

**PENINSULA TOWNSHIP
PLANNING COMMISSION
AGENDA**

13235 Center Road
Traverse City, MI 49686

June 20, 2016

7:00 p.m.

1. **Call to Order**
2. **Pledge**
3. **Roll Call**
4. **Approve Agenda**
5. **Brief Citizen Comments – for items not on the Agenda**
6. **Conflict of Interest**
7. **Consent Agenda**

Any member of the Board, staff, or the public may ask that any item on the Consent Agenda be removed and placed elsewhere on the agenda for full discussion.

- a. Reports and Announcements (as provided)
- b. Correspondence (as provided)
- c. Meeting Minutes
 - i. May 16, 2016, 5:30 PM Special Meeting (recommend approval)

8. New Business

- a. Preliminary Plat Review – The 81 Development Company, LLC (Introduction, discussion and schedule public hearing)
- b. SUP #127 – Vineyard Ridge Planned Unit Development (Introduction, discussion and schedule public hearing)
- c. Peninsula Township Zoning Ordinance DRAFT: Articles 12-14 (Discussion)

9. Old Business

- a. Master Plan 5-year review (Discussion and possible recommendation)

10. Citizen Comments

11. Board Comments

12. Adjournment

Peninsula Township has several portable hearing devices available for use during this meeting. If you would like to use one, please contact the Chairperson.

**PENINSULA TOWNSHIP PLANNING COMMISSION
REGULAR MEETING
May 16, 2016**

Meeting called to order at 7:00 p.m.

PRESENT: Leak, Serocki, Rosi, Peters, Wunsch and Hornberger

ALSO PRESENT: Michelle Reardon, Director of Planning and Zoning; Claire Schoolmaster, Planning and Zoning Coordinator; and Deb Hamilton, Recording Secretary

ABSENT: Couture

APPROVAL OF THE AGENDA

Serocki added as Old Business Item #2 - SUP 32 2nd Amendment, Bowers Harbor Vineyards and as Old Business Item #3 - SUP 125, BHV Dining in the Vines

MOTION: Rosi/Hornberger to approve the Agenda as amended. MOTION PASSED

BRIEF CITIZEN COMMENTS – FOR ITEMS NOT ON THE AGENDA

None

CONFLICT OF INTEREST

None

CONSENT AGENDA

1. Reports and Announcements
2. Correspondence
3. Meeting Minutes – April 18, 2016

Peters asked to postpone approving minutes until next Joint Planning Commission and Township Board Meeting.

MOTION: Hornberger/Wunsch to approve the Consent Agenda with minutes removed. MOTION PASSED

NEW BUSINESS

1. Peninsula Township Zoning Ordinance DRAFT: Articles 8-11 (Discussion)

Article 8 Environmental Performance Standards- **Leslie Sickterman** asked for comments on Article 8. **Rosi** asked in Article 8.101 Wetland restrictions why “docks, patios terraces, decks, pathways, and similar structures may be permitted within the wetland setback...” **Reardon** will research if DEQ allows it and have conversation with Sloan. **Sickterman** said the Township’s floodplain restrictions are stricter than regulations in most communities that participate in the flood insurance program. Article 8.104 Soil Erosion and Sedimentation Control and Protection of Steep Slopes – **Reardon** said this is a change. It is not just when a residential subdivision is being developed it is any earth movement. There needs to be a trigger based on the amount, not for agricultural purposes or a change in use. Protection of steep slopes is in the title but the way it is worded it seems like any earth movement is going to trigger a plan. Article 8.105 Mining or Removal of Topsoil- **Peters** asked what areas other than Traverse Bay Gravel fit under this. **Reardon** said a large part of the Township could. Mining is regulated by the State as well. Sloan recommended the Township Attorney look at this because the Township may or may not be able to do some of the regulations. Staff can contact Traverse Bay Gravel for input. Article 8.106 Storm Water Management– **Reardon** said current storm water policy as adopted by the Township Board is any principle structure with a footprint of 3,500

sq. ft. or larger is subject. We need to make sure this reflects that policy. When talking about impervious surface need to be talking about the impervious surface of the principle structure. Reardon will send this to Township Engineer for review. Article 8.107 – **Reardon** said not a lot of changes here. Exemptions #3 needs to be clarified or deleted. **Rosi** said there is a strong feeling in the community to focus on Dark Night Sky.

Article 9 Parking, Loading and Access Management– **Peters** suggested adding Private Roads to the label for the general public’s understanding. **Peters** also said the definition of frontage road is not in Section 2. **Reardon** said frontage road was changed to private road. **Peters** said should promote shared driveways. **Reardon** said any ingress/egress that has more than two homes has to have a name according to the County. Only driveway regulations is it has to be a 13x13 cleared area and each property has to have frontage on the road. This is a policy decision that needs to be talked about. Also need to look at length too. **Peters** suggested a recorded easement for shared driveways be on file going forward. **Reardon** said she will review. Article 9.103 Off-Street Parking Site Development Requirements– **Peters** asked about dustless surface in #5. **Reardon** said previous approvals have allowed a gravel surface as a dustless surface. **Reardon** will ask Township Engineer what are dustless surfaces. **Sickterman** suggested “maintained in a dust free condition.” Article 9.107 Private Roads– **Leak** said the joint maintenance agreement does not cover someone who purchases the property. **Reardon** will have Township Attorney review. **Reardon** would like the Commission to look at the Table in (K) Existing Non-Conforming Private Roads. This introduces what triggers improvements to legal non-conforming private roads. **Reardon** reviewed the table and thinks there may need to be another category here for when new lots are created. Also need to look at improving connectivity and if not connectivity improving turnarounds. **Wunsch** asked about the un-paved county road ends. **Reardon** said the County has jurisdiction. **Peters** asked why the County Equalization Department was deleted from (G) Road Names. **Reardon** will ask Sloan.

Article 10 Landscaping and Screening- **Reardon** said ordinance currently says “and landscaped appropriately” or “with appropriate vegetative buffer”. That needed to be defined. This is all new and may not have wanted to go this far. **Rosi** asked who would be enforcing Section 10.105 Landscape Installation and Maintenance. **Reardon** said may want to talk about what is appropriate landscaping materials, what does that means and ensure maintenance. Staff does understand the problem with enforcement. **Leak** said should ensure nothing is planted close to the road. **Reardon** said will talk to Road Commission but nothing should be planted in the road right-of-way. **Wunsch** said may want to look at how this landscaping ordinance would apply to new buildings or renovations on agricultural parcels too. **Rosi** said a list of native plants is available through different organizations. **Peters** said the list should be a moveable list. **Reardon** said Section 10.105 should be scaled back and approved plant list could be a policy document similar to fee schedule. **Peters** asked about Certificate of Occupancy mentioned in (A)(1). **Reardon** said on larger scale developments it does mention performance guarantees. Also the certificate of occupancy is issued by the County but the County will hold if staff requests. **Leak** is concerned about fertilizer. **Rosi** said would rather have non-fertilized lawns and more native grasses.

Article 11 Signs- **Reardon** said according to new Supreme Court decision sign regulation cannot be content based. This also needs to be reviewed by the Township Attorney. This is an unexplored issue right now. Sloan worked with the intent of the Township’s sign ordinance. **Rosi** said the City said they did not want TOD signs. She thought the Township had no control over those signs. **Peters** concerned about illumination of signs with Dark Night Sky. **Reardon** said will look at regulations and vet them with Dark Night Sky.

Reardon said will be focusing on the 5:30 meeting before the meeting. During the May 3, 2016 meeting there were uses that need more discussion. **Reardon** would like to schedule an informal round table discussion with industry as well as people involved in the original drafting of ordinances specifically on those winery/production ordinances.

OLD BUSINESS

1. Master Plan 5-year review (Discussion)

Reardon said Peters prepared a report from the April 28th meeting. Peters has created a spreadsheet with goals and action items and can provide to Commission. Schedule a possible meeting in June for a public meeting session. **Wunsch** said he is working on census data polls and found good comparable data in the American Community Survey but not able find the education distribution from the 2010 census.

2. SUP 32 2nd Amendment, Bowers Harbor Vineyards

3. SUP 125, BHV Dining in the Vines

Reardon said need to talk to Township Attorney on how to remove from the Commission's agenda.

MOTION: Wunsch/Rosi to un-table SUP 32 2nd Amendment and SUP 125. **MOTION PASSED**

MOTION: Hornberger/Wunsch to re-table SUP 32 2nd Amendment and SUP 125 until next meeting. **MOTION PASSED**

CITIZEN COMMENTS

Brit Eaton, 1465 Neah Ta Wanta Rd., said he is here to compliment the process that the Township Board and the Planning Commission have gone through in the last months. One of yur Commissioners has proposed the OHWM clarification from the water's edge clarification.

Andy Valdmanis, 1484 Chimney Ridge Dr., asked to reach out to residents about this process. A lot of legislation is proposed here.

Joanne Westphal, 12412 Center Rd., said you all are doing a great job bringing the ordinance back into some semblance of organization but concerned about having the horse behind the cart without having the Master Plan updated. She encouraged the boards and staff to focus on getting citizen involvement. 28 ½ acres are zoned commercial which is almost exactly what it was in 1972. Many of the uses in the McKenna revised ordinance are targeted for commercial uses. This document was not developed for our community. Less is more when it comes to zoning ordinances. Simple language that wraps around the master plan is a winning combination.

BOARD COMMENTS

Peters said she would like a discussion on making the Zoning Ordinance and the Land Division Act the same as how to measure acreage in regards to OHWM and water's edge. **Reardon** said that will be a policy discussion at the next meeting. The Assessor would bring Land Division Act. **Wunsch** gave ZBA report. **Hornberger** would like a definition of "event"

ADJOURNMENT

MOTION: Hornberger/Wunsch to adjourn the meeting at 9:38 p.m. **MOTION PASSED**

Respectfully Submitted,
Deb Hamilton, Recording Secretary

These minutes stand to be approved at the next meeting scheduled for June 20, 2016

1. Application

Applicant: The 81 Development Company, LLC

Applicant/Owner Address & Contact Information: 6978 Dixie Hwy, Suite A
Clarkston, Michigan 48346
Ph. (248) 575-3300

Proposal Location: Boursaw Road
Section 29, Peninsula Township
Parcel Id. #: 28-11-114-001-00 & 28-11-114-002-00

Zoning District: R-1A, Rural & Hillside and R-1B, Coastal Zone Single and Two-Family Districts. Section 6.2.4 and 6.3.2 allows for Planned Unit Developments in the R-1A and R-1B zoning districts as a use permitted by Special Use Permit.

Comprehensive Plan: The 2011 Future Land Use Map identifies the subject location as an area designated for rural agricultural usage. The objective of the rural agriculture use category is to preserve the important natural resources of the Township while allowing other limited uses which are deemed to be compatible with agricultural and open space uses.

Governing Ordinance: Peninsula Township Subdivision Control Ordinance No. 8 and the Peninsula Township Zoning Ordinance

2. Site Plan Evaluation-

2.1 Layout- The applicant's is proposing a fifty-three (53) unit plat subdivision to be accessed by a private road. Thirteen (13) units will have private waterfront access and will be located along the eastern boundary of the property. The remaining forty (40) units do not have water access.

2.2 Lot Analysis- The average lot size is approximately 1 acre with a minimum of 150 feet of frontage on the private road. All fifty-three (53) of the proposed lots meet the 2.5 to 1 lot depth to width ratio. The proposed plat includes the required ten (10) foot utility easement in the lot area calculations. This easement is required to be part of the road design and shall be excluded from the lot area calculations. **The applicant shall resubmit the plat with the appropriate lot calculations to ensure compliance with the minimum lot area as required by Section 6.8 of the Peninsula Township Zoning Ordinance.**

Lots 1 & 2 are defined as back-up lots. Section 4.7.5 of the Subdivision Control Ordinance requires a landscaped easement along the rear at least twenty (20) feet wide to restrict access to arterial streets, to minimize noise, and to protect outdoor living areas. **This required element shall be shown on the plat.**

Lot 17 shall be subject to a 100 foot setback for all structures as the lot is adjacent to agricultural land as required by section 7.77.1.1 (1) of the Peninsula Township Ordinance. **This required element shall be shown on the plat.**

Lots 1, 29, 35, 36, 40, 42, 46, 47, & 53 are corner lots. Section 4.7.4 of the Subdivision Control Ordinance requires corner lots to have "extra width to permit appropriate building setback from both streets or orientation to both streets." **The plat shall be resubmitted showing the required front and rear setback lines on the corner lots should the principal structure align to either street to demonstrate appropriate building envelopes are available.**

2.3 Vehicular Circulation- There are two ingress/egress points along Boursaw Road; one at the intersection of Boursaw and Old Bluff Trail and another approximately 420 feet to the west. The private road will loop through the site and provide connectivity by two east-west connector streets. **The proposed private road right of way does not encompass the 10 foot utility easement as required by section 4.1.3 of the Peninsula Township Subdivision Control Ordinance No. 8.**

Section 4.1.2 (5) requires streets to be arranged in relation to topography "so as to result in usable lots, safe streets, and reasonable gradients." The plat design shows lots that have significant grade change (i.e. lot 39 has a 17% grade) and portions of the proposed private road traverse a 16% grade. The Peninsula Township Zoning Ordinance prohibits private roads that exceed 12% grade. **The applicant will need to submit engineering to show the grading plan along with impacts on soil erosion and storm water to ensure the design is in compliance with the Township ordinances.**

Section 4.3 of the Subdivision Control Ordinance requires the developer to submit plans showing the probable location of the driveways to each lot in areas having steep topography generally in excess of 10% gradient. **This element will need to be included on the plat as required by the ordinance.**

The Peninsula Township Subdivision Control Ordinance No. 8 section 4.1 requires the streets within a plat be dedicated to public use. However section 4.1.2 (6) permits these streets to be private at the discretion of the Township Board. **The applicant will need to request the Township Board approve the streets as private should they deem it appropriate for the development.**

The County Road Commission will need to evaluate the placement of the private road entrances along Boursaw Road and the applicant will be required to submit a permit from this agency.

