

**PENINSULA TOWNSHIP
SPECIAL MEETING
PLANNING COMMISSION
AGENDA**

13235 Center Road
Traverse City, MI 49686
August 15, 2016
5:30 PM
Township Hall

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. Correspondence (as provided)
- b. Minutes – July 18, 2016 Special Meeting

8. New Business

- a. Peninsula Township Zoning Ordinance DRAFT: Sections 7.113, 7.114, 7.115, 7.116 and Articles 5 & 11 (Discussion)
- b. Updated ZO timeline (discussion)

9. Citizen Comments
10. Board Comments
11. 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.



Michelle Reardon
Peninsula Township Director of Planning & Zoning

Posted: August 9, 2016

Peninsula Township
Planning Commission
Special Meeting
July 18, 2016 5:30 PM

Meeting called to order at 5:30 PM

Present: Rosi; Serocki; Hornberger; Peters; Couture-Chair. Also present were *Claire Schoolmaster*, Planning and Zoning Coordinator; *Michelle Reardon*, Director of Zoning and Planning and *Mary Ann Abbott*, Recording Secretary

Absent: Leak (excused); Wunsch (excused)

Approve Agenda

MOTION: Hornberger/Peters to approve Agenda.

PASSED UNAN

Brief Citizen Comments- for items not on the Agenda

None

Conflict of Interest

None

Consent Agenda

1. Correspondence (as provided)
2. Minutes – June 20, 2016 Special Meeting

Corrections to the minutes of June 20, 2016

Page 1. Cindy Luezak **Ruczak** Mark ~~Nadowski~~ **Nadolski**

Page 2 **Peters** We are looking at Shoreline to do a couple of things. We need ~~a difference-~~ use the "waters' edge" to deal with hoists, docks and storage. This is very different than measuring the quantity of land that you own. This township needs a **fixed** standard on how you measure quantity of land, ~~but this does not say that we cannot write more.~~ No matter whether through land division or zoning, **that measurement standard should be what is used on on a certified survey, the OHW edge.**

Wunsch to summarize the Township would like to be able to regulate Docks and Hoists but continue to use the Ordinary High Water for measuring land division without being in conflict with the Public Access Doctrine. Is that good direction for McKenna? *Wendling* you would have to use the same way throughout. **He said he will draft some language.**

Page 3. *Rosi* 6/2/16 letter from McKenna ~~talks~~ **talks** about Ordinary High Water mark on inland ~~ponds~~ **lakes** and would like to have McKenna look at that again.

MOTION: Hornberger/Peters to approve the consent agenda as amended (minutes June 20, 2016 Special 5:30).

PASSED UNAN

New Business

Peninsula Township Zoning Ordinance DRAFT: Section 3.117 Neighborhood Overlay District and Article 7 (Discussion)

McKenna Representative, Leslie Sickterman presented the proposed rewrites to Section 3.117 Neighborhood Overlay District.

Peters suggested that Section A and B be kept but that Section C be struck or changed to create a framework for neighborhoods to work with. *Reardon* states that this comes from the Master Plan and perhaps what we can do is suggest guidelines, a Pattern Book. **Hornberger** asks that you are not talking about aesthetics but land use development

Reardon to strike from 3.117 (B) Neighborhood Overlay District "and have a historic character worthy of inclusion in the Neighborhood Overlay District"

Reardon reminds the Commission members that they may ask for comments from the audience if they feel it would be helpful to their discussion.

There were no comments from the audience.

Leslie Sickterman opens the discussion on Article 7 General Provisions. *Sickterman* feels this is an important section, but primarily important to staff and administration.

Reardon would like to have McKenna review sections of Article 7 General Provisions and have the Township attorney review this section as well. There was a consensus of the board for this action.

Discussion of the Commission covered Essential Services; performance guarantees; storage of Recreational Vehicles; distinctions of registered vs. licensed vehicles.

Nancy R. Heller, 3091 Blue Water asked about the storage of recreational vehicles on rental property.

Continued discussion on Temporary buildings; steeples and cupolas (concerns on height allowances); lower level walkout; Section 7.109 and 100 foot setback requirements as well as Subdivision Lot Areas; Clear vision areas.

Reardon would like to see a separate discussion on Building Heights including diagrams.

Reardon has some questions on 7.113 Accessory Building Section (B) 3 which may need to be deleted. Also in this same section (4) the mention of 800 feet. *Serocki* questioned if people were required to get a permit for every accessory building

Discussion stopped at Section 7.114 due to time constraints. *Reardon* suggested that she bring in some actual Zoning Board of Appeals cases so that the Planning Commission can see what the ZBA has been dealing with. These cases have been sent to the consultant.

Citizen Comments

None

Board Comments

Serocki asked about the schedule for the review. *Reardon* would like to present an updated calendar in August to see what still needs to be done.

MOTION: Hornberger/Serocki to adjourn at 6:52 PM

Respectfully submitted by Mary Ann Abbott, Recording Secretary.

- **Junk Yard (Section 6.120).** While Junk Yards are currently defined, they are currently not permitted anywhere in the Zoning Ordinance. If the Zoning Ordinance includes Junk Yards as a use, we recommend making it a Special Use in the C-1 district and including development standards to minimize the negative impacts of the use. If Junk Yards are intended to be prohibited, we recommend adding language in the Zoning Ordinance stating so.
- **Kennels (Section 6.122).** Proposed regulations include minimum lot size, minimum setbacks, sound control, odor control, and breeding limits. Also, the proposed regulations prohibit the use in subdivisions and site condominiums.
- **Mobile Homes on Individual Lots (Section 6.125).** References to the Federal law were updated (National Manufactured Housing Construct and Safety Standards Act).
- **Recreational Unit Parks and Campgrounds (Section 6.129).** While there are current regulations for Recreational Unit Parks, Campgrounds were added to the use. Proposed changes to site development standards include additional screening, minimum recreational unit site dimensions, and public station facilities for guests.
- **Wireless Communication Facilities (Section 6.141).** The wireless communication standards of Sections 7.12 and 8.7.3(11) of the current Zoning Ordinance were merged into a single section to make administration easier. The Michigan Zoning Enabling Act was amended in 2012 to make it much easier for wireless communication providers to collocate antennas and construct new towers. At the same time, it severely limited a municipality's ability to regulate them and provide adequate time for a comprehensive review. The proposed revisions include applicable procedures based on the type of activity proposed, which is consistent with the Zoning Enabling Act. The maximum height is limited to 120 feet, design requirements were added for the tower and equipment building, and screening requirements were added. Other provisions were added for access, structural integrity, maintenance, removal, and application.

