes affected by the planned unit development, and shall be necessary to meet the intent and purposes of this Ordinance, and be related to the objective of insuring compliance with the standards of this Ordinance. All conditions imposed shall be made a part of the record of the approved planned unit development. [Removed, as this is not necessary for an overlay. This was added to the proposed PUD application review process in Article 7 section 09.E.1]~~

~~6.15 PHASING AND COMMENCEMENT OF CONSTRUCTION:~~

- ~~A. Phasing: Where a project is proposed for construction in phases, the planning and designing shall be such that, upon completion, each phase shall be capable of standing on its own in terms of the presence of services, facilities, and open space, and shall contain the necessary components to insure protection of natural resources and the health, safety, and welfare of the users of the planned unit development and the residents of the surrounding area. In addition, in developments which include residential and non-residential uses, phasing shall contemplate that at least 35% of all proposed residential uses are completed concurrent with the first phase of any non-residential construction; completion of at least 75% of all proposed residential construction prior to the second phase of non-residential construction; and completion of 100% of all residential construction prior to the third phase of non-residential construction. For purposes of carrying out this provision, the percentages shall be approximations as determined in the discretion of the Planning Commission, and further, such percentage may be significantly varied should the Planning Commission determine, in its discretion, that the applicant has presented adequate and effective assurances that the residential component or components of the project shall be completed within the specified period.~~
- ~~B. Commencement and Completion of Construction: Construction shall be commenced within one year following final approval of a planned unit development, or within one year of any other necessary governmental approval for commencement of the project, whichever is later, provided all other necessary approvals have been actively pursued. Each phase of the project shall be commenced within one year of the schedule established for same in the application submitted for the planned unit development. If construction is not commenced within such time, any approval of the final plan for the project shall expire and be null and void, provided, an extension for a specified period may be granted by the Planning Commission upon good cause shown if such request is made to the Planning Commission prior to the expiration of the initial period.~~  
**[Removed, as this is not necessary for an overlay. This was added to the proposed PUD application review process in Article 7 section 05.E.4]**

~~6.16 EFFECT OF APPROVAL:~~

~~If and when approved, the planned unit development, with all conditions imposed, if any, shall constitute the land use authorization for the property, and all improvement and use shall be in conformity with such approval. The applicant shall record an affidavit with the Register of Deeds containing the legal description of the entire project, specifying the date of approval of the planned unit development, and declaring that all future development of the planned unit development property has been authorized and required to be carried out in accordance with the approved planned unit development unless an amendment thereto is duly adopted by the Township upon the request and/or approval of the applicant, or applicant's transferee and/or assigns.~~  
**[Removed, as this is covered in Articles 12 and 13. This was added to the proposed PUD application review process in Article 7 section 05.G]**

~~6.17 MODIFICATION OR WAIVER OF STANDARDS OR REQUIREMENTS:~~

~~Since the express purpose of this Article is to achieve better use of land than would be likely under strict adherence to the standards and requirements of the Zoning Ordinance, the Planning Commission may recommend and the Township Board may approve applications for rezoning to Planned Unit Development where the application requires the modification or waiving of specific standards or requirements contained within this Article provided that the proposed PUD complies with the full intent and purpose of this Article, and further that it is clearly shown that such modification or waiving of specific standards or requirements will result in a recognizable and~~

~~substantial benefit which would not otherwise accrue to the community if all provisions of this Article were to be met.~~ [Removed, as this is not necessary for an overlay. This was added to section 6.3 of the Subdivision Ordinance]

## Master Plan Guidance

The fourth principle listed in the Township's Master Plan, adopted this past February, is to "Encourage economic opportunities." Goal 4-D under this principle is "Develop a corridor plan for M-72." This plan is envisioned to identify means to manage access to properties through coordinated land use and transportation planning as well as transportation tools such as traffic signals, roundabouts, access roads, and turn and deceleration lanes. This is needed as development and traffic increases are anticipated along M-72. The Master Plan calls for an update of previous studies in the area, such as the M-72 Corridor Study and the Access Management Plan, to address the current and prepare for future conditions. Since land use planning is within the Township's authority and jurisdiction over new driveways and right-of-way improvements falls within the authority of the Grand Traverse County Road Commission and MDOT, one suggestion is to require a formal evaluation of the projected impacts of a proposed development, specifically related to traffic. The Master Plan also suggested reviewing the example ordinance language in the *Reducing Traffic Congestion and Improving Traffic Safety in Michigan Communities: The Access Management Guidebook* for possible incorporation into the zoning ordinance for large-scale developments.

Public engagement during the master plan process showed that residents would like to see the development along M-72 having footprints of 75,000 square feet or less, mixed uses (potentially retail, services, office, and residential), controlled signage, a limited number of access drives, and extensive landscaping.