2.4 Parking- Parking regulations are established and enforced under Section 7.6.3, Parking Space Requirements of the Peninsula Township Zoning Ordinance. A residential use is required to possess two (2) parking spaces

for each dwelling unit. These spaces shall consist of parking strip, parking bay, driveway, garage, or combination thereof. The plan as presented will allow for each unit to accommodate adequate parking at the time of construction.

2.5 Pedestrian Circulation- There is no proposed sidewalk along the private roads.

2.6 Street Lighting- The applicant is not proposing any street lighting as part of this petition.

2.7 Environmental Issues- Section 4.9.2 of the Subdivision Control Ordinance requires that natural features which add value to the residential development and enhance the attractiveness of the community shall be preserved. There is significant tree cover, 2,000+ lineal feet of East Bay shoreline, and natural bluffs and ridgelines present on the site. The applicant has not identified the valuable natural features on site or presented a plan for preservation of these features in the environmental report. **The applicant shall include the plans for preservation of the valuable natural features on site as part of the plat.**

There has been no report from the Grand Traverse County Health Department (GTCHD) regarding the feasibility of individual well and septic systems on site for this plat.

There has been no report from the County Soil Erosion and Sedimentation Control Department regarding the feasibility of the plat design.

There is a wetland present on the site. The plat indicates there shall be no construction within this area or the required 25 foot buffer area.

The proposed plat will require storm water review to ensure compliance with the Township Storm Water Control Ordinance.

2.8 Relation to the Master Plan - The 2011 Future Land Use Map identifies the subject location as an area designated for rural agricultural usage. The objective of the rural agriculture use category is to preserve the important natural resources of the Township while allowing other limited uses which are deemed to be compatible with agricultural and open space uses. These lands include, but are not limited to, steep slopes, primary ridgelines, wildlife corridors, wetlands, lakes, streams, riparian area and rural areas not designated for Agriculture Preserve areas. The site contains steep slopes, primary ridgelines, wetlands, lakes, and is a rural area not designated for Agriculture Preserve areas.

The site is designed in a grid layout irrespective of the natural topography and steep slopes present on the land.

The lake and the shoreline are regulated by the shared waterfront protections within the township zoning ordinance, the SESC and the regulations of MDEQ and the US Army Corps of Engineers. As designed the plat will have thirteen (13) waterfront lots that shall be subject to review by these agencies at the time of land use permit application for the construction of a structure.

There is a wetland present at the southwest corner of the site. All construction activities are proposed remain outside of the wetland as well as the required twenty-five (25) foot buffer.

This site is designated rural agriculture and zoned for residential use. The proposed plan will utilize the entire site for private single-family residential lots.

2.9 Planner Recommendation – The Planning Commission will need to hold a public hearing on this matter. The next regularly scheduled meeting is Monday, June 15, 2015. The following items should be addressed for this meeting:

1. The plat shall be revised to reflect the required road structure (including the 10 foot utility easement) as required by section 4.1.3 of the Subdivision Control Ordinance.
2. The plat shall be revised to show the correct lot calculations after removing the 10 foot utility easement to ensure compliance with the minimum lot area as required by Section 6.8 of the Peninsula Township Zoning Ordinance.
3. The plat shall be revised to show the required landscape easement on lots 1 & 2 as required by section 4.7.5 of the Subdivision Control Ordinance.
4. The plat shall be revised to show the required buffer on lot 17 as required by section 7.7.1.1 (1) of the Peninsula Township Zoning Ordinance.
5. The plat shall be revised to show the required front and rear setback lines on lots 1, 29, 35, 36, 40, 42, 46, 47, & 53 should the principal structure align to either street to demonstrate appropriate building envelopes are available.
6. The plat shall be revised to show the probable location of the driveways to each lot. The grading and structures for driveways shall be shown on plans required under section 5.2 of the Subdivision Control Ordinance.
7. The applicant shall submit engineering to show the grading plans along with impacts on soil erosion and storm water to ensure the design is in compliance with the Township ordinances.
8. The Planning Commission should petition the Township Board to determine the acceptability of the streets as private as part of their deliberations on the plat.
9. The applicant shall revise the environmental report to include the identification of valuable natural features and plans to preserve these features as required in section 4.9.2 of the Subdivision Control Ordinance.
10. The Planning Commission should send the plat to the Grand Traverse County Land Development Review Committee for complete review and comment by permitting agencies (i.e. Soil Erosion and Sedimentation Control, Health Department).
11. The Township Engineer should review the area and make a determination that the subdivision cannot be economically connected with an existing sewer or water system.

Clerk, Monica Hoffman
Peninsula Township
13235 Center Road,
Traverse City, MI 49686

RECEIVED
MAY 11 2016
CLERK

May 6, 2016

Monica Hoffman,

Enclosed are 10 copies of a preliminary plat for consideration of tentative preliminary plat approval. Please transmit the preliminary plat to the Planning Commission for their review. Please note the tentative approval on a copy of the preliminary plat within the statutory time period and return to Mansfield Land Use Consultants. Or submit in writing the reasons for rejection and requirements for tentative approval.

The proprietor is:
The 81 Development Company, LLC
6978 Dixie Hwy, Suite A
Clarkston, MI 48346

The site is generally feasible for development as shown on the preliminary plat. The lots will be accessed by private roads within the development. Each lot will be serviced by private wells and septic systems. The preliminary plat is being submitted as a use by right and follows the guidelines in the Subdivision Control Ordinance. The intended use of the proposed lots are single family residential.

Also enclosed is the township Environmental Assessment Form.

Regards,



Michael K. Geisert, P.S.
Director of Survey
Mansfield Land Use Consultants
830 Cottageview Dr. Suite 201
PO Box 4015
Traverse City, MI 49685

ENVIRONMENTAL ASSESSMENT FORM

To be used for preliminary site plans, and submitted with applications for:

Special Use Permits
Rezoning Requests
Preliminary Plats
Preliminary Condominium Plans

1. Indicate if the property is subject to any of the following:
 - a. Designated High Risk Erosion Area
 - b. Designated Environmental Area
 - c. Designated Wetland
 - d. Adjoining an inland lake or stream
 - e. Identified Hazardous Waste Area
 - f. Known site for disposal of solid waste
 - g. Farmland, conservation, or open space easement
 - h. Known or suspected groundwater contamination site

2. Indicate if any of the following are found on the property:
 - a. Electric lines - overhead or buried.
 - b. Natural gas lines.
 - c. Telephone or Cable TV lines.
 - d. Drainage Easements.
 - e. Road or access easements.
 - f. Planned roads shown on adopted Township Plans.
 - g. Public water system lines.
 - h. Public sewer system lines.

3. Indicate if the property is subject to any of the following:
 - a. Drainage District.
 - b. Township Special Use Permit.
 - c. Township Variance granted by the Zoning Board of Appeals.

4. Indicate the extent that any of the following conditions exist on the Property or within 200 feet of the property lines:
 - a. High risk of erosion.
 - b. Slumping of steep slopes or sandy soils.
 - c. Flooding Hazard.
 - d. Natural Drainageway.
 - e. Endangered plant or animal habitat.
 - f. Significant views.
 - g. Unique natural features or vegetation.

5. Indicate the following conditions on the Property and within 200 feet of the property lines:
 - a. Any agricultural crops periodically sprayed with chemicals and the extent and classification of lands shown in color on the Cherry Site Inventory for Grand Traverse County.
 - b. Public or private roads.
 - c. Zoning classification.

6. Include plans for any contiguous property owned or under the control of the applicant, but not part of the request.

Environmental Assessment Form – Response

Notes on items marked on form:

1c. There is a small wetland located in the south part of the development as shown in the preliminary plat. The wetland will remain undisturbed.

2a. There is an overhead power line crossing the southwest part of the property as shown on the preliminary plat. It is not a main transmission line.

2e. There are two access easements on the east property line servicing parcels 28-11-114-004-00, 28-11-114-003-00, and 28-11-114-001-10. The easements are shown on the preliminary plat. The easements are recorded as Liber 212, Page 52 and Liber 212, Page 423

5b. The south side of the development is on Boursaw Road (Public). Boursaw Road transitions into Bluff Road (Public). Old Bluff Trail (Private) is opposite of the east entrance into the project off of Boursaw Road. Smokey Hollow Ct (Public) is near the southwest corner of the project. Trevor Road (Private) is near but is not adjacent to the north property line of the project. All mentioned roads are shown on the preliminary plat.

5c. The development is zoned R-1B and R-1A. The surrounding parcels are zoned R-1A, R-1B, and AG, as shown on the preliminary plat.

Notes on some items not marked on form for clarification:

4a. The site does have steep slopes as can be seen on the preliminary plat. However, there is no sign of current or recent erosion taking place on the site.

4f. The site is not within a designated Scenic View shed as indicated on map titled "Chapter 4, Future Land Use – Map #7".

5a. The site does not have desirable conditions for growing cherries as shown on the map titled "Chapter 2, Community Setting – Map #3.

Prepared by:

Michael K. Geisert, P.S.
Mansfield Land Use Consultants
830 Cottageview Dr. Suite 201
PO Box 4015
Traverse City, MI 49685

Please note:

There is no digital copy of the proposed plat due to the size of the document.

This document is available to view at the Township offices.

Please note:

There is no digital copy of the proposed PUD due to the size of the document. We are currently working on remedying this.

In the meantime, this document is available to view at the Township offices.

June 13, 2016

Township Board, Planning Commission,
and Director of Planning & Zoning
Peninsula Township
13235 Center Rd.
Traverse City, MI 49686

Subject: Proposed Zoning Ordinance Articles 12 – 14

Members of the Township Board, Planning Commission, and Staff:

Enclosed for your review and comment is the proposed draft of the Peninsula Township Zoning Ordinance, dated June 13, 2016, which now includes Articles 12 through 14 – the final articles. In keeping with the proposed schedule (enclosed), Articles 12-14 address Nonconformities, Administrative Organization, and Administrative Procedures.

While we are still working through Articles 1-11 through special meetings, it is important to keep the proposed schedule for the Zoning Ordinance as a whole. If additional special meetings are needed to review Articles 12-14, we can certainly hold those meetings to keep the Zoning Ordinance on schedule. **For those items in Articles 1-11 that have already been revised, please note that we are still working on incorporating changes previously made by the Planning Commission and Township Board. Therefore, Articles 1-11 in the enclosed draft Zoning Ordinance are not yet completed.**

All of the current sections of the Zoning Ordinance are referenced in the headers, from which the current text has been copied and changed accordingly. As you will see, the changes are noted in the document, with new text underlined and deleted text in the margin. This way, it will be much easier for the Township to track changes during the amendment process. Some of the text is highlighted, which means that there is a corresponding editorial comment in the margin.

While several changes are proposed to the Zoning Ordinance at this time, the most notable changes are described in this letter. Again, if additional special meetings are required to complete the review of Articles 12-14 and address major items, we can schedule them.

The major changes to proposed Articles 12 through 14 of the Zoning Ordinance are as follows:

Article 12. Nonconformities.

This article contains the provisions of Section 7.5 of the Zoning Ordinance. These sections, and the major changes proposed, are as follows:

- **Intent and Purpose.** The intent and purpose was made more robust to emphasize the discontinuance of nonconformities while acknowledging provisions for their continuation, as well as limited repair and rehabilitation.

- **Nonconforming Lots.** This is a new section that states that structures may be built on nonconforming lots (i.e., existing lots that do not meet the area and/or width requirements), provided the structures shall meet the yard setback and lot coverage requirements.
- **Nonconforming Uses.** This section consists of existing Sections 7.5.1 and 7.5.2. The only major change is to prohibit expanding or moving a nonconforming use to occupy an area of building or land other than what the use lawfully occupied on the effective date of the Ordinance.
- **Nonconforming Structures.** This section consists of existing Sections 7.5.3 through and 7.5.6. One of the major changes allows the Zoning Administrator to approve the reconstruction of a damaged nonconforming structure instead of the Zoning Board of Appeals. At the same time, the language is clarified to state that there shall be no vertical or horizontal expansions of any nonconformity. Also, the Zoning Administrator may permit entirely conforming additions to be added to nonconforming structures and the movement or replacement of nonconforming structures if they will be moved or replaced in a conforming manner. However, the Zoning Board of Appeals retains the authority to grant variances and nonconforming expansions. Finally, many standards are deleted because they are covered under the Variance provisions of proposed Section 14.104. Also, the waterfront provisions of these sections are deleted because they are covered under the Waterfront Overlay District regulations with respect to shore cover and shore stabilization.

Article 13. Administrative Organization.

This article consolidates all of the sections of the Zoning Ordinance that describe the persons and bodies involved in administering the Zoning Ordinance, how they are appointed, and their duties. Specific procedures carried out by these bodies are addressed in Article 14.