Article 7. General Provisions.

The purpose of this article is to consolidate general standards applicable throughout the township that do not fit into other articles of the Zoning Ordinance. Sections with major changes yet to be reviewed are as follows:

- **Storage of Recreational Vehicles (Section 7.103).** The Zoning Ordinance currently has no regulations on outdoor storage of recreational vehicles. We recommend minimum setback standards and requiring the vehicle to be registered to the lot owner or occupant.
- **Supplementary Height Requirements (Section 7.108).** We recommend capping ornamental structures at 50% above the maximum height, though we recommend allowing the Township to grant a Special Use permit for higher ornamental structures. We do not recommend that the ZBA grant variances for ornamental structure height because there will not likely be a practical difficulty.
- **Clear Vision Area (Section 7.112).** We recommend clear vision areas at driveway and road intersections.
- **Accessory Buildings and Structures (Section 7.113).** The ZBA has a long history of interpreting the intent of the Zoning Ordinance for accessory buildings and structures. We have included many of these provisions, with the dates cited in the margins. Although we propose that only shoreline lots be able to have detached accessory buildings in a front yard, we can remove this provision altogether if it will unnecessarily create too many nonconformities.
- **Swimming Pools (Section 7.115).** While swimming pools are also covered under the Building Code, we recommend including Zoning Ordinance regulations for setbacks, permitting, location, and barriers. While the barrier requirements are similar to the Building Code, we recommend

having them in the Zoning Ordinance in the event that the Building Code is ever amended to not require a barrier.

- **Accessory Solar Energy (Section 7.116).** With improved technology, solar energy has become more efficient and cost-effective over the years. We recommend minimal standards for roof-mounted and ground-mounted systems, such as maximum height, location, setbacks, screening, and removal. The ground-mounted systems are limited to an output of 10kW or less, so the number of panels would be limited.

Article 11. Signs.

Last summer, the United States Supreme Court decided the case of *Reed v. Town of Gilbert* where it held a municipality's sign ordinance unconstitutional because it violated the First Amendment. While the signs at issue were noncommercial signs (temporary directional signs, ideological signs, and political signs), the Court's decision impacts many other types of signs. Therefore, many of the proposed changes to the sign regulations are with respect to sign content, and we anticipate additional changes after the Township Attorney reviews the proposed article.

While many of the major changes are noted in the margins of the draft Zoning Ordinance (dated May 10, 2016), they are summarized as follows:

- **Purpose (Section 11.101).** Many items were added to the purpose statements to make them more robust by emphasizing public safety and rural character.
- **Definitions (Section 11.102).** We recommend moving the sign-related definitions from Article 2 to the Signs article. This change will make the sign definitions easier to administer. The sign definitions were grouped based on the sign type and the sign content. Although the regulations are made more content-neutral, the content-based definitions were preserved and put into a subclass as an example of a content-based standard. This way, the only content-based distinctions for signs are whether they are commercial or noncommercial, or on-premise or off-premise. However, if the definitions and regulations must be more content neutral, it will be easy to make them more content neutral based on the proposed format.
- **Substitution Clause (Section 11.103).** A substitution clause is a requirement that any lawful sign may contain noncommercial content. Therefore, commercial speech cannot be favored over noncommercial speech, which is a legal requirement based on a previous U.S. Supreme Court case.
- **Sign Measurement (Section 11.104).** We recommend being more specific regarding how sign area is measured for irregular shapes and two-sided signs.
- **Sign Placement and Design (Section 11.105).** While natural or natural appearing materials are "highly encouraged," we recommend making these materials a requirement along M-37 and "highly encouraged" elsewhere in the township. Also, we recommend minimum maintenance requirements. Finally, we recommend that the Planning Commission or Zoning Administrator review signs instead of the ZBA. However, the ZBA would still review signs where there is a variance application.
- **Prohibited Signs (Section 11.106) and Signs Permitted in All Districts (Section 11.107).** We recommend adding to the lists of Prohibited Signs and Signs Permitted in All Districts to make

Section 7.113 Accessory Buildings and Structures (currently Section 6.2.2(2)(a))

A land use permit must be issued prior to the erection of an accessory building or structure. Applications for accessory buildings and structures shall be administered and reviewed as part of the original or proposed revised plot plan or site plan, depending upon the nature of the principal use of the lot. Accessory uses, buildings and structures shall be subject to the following regulations except as otherwise permitted in this Ordinance.

(A) Attached Accessory Buildings and Structures. An attached accessory building or structure, including carports which are attached to the principal building, shall comply in all respects with the requirements of this Ordinance applicable to the principal building. Unless an accessory building is attached directly to the principal building or connected to it via habitable floor area or shared wall construction, the accessory building shall be classified as a detached structure.

(B) Detached Accessory Buildings. Detached accessory buildings shall comply with the following requirements:

(1) Located on Same Lot as Principal Building. A detached accessory building shall be located on the same lot as the principal or main building, except for agricultural buildings located on a farm. In a case where an owner owns a shoreline lot and an upland lot across the road, the detached accessory building shall be located on the same lot as the principal building. In a case where an owner owns two (2) or more contiguous lots, the owner may combine the lots into one (1) undivided lot so that the detached accessory building is located on the same lot as the principal building.

(2) Separation Distance of Detached Accessory Buildings. An accessory building, unless attached and made structurally a part of the principal building, shall not be closer than ten (10) feet to the principal building or any other building on the lot.

(3) Placement. Except as provided elsewhere in this Ordinance, detached accessory buildings shall not be located in any front yard and are subject to all yard setback requirements of the district in which it is located. Shoreline lots may have a detached accessory building in the front yard, provided the building meets all other requirements of this Ordinance.

(4) Lot Coverage. Provided that the total lot coverage of the lot adheres to the requirement of the respective zoning district, the maximum allowable lot coverage of all combined detached accessory buildings (excluding agricultural buildings located on a farm) shall be the lesser of the following:

(a) Eight hundred (800) square feet; or

(b) The ground floor area of the principal building, excluding the attached accessory buildings (e.g., excluding attached garage area).

(5) Height. Except for agricultural buildings located on a farm, which shall be subject to the height standards of the underlying zoning district, the height of all other detached accessory buildings shall not exceed the following maximum heights:

Deleted: 1

Deleted: Accessory buildings such as farm buildings and a detached garage for the storage of automobiles shall be permitted with a single-family dwelling; provided, however, that the farm buildings and garage shall comply with the setback restrictions and side yard requirements.

Commented [PS45]: On 11/10/99, the ZBA ruled that garages cannot be detached from shoreline parcels

Commented [PS46]: A 10-foot separation distance is common in many Zoning Ordinances and allows for air, light, and emergency access

Commented [PS47]: In cases considered on 1/12/95 and 5/18/99 the ZBA cited the County Construction Code which stated that a noncommercial garage was a building that held 4 passenger cars or less. Since 4 passenger cars can fit in a 20' x 40' garage, we recommend 800 sq. ft. as the maximum. However, we recommend limiting the area to the ground floor area of the principal building so that the detached garage is not larger than the house.

Article 7: General Provisions

~~(a) Side Wall Height. 10 feet.~~

Commented [PS48]: On 11/10/99, the ZBA ruled in a case that the maximum wall height would be 10 feet for accessory buildings.

~~(b) Building Height. Eighteen (18) feet.~~

Commented [PS49]: On 11/10/99, the ZBA ruled in a case that the maximum building height would be 10 feet for accessory buildings

~~(c) Peak Height. Twenty-Six (26) feet.~~

Commented [PS50]: On 11/22/01, a permit was issued by the Township that limited the peak height at 26 feet for accessory buildings

~~(d) Number of Stories. Two (2) stories; however, if there is a second story, it shall be unfinished and used for storage only.~~

Commented [PS51]: On 11/22/01, a permit was issued by the Township that limited use of the 2nd story of accessory buildings to storage only

~~(C) Not Permitted Prior to a Principal Structure. Accessory buildings shall not be erected on a lot or parcel in any district prior to the establishment of a principal structure, except for agricultural buildings on a farm.~~

~~(D) Used by Site Occupant. Accessory buildings and accessory portions of the principal building shall be used solely for the use of the occupant of the principal building to which it is accessory.~~

Commented [PS52]: On 1/12/95 and 11/10/99, the ZBA ruled that the use of an accessory building was limited to the occupant of the principal building

Section 7.114 Fences and Walls (currently Section 7.13)

~~(A) Intent. The intent of this section is to allow fences and walls that: (a) are not erected which would block views; (b) do not obstruct access by emergency personnel; (c) are not within the road right-of-way; (d) are not below the flood elevation line; and (e) are not closer than three (3) feet of adjacent property without the agreement of the neighboring owner.~~

Deleted: with a height of four (4) feet or less within required yards (setbacks) with restrictions so that fences

Deleted: d

~~(B) Excluded Fences. The following fences shall not be regulated by this section:~~

~~(1) Agricultural Fences. Agricultural fences that are used for general farming and horticultural uses, field crop and fruit farming, raising and keeping of small animals, and raising and keeping of livestock.~~

~~(2) Temporary Fences. Temporary fence such as snow fences placed during the winter to control drifting snow or safety fences during construction.~~

~~(3) Low Decorative Fences. A Decorative Fence no greater than eighteen (18) inches in height and/or four (4) inches in width and is not a barrier.~~

~~(C) Retaining Walls. The Zoning Administrator may issue a land use permit for a retaining wall that meets all of the wall requirements of this section, provided the retaining wall is necessary to protect or prevent structures on the premises from erosion damage. The Township Engineer may be consulted to determine whether a retaining wall is necessary and whether it is structurally sufficient.~~

~~(D) Clear Vision Triangle Area. No fence or wall shall be erected, established or maintained within the clear vision triangle area of any lot except in compliance with Section 7.112.~~

Deleted: ; N

~~(E) Front Yard and Waterfront Location. Unless otherwise provided in this Ordinance, no fence shall be constructed between the main building and any road or between the main building~~

Deleted: within a required yard

Deleted: setback

Article 7: General Provisions

and the waterfront unless that fence is four (4) feet in height or less measured from final grade below the fence, is at least fifty percent (50%) open when viewed from the perpendicular, and is no wider than two (2) feet at any point. If located within a front yard setback or waterfront setback, the fence shall be decorative in nature (e.g., wrought iron, picket, and split rail). Decorative fencing does not include chain link fencing. This sub-section shall not apply to seawalls, which are regulated under Section 3.113(G)(5), or retaining walls, which are regulated under Section 7.114(C).

Deleted: with a width no greater

(F) Maximum Height. Unless otherwise provided in this Ordinance, no fence or wall constructed outside of a front yard or waterfront yard shall exceed six (6) feet in height measured from the final grade below the fence or wall.

(G) Obstructions. No fence or wall shall obstruct access by emergency personnel. A gate at least three (3) feet in width shall be provided for access by emergency personnel to all parts of the property and as such shall not be considered an obstruction.

(H) Required Setbacks.

(1) Shoreline. No fence or wall shall be constructed closer to the shoreline of Grand Traverse Bay than the flood elevation line, unless it is a seawall is approved under Section 3.113(G)(5).

(2) Road Right-of-Way Prohibited. No fence or wall shall be placed within a road right-of-way.

(3) Road, Street, or Alley. No fence or wall shall be placed closer than twenty (20) feet from the driving lane of a road, street or alley.

(4) Adjacent Property. No fence or wall shall be placed closer than three (3) feet to an adjacent property line without both owners providing approval in writing to the Zoning Administrator and such approval shall include a statement that the fence shall be maintained in good condition and such maintenance shall be the responsibility of the owner of property upon which the fence is constructed.

Deleted: each

Deleted: property

(I) Construction. Fences shall be designed so as not to impede the natural or established water drainage along lot lines.

(J) Maintenance. Walls and fences shall be maintained in good condition by the owner and shall not constitute an unreasonable hazard. Rotten, crumbled, or broken compounds shall be replaced, repaired, or removed.

(K) Orientation of Finished Side. Where a fence or wall has a single finished or decorative side, it shall be oriented to face outward toward adjacent parcels or road rights-of-way (i.e., away from the interior of the lot to which the fence or wall is associated).