- **Zoning Administrator.** Sections 4.1.1 and 4.1.2 are consolidated, with a few minor changes.
- **Township Board.** This is a new section. While this section is not a required part of the Zoning Ordinance, we recommend including it so that the user can obtain a clear understanding of the Township Board's role in administering the Zoning Ordinance. In summary, the Township Board's duties include adopting the Zoning Ordinance and amendments, deciding on special land use applications, approving members to the Planning Commission and ZBA, and setting fees.
- **Planning Commission.** This is a new section. While this section is not a required part of the Zoning Ordinance, we recommend including it and referencing the applicable parts of the Michigan Zoning Enabling Act and Michigan Planning Enabling Act.
- **Zoning Board of Appeals.** This section includes Sections 5.1, 5.2, part of 5.3, and 5.7. Much of the existing text is the same, but the State Act reference was updated and some of the provisions were updated to comply with the Michigan Zoning Enabling Act, which was adopted in 2006. The duties are revised to emphasize that the ZBA cannot grant use variances because the Zoning Enabling Act does not permit townships to grant use variances. Finally, text was added prohibiting the ZBA from hearing appeals in connection with a special land use permit

because the Township Board makes the final decision on special land uses. We recommend that Appeals of the Township Board's decision on a special land use be taken directly to Circuit Court.

Article 14. Administrative Procedures.

This article consolidates all of the applicable procedures under the Zoning Ordinance.

- **Permits.** This section consolidates several sections of the Zoning Ordinance that address permitting. Having the permit provisions in one section will make the Ordinance more user-friendly. The only major change is allowing the Zoning Administrator to require additional inspections, such as an inspection of the excavated footings and foundations before concrete is poured. Projects that are more complex may require additional zoning-related inspections.
- **Site Plan Review.** This section consolidates several sections of the Zoning Ordinance that include information requirements for site plans. This will clearly communicate the requirements to the applicant as well as make the site plan review easier for staff. This section also includes a table that distinguishes between which types of development require Site Plan Review and which types require only Administrative Review by the Planning Director. Because this is a new table, we recommend that the Township consider modifications to the table that will make the procedure more appropriate for Peninsula Township. In any case, we recommend keeping the table format so that the Township and applicants clearly understand the level of review for each type of development proposal. Finally, the "Duration of Approval" standards of site condominiums was moved to the Site Plan Review section because it should have broad applicability to all approved site plans.
- **Special Land Use Review.** This section also consolidates several sections of the Zoning Ordinance, though few changes are proposed. The existing standards are very good and the Township has successfully applied them over the years.
- **Variances and Appeals.** The standards for variances and appeals are mostly the same, with a few minor changes. Currently there is no time limit for making an appeal, so we recommend a time limit of 30 days. Also, the public hearing provisions were moved to a different section because the Michigan Zoning Enabling Act has standardized all public hearing procedures for variances, appeals, special land uses, and zoning amendments. Finally, language was added stating that the ZBA cannot grant use variances because the Zoning Enabling Act does not permit townships to grant use variances.
- **Amendments.** Currently, Article 9 of the existing Zoning Ordinance consists of a short paragraph regarding how someone may apply for a Zoning Ordinance amendment. We recommend including more comprehensive standards regarding how an application can be initiated, the formal procedure of review, and the standards by which an application is approved or denied. The Michigan Zoning Enabling Act includes provisions for Notice of Adoption, Protest Petitions, and Referendums, so we recommend including these provisions in the Zoning Ordinance to make the Township and public aware of the requirements. Finally, the Michigan Zoning Enabling Act permits a municipality to allow rezonings with conditions (a.k.a., conditional rezonings). Therefore, we have included a detailed procedure by which the Township can approve a conditional rezoning. However, municipalities are not required to permit conditional

rezonings, so the Township can simply state that conditional rezonings are prohibited. Nevertheless, if the Township intends to permit conditional rezonings, we recommend having detailed standards that will protect the Township and meet the intent of the Zoning Ordinance.

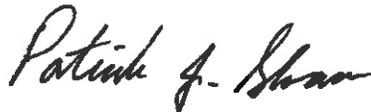
- **Public Hearing Procedures.** Several sections of the Zoning Ordinance include detailed public hearing procedures, all of which are now outdated with the adoption of the Michigan Zoning Enabling Act in 2006. Because the Act consolidated all public hearing procedures for special land uses, variances, appeals, and zoning ordinance amendments, we recommend having only 1 section dedicated to public hearing procedures. The proposed public hearing procedures meet the requirements of the Zoning Enabling Act and will be easier for the Township to administer.
- **Enforcement.** This section includes current Sections 4.2.1, 11.1, 11.2, and the Escrow provisions of Amendment #190.

NEXT STEPS

We look forward to discussing the proposed Articles 12 through 14 with you on June 20, 2016 and at any future special meetings. For those items that require additional revision and discussion, we will work with staff to revise them and reintroduce them at a future meeting.

Respectfully submitted,

McKENNA ASSOCIATES



Patrick J. Sloan, AICP
Principal Planner

Enclosures

cc: Leslie Sickterman, AICP, PCP, CNU-A, Principal, Mission North, LLC

Article 12 Nonconformities

Section 12.101 Intent and Purpose (currently Section 7.5.1)

It is the intent of this Ordinance to allow the continued use of a nonconforming structure and nonconforming uses and to specify those circumstances and conditions under which such nonconformities shall be permitted to continue. It is also the intent of this Ordinance that those nonconformities which adversely affect orderly development and the value of nearby property not be permitted to continue without restriction.

Deleted: that the Zoning Board of Appeals may grant a variance to move or reconstruct a non-conforming structure where the structure was legally built on parcels that would be otherwise unbuildable due to overlap in the yard requirements. It is not the intent to allow significant increases in the intensity of previously established residential use on otherwise unbuildable lots. It is not the intent to allow the construction of a residence on a vacant parcel where yard requirements meet or overlap such that there is no buildable area on the parcel

The zoning regulations established by this Ordinance are designed to guide the future use of land by encouraging appropriate groupings of compatible and related uses and thus to promote and protect the public health, safety and general welfare. The continued existence of nonconformities is frequently inconsistent with the purposes of which such regulations are established and thus the gradual elimination of such nonconformities to continue without specific limitation of time but are intended to restrict further investments which would make them more permanent.

Section 12.102 Nonconforming Lots (NEW SECTION)

Notwithstanding limitations imposed by other provision of this Ordinance, a principal building and customary accessory buildings may be erected on a lot at the effective date of adoption or amendment of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width or both, that are generally applicable in the district; provided that yard setbacks and lot coverage and other requirements not involving area, width or both, of the lot shall conform to the regulations for the district in which such lot is located. Yard requirement variances may be requested of the Zoning Board of Appeals.

Section 12.103 Nonconforming Uses (currently part of Section 7.5.1 and Section 7.5.2)

At the discretion of the owner, the lawful use of any building, structure, land or premises existing prior to the effective date of this Ordinance, although the use does not conform to the provisions of this Ordinance, may be continued. However, the legal nonconforming use of any building or land shall not be extended, expanded, or moved to occupy an area of building or land other than what the use lawfully occupied on the effective date of this Ordinance.

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Whenever the nonconforming use of any structure or land is changed in whole or in part to a conforming use, such use shall not thereafter be reverted to any nonconforming use. If the nonconforming use of any building, structure or land is discontinued through vacancy, lack of operation or otherwise for a continuous period of twelve (12) months, then any future use of said building, structure, or land shall conform, in its entirety, to the provisions of this Ordinance; provided, however, that the Zoning Board of Appeals may, upon application within six (6) months of the termination of said period, permit the resumption of such nonconforming use if the use is resumed within twelve (12) months of the termination of the nonconforming use.

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Section 12.104 Nonconforming Structures (currently Sections 7.5.3 - 7.5.6)

Article 12: Nonconformities

(A) Reconstruction of Damaged Nonconforming Structures (currently Section 7.5.3). Nothing in this Ordinance shall prevent the reconstruction, repair, or restoration and the continued use of any nonconforming building or structure damaged by fire, collapse, explosion, acts of God, or acts of the public enemy, subsequent to the effective date of this Ordinance, wherein the nonconforming user has first obtained the approval of the Zoning Administrator, wherein the Zoning Administrator has first determined that the structure to be reconstructed, repaired, or restored will be substantially the same as the previous nonconforming structure or building, with no vertical or horizontal expansions of any nonconformity. Furthermore, the Zoning Administrator shall only approve reconstruction, repair, or restoration if such reconstruction, repair, or restoration shall not be detrimental to the health, safety and welfare and that substantial justice is achieved.

(B) Repair and Alteration of Nonconforming Structures (currently Section 7.5.4). Nothing in this Ordinance shall prevent the repair, alteration, reinforcement, improvement, or rehabilitation of a nonconforming building or structure or part thereof existing at the effective date of this Ordinance that may be necessary to secure or ensure the continued advantageous use of the building or structure; provided, however, that such repair, alteration, reinforcement, improvement, or rehabilitation proposes no change in the use of said building or structure or any part thereof which results in a vertical or horizontal expansion of any nonconformity.

(C) Additions to Nonconforming Structures (currently Section 7.5.5).

(1) The Zoning Board of Appeals may grant a variance for nonconforming addition(s) to nonconforming structure(s) pursuant to Section 14.104(C)(2).

(2) The Zoning Administrator, without the necessity for a variance by the Zoning Board of Appeals, shall issue a land use permit for an entirely conforming addition to a nonconforming structure provided the addition complies with all setback, coverage, area and height standards of this Ordinance.

(D) Moving or Replacing Nonconforming Structures (currently Section 7.5.6). The Township Zoning Board of Appeals may grant a variance for moving or replacing a nonconforming structure so that the continued intensity of conforming use of the lot is substantially the same as in the pre-existing structure, provided all of the requirements Section 14.104(C)(2) are met. However, if the moving or replacing of a nonconforming structure will result in the structure becoming conforming with all setback, coverage, area, and height standards of this Ordinance the Zoning Administrator may approve the moving or replacing of the structure.

Section 12.105 Zoning District Changes (currently Section 7.5.7)

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of another classification, the provisions of this Section shall also apply to any existing uses or structures that become nonconforming as a result of boundary changes.

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¶ <#>There is increased safety to the residents of the structure and to the traveling public on the road providing access to the parcel;

¶ <#>Safety and substantial justice is achieved; and

¶ <#>If the variance allows the structure to encroach in the setback from the Ordinary High Water Line, conditions of approval shall include at a minimum, the following additional provisions:

¶ <#>Provisions for stabilization of the shoreline so that the structure is not likely to be damaged by high water or wave action;

¶ <#>There is no additional detriment to adjacent property

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Article 13 Administrative Organization

Section 13.101 Zoning Administrator (currently Sections 4.1.1 and 4.1.2)

- (A) **Description.** A Zoning Administrator shall be appointed by and on such terms as shall be determined by the Township Board; provided that the Zoning Administrator shall not be a member of the Township Board, ~~the~~ Planning Commission, ~~or~~ the Board of Appeals. The Zoning Administrator shall perform such duties as the Township Board may prescribe, in addition to any duties prescribed in this Ordinance. To be eligible for appointment, the Zoning Administrator shall be generally informed on good building construction, on good practice in fire prevention, and the proper installation of safety, health and sanitary facilities. The Zoning Administrator shall be ~~capable of fulfilling the duties set forth in this Ordinance.~~ In case the Zoning Administrator ~~has a conflict of interest in the administration or enforcement of this Ordinance,~~ the Township Board shall designate some other person to ~~carry out the duties for which the Zoning Administrator has a conflict of interest.~~ Compensation for the Zoning Administrator shall be established by the Township Board.
- (B) **Duties.** It shall be the duty of the Zoning Administrator to receive applications for land use permits and issue or deny the same; to inspect buildings or structures; to determine compliance with the land use permits issued in compliance with this Ordinance; and to be in charge of the enforcement of this Ordinance. The Zoning Administrator and the Township's Ordinance Enforcement Officer, appointed by the Township Board pursuant to the Ordinance, are hereby authorized to investigate ordinance violations; serve and issue notice of violations; serve and issue ~~misdemeanor or civil infraction~~ tickets as authorized under ~~State law or Township ordinance;~~ and appear in court or other judicial proceedings to assist in the prosecution of Zoning Ordinance ~~violations.~~

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- ~~Deleted:~~ Chapter 4 of the Code of Criminal Procedure Act, Public Act 175 of 1927, as amended (MCL 764.9c)
- ~~Deleted:~~ Violations

Section 13.102 Township Board (NEW SECTION)

- (A) **Adoption of Zoning Ordinance and Amendments.** ~~In accordance with the intent and purpose of this Ordinance, and pursuant to the authority conferred by the Michigan Zoning Enabling Act, PA 110 of 2006, as amended, the Township Board shall have the authority to adopt this Ordinance, as well as adopt amendments to this Ordinance.~~
- (B) **Deciding on Special Land Use Applications.** ~~The Township Board shall review and decide on special land use applications pursuant to Section 14.103.~~
- (C) **Approval of Planning Commission Members.** ~~In accordance with the Michigan Planning Enabling Act, Michigan Public Act 33 of 2008, as amended, members of the Planning Commission shall be appointed by the Supervisor with the approval of the Township Board.~~

Article 13: Administrative Organization

(D) Approval of Board of Zoning Appeals Members. In accordance with the Michigan Zoning Enabling Act, Michigan Public Act 110 of 2006, as amended, members of the Board of Zoning Appeals shall be appointed and approved by the Township Board.