(L) Prohibited Materials. All fences or walls hereafter erected shall be of a decorative nature or chain linked unless otherwise prohibited. Barbed wire, spikes, nails or any other sharp instrument of any kind are prohibited on top of or on the sides of any fence, provided that

Article 7: General Provisions

barbed wire cradler may be placed on top of fences enclosing public utility buildings or equipment in any district.

Section 7.115 Swimming Pools (NEW SECTION)

All private swimming pools erected in the Township shall comply with the following provisions:

(A) Permit Required. A building permit shall be obtained for alteration, erection and construction of permanent above and below ground swimming pools and for portable pools with a diameter exceeding twelve (12) feet or an area exceeding one hundred (100) square feet. The application for such permit shall include the name of the owner, the manner of supervision of the pool and a site plan showing the dimensions and location of the pool and nearby buildings, fences, gates, septic tanks, tile fields, public utilities and easements. The application for such permit for a below ground pool shall be accompanied by plans and specifications to scale of the pool walls, slope, bottom, walkway, diving boards, type and rating of auxiliary equipment, piping and valve layout. Any other information affecting construction and safety features deemed necessary by the Township or the County Health Department shall also be submitted.

(B) Easements and Rights-of-Way. No portion of the swimming pool or associated structures shall encroach upon any easement or right-of-way which has been granted for public utility use.

(C) Minimum Setbacks. Minimum side yard setback shall comply with required side yard spaces specified by the applicable zoning district. A pool fence shall not be built within the required front yard or required side yard. Rear or side yard setback shall be not less than ten (10) feet between the pool wall and/or structure and the side or rear property line or less than four (4) feet between pool wall and any building on the lot.

(D) Required Barrier. For the protection of the general public, all swimming pools shall be completely enclosed by a chain link fence or a fence of comparable safety not less than four (4) feet nor more than six (6) feet in height, set at a distance of not less than four (4) feet from the outside perimeter of the pool wall provided; however, that fencing shall not be required in the following two (2) circumstances:

(1) To the extent that there is no public access to the lot or enclosure is accomplished by a building four (4) feet or more in height having no means of public access; or

(2) If a swimming pool is above grade and has exterior side walls with a smooth surface not less than four (4) feet in height where all means of access are secured, raised and/or locked to prevent unauthorized use.

All openings in an enclosing fence or building shall be equipped with a tamper proof lock when the pool is not in use. If the entire premises upon which a swimming pool is located are enclosed by fence or wall, the Building Inspector, after inspection and approval thereof, may determine that a fence is not required.

(E) Electrical Installations. All electrical installations or wiring in connection with below ground swimming pools shall conform to all electrical codes. If utility wires cross under or over the proposed pool area, the applicant shall make satisfactory arrangement with the utility involved

for the relocation thereof before a permit shall be issued for the construction of the swimming pool.

- (F) Code Compliance.** Notwithstanding the requirements of this section, all private swimming pools shall comply with all applicable federal, state, county, and local codes and ordinances. Where the requirements of this Ordinance exceed the requirements of any other code or ordinance, the requirements of this Ordinance shall prevail.

Section 7.116 Accessory Solar Energy (NEW SECTION)

(A) Solar Energy Systems.

- (1) Purpose.** It is the purpose of this sub-section to promote the safe, effective, and efficient use of solar energy systems to generate electricity. Further, it is the purpose of this sub-section to standardize and streamline the review and permitting process for solar energy systems.
- (2) Findings.** The Township has found that solar energy is an abundant, renewable, and nonpolluting energy resource of which some residents and utility companies would like to make use. Generation of electricity by these facilities will reduce dependence on non-renewable energy resources and decrease air and water pollution that results from the use of conventional fossil fuels. Solar energy systems will also enhance the reliability and power quality of the power grid, reduce peak power demands, and help diversify the Township's energy supply.
- (3) Roof-Mounted Solar Energy Systems:** Roof-mounted solar energy systems for the on-site use are permitted accessory structures in all zoning districts, subject to the following regulations:
- (a) Height.** Roof-mounted systems shall not extend more than three (3) feet above the roofline.
- (b) Location.** Roof-mounted solar energy systems may be located anywhere on a roof, but shall not protrude beyond the edge of the roof.
- (4) Ground-Mounted Solar Energy Systems (10 kW or less).** Ground mounted and freestanding solar energy systems of 10kW or less for the on-site use are permitted accessory structures in all zoning districts, subject to the following regulations:
- (a) Location and Setbacks.** Solar energy systems shall be located to the side or rear of the principal building. Solar energy systems shall also meet the minimum setbacks of the zoning district.
- (b) Height.** The height of the solar energy system and any mounts shall not exceed ten (10) feet when oriented at maximum tilt.
- (c) Screening.** Landscaping shall be provided to screen the racking from view on all sides.

Article 7: General Provisions

- (d) Area. Ground-mounted solar energy systems shall be subject to the maximum lot coverage standards for accessory structures in the zoning district.
- (5) General Standards. The following requirements are applicable to all roof-mounted or ground-mounted solar energy systems.
- (a) Building Permit. A building permit shall be required for any roof-mounted or ground-mounted solar energy system.
- (b) Batteries. When solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure when in use, and when no longer used shall be disposed of in accordance with applicable laws and regulations.
- (c) Removal. If a solar energy system ceases to perform its intended function (generating electricity) for more than twelve (12) consecutive months, the operator shall remove the collectors, mounts, and associated equipment and facilities no later than ninety (90) days after the end of the twelve (12) month period. Where the removal has not been lawfully completed as required above, and after at least thirty (30) days written notice, the Township may remove or secure the removal of the solar energy system or portion thereof, with the Township's actual cost and reasonable administrative charges to be placed as a lien on the property. A lien on the property shall be superior to all other liens except taxes.

6-1-04



ZBA determinations and variances regarding garages

009-014-00	Goodman	garage located separately from primary structure and w/ 10' side walls
415-025-00	Schneider/Tupper	Storage of personal vehicles Definition of a garage (intent)
003-025-00	Wickstrom	9' side walls
121-064-20 (121-063-10)	Swift	Definition of a garage (May 1999)
324-008-00	Farrugia	Workshop approved 11-22-01

**Peninsula Township Zoning Board of Appeals Regular Meeting
November 10, 1999**

PRESENT: Chair Roach; Rowlett; Gray; Dean; Cronander; Boursaw, Recording Secretary; Hayward, Planner/Zoning Administrator.

Absent: None.

Meeting called to order at 7:30 p.m.

Chair Roach introduced those present and explained that all five of the Basic Conditions and one of the Special Conditions have to be met in order for a variance to be granted.

1. Andrew Suski, 6470 East Shore Road, 13235 Center Rd., Traverse City, MI 49686.

Approval of extension of a non-conforming structure to replace the existing flat roof with a new pitched roof. **Parcel Code: #28-11-031-032-00**

Scott Ardelean, 4047 Maplewood Lane, Traverse City, MI 49686, explained the request. The owner would like to replace the existing flat roof with a pitched roof. He has had several problems with leaks in the past.

Gray will any part of the building have a larger footprint, including roof overhang, than it currently has? **Ardelean** no, it has a 4' overhang now, but will be reduced to 1' with new roof. **Gray** requested clarification of building materials and specs. **Ardelean** explained. **Dean** is the breakwall at the high water mark? **Suski** yes, the house is about 40 years old and is very dated. **Cronander** no questions. **Rowlett** it will be a big improvement in appearance. **Roach** how will you access storage over garage? **Ardelean** explained. **Roach** what is the total height of finished structure? **Ardelean** believes it is 27'. **Hayward** confirmed.

Shall the request of Andrew Suski, 6470 East Shore Road, 13235 Center Rd., Traverse City, MI 49686, for extension of a non-conforming structure to replace the existing flat roof with a new pitched roof be approved?

Gray yes. **Dean** yes. **Cronander** yes. **Rowlett** yes. **Roach** yes.

Passed Unan.

2. Charles Goodman, 4159 Hubbard Rd., Midland, MI. Property at Bluff Rd. & Stoneybeach Pointe, Peninsula Township, Traverse City, MI 49686.

Variance to allow a five-acre parcel to be divided into 4 parcels of approximately 1.25 acres each.

a. Parcels to be permanently connected to contiguous developed shoreline parcels.

b. Use of the parcels to be restricted to road right-of-way for Stoneybeach Pointe, easement for sewage disposal fields for the shoreline property owners along Stoneybeach Pointe Road, and one garage per 1.25 acre parcel.

c. The garages to be restricted to not more than 10' side walls and a height of approximately 18', designed approximately as shown on the attached drawings.

Parcel Code: #28-11-009-014-00

Correspondence:

Letters of support received from **Roy E. Brigman**, 10270 Stoneybeach Pointe, Traverse City, MI 49686; **Kathryn A. Woods and Richard J. Woods**, 10256 Stoneybeach Pointe, Traverse City, MI 49686; **Lucile G. Weber**, 10318 Stoneybeach Pointe, Traverse City, MI 49686; **Ernest Komar**, 10394 Stoneybeach Pointe, Traverse City, MI 49686; **Leon and Maretta Harig**, 10370 Stoneybeach Pointe, Traverse City, MI 49686.

Dave Whiteford, 10306 Stoneybeach Pointe, explained the request. They are requesting that a 5 acre parcel currently zoned ag be divided into four parcels of approximately 1.25 acres each. These parcels would be permanently attached to residential sites. Current road easement of 15' would be widened by an additional 18', providing 33' easement access to parcels. The sites would also allow for garages, if desired by the owner.

Dean is the site big enough for what you need? **Whiteford** yes. **Dean** is the placement of buildings somewhat guaranteed? **Whiteford** objectives were to tuck them up against the woods so they're hidden against backdrop of trees, leaving the front part open for other uses. No problem committing to location of buildings. **Dean** feels this is excellent usage of property. **Cronander** can see rationale for having septic field in this area. What about septic field for future property owners that are not part of these parcels? **Whiteford** they would be given easements on the parcels for septic. This would be included in recording of documents. **Cronander** requested clarification of section B. **Hayward** garages are allowed in residential homes. A garage is an accessory use to the residence, which is allowed in this zoning. **Rowlett** requested clarification of two zonings on one parcel. **Hayward** as long as you know where the property line is, 2 different zonings are allowed on one parcel. **Rowlett** by widening the road, will the easement fall within the road? **Whiteford** yes. **Rowlett** what kind of storage will the garages be used for? **Whiteford** boats and autos, primarily. They will have electricity, but they are not intended for residential use. **Rowlett** if the request is granted, could the garages be sold as a house? **Hayward** there would probably be a series of conditions on the approval, including that the parcels not be separated. **Gray** requested clarification of the term "shoreline property owners". Could other property owners request an easement for their septic? **Whiteford** yes. **Hayward** should have specific wording. **Gray** which lots would have access to extend their drain field into this property? **Whiteford** it would be available to any property owner. **Gray** that should be put into the record. **Hayward** lots 15-21 and 38, 39, 40. **Gray** requested that **Hayward** review legal document with specific wording. Is an 8' door wide enough for a boat? **Whiteford** yes, could go to 9', if necessary.

Gray noted these possible conditions: The 1.25 acre sites, including the building, cannot be sold separately from the residences they're attached to by this proposal. There will be multiple septic fields on this property and four additional garages. The garages will be considered accessory to the attached residential property.

Whiteford approval of the request gives the township an opportunity to reduce density. Also, widening the road from 15' to 33' allows for eventual improvement to road and better access for emergency vehicles. **Gray** seems like good use of 5 acre parcel and adjoining residential units, solving potential problem with drain fields.

Robert Montgomery, 1964 Pine Pointe, are you excluding woods on the end of Stoneybeach? **Whiteford** it will be included. **Jack Pullman**, 10786 Peninsula Dr. are these existing hardships or potential hardships? **Bob Owen**, 10333 Stoneybeach Pointe, his septic system is between water and house, resulting in hardship with clay. Septic system failed during downpour, put in temporary system, but intend to put in new tanks. **Cronander** basis of request is not only septic systems, but also quality of water. **Roach** would like condition that garages can't be rented out for storage. **Hayward** garages are accessory to the residence, so that's appropriate to put that as a condition. **Roach** could this be re-zoned? **Hayward** they could apply for re-zoning, but it's unlikely that it would be re-zoned to residential, based on current actions of Planning Commission and Town Board. **Roach** how will this be taxed? **Hayward** probably as one residential parcel, but that's up to assessor.