(E) Setting of Fees. The Township Board shall have the authority to set all fees for permits, applications, and requests for action pursuant to the regulations set forth in this Ordinance. In the absence of specific action taken by the Township Board to set a fee for a specific permit or application, the appropriate Township administrative official shall assess the fee based on the estimated costs of processing and reviewing the permit or application.

Section 13.103 Planning Commission (NEW SECTION)

(A) In General. The Planning Commission is designated as the commission specified in the Michigan Planning Enabling Act, Public Act 33 of 2008, as amended, and shall perform the duties of such commission as provided in the statute and the Peninsula Township Code of Ordinances, as amended.

(B) Zoning Commission. The Planning Commission is hereby designated as the succeeding body of the Zoning Commission specified in the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, and shall perform the duties of said Commission as provided in the statute and the Peninsula Township Code of Ordinances, as amended.

Section 13.104 Zoning Board of Appeals (currently Sections 5.1, 5.2, part of 5.3, and 5.7)

(A) Establishment. There is hereby established a Zoning Board of Appeals in accordance with Act 110 of the Public Acts of Michigan of 2006, as amended. The Board of Appeals shall perform its duties and exercise its powers as provided by the Act, as amended, and in such a way that the objectives of this Ordinance may be equitably achieved; that there shall be provided a means for competent interpretation and controlled flexibility in the application of this Ordinance; that the health, safety and welfare of the public be secured; and that substantial justice be secured.

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(B) Membership. There shall be a Board of Appeals which shall consist of five (5) members and two (2) alternate members appointed by the Township Board. The first member of the Zoning Board of Appeals shall be a member of the Township Planning Commission. The remaining members of the Zoning Board of Appeals shall be selected from the Electors of the township residing outside of incorporated cities and villages. The members selected shall be representative of the population distribution and of the various interests present in the Township. One (1) member may be a member of the Township Board, but shall not serve as chairman of the Zoning Board of Appeals. An employee or contractor of the Township Board shall not serve as a member of the Zoning Board of Appeals.

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Commented [PS76]: The Michigan Zoning Enabling Act allows for up to 2 alternate members to be appointed. We recommend having 2 alternate members appointed at all times so that applicants have a maximum probability of a 5-member ZBA in the event that regular members cannot attend a meeting or have a conflict of interest.
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(C) Compensation. The total amount allowed the Board of Appeals in any one year as per diem or as expenses actually incurred in the discharge of their duties shall not exceed a reasonable sum which sum shall be appropriated annually in advance by the Township Board.

Article 13: Administrative Organization

(D) Removal. Members of the Zoning Board of Appeals may be removed by the Township Board for misfeasance, malfeasance, or nonfeasance in office upon written charges and after public hearing.

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(E) Conflicts of Interest. A member shall disqualify himself from a vote in which he has a conflict of interest. Failure of a member to disqualify himself from a vote in which he has a conflict of interest shall constitute misfeasance or malfeasance in office.

(F) Terms. The term of each member and alternates shall be for three (3) years, except that of the members first appointed, two shall serve for 2 years and the remaining members for 3 years. The terms of members serving because of their membership in the Planning Commission or Township Board shall be limited to the time they are members of the Planning Commission or Township Board, respectively. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term.

(G) Meetings and Powers. Meeting of the Zoning Board of Appeals shall be held at the call of the Chairman and at such other times as the Board in its rules of procedure may specify. The Chairman or in his absence the acting chairman may administer oaths and compel the attendance of witnesses. All meetings of the Board of Appeals shall be open to the public. The Board shall maintain a record of its proceedings which shall be filed in the office of the Township Clerk and shall be a public record. The Board shall not conduct business unless a majority of the members of the Board are present.

(H) Duties; Rules; Hearing and Decision of Appeals; Right to and Grounds of Appeal. The Zoning Board of Appeals shall have the following specified powers and duties, and may fix rules and regulations to govern its procedures:

(1) Interpretation of Zoning Ordinance. The Zoning Board of Appeals shall act upon all questions as they may arise in the administration of this Ordinance, including the interpretation of the Zoning Maps, See Section 14.104(C)(3).

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(2) Administrative Appeals. The Zoning Board of Appeals shall hear and decide appeals from and review any order, requirements, decision or determination made by the administrative official charged with enforcement of this Ordinance. It shall also hear and decide all matters referred to it or upon which it is required to pass under this Ordinance. Such appeal may be taken by any person aggrieved or by any officer, department, board or bureau of the Township, County or State. The grounds of every determination shall be stated. See Section 14.104(C)(1).

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(3) Variances. The Zoning Board of Appeals shall have the authority to grant nonuse variances relating to the construction, structural changes, or alteration of buildings or structures related to dimensional requirements of this Ordinance or to any other nonuse-related standard in this Ordinance. See Section 14.104(C)(2).

(4) Classifying Uses Not Specifically Mentioned. Pursuant to Section 14.104(C)(4), the Zoning Board of Appeals shall have the power to classify a use which is not specifically

Article 13: Administrative Organization

~~mentioned along with a comparable permitted, special, or prohibited use for the purpose of clarifying the use regulations in any district.~~

- (I) **Limited Duties and Powers.** The Zoning Board of Appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms or intent of this Ordinance, but does have power to act on those matters stated in Section 13.104(H). ~~No appeal shall be taken to the Zoning Board of Appeals from a decision of the Planning Commission and/or the Township Board in connection with a special land use.~~

- (J) **Voting.** The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of an applicant any matter upon which they are required to pass under this Ordinance.

Deleted: where by statute, or this Ordinance, provision is made for an administrative review, interpretation, variance, exception, or special approval permit as defined therein

Article 14 Administrative Procedures

Section 14.101 Permits

(A) Land Use Permits (currently Section 4.1.3).

- (1) **General.** Any individual, corporation, association, officer, department, board, or bureau, including Federal, State, County, or Township governmental entities, planning to erect, change, or move a structure or to establish a new use for any premises in any land use district, shall file an application in writing with the Zoning Administrator for a land use permit. The Zoning Administrator shall issue a "Land Use Permit" if such planned building or structure or mobile home or land use is in compliance with the provisions of this Ordinance. The application shall be on a form prescribed by the Zoning Administrator and approved by the Township Board. The applicant shall furnish permits or approvals from the Grand Traverse County Health Department, the Grand Traverse County Road Commission, the Michigan Department of Environmental Quality, and the Soil Erosion and Sedimentation Control office, and plans which will meet the requirements of the Zoning Ordinance before the Zoning Administrator may issue a permit. Each land use permit shall be issued in triplicate and the copies shall be distributed as follows: one (1) to the applicant which he is to retain until construction is completed; one (1) to the Township Supervisor; and one to be retained by the Zoning Administrator as a part of the permanent records of the Township. The Zoning Administrator shall promptly inform the applicant 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.
- (2) **Evidence of Ownership.** All applications for permits under the provisions of this Ordinance shall be accompanied with evidence of ownership of all property affected by the coverage of the permit or written, signed authorization from the property owner(s).
- (3) **Property Boundaries.** The Zoning Administrator shall require property boundaries to be located and marked by a registered land surveyor. In case of properties located along a shoreline, if there is any question of location of the "Ordinary High Water Mark", the Zoning Administrator shall also require this level to be set and marked by a registered land surveyor.
- (4) **Voiding of Permit.** Any permit granted under this section shall become null and void after one (1) year from the date of granting such permit unless the development proposed shall have passed its first building inspection. Before voidance is actually declared, the Zoning Administrator shall notify the applicant of such voiding action by sending a notice by certified mail to the applicant at the address indicated on the permit application.
- (5) **Inspection.** The development or usage proposed by a zoning permit shall be subject to two (2) inspections; the first prior to the issuance of a building permit, and the second when the building is completed. The Zoning Administrator may require an additional

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Article 14: Administrative Procedures

Section 14.101: Permits

inspections, such as an inspection of the excavated footings and foundations before concrete is poured. It shall be the duty of the permit holder to notify the Zoning Administrator regarding the time that construction will be ready for inspection. Failure of the permit holder to make proper requests for inspection shall automatically cancel the permit, requiring the issuance of a new permit before occupancy may be permitted.

(B) Fees (currently Section 4.1.4). The fees for land use permits shall be established by the Township Board. Fees for inspection and the issuance of permits or certificates required under this Ordinance shall be collected by the Zoning Administrator in advance of issuance. The amount of such fees is shown in the schedule of fees established by the Township Board and shall cover the cost of inspection and supervision resulting from the enforcement of this Ordinance.

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(C) Completion (currently Section 6.2.6). Any dwelling, accessory building or addition thereto must be completed on the exterior surface with a suitable finishing material including painting or staining in the case of wood, within two (2) years from date of issuance of the land permit and prior to its occupancy.

(D) Prior Building Permits (currently Section 7.1.1). Any building permit issued prior to the effective date of this Ordinance shall be valid, in accordance with its terms, even though not conforming to provisions of this Ordinance, provided that construction is commenced within twelve (12) months after the date of permit issuance and that the entire building shall be completed according to the plans filed with the permit application within one and one-half (1-1/2) years after issuance of building permit.

**Article 14: Administrative Procedures
Section 14.102: Site Plan Review**

Section 14.102 Site Plan Review

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(A) Uses Requiring Site Plan Review (NEW SECTION). In the case of minor projects such as remodeling or re-occupancy, site plan review procedures may be modified, at the discretion of the Planning Director, to provide an administrative review by Township staff in lieu of a more formal review by the Planning Commission. Administrative review procedures are not intended to modify any Ordinance, regulation, or development standard. If, in the opinion of the Planning Director, the scope of an Administrative Review application is beyond the intent below, the Planning Director may defer to the Planning Commission or require Site Plan Review.

Development Activity	Site Plan Review	Administrative Review
<u>All uses except single-family and two-family residences in the R-1A, R-1B, R-1C, and R-1D zoning districts, and their customary permitted and accessory uses.</u>	✓	
<u>All uses except single-family and two-family residences in the A-1 zoning district, and their customary permitted and accessory uses and farm buildings and operations.</u>	✓	
<u>All uses in the C-1 Zoning District</u>	✓	
<u>Any use or development involving a special land use</u>	✓	
<u>Re-occupancy of a building, provided all of the following are true:</u> <ul style="list-style-type: none"> • <u>No variances to the Ordinance are required;</u> • <u>Such use is conducted within a completely enclosed building;</u> • <u>Re occupancy does not create additional parking demands; and</u> • <u>Re occupancy does not substantially alter the character of the site.</u> 		✓
<u>Remodeling or construction of an addition to an existing building or use, provided all of the following are true:</u> <ul style="list-style-type: none"> • <u>No variances to the Ordinance are required; and</u> • <u>The proposed new construction would be interior only and would not increase the total square footage of the building.</u> 		✓
<u>Co-location of Wireless Communication Facilities (see Section 6.141)</u>		✓
<u>Wireless Communication Facilities or replacement of an existing wireless communication support structure (see Section 6.141)</u>	✓	

(B) Required Information (currently part of Section 6.9.4.1, Section 6.9.4.2, Section 7.14.4, Section 8.4.6, and Section 8.7.3(4) (b) and (c)). The information in the following table shall be required for all applications for site plan review. The Planning Commission reserves the right to exempt any information which is at their discretion not relevant to a particular site.

Required Information
Site Plan Drawing Information
Copies of site plan drawing on 24" x 36" paper
Scale of no less than 1 inch to 100 feet
Map of the entire site and any future phases of development

Article 14: Administrative Procedures
 Section 14.102: Site Plan Review

Location map showing the site in context with the surrounding area
<u>Date of most recent revisions</u>
<u>North arrow</u>
Contours at 5-foot intervals where slope greater than 10%, or
Contours at 2-foot intervals where slope is 10% or less
<u>Application Information</u>
Name of project or development
Name and contact information of property owner
Name and contact information of the applicant, including the applicant's interest in the development
Name and contact information of person preparing site plan
Project location including <u>address and Township and County names</u>
Legal description of the property <u>matching the survey</u>
<u>Copies of documents including covenants, by-laws, and master deeds</u>
<u>Planning and Site Improvement Information</u>
Description of existing land use and zoning <u>of the site</u>
Area and dimensions of site
Location, type, dimensions, and use of all existing and proposed structures
Lot lines and number of units
Elevation plans, <u>floor plans</u> , and building materials for all proposed structures
Existing land use, zoning, and property owners of adjacent lots
Description of intended land use
Description and location of any areas intended for public use
Right-of-way easements, showing location, width, and purpose
Locations, descriptions, and cut sheets of all illuminating devices, <u>fixtures, lamps, supports, and reflectors</u>
A photometric plan <u>superimposed on the site plan</u>
Location, size, and surface materials for all paved areas on the site
Proposed interior vehicular and pedestrian circulation patterns
A statement of deed restrictions
<u>Engineering Information</u>
Copies of engineering plans and specifications on 24" x 36" paper
Location of water and sewer lines and riser pipes
Plans/specifications of water supply, sewage disposal and refuse facilities
Locations and details of lighting, electric, and gas systems
Proposed and existing storm sewers, sanitary sewers, and water mains
<u>Environmental Information</u>
Locations and information for all wetlands on the property, <u>which may include a determination by the Michigan Department of Environmental Quality</u>
Locations and information of existing natural features and soil types
The location and types of all significant existing vegetation, water courses and bodies, floodplains, and water retention areas
Location of all drainage easements <u>that comply with the Grand Traverse County Drain Commission requirements</u>
Details on solid waste removal including dumpster and screening methods
<u>A landscape plan that meets the requirements of Article 10</u>
<u>Other Information</u>

Article 14: Administrative Procedures
Section 14.102: Site Plan Review

Any other information deemed necessary by the Planning Commission

(C) Site Plan Review Procedures (currently part of Section 6.9.5.3).