Gray will parcels become one description? **Hayward** they will need to go through a cursory review for Land Division Act, but might not be needed because they'll be treated as adjacent parcels. **Roach** requested clarification of parcels. **Hayward** explained. **Roach** any plans to have running water in garages? **Whiteford** no. **Roach** would like to see that as condition. Electricity ok, but no water inside. **Hayward** could they put a well outside for irrigation purposes? **Roach** yes.

Shall the request of Charles Goodman, 4159 Hubbard Rd., Midland, MI, property at Bluff Rd. & Stoneybeach Pointe, Peninsula Township, Traverse City, MI 49686, for a variance to allow a five-acre parcel to be divided into 4 parcels of approximately 1.25 acres each:

- a. Parcels to be permanently connected to contiguous developed shoreline parcels.
- b. Use of the parcels to be restricted to road right-of-way for Stoneybeach Pointe, easement for sewage disposal fields for the shoreline property owners along Stoneybeach Pointe Road, and one garage per 1.25 acre parcel.
- c. The garages to be restricted to not more than 10' side walls and a height of approximately 18' designed approximately as shown on the attached drawings, with the following conditions:
 1. Parcels 15-21 and 38, 39 and 40 would be allowed to have a drainage easement for use of all above lots. They will be recorded on deeds and reviewed by the zoning administrator. (These numbers refer to parcel numbers, as noted on page 40 of the tax map. They do not refer to lot numbers.)
 2. 1.25 acre parcels a, b, c and d, including garages, cannot be detached from shoreline parcels as shown on site plan.
 3. The right to use parcels a, b, c and d for dwelling use is extinguished.
 4. Garages are accessory to the residences on the shoreline.
 5. The 33' road easement will be a recorded easement.
 6. Garages will not be used for rental purposes.
 7. Electricity is allowed in the garages, but water is not allowed inside of the garages. An exterior well for irrigation purposes is allowed.
 8. Parcels a, b, c and d may not be used for open space or dwelling unit density purposes.

Dean yes. **Cronander** yes. **Rowlett** yes, meets basic conditions and special conditions A, B and D. **Gray** yes, meets basic conditions and special condition C. Hardship is in regard to placement of drain fields. **Roach** yes. Passed Unan.

Request B: Shall Parcel 21 be allowed to have a detached garage on their parcel? **Dean** yes. **Cronander** yes. **Rowlett** yes. **Gray** yes. **Roach** yes. Passed Unan.

Johnson are you part of the association? Russell no. Johnson does the entry ramp need to be that long? Russell yes, we are making it ADA (American Disabilities Act) approved, to properly accommodate wheelchairs it needs to be a certain rise and run. Johnson is that built to code? Russell yes, it meets the ramp requirements for barrier free access, we are not making it any longer than it needs to be. Russell we are not required to do this, but we may be some time in the future. We have had guest in wheelchairs at our Inn who have struggled. Johnson asked Russell to explain the remodeling of the kitchen. Russell the kitchen is on concrete and wooden posts, we would like to build on a new foundation, this will make the floors level along with the rest of the Inn. Johnson what about the addition of the family room on the second floor? Russell we are losing our family space by putting in the barrier free bedroom and bathroom. Russell it will make it safer in case of fire, we will now have another exit from the second floor. Ferris do you have smoke detectors? Russell yes, in every bedroom. Roach are all of the doors designed for wheelchairs? Russell yes. Gray felt that the side of the property with the fence should be cleaned up, to accommodate fire equipment in the event of a fire. Gray do you plan on doing anything with the other two buildings? Russell there is a garage and an ice house. Gray do you plan on doing anything with the one directly behind this building? Russell just keep it there, some of the bottom timbers have been rotting so we have replaced some of the boards to keep the roof up, it's just a storage building. Gray do you have five guest bedrooms and three regular bedrooms? Russell we would have three guest rooms in the wing area, and the one on the first floor would be barrier free. Roach is there a basement under the Inn? Russell a very small one under the kitchen area. Fulmer is concerned about the wood pile next to the building. Russell we will stack the wood some where else, and also look into a sprinkler system for the Inn.

Shall the request of the Neahtawanta Inn, 1308 Neahtawanta Rd, Traverse City MI, request for an extension of non-conforming structure, to make the building barrier free, and to reconstruct the kitchen, and a variance of 13 feet from the 15 feet side lot line, and that the wood pile and other obstructions that is located on the Southwest side yard between the residence and the fence be removed, be approved? Johnson yes, he's not changing the foot print and he's complying with state code. Ferris yes, she feels that it meets the basic conditions and special condition C. Roach yes, for the same reasons and that the applicant is approving the present structure. Gray yes, meets the basic conditions and special conditions C. Fulmer yes, and he congratulated Russell for doing something with ADA without being forced to. Approved Unan

4. David Schneider applicant and Wally Tupper, Property Owner, 9600 Peninsula Drive, Traverse City MI 49686 Parcel Code # 28-11-415-025-00, includes lot #25 plus additional property as shown on the survey. Determination regarding whether a 54 foot by 26 foot building for storage of automobiles meets the requirements of non-

commercial vehicles motor owned and used by the occupants of the building to which it is accessory. The second part of the request is a variance of 30 feet from the 30 foot rear yard setback and a variance to increase the percent of lot coverage to 24% from the allowed 15% for construction of the garage.

Judy Porter, Rupp & Keen, 13999 West Bay Shore Drive, T.C. represented the Tuppers.

Hayward reviewed sections of the ordinance for the ZBA, along with the definition of a private garage, as a accessory building or an accessory portion of a principal building designed or used solely for the storage of noncommercial motor vehicles, owned and used by the occupants to the building in which it is accessory. Hayward had a problem in applying the ordinance to this request because of the word *used*. A private garage is a building designed and used solely for the storage of noncommercial motor vehicles owned and used by the occupants of the building to which it is accessory. Normally a garage on a lot which is not a storage building is where people put their vehicles and use them on a regular basis. This request appeared to be questionable if they used these vehicles in a manner that would fit the intent of the ordinance for a private garage, and the size of the building raised a concern.

Ferris read the building code definition from County Construction Code, a garage is four passenger cars or less, if there are more than it's considered commercial storage use. Roach feels this request is contrary to the following section of the ordinance 2.1 article 3, the purpose of the ordinance is to avoid undo concentration of population by regulating minimum open spaces and by regulation and eliminating types and location of buildings, and regulating the location of trades industries and buildings desecrated for specific uses.

Fulmer All those who feel that this request does not fit the intent of the ordinance for a garage say aye. Passed Unan

Because of the out come of the vote the second part of this request was immaterial.

4. Request from Board of Appeals under the authority of Section 5.7.2 Interpretation to Classify "Dog Training Classes" so that it conforms to a comparable permitted or prohibited use, in accordance with the purpose and intent of each district. This request was made by Larry Dunn

Hayward the ZBA is being asked to make a decision if a dog training class is closer to an allowed use, or closer to a use that is prohibited.

Hayward is not concerned about the first part of their request, to train one or two dogs at a given time, for special needs and

yes, it meets the basic conditions and special conditions A, B & C.
Roach yes, she agrees with the rest of the board. Passed Unan

3. Bill Church, 7341 E Shore Rd., Traverse City MI 49686 Request a variance from the required 200 foot setback on 104 feet from the north and 37 feet from the west to replace an existing horse barn with a new one. Parcel Code# 28-11-030-028-00.

Church reviewed his request. He would like to replace the existing barn. The new barn would be more aesthetically pleasing, and because of the safety issue of tight stall spaces.

Pat Wilson 7424 E Shore Rd., supports this request.

Roach have you have horses for a number of years? Church yes. Beckett asked for the reasons for the setbacks? Hayward the hill does not allow for a location further to the south, McKinley Road provides separation of the property on one side and a hill on the other side. Cronander feels that the barn is in need of tender loving care, topography is an issue for them there are no complaints and they do have support from the neighbors. Rowlett have we received any letters from the neighbors? Hayward no. Gray no questions. Roach will you have wood siding? Church yes, and the roof line will change.

Shall the request of Bill Church a variance from the required 200 foot setback on 104 feet from the north and 37 feet from the west to replace an existing horse barn with a new one, and an extension of a non-conforming structure be approved? Beckett yes, it meets the basic conditions and special condition A. Cronander yes, she agrees with Beckett. Rowlett yes, she agrees. Gray yes, for the same reasons. Roach yes, for the same reasons. Passed Unan

4. Peninsula Township Zoning Administrator, Property of Bill and Mary Swift, 13956 Peninsula Drive, Traverse City MI 49868.

The Zoning Administrator request the Zoning Board of Appeals to determine if a structure, as proposed, is a detached garage for the storage of automobiles as allowed by Section 6.3.2 Uses Permitted in the R-1B Zoning District (reference is to Section 6.2.2 (2) a. uses permitted in the R-1A Zoning District). Applicants have applied for a land use permit for a detached structure to store automobiles and boats. The structure would also be used for a wood shop, wine cellar and miscellaneous storage. The proposed structure would be 42 feet high, including the cupola, with 16 foot side walls and fifteen foot doors (see attached materials from the applicant).

Bob Holdeman represented the Swifts. They have about 11 acres where they would like to put this. The Swifts have looked at the surrounding area when they designed the structure.

Hayward explained why he brought this to the ZBA. He feels that a barn is a reasonable use to a farm, but not a reasonable use to a residence in a residential zone regardless of the size of the parcel.

Beckett has the zoning ever changed? Hayward I believe it has always been the same. Cronander does not feel that this fits a residential garage. Cronander agrees with Hayward. Rowlett also agree with Hayward. She referred to a ZBA meeting from 1995, when the board used the County Construction Codes definition of a garage. Where a garage is for four passenger cars or less. If there are more it is considered for storage use. Gray does not feel that the wine cellars and living quarters make this a garage, he is also concerned with the height of the building. Beckett agrees with Gray and does not feel that it is overpowering with the property that is there. But they need to follow the ordinance. Roach referred to the definition of the county code for a garage. Roach is not opposed to the boat and car storage, but having a three level building which could easily be converted to a house. Mrs. Swift said that they would be using this storage for their boats. Hayward where do you currently have the boats stored? Mrs. Swift we have not bought them yet.

Shall the request for a determination to determine if a structure, as proposed, is a detached garage for the storage of automobiles as allowed by Section 6.3.2 Uses Permitted in the R-1B Zoning District (reference is to Section 6.2.2 (2) a. uses permitted in the R-1A Zoning District), for Bill & Mary Swift 13956 Peninsula Dr? Gray there are other options for storing a boat, and he does have a problem with the other accessory items in the building. He does not consider this building as a garage. Beckett agrees with Gray. Cronander agrees with what has been said, and does not believe that it meets the township ordinances definition of a garage. Rowlett agrees with what has already been said. Roach agrees with the rest of the board.

Passed Unan

MOTION: Beckett/Cronander approve minutes of 4/8/99. Passed Unan

Old Business: Hayward said that Ford is going to write the ZBA his opinion - If the ZBA can grant use variances.

New Business: Cronander if it is determined that we can grant use variance then she would like to know under what circumstances that cities and villages have done this.

MOTION: Rowlett/Beckett to adjourn at 9:00 PM. Passed Unan

These minutes stand to be approved: _____

Minutes submitted by Monica A. Hoffman recording clerk.

Hayward could table until next meeting or make a motion for another idea. Rowlett suggested hearing from neighbors regarding one-year time limit on garage removal.

Erickson would like to see garage come down first. Tompkins-Weede would like to see Fullers get screened-in porch. Agreeable to one year limit on garage removal. Erickson if Weedes' are ok with it, he is too.

MOTION ROACH/ROWLETT to re-consider previous request. **APPROVED UNAN.**

Shall the request of David Fuller, 9032 Peninsula Dr., Traverse City, MI 49686 for a variance to construct a three-season screened-in porch, with the condition that Hayward reviews final plans before issuance of permit, and the garage encroachment on south side of house be removed within one year of the issuance of permit, be approved?

Beckett no. Rowlett yes, will be a big improvement in area. Gray yes. Roach yes.

APPROVED 3-1

3. Per Wickstrom, 11333 N. Bluff Road, Traverse City, MI 49686, Requests approval for a residential garage with 10-foot sidewalls and a 9-foot door.

Parcel Code #28-11-003-025-00.