- (1) The Planning Commission shall review the site plan and the reports of the County Road Commission, the County Drain Commissioner/Soil Erosion Officer, County Health Department, and County Planning Commission, Township Engineer, and Planning Director.
- (2) If following the review of the site plan prescribed above, the Planning Commission determines that the proposed plan meets all requirements of this Ordinance, the Planning Commission shall approve the plan and may apply conditions to ensure the requirements of this Ordinance are met.
- (3) If the site plan does not meet all of the requirements of this Ordinance, the Planning Commission shall deny the site plan, it shall state its reason(s) for denial in its official minutes.

(D) Duration of Approval (currently Section 6.9.6.2). Approval of the site plan by the Planning Commission shall be for a period of one (1) year from the date of its approval by the Planning Commission. Within the one (1) year approval period, construction shall commence and the applicant shall make progress toward completion in accordance with the approved schedule and permit. The Planning Commission may extend the one (1) year period if applied for and granted in writing but only concerning its own requirements.

(E) Performance Guarantees (NEW SECTION). After approval of a site plan, but before construction, a performance guarantee shall be posted in accordance with Section 7.102.

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- ~~Deleted: and forward same to the Township Board, and recommend that the Township Board disapprove the condominium subdivision plan until the objections causing disapproval have been changed to meet with the approval of the Planning Commission~~
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Condominium Subdivision.~~
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Section 14.103 Special Land Use Review

(A) Intent and Purpose (currently Section 8.1.1). Rather than permitting all of the many and varied land use activities within individual and limited zoning districts, it is the intent of this Ordinance to provide a set of procedures and standards for specific uses of land or structures that will allow, on one hand practical latitude for the investor or developer, but that will at the same time, maintain sound provisions for the protection of the health, safety, convenience, and general welfare of Township inhabitants. In order to provide controllable and reasonable flexibility, this Article permits detailed review of certain specified types of land use activities which, because of their particular and unique characteristics may be authorized within certain zone districts by the issuance of a special use permit. By such a procedure, safeguards upon each use which are deemed necessary for the protection of the public welfare, may be reviewed and the standards set forth within the Ordinance shall be considered and determined by the Township Board upon recommendation by the Planning Commission before issuing such special use permits.

The following Sections, together with previous references in other Articles and Sections of this Ordinance, designate specific uses that require a special use permit and in addition, specify the procedures and standards which must be met before such permit can be issued.

- (B) Authorization (currently Section 8.7.1).** Because of particular functional and other inherent characteristics, certain land and structure uses have a high potential of being injurious to surrounding properties by depreciating the quality and value of such property. Many of these uses may also be injurious to the Township as a whole unless they are controlled by minimum standards of construction and operation. It is the intent of this Section to provide a framework of regulatory standards which can be utilized by the Township Board as a basis for approving or disapproving certain special uses which may be permitted by the issuance of a special use permit within the particular zone districts cited.
- (C) Site Development Requirements (currently part of Section 8.7.3).** A special use permit shall not be issued for the occupancy or use of a structure or parcel of land, or for the erection, reconstruction or alteration of a structure unless complying with the following site development requirements.
- (D) Special Land Use Review Procedures (currently part of 6.9.5.3, part of Section 6.9.5.4, and Section 8.1.2).** An application for a special use permit for any land or structure use permitted under this Article shall be submitted and processed under the following procedures:
- (1) Submission of Application.** Any application shall be submitted through the Zoning Administrator on a special form for that purpose. Each application shall be accompanied by the payment of a fee as established by the Township Board to cover costs of processing the application. No part of any fee shall be refundable.
 - (2) Data Required.** Every application shall be accompanied by the following information and data:

**Article 14: Administrative Procedures
Section 14.103: Special Land Use Review**

- (a) The special form supplied by the Township Zoning Administrator filled out in full by the applicant, including a statement of supporting evidence showing compliance with the requirements of Section 14.103(D)(3).
 - (b) Site plan pursuant to Section 14.102(B).
 - (c) Preliminary plans and specifications of the proposed development.
- (3) Township Board and Planning Commission Actions.**
- (a) The application along with all required data shall be transmitted to the Township Board for consideration after referral to a study by the Planning Commission.
 - (b) The Planning Commission shall hold a public hearing on the application pursuant to Section 14.106.
 - (c) Upon receipt of a recommendation from the Planning Commission, the Township Board may hold a public hearing pursuant to Section 14.106.
- (d) Final Approval & Conditions.**
- (i) **Findings.** Final approval by the Township Board shall be preceded by a finding and determination with respect to compliance with the regulations set forth in Section 14.103(E).
 - (ii) **Applicable Conditions.** Reasonable conditions may be required pursuant to Section 14.103(E)(2) with the approval of a special use permit, to the extent authorized by law, for the purpose of ensuring 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, ensuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner.
 - (iii) **Purpose of Conditions.** Conditions imposed shall be designed to protect natural resources and the public health, safety and welfare of individuals in the project and those immediately adjacent, and the community as a whole, shall be reasonably related to the purpose affected by the special use permit, and shall be necessary to meet the intent and purpose of this Ordinance, and be related to the objective of ensuring compliance with the standards of this Ordinance. All conditions imposed shall be made a part of the record of the approved special use permit.
- (4) Phasing.**
- (a) Where a project is proposed for development 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

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Deleted: plot plan, development plan, drawn to scale (preferable 1"=50'), of total property involved showing the location of all abutting streets, the location of all existing and proposed structures and their uses, and the location and extent of all above ground development, both existing and proposed

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Deleted: publish in a newspaper having a general circulation in the Township, one (1) notice that a request for special land use approval has been received.¶

¶ The content of the notice shall describe the nature of the special land use request, indicate the property which is the subject of the special land use request, state when and where the special land use request will be considered, indicate when and where written comments will be received concerning the request, and indicate that a public hearing on the special land use request may be requested by the property owner or the occupant of any structure located within three hundred (300) feet of the boundary of the property being considered for a special use.¶

¶ The notice shall be given not less than five (5) nor more than fifteen (15) days before the date the application will be considered.¶

¶ The notice shall be delivered personally or by mail to the owners of property for which approval is being considered, all persons to whom real property is assessed within three hundred (300) feet of the boundary in question, and the occupants of all structures within three hundred (300) feet of the boundary of the property in question. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one (1) occupant of a structure; except that, if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organization, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.¶

¶ A public hearing on a special land use request shall be held by the Township Board if:¶

¶ A public hearing is requested by the Township Board, the applicant for special land use authorization, a property owner, or the occupant of a structure located within three hundred (300) feet of the boundary of the property being considered for a special land use.¶

¶ The decision on the special land use request is based on discretionary grounds.¶

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Article 14: Administrative Procedures
Section 14.103: Special Land Use Review

the necessary components to insure protection of natural resources and the health, safety, and welfare of the users of the project and the residents of the surrounding area.

(b) The Township Board shall approve the final project for one phase at a time.

(5) Commencement and Completion.

(a) **Special Use Permits Not Involving Construction.** For special use permits not involving construction, a land use permit for the use shall be acquired within one (1) year following final approval of the special use permit, or within one (1) year of the schedule established for the project in the approved special use permit whichever is later.

If a land use permit is not received within such time, any approval of the special use shall expire and be null and void, provided, an extension for a specified period may be granted by the Township Board upon good cause shown if such request is made to the Township Board prior to the expiration of the initial period.

(b) **Special Use Permits Involving Construction.** For special use permits involving construction, such construction shall be commenced within one (1) year following final approval of the special use permit, or within one (1) year of the schedule established for the project in the approved special use permit whichever is later.

If such 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 Township Board upon good cause shown if such request is made to the Township Board prior to the expiration of the initial period.

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(c) **Phased Development.** Each phase of the project shall be commenced within one year of the schedule established for the project phase in the approved special use permit.

(d) **Occupancy Permit.** An occupancy permit shall be received within one (1) year of approval of a land use permit for any construction authorized by special use permit.

If an occupancy permit is not received 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 Township Board upon good cause shown if such request is made to the Township Board prior to the expiration of the initial period.

Moved up [1]: For special use permits involving construction, if such 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 Township Board upon good cause shown if such request is made to the Township Board prior to the expiration of the initial period.
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(e) **Expiration.** In the event a final plan has expired, a new application shall be required, and shall be reviewed in light of the then existing and applicable law and ordinance provisions.

Article 14: Administrative Procedures
Section 14.103: Special Land Use Review

(6) Effect of Approval. If and when approved, the special use permit, 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 amendment.

(E) Basis for Determination (currently Section 8.1.3). Before making recommendation or decision on a special use permit application, the Planning Commission Township Board shall apply the following general standards, as well as the specific standards outlined in each section of this Article.

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(1) General Standards. The Planning Commission and Township Board shall review each application for the purpose of determining that each proposed use meets the following standards, and in addition, shall find adequate evidence that each use on the proposed location will:

- (a)** Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and zoning districts and that such a use will not change the essential character of the area in which it is proposed.
- (b)** Not be hazardous or disturbing to existing or future uses in the same general vicinity and will be a substantial improvement to property in the immediate vicinity and to the community as a whole.
- (c)** Be served adequately by essential facilities and services, such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities, or schools.
- (d)** Not create **excessive** additional requirements at public cost for public facilities and services.
- (e)** Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by fumes, glare or odors.

(2) Conditions and Safeguards. The Township Board may impose such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights, and for insuring that the intent and objectives of this Ordinance will be observed. The breach of any condition, safeguard or requirement shall automatically invalidate the permit granted.

(3) Specific Requirements. In reviewing the impact of the special land use and site plan, the Township Board and the Planning Commission shall consider the following standards:

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- (a)** That the applicant may legally apply for site plan review.
- (b)** That all required information has been provided in accordance with this Ordinance

Article 14: Administrative Procedures
Section 14.103: Special Land Use Review

- (c) That the proposed development conforms to all regulations of the zoning district in which it is located.
- (d) That the plan meets the requirements of Peninsula Township for fire and police protection, water supply, sewage disposal or treatment, storm drainage and other public facilities and services.
- (e) That the plan meets the standards of other governmental agencies where applicable, and that the approval of these agencies has been obtained or is assured.
- (f) That natural resources will be preserved to a maximum feasible extent, and that areas to be left undisturbed during construction shall be so located on the site plan and at the site per se.
- (g) That the proposed development property respects flood ways and floodplains on or in the vicinity of the subject property.
- (h) That the soil conditions are suitable for excavation and site preparation, and that organic, wet or other soils which are not suitable for development will either be undisturbed or modified in an acceptable manner.
- (i) That the proposed development will not cause soil erosion or sedimentation problems.
- (j) That the drainage plan for the proposed development is adequate to handle anticipated stormwater runoff, and will not cause undue runoff onto neighboring property or overloading of water courses in the area.
- (k) That grading or filling will not destroy the character of the property or the surrounding area, and will not adversely affect the adjacent or neighboring properties.
- (l) That structures, landscaping, landfills or other land uses will not disrupt air drainage systems necessary for agricultural uses.
- (m) That phases of development are in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility service, drainage, or erosion control.
- (n) That the plan provides for the proper expansion of existing facilities such as public streets, drainage systems and water sewage facilities.
- (o) That landscaping, fences or walls may be required by the Township Board and Planning Commission in pursuance of the objectives of this Ordinance.
- (p) That parking layout will not adversely affect the flow of traffic within the site, or to and from the adjacent streets.

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Article 14: Administrative Procedures
Section 14.103: Special Land Use Review

- (q)** That vehicular and pedestrian traffic within the site, and in relation to streets and sidewalks serving the site, shall be safe and convenient.
 - (r)** That outdoor storage of garbage and refuse is contained, screened from view and located so as not to be a nuisance to the subject property or neighboring properties.
 - (s)** That the proposed site is in accord with the spirit and purpose of this Ordinance and not inconsistent with, or contrary to, the objectives sought to be accomplished by this Ordinance and the principles of sound planning.
- (F) Revocation (currently part of Section 8.7.3).** Without limiting the powers of the Township Board in any other Section of this Ordinance, the Township Board shall have the authority to revoke any special use permit when, after reasonable warning, the operator of any use permitted under this Section fail to comply with any of the requirements stipulated. In addition, the Township Board may, to prevent injury or damage to adjoining properties which may impair public health, welfare or safety, require additional conditions and safeguards.

Section 14.104 Variances and Appeals

(A) **Right to and Grounds of Variance or Appeal** (currently part of Section 5.3), Appeals and variance requests may be taken to the Zoning Board of Appeals pursuant to Section 13.104(H).

(B) **Appeal and Notice Requirements** (currently Section 5.4, Section 5.5, and Section 5.6).

(1) **Time to and Notice of Appeal; Transmission of Record.** Such appeal shall be taken within thirty (30) days by the filing with the Zoning Administrator or other officer from whom the appeal is taken and with the Board of Appeals of a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed was taken.

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(2) **Stay of Proceedings Pending Appeal.** An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Board of Appeals after the notice of appeals shall have been filed with him that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by the Circuit Court on application, on notice to the officer from whom the appeal is taken and on due cause shown.

(3) **Hearings and Notices; Right to be Heard; Disposition of Appeals; Decision Final.** The Board of Appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof in accordance with Section 14.106. Upon the hearing, any party may appear in person or by agent or by attorney. The Board of Appeals shall make its decisions in accordance with this Section 14.104 so that the spirit of the Ordinance shall be observed, public safety secured and substantial justice done. The decision of the Board of Appeals shall be final, and any person aggrieved by a decision of the Zoning Board of Appeals shall have the right to appeal to the Circuit Court within thirty (30) days after the Zoning Board of Appeals issues its decision in writing signed by the chairperson.

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Deleted: may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises. Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of such Ordinance, the Board of Appeals shall have the power in passing upon appeals to vary or modify any of its rules, regulations or provisions

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(C) **Duties and Powers.**

(1) **Appeals** (currently Section 5.7.1). The Zoning Board of Appeals shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Administrator or by any other official in administering or enforcing any provisions of this Ordinance.

(2) **Variances** (currently Section 5.7.3(1) and (2) and Section 5.7.3(4)). The Zoning Board of Appeals shall have the power to authorize, upon an appeal, specific variances from such requirements as lot area and width regulations, building height and bulk regulations, yard and depth regulations, and off-street parking and loading space requirements, PROVIDED ALL of the BASIC conditions listed herein and ALL applicable SPECIAL conditions listed thereafter can be satisfied.

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(a) **Basic Conditions.** That any variance from this Ordinance:

Article 14: Administrative Procedures
Section 14.104: Variances and Appeals

- (i) Will not be contrary to the public interest or to the intent and purpose of this Ordinance.
 - (ii) Shall not permit the establishment within a district any use which is not permitted by right, under special conditions, or by special use permit within that zone district, or any use for which a conditional use permit is required.
 - (iii) Will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located.
 - (iv) Is not where the specific conditions relating to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practical.
 - (v) Will relate only to property that is under control of the applicant.
- (b) **Special Conditions.** When ALL of the foregoing basic conditions can be clearly demonstrated:
- (i) Where there are practical difficulties which prevent carrying out the strict letter of this Ordinance, these hardships or difficulties shall not be deemed economic, but shall be evaluated in terms of the use of a particular parcel of land.
 - (ii) Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property that do not generally apply to other property or uses in the same zoning district. Such circumstances or conditions shall not have resulted from any act of the applicant subsequent to the adoption of this Ordinance.
 - (iii) Where the lot or parcel of land was of legal record or had been laid out by a registered surveyor prior to the effective date of this Ordinance.
 - (iv) Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.
- (c) **Additional Conditions in Determining Variances for Decks or Deck with Attached Seating and/or Attached Storage within the Great Lakes Ordinary High Water Mark Setback.** In determining whether to grant a variance permitting construction of a deck or of a deck with attached seating and/or attached storage within the ordinary high water mark setback, the Board of Appeals shall, in addition to considering Basic and Special Conditions established by this Ordinance, consider the following conditions:
- (i) The physical characteristics of the waterfront property which may require the construction of a deck to make use of that property.

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Article 14: Administrative Procedures
Section 14.104: Variances and Appeals

- (ii) The proximity of the proposed structure to the main traveled portion of the roadway so as to ensure the safety of users and/or property.
- (iii) The extent to which the proposed structure will obstruct the public view of the shoreline.
- (iv) The degree of exposure of the structure to damage by the elements.
- (v) The aesthetics of the structure as viewed from both the land and the water.

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(d) Prohibited Variances (NEW). No appeal shall be taken to the Zoning Board of Appeals from a decision of the Planning Commission and/or the Township Board in connection with a special land use.

- (3) Interpretations (currently Section 5.7.2). The Zoning Board of Appeals shall have the power to:
 - (a) Interpret, upon request, the provisions of this Ordinance in such a way as to carry out the intent and purpose of this Ordinance.
 - (b) Determine the precise location of the boundary lines between zoning districts, using guidance provided in Section 3.103.

(4) Classifying Uses Not Specifically Mentioned (currently 6.1.4(2)). The Board of Appeals shall have the power to classify a use which is not specifically mentioned along with a comparable permitted, special, or prohibited use for the purpose of clarifying the use regulations in any district.

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<#>Classify a use which is not specifically mentioned as part of the use regulations of any zoning district so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district. ¶

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- (D) Attachment of Conditions (currently Section 5.7.3(3)(a)). The Board may specify, in writing, such conditions regarding the character, location, and other features that will in its judgment, secure the objectives and purposes of this Ordinance. The breach of any such condition shall automatically invalidate the permit granted.
- (E) Approval Period (currently Section 5.7.3(3)(b)). Each variance granted under the provisions of this Ordinance shall become null and Void unless: The construction authorized by such variance or permit has been commenced within six (6) months after the granting of the variance; and the occupancy of land, premises, or buildings authorized by the variance has taken place within one (1) year after the granting of the variance.
- (F) Re-Application (currently Section 5.7.3(3)(c)). No application for a variance which has been denied wholly or in part by the Board shall be resubmitted for a period of one (1) year from the date of the last denial, except on the grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Board to be valid.
- (G) Performance Guarantees (currently Section 5.9). In authorizing any variance, or in granting any other approvals, the Township Board of Appeals may require that a performance guarantee pursuant to Section 7.102 be furnished to ensure compliance with the

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Article 14: Administrative Procedures
Section 14.104: Variances and Appeals

requirements, specifications and conditions imposed with the grant of variance or other approval and to ensure the discontinuance of a structure or activity by a stipulated time.

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Section 14.105 Amendments (currently Article 9)

- (A) Initiation of Amendments (NEW SECTION). The Township Board may amend, supplement or change the regulations or the district boundaries of this Ordinance pursuant to the authority and according to the procedure set forth in Act 110, of the Public Acts of 2006, as amended. Text amendments may be proposed by the Township Board, Planning Commission, or any interested person or organization. Changes in zoning district boundaries may be proposed by the Township Board, Planning Commission, any person having a freehold interest in the premises concerned, or by the designated agent of a person having a freehold interest in the property.
- (B) Application for Amendment (NEW SECTION). An application for an amendment to the text of this Ordinance or an amendment to change the zoning classification of a particular property shall be commenced by filing an application with the Planning Director on the forms provided by the Township, and accompanied by the fees specified. The application shall describe the proposed amendment and shall be signed by the applicant. Applications for rezoning of a specific site shall be accompanied by a plot plan or survey which specifies the boundaries and legal description of the site. The Planning Director, Planning Commission, and Township Board may request additional information with the application.
- (C) Amendment Review Procedures (NEW SECTION). The amendment, be it a text or a map amendment, and application materials shall be prepared in accordance with the provisions of this Section, and shall be reviewed in accordance with the following procedure. Amendments or application materials that do not meet the stipulated requirements shall be considered incomplete and shall not be eligible for consideration by the Planning Commission:
- (1) Technical Review. Prior to Planning Commission consideration, the proposed amendment and application materials shall be distributed to appropriate Township officials and staff for review and comment. The proposed amendment and application materials may also be distributed to applicable outside agencies and designated Township consultants for review.
 - (2) Public Hearing. A public hearing shall be held for all proposed amendments in accordance with the procedures set forth in the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended) as summarized in Section 14.106.
 - (3) Planning Commission Consideration of the Proposed Amendment. The Planning Commission shall review the proposed amendment, together with any reports and recommendations from staff, consultants, other reviewing agencies and any public comments. The Planning Commission shall identify and evaluate all factors relevant to the petition, including the appropriate criteria listed in this Section, and shall report its findings and recommendation to the Township Board.
 - (4) Township Board Action on the Proposed Amendment. Upon receipt of the report and recommendation from the Planning Commission, the Township Board may approve or deny the proposed amendment. If determined to be necessary, the Township Board may refer the amendment back to the Planning Commission for further consideration. In the

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Article 14: Administrative Procedures
Section 14.105: Amendments

case of an amendment to the official Zoning Map, the Township Board shall approve or deny the amendment, based upon its consideration of the criteria contained herein.

(D) Standards of Review for Amendments (NEW SECTION). In considering any petition for an amendment to the text of this Ordinance or to the Zoning Map, the Planning Commission and Township Board shall consider the following criteria that apply to the application in making findings, recommendations, and a decision. The Planning Commission and Township Board may also take into account other factors or considerations that are applicable to the application but are not listed below.

- (1) Consistency with the goals, policies and objectives of the Master Plan and any sub-area plans. If conditions have changed since the Master Plan was adopted, consistency with recent development trends in the area shall be considered.
- (2) Consistency with the basic intent and purpose of this Zoning Ordinance.
- (3) The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.
- (4) The capacity of the Township's utilities and services sufficient to accommodate the uses permitted in the requested district without compromising the health, safety and welfare of the Township.
- (5) That conditions have changed since the Zoning Ordinance was adopted or there was an error in the Zoning Ordinance that justifies the amendment.
- (6) That the amendment will not be expected to result in exclusionary zoning.
- (7) If a rezoning is requested, compatibility of the site's physical, geological, hydrological, and other environmental features with the uses permitted in the proposed zoning district.
- (8) If a rezoning is requested, compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.
- (9) If a rezoning is requested, the boundaries of the requested rezoning district will be reasonable in relationship to surrounding zoning districts, and construction on the site will be able to meet the dimensional regulations for the requested zoning district.
- (10) If a rezoning is requested, the requested zoning district is considered to be more appropriate from the Township's perspective than another zoning district.
- (11) If a rezoning is requested to allow for a specific use, rezoning the land is considered to be more appropriate than amending the list of permitted or special land uses in the current zoning district to allow the use.

Article 14: Administrative Procedures
Section 14.105: Amendments

- (12) If a rezoning is requested, the requested rezoning will not create an isolated or incompatible zone in the neighborhood.
- (E) Notice of Adoption of Amendments (NEW SECTION). Following adoption of an amendment by the Township Board, one (1) notice of adoption shall be filed with the Township Clerk and one (1) notice shall be published in a newspaper of general circulation in the Township within fifteen (15) days after adoption, in accordance with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended. A record of all amendments shall be maintained by the Township Clerk. A Zoning Map shall be maintained by the Township Clerk, which shall identify all map amendments.
- (F) Protest Petition of Amendments (NEW SECTION). An amendment under this Chapter is subject to a protest petition in accordance with Section 403 of the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended), summarized as follows:
- (1) Petition Submittal Requirements. The protest petition shall be presented to the Township Board before final legislative action on the amendment, and shall be signed by one (1) or more of the following:
- (a) The owners of at least 20% of the area of land included in the proposed change. Publicly-owned land shall be excluded in calculating the 20% land area.
- (b) The owners of at least 20% of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change. Publicly owned land shall be excluded in calculating the 20% land area.
- (2) Vote. If a protest petition is filed, approval of the amendment to this Ordinance shall require a 2/3 vote of the Township Board.
- (G) Referendum (NEW SECTION). Within thirty (30) days following the passage of the Zoning Ordinance, a petition signed by a number of registered electors may be filed with the Township Clerk requesting submission of this Ordinance or part of this Ordinance to the electors for their approval, in accordance with Section 402 of the Michigan Zoning Enabling Act, PA 110 of 2006 (as amended).
- (H) Rezoning (Zoning Map Amendment) with Conditions (NEW SECTION):
- (1) Intent. The Planning Commission and Township Board recognize that, in certain instances, it would be an advantage to both the Township and to a property owner seeking rezoning if the property owner proposes certain conditions and limitations as part of a petition for rezoning. Therefore, it is the intent of this Section to provide a process consistent with the provision of Section 405 of the Michigan Zoning Enabling Act, PA 110 of 2006 (MCL 125.3405, as amended) to permit property owners to offer conditions regarding the use and/or development of land as part of the rezoning request. It is the further intent of this ordinance to accomplish, among other things, the objectives of the Zoning Ordinance and the Master Plan to achieve integration of the proposed land development project with the characteristics of the surrounding area.

Article 14: Administrative Procedures
Section 14.105: Amendments

(2) Definitions. The following definitions shall apply in the interpretation of this Section:

- (a) Applicant shall mean the property owner, or a person acting with the written and signed authorization of the property owner to make application under this Section.**
- (b) Rezoning Conditions shall mean conditions regarding the development and use of property proposed by the applicant and approved by the Township as part of an approval under this Section, including review and recommendation by the Planning Commission.**
- (c) Rezoning with Conditions Agreement shall mean a written agreement approved and executed by the Township and property owner setting forth the conditions attached to the rezoning pursuant to MCL 125.3405 (as amended) and any other terms mutually agreed upon by the parties relative to land for which the Township has approved a Rezoning with Conditions.**
- (d) Rezoning with Conditions Plan shall mean a plan of the property which is the subject of a Rezoning with Conditions, prepared by a Michigan licensed civil engineer or architect, that may show the location, size, height, design, architecture or other measure or feature for and/or of buildings, structures, improvements and features on, and in some cases adjacent to, the property. The details to be offered for inclusion within the Rezoning with Conditions Plan shall be determined by the applicant, subject to approval of the Township Board after recommendation by the Planning Commission.**
- (e) Rezoning shall mean the amendment of this Ordinance to change the zoning map classification on property from its existing district to a new district classification.**

(3) Authorization and Eligibility.

- (a) The standards of this Section shall grant a property owner the option of voluntarily proposing conditions for the development and use of property in connection with a submission of a petition seeking a rezoning. Such conditions may be proposed at the time the application for rezoning is filed, or at a subsequent point in the process of review of the proposed rezoning.**
- (b) In order to be eligible for consideration of a Rezoning with Conditions, a property owner must propose a rezoning of property to a new zoning district classification, and must, as part of such proposal, voluntarily offer certain site-specific conditions (to be set forth in a Rezoning with Conditions Agreement) that are more strict or limiting than the regulations that would apply to the land under the proposed new zoning district. Such conditions may include, but are not limited to, the following:**
 - (i) The location, size, height or other measure for and/or of buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture and other physical features of the proposed development.**

Article 14: Administrative Procedures

Section 14.105: Amendments

- (ii) Specification of maximum density or intensity of development and/or use, expressed in terms fashioned for the particular development and/or use. For example: units per acre, maximum usable floor area, or hours of operation.
- (iii) Preservation of open space, natural resources and/or natural features.
- (iv) Improvements to address traffic issues, including paving, substantial improvements to or funding of improvements to major roads to the benefit of the entire Township.
- (v) Site improvements such as signage, lighting, landscaping, building materials for the exterior of some or all structures above and beyond what would otherwise be required by Township Ordinance.
- (vi) Limitations on permissible uses of the property.
- (vii) Any other conditions that may be voluntarily proposed by the property owner.

(4) Application and Review Procedures.

(a) Application.

- (i) At the time of making application for amendment of this ordinance seeking a rezoning of property, or at a later time during the process of Township consideration of such rezoning a property owner may submit a complete application for approval of a Rezoning with Conditions to apply in conjunction with the rezoning.
- (ii) The application, which may be amended by the applicant during the process of consideration, shall specify the Rezoning Conditions proposed by the applicant, recognizing that Rezoning Conditions shall not authorize uses or development not permitted in the district proposed by the rezoning.
- (iii) An application for a Rezoning with Conditions shall include a Rezoning with Conditions Agreement ("the Agreement"). The Agreement shall set forth the rezoning conditions and may incorporate a Rezoning with Conditions Plan. Rezoning with Conditions Agreements are subject to the requirements listed in Section 14.105(H)(9).
- (iv) The application shall include a notarized signature of the property owner indicating that the conditions attached to the rezoning are voluntarily offered.

(b) Planning Commission Review.

- (i) The proposed Rezoning with Conditions shall be noticed for public hearing before the Planning Commission as a proposed legislative amendment of the Zoning Ordinance.

Deleted: Section 12.508(f)

Article 14: Administrative Procedures

Section 14.105: Amendments

- (ii) Following the public hearing, and further deliberations as deemed appropriate by the Planning Commission, the Planning Commission shall make a recommendation to the Township Board on the proposed Rezoning with Conditions, considering the review criteria set forth in Section 14.105(H)(5).
- (c) Township Board Review. Upon recommendation by the Planning Commission, the Township Board shall make a final determination to approve or deny the Rezoning with Conditions as offered by the applicant. The Township Board may only consider the conditions offered by the applicant, and may not attach any other conditions to the rezoning other than those offered by the applicant. The Township Board's deliberations shall include, but not be limited to, a consideration of the review criteria for a Rezoning with Conditions set forth in Section 14.105(H)(5).
- (5) Review Criteria. A Rezoning with Conditions shall only be approved if it meets the following requirements and standards:

 - (a) The proposed Rezoning with Conditions will further the goals and objectives of the Township Master Plan.
 - (b) Rezoning conditions shall not authorize uses or development not permitted in the district proposed by the rezoning (and shall not permit uses or development expressly or implicitly prohibited in the Rezoning with Conditions Agreement).
 - (c) The use of the property in question shall be in complete conformity with all regulations governing development and use within the zoning district to which the property is proposed to be rezoned, including, without limitation, permitted uses, lot area and width, setbacks, height limits, required facilities, buffers, open space areas and land use density; provided, however, the following shall apply:

 - (i) Development and use of the property shall be subject to the more restrictive requirements shown or specified in the Rezoning with Conditions Agreement, and/or in other conditions and provisions set forth in the Rezoning with Conditions Agreement required as part of the Rezoning with Conditions approval. Such Rezoning with Conditions Agreement shall supersede all inconsistent regulations otherwise applicable under the Zoning Ordinance.
 - (ii) As part of the grant of final approval of a Rezoning with Conditions, the Township Board shall be authorized to grant modifications to the strict terms of the Zoning Ordinance governing dimensional requirements on the property; provided, such authorization to grant modifications shall be conditioned upon the Township Board finding that each Zoning Ordinance provision sought to be modified will result in an enhancement of the development that would be in the public interest, and that approving the modification would be consistent with the Township Master Plan and compatible with the surrounding area.
 - (d) The proposed Rezoning with Conditions will result in integration of the proposed land development project with the characteristics of the project area, and result in an enhancement of the project area as compared to the existing zoning, and such

Article 14: Administrative Procedures

Section 14.105: Amendments

enhancement would be unlikely to be achieved or would not be assured in the absence of the use of a Rezoning with Conditions.

(e) As compared to the existing zoning and considering the site-specific conditions and/or land use proposed by the applicant, it would be in the public interest to grant the Rezoning with Conditions. In determining whether approval of a proposed application would be in the public interest, the benefits which would reasonably be expected to accrue from the proposal shall be balanced against and be found to clearly outweigh the reasonably foreseeable detriments, taking into consideration reasonably accepted planning, engineering, environmental and other principles, and also taking into consideration the special knowledge and understanding of the Township by the Township Board and Planning Commission.

(f) The proposed conditions will not preclude future zoning and planning actions by or on behalf of the municipality.

(g) Existing and available public services will be capable of serving proposed or potential development that will occur as a result of the Rezoning with Conditions without negatively impacting the delivery of public services to other properties in the Township, or the conditions will ensure that public services will be sufficient to serve both the site and other properties in the Township.

(h) The offered condition(s) are beneficial to the public good and likely to be enforceable.

(i) The condition does not have the same effect as a use variance.

(j) The proposed conditions do not relieve the applicant of the responsibility of securing any applicable site plan, plat, condominium, or special land use approvals.

(6) Effect of Approval. Approval of the Rezoning with Conditions and Rezoning with Conditions Agreement confirms only the rezoning of the property, subject to any conditions reflected in the Rezoning with Conditions Agreement and after recordation as set forth in Paragraph H below. Any applicable site plan, plat, condominium, special land use, or variance approvals shall be required before any improvements to the property may be undertaken.

If approved, the zoning district classification of the rezoned property shall consist of the district to which the property has been rezoned, accompanied by a reference to "CR Rezoning with Conditions". The Zoning Map shall specify the new zoning district plus a reference to "CR" e.g., the district classification for the property might be "C-1, General Business (CR, Rezoning with Conditions)", with a Zoning Map Designation of "C-1/CR." Use of the property so classified and approved shall comply with the conditions set forth in the Rezoning with Conditions Agreement. No development or use of the land inconsistent with the conditions of the Rezoning with Conditions Agreement shall be permitted.

(7) Compliance with Conditions.

Article 14: Administrative Procedures

Section 14.105: Amendments

(a) Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Rezoning with Conditions Agreement. Any failure to comply with a condition contained within the Rezoning with Conditions Agreement shall constitute a violation of this Zoning Ordinance and shall be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.

(b) No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Rezoning with Conditions Agreement.

(8) Period of Approval.

(a) The Rezoning with Conditions and Agreement shall expire after a period of one (1) year from the effective date of the Rezoning unless substantial progress towards obtaining site plan and other required approvals has been made, and shall expire after a period of two (2) years unless development of the property is substantially begun within such two (2) year period and proceeds diligently and in good faith as required by ordinance to completion.

(b) In the event substantial progress towards obtaining site plan and other required approvals has not commenced within one (1) year and bona fide development has not commenced within two (2) years from the effective date of the rezoning, the Rezoning with Conditions and the Rezoning with Conditions Agreement shall be void and of no effect.

(c) The property owner may apply for a one (1) year extension two (2) times. The request must be submitted to the Department of Development Services before the approval time limit expires. The property owner must demonstrate why the extension should be granted, and must also demonstrate that there is a strong likelihood that the development or use will commence within the period of extension and proceed diligently thereafter to completion, and if the Township Board finds that there has not been a change in circumstances that would render the Rezoning with Conditions incompatible with adjacent or nearby use and zoning of land or is otherwise inconsistent with sound zoning policy.

An extension request shall be considered by the Township Board following a recommendation by the Planning Commission.

(d) If the Rezoning with Conditions becomes void in the manner provided in this section the following procedures shall apply:

(i) The property owner may seek a new rezoning of the property within thirty (30) days of the expiration of the period of approval.

(ii) If no application is made for a new rezoning of the property, the land shall revert to its former zoning classification as set forth in MCL 124.286j (as

Article 14: Administrative Procedures
Section 14.105: Amendments

amended). The Township Board shall direct the Planning Commission to proceed with consideration of rezoning the land to its former zoning designation following the standard rezoning procedures set forth in this Zoning Ordinance.

(iii) Until such time as a new zoning district classification of the property has become effective, no development shall be undertaken or permits for development issued.

(9) Rezoning with Conditions Agreement Requirements. A Rezoning with Conditions Agreement shall be executed between the applicant and the Township at the time of Township Board approval of a Rezoning with Conditions.

(a) Rezoning with Conditions Agreements shall, at a minimum, contain all of the following items:

(i) Identification of the requested zoning district and a listing of the conditions offered by the applicant.

(ii) A statement acknowledging that the Rezoning with Conditions was proposed by the applicant, and, further agreement and acknowledgment that the conditions and Rezoning with Conditions Agreement are authorized by all applicable state and federal law and constitution, and that the Agreement is valid and was entered into on a voluntary basis and represents a permissible exercise of authority by the Township.

(iii) Agreement and understanding that the property in question shall not be developed or used in a manner inconsistent with the Rezoning with Conditions Agreement.

(iv) Agreement and understanding that the approval and Rezoning with Conditions Agreement shall be binding upon and inure to the benefit of the property owner and Township, and their respective heirs, successors, assigns, and transferees.

(v) The date upon which the Rezoning with Conditions becomes void, as specified in Section 14.105(H)(6). If the Township Board grants an extension of approval, a new Rezoning with Conditions Agreement with the new expiration date shall be recorded.

(vi) Agreement and understanding that, if a Rezoning with Conditions becomes void in the manner provided in this Section 14.105(H)(8), no development shall be undertaken or permits for development issued until a new zoning district classification of the property has been established.

(vii) Agreement and understanding that each of the requirements and conditions in the Rezoning with Conditions Agreement represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact created by the use represented in

Article 14: Administrative Procedures

Section 14.105: Amendments

the approved Rezoning with Conditions, taking into consideration the changed zoning district classification and the specific use authorization granted.

(viii) A legal description of the property affected by the Rezoning with Conditions.

(ix) Development regulations affected by the conditions of rezoning, including but not limited to density, setbacks, height, site coverage, signs, parking, architecture, etc.

(x) Revocation of approval provisions returning the property to its original zoning designation if the developer violates the terms of the Agreement.

(b) A Rezoning with Conditions Plan may be included as an exhibit to the Agreement. The Rezoning with Conditions Plan may show the conceptual layout of the proposed development or use, along with any other information deemed relevant by the applicant. Inclusion of a Rezoning with Conditions Plan as an exhibit to a Rezoning with Conditions Agreement shall not replace the requirement for preliminary and final site plan, subdivision, condominium, special land use or variance review and approval.

(10) Amendment of Rezoning with Conditions Agreement. Amendment of a Rezoning with Conditions Agreement shall be proposed, reviewed and approved in the same manner as a new Rezoning with Conditions.

(11) Recordation of Rezoning with Conditions Agreement. A Rezoning with Conditions shall become effective following publication in the manner provided by law, and, after recordation of the Rezoning with Conditions Agreement, whichever is later. All Rezoning with Conditions Agreements shall be recorded with the Grand Traverse County Register of Deeds.

(12) Termination. The Township Board shall be the only body with the authority to terminate a Rezoning with Conditions agreement. The consideration to terminate the agreement shall be for reasons of expiration of the agreement, discovery of false information upon which the initial approval was based, or the existence or discovery of new information that alters the viability of the approved rezoning. The Termination shall comply with any applicable provisions of this ordinance or the Rezoning with Conditions Agreement.

(13) Township Right to Rezone. Nothing in the Rezoning with Conditions Agreement or in the provisions of this Section shall be deemed to prohibit the Township from rezoning all or any portion of land that is subject to a Rezoning with Conditions to another zoning classification. Any such rezoning shall be conducted in compliance with this Ordinance and the Michigan Zoning Enabling Act (MCL 125.3405, as amended).

If land that is subject to a Rezoning with Conditions Agreement is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Rezoning with Conditions Agreement, the Rezoning with Conditions Agreement attached to the former zoning classification shall cease to be in effect. In such a case, the Township Clerk shall record with the Grand Traverse County Register of Deeds a notice

Deleted: Wayne

Article 14: Administrative Procedures

Section 14.105: Amendments

that the Rezoning with Conditions is no longer in effect upon the property owner's written request.

- (14) Fee.** The applicant for a Rezoning with Conditions shall pay as a fee the Township's costs and expenses incurred by the Township in the review of any Rezoning with Conditions. An escrow shall be established in an amount specified by Township Board Resolution, and additional reasonable amounts shall be contributed as required in order to complete the process of review and approval. Any unexpended amounts from such escrow shall be returned to the applicant.

Article 14: Administrative Procedures
Section 14.106: Public Hearing Procedures

Section 14.106 Public Hearing Procedures (currently Sections
7.12.1(8)(a) and 8.1.2(3))

Commented [PS80] The text of Sections 7.12.1(8)(a) and 8.1.2(3) is proposed to be deleted and replaced with the following in this Section.

- (A) Public Hearings (NEW SECTION).** The body charged with conducting a public hearing required by this Ordinance shall, upon receipt of a completed application, select a reasonable time and place for such hearing. Such hearings shall be subject to the procedures set forth in the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended. The public hearing procedures of P.A. 110 in effect at the date of adoption are summarized as follows. Any further amendments to P.A. 110 that alter the public hearing procedure requirements following the date of adoption of this Zoning Ordinance will supersede the following procedures.
- (B) General Public Hearing Procedures (NEW SECTION).** The following procedures are applicable to all public hearings except zoning ordinance text and map amendments, which are described in Section 14.106(C), below.
- (1) Publication in a Newspaper of General Circulation.** Notice of the request shall be published in a newspaper of general circulation not less than 15 days before the date the application will be considered for approval.
- (2) Personal and Mailed Notice.**
- (a)** Notice shall be sent by mail or personal delivery to the owners of property for which approval is being considered.
- (b)** Notice shall be sent to all persons to whom real property is assessed within 300 feet of the property, regardless of municipal jurisdiction.
- (c)** Notice shall be given to the occupants of all structures within 300 feet of the property regardless of municipal jurisdiction. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area leased by different persons, one occupant of each unit or spatial area shall be given notice. If a single structure contains more than 4 dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance(s) to the structure.
- (d)** All notice delivered by mail or personal delivery must be given not less than 15 days before the date of the public hearing. Notice shall be deemed given when personally delivered or when deposited during normal business hours for delivery with the U.S. Postal Service or other public or private delivery service. If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the notice.
- (e)** The Township shall prepare a list of property owners and occupants to whom notice was mailed.

Article 14: Administrative Procedures
Section 14.106: Public Hearing Procedures

(3) Content. Any notice published in a newspaper or delivered by mail shall:

- (a)** Describe the nature of the request.
- (b)** Indicate the property that is the subject of the request.
- (c)** Include a listing of all existing street addresses within the property. If no such addresses exist, other means of identifying the property may be used.
- (d)** When and where the public hearing will occur.
- (e)** When and where written comments may be submitted concerning the request.

(C) Zoning Ordinance Amendment Public Hearing Procedures (NEW SECTION). Public hearings for Zoning Ordinance amendments, including both text and map amendments, shall be noticed as follows:

- (1) Map or Text Amendments Affecting 10 or Fewer Adjacent Parcels.** If the proposed map or text amendment will impact 10 or fewer adjacent parcels, notice shall be given as specified in Section 14.106(B).
- (2) Map or Text Amendments Affecting 11 or More Adjacent Parcels.** If the proposed map or text amendment will impact 11 or more adjacent parcels, notice shall be given as specified in Section 14.106(B), with the exception that the notice need not list street addresses of properties that will be impacted by the map or text amendment.
- (3) Notice to Other Entities.** Notice of the time and place of the public hearing shall also be given by mail to any of the following entities that have registered their name with the Township Clerk for the purposes of receiving public notice: any electric, gas, or pipeline public utility company; each telecommunication service provider; each railroad operating within the district or zone affected; and the airport manager of each airport.
- (4) Additional Information Required in Notice.** Any notice required under this section shall include the places and times at which the proposed text or map amendment may be examined.

Deleted: Section 12.602

Deleted: Section 12.602

Section 14.107 Enforcement

- (A) **Violations and Penalties** (currently Sections 4.2.1 and 11.1). Any person, firm, association, corporation, company, or other entity which shall violate any provision of this Ordinance in any particular, or who fails to comply with any of the regulatory measures or conditions imposed by the Planning Commission, Zoning Board of Appeals or the Township Board pursuant to this Ordinance or otherwise pursuant to Michigan law, shall, unless such violation has abated, ceased to exist or otherwise been remedied within fifteen (15) days after being provided with written notice of such violation from the Enforcement Officer, be deemed to be responsible for a municipal civil infraction as defined by Michigan statute, which shall be punishable by a civil fine of five hundred dollars (\$500) for each violation to be determined by the Court, along with costs which may include all expenses, direct and indirect, to which the Township has been put in connection with municipal infraction.

Deleted: Costs of not more than \$500.00 shall be ordered.

A violator of this Ordinance shall also be subject to such additional sanctions and judicial orders as are authorized under Michigan law. Each day that a violation continues to exist shall constitute a separate violation of this Ordinance. Provisions of this Ordinance may also be enforced by suit for injunctive relief.

- (B) **Nuisance Per Se** (currently Section 11.2). Uses of land, dwellings, buildings or structures, including tents and trailer coaches used, erected, altered, razed or converted in violation of any provision of this Ordinance or the regulatory measures or conditions of the Township Board, Planning Commission, or Zoning Board of Appeals adopted pursuant hereto are hereby declared to be nuisances per se.

Deleted: ¶
Any person who shall violate any provision of this Ordinance in any particular, or who fails to comply with any of the regulatory measures or conditions of the Board of Appeals adopted pursuant hereto, shall, upon conviction thereof, be fined not to exceed \$100.00 or may be imprisoned not to exceed ninety (90) days, or may be both fined and imprisoned in the discretion of the Court, and each day such violation continues shall be deemed a separate offense¶

- (C) **Escrow:** If any commission or board determines that the basic fees will not cover the actual costs of the application review or appeal, or if any commission or board determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary, then the applicant shall deposit with the Township Treasurer such additional zoning fees in an amount determined by any commission or board equal to the estimated additional costs. The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than twenty (20%) percent of the latest escrow deposit and review of the application or decision on the appeal is not completed, then any commission or board may require the applicant to deposit additional fees into escrow in an amount determined by any commission or board to be equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this Ordinance shall be deemed to make the application incomplete or the appeal procedurally defective, thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal. Any actual costs incurred by the Township in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal.

Commented [PS81]: From Amendment #190

Decennial Census 2010 Data - Dollars are not inflation adjusted

	#	Michigan		Grand Traverse		Leelanau		Peninsula	
		%	#	%	#	%	#	%	
Total	9,883,640		100%	86,986	100%	21,708	100%	5,433	100%
Male	4,848,114		49%	42,952	49%	10,703	49%	2,637	49%
Female	5,035,526		51%	44,034	51%	11,005	51%	2,796	51%
Under 18	2,344,068		24%	19,195	22%	4,240	20%	1,024	19%
20-24	669,072		7%	4,815	6%	791	4%	137	3%
25-34	1,164,149		12%	10,542	12%	1,547	7%	285	5%
35-49	2,022,555		20%	17,737	20%	3,741	17%	860	16%
50-64	2,017,449		20%	19,481	22%	5,855	27%	1,613	30%
65 & over	1,361,530		14%	13,028	15%	5,082	23%	1,407	26%

ACS 2014 Data - Dollars are not inflation adjusted

	Michigan	Grand Traverse	Leelanau County	Peninsula Township
Population 25 Years and Over	6,619,834	62,807	16,477	4,621
Less than 9th Grade	3.3	1.6	1.7	0.4
9th-12th Grade, no diploma	7.4	5	3.8	2
High School Graduate/GED	30.2	27.8	23.5	10.7
Some College, no degree	23.9	24.8	22.5	17.5
Associate's Degree	8.8	10	9	7.4
Bachelor's degree	16.1	18.3	22.4	29.5
Graduate or professional degree	10.3	12.6	17.1	32.5

	Michigan	Grand Traverse County	Leelanau County	Peninsula Township
Less than \$25,000	25%	21%	19%	12%
\$25,000-\$49,000	26%	26%	24%	19%
\$75,000-\$99,000	30%	34%	34%	37%
\$100,000-\$149,000	12%	13%	12%	15%
\$150,000-\$200,000	4%	3%	5%	5%
\$200,000+	3%	3%	5%	11%

Michelle Reardon

From: Michelle Reardon <planner@peninsulatownship.com>
Sent: Tuesday, May 31, 2016 3:43 PM
To: ajc@runningwise.com; dsh_44@yahoo.com; Lanny Leak (keithl1eak@gmail.com); Laura Serocki (rocki1323@yahoo.com); Monnie Peters; Penny Rosi (psyr2@acegroup.cc); wunschis23@gmail.com; zoning@peninsulatownship.com
Subject: FW: Master Plan - GIS Data

Good Afternoon,

Please see below for information regarding 2 items Claire researched as a follow-up to the Master Plan meeting.

Additionally, I spoke with Jeremy Wiest from MDOT to inquire on the potential for a 2016 traffic count similar to the 2012 and 2014 information we gathered. He indicated these counts are scheduled every three years which would put us on track for a 2017 count.

I know Isaiah is working to gather the demographic data that was requested but has been busy with the season on the farm. More information will be coming.

Thank you,

Michelle Reardon

Ph. (231) 223-7314

planner@peninsulatownship.com

From: Claire Schoolmaster [mailto:zoning@peninsulatownship.com]
Sent: Tuesday, May 31, 2016 12:40 PM
To: Michelle Reardon
Subject: Master Plan - GIS Data

I was asked to weigh in on 2 topics that were brought up during the Master Plan 5 year update committee meeting. Please see notes below.

#1 Gathering GIS data and applying to steep slopes:

Please see Robert's response below regarding acquiring the contour lines from Grand Traverse County GIS. We may be able to get as close as 1 foot topo lines, but guaranteed 2 foot. They have a data sharing agreement so we can get the lines for free when they are available, and we have already signed on to get the orthophoto this fall. This accurate GIS data will enable us to better determine the presence of steep slopes and may also allow us to implement this as a consideration during the permitting process.

Our Master Plan identifies the need to protect steep slopes and ridgelines within the Township, and suggests establishing definitions & minimum standards/setbacks to achieve this goal. Though we have not completely followed through on these actions, we do have some applicable information that we have established in the Current and Proposed Zoning Ordinances:

- Current Zoning Ordinance - Section 7.10.9(3) GRADES AND PAVING:
Permissible percent grades on any Frontage Road shall be within the following ranges:
Maximum
9%

12% When the conditions below are met.

1% Cul-de-sac

0.4%

Minimum

Frontage roads with grades of up to 9 percent shall have a roadbed width of not less than 18 feet and may be paved or have a gravel surface and shall have 2 foot shoulders on each side. With grades greater than 9 percent, the roadbed width shall be surfaced with bituminous pavement to a width of not less than 20 feet. Integral bituminous raised edge may be used in areas subject to severe erosion, possibly eliminating the need for roadside ditches. Minimum width between beginnings of raised edges shall be the same as for a paved roadbed.

- Proposed Zoning Ordinance - Shoreline Overlay Section 3.113(C)(1)
 - (a) Waterfront Sub-District Area. The Waterfront Sub-District shall extend inland sixty (60) feet from the Ordinary High Water Mark (OHWM). If the sixty (60) foot boundary ends on a slope greater than nine percent (9%), then the boundary of the Waterfront Sub-District shall extend to five (5) feet beyond the point at which the slope of the land is less than nine percent (9%).

It may also be helpful to consider the Grand Traverse County Soil Erosion & Sedimentation Control guidelines for permitting. Any soil movement on a slope with a grade of 10% or greater triggers the need for a full soil erosion permit.

#2 Remapping the future land use shapefile & map:

Because the future land use shapefile was created using the current zoning shapefile as a template, the projection is also shifted. We have three options if we would like to change or update the map:

1. Make changes to the current shapefile
 - a. Timeline = 1-2 Days
 - b. There will still be a shift in the entire dataset and it will not match the new zoning shapefile McKenna is creating.
2. Remap the future land use shapefile in house
 - a. Timeline = 2-3 weeks +
 - b. Will be more accurate than it is now, but won't match the new zoning shapefile McKenna is creating exactly.
3. Wait for the McKenna to remap the current zoning shapefile and use it as a template for updating the future land use shapefile (**this is my preference**)
 - a. Timeline = unknown
 - b. Will match the boundaries of the new Zoning shapefile exactly, but the timeline is unknown.

Claire Schoolmaster
Planning & Zoning Coordinator

Peninsula Township
13235 Center Road
Traverse City, MI 49686

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From: Rob Herman [<mailto:rherman@grandtraverse.org>]
Sent: Tuesday, May 03, 2016 10:44 AM
To: Claire Schoolmaster
Subject: LIDAR & Ortho

Claire,

The Lidar contour lines are guaranteed for 2 feet apart, but we anticipate 1 foot contour lines. I really can't say when this data will be available, but I will let you know when we get it. It will be very accurate data, and it will be free for Peninsula Township. The 2016 orthophoto will be available this fall - estimating for September.

That's all I have for now, we're just waiting for our guy to get the lines back to us.

--

Rob Herman
Grand Traverse County - GIS
Equalization Dept

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