Wickstrom explained the request. He and his wife are new to the area, restoring an old farmhouse to circa 1920. They would like to build an old barn-style garage, as was originally on the property. Has bucket truck he would like to put inside building. Will also put dirt up against wall that encroaches road and put sliding door on back of building to face bluff.

Beckett it's a large structure, also wrestling with idea that garage is for storage. Gray it's a residential neighborhood, and building is not residential in nature. Wickstrom doing it mainly to store vehicles, including vintage Chevy. Gray are buildings like this allowed in residential zoning? Hayward similar buildings have been both approved and denied in residential zoning. 9' sidewalls are the max that have been approved. Wickstrom neighbors are not opposed to plan. Rowlett doesn't like 10' sidewalls. Would like to see ordinance be more definitive regarding garages in residential area. Plus, no extraordinary problem that causes applicant to need higher sidewalls. Roach doesn't see a big problem, especially if he grades road side up. Would be different if it was in a subdivision. Gray should go with what ordinance says. Roach but no definitive line in ordinance where garage ends and storage building begins.

Kate Wickstrom home is over 80 years old, put lots of time, consideration and money into restoration. Tried to be conservative, and want to create ambience that was there before barn was torn down. Per could also bring eaves down an extra foot.

Shall the request of Per Wickstrom, 11333 N. Bluff Road, Traverse City, MI 49686, for approval of a residential garage with 10-foot sidewalls and a 9-foot door be approved?

ZBA reg mtg 07/13/00

3

Rowlett no, cannot find special condition that applies, but hopes applicant can work with Hayward to do project. Gray no, for same reasons. Beckett no, sets precedent. Roach no, for same reasons.

DENIED UNAN

4. **MOTION ROACH/ROWLETT** to approve ZBA Minutes of June 15, 2000.

APPROVED UNAN

Old Business:

Roach anything further on Mulcahy? Hayward submitted all documents to township attorney, who drafted a letter to Mulcahy's indicating that it will be put on township agenda and litigation started unless removed.

New Business:

Roach can site visits be done either earlier or later than 3:30 p.m.? Consensus to make site visits at 4 p.m.

Gray inquired about letter to Gray Hare Inn concerning full breakfasts. Hayward will care for.

MOTION BECKETT/ROACH to ask Planning Commission to review section of ordinance concerning garages in residential zoning.

APPROVED UNAN

Hayward joint Planning Commission/Town Board meeting scheduled for July 26. Gray will bring up garage issue at the meeting.

MOTION ROWLETT/GRAY to adjourn meeting.

APPROVED UNAN

Meeting adjourned at 10 p.m.

These minutes stand to be approved: _____

Minutes submitted by Jane Louise Boursaw, recording secretary.

PC 32400800 PERMIT NO 3964

R1B DATE 11/22/01 ZONED R-1B

OWNER'S FIRST.NAME TERRY LAST.NAME FARRUGIA PHONE

ADDRESS 8920 PENINSULA DRIVE CITY TRAVERSE CTY ST MI ZIP 49686

PROPERTY LOCATION SECT 24 TOWN T28N RANGE R11W ADD.N 8920 ADD.ST PENINSULA DRIVE CLASS 3

(1=Subd 2=Subd+H20 3=M&B 4=M&B+H20) (RES ADD DEK STO GAR POL OTH)

USE1 STO USE2 USE3 PROOF OWNERSHIP Y SITE Y HDPERMIT N/A SURVEY Y DRIVEWAY N DNR N SOIL EROSION N SETBACKS (Distance from lot line to the closest point of structure, including decks, porches, overhangs, etc.)

PROPOSED WIDTH 110 DEPTH 340 PARCEL 35700 FRONT 173 OHWL REAR 162 SIDE1 33 SIDE2 48 HEIGHT 20 STORIES 1.0

REQUIRED W.R 100 D.R P.R 25,000 F.MIN 30 OHWL.MIN 60 REAR.MIN 30 SIDE1.MIN 15 SIDE2.MIN 15 HEIGHT.MAX 35 STORIES.MAX 2.5

AREA OF EXISTING 2452 AREA OF PROPOSED 360 440 AREA OF TOTAL 2812

TOTAL OF COVERAGE 8 %

COVERAGE.MAX 15 %

COMMENTS 16' BY 16' WORKSHOP WITH STORAGE OVER CHECK No. 2490 FARRUGIA

Handwritten notes: 20' - 20' 11/22/01 with...

APPROVED Y APPROVAL.DATE 11/22/01 EXPIRE 11/22/02 ZA Gordon L. Hayward

REASON FOR DENIAL

Signature of Gordon L. Hayward

OWNER/AGENT SIGNATURE

Handwritten date: 3/26/02 and initials: GYH

Revised Plans for Hobby Woodwork Only plus storage.

Building will not have plumbing.

Not to be used for sleeping even temporarily. Bld Height 26' to peak of roof.

Second Floor for Storage Only

Handwritten signature at the bottom of the page.

- **Junk Yards**, which are currently defined, have now been placed as a Special Use in the C-1 district. They are currently not permitted in any district, so this item will require discussion.
- **Winery, Use by Right (currently a “Farm Processing Facility”)** is noted as a Permitted Use in A-1.
- **Campgrounds** have been added to the **Recreational Unit Park** classification.

- **Each Zoning District has a 1-page summary (Sections 3.107-3.112)**, which includes the current intent and purpose statements, uses permitted by right and special land uses (copied from the Permitted Use Table), and dimension regulations (copied from the Schedule of Regulations). While these district summaries repeat the Permitted Use Table and Schedule of Regulations, the purpose of these 1-page summaries is to make the Zoning Ordinance more accessible and user-friendly.

- **Neighborhood Overlay District (Section 3.117)**. The purpose of the Neighborhood Overlay District is to allow smaller established lots to develop buildings that do not meet the minimum side yard setbacks or maximum lot coverage of the underlying zoning district. Based on our review of nonconforming lots in the township, the most difficult compliance standards are the minimum side yard setbacks and maximum lot coverage. A sliding scale is proposed for minimum side yard setbacks and lot coverage; therefore, larger lots must be more compliant with the lot coverage of the underlying zoning district and higher buildings must be more compliant with the side yard setbacks of the underlying zoning district.

Article 4. Schedule of Regulations.

This article is similar to the existing Schedule of Regulations. A purpose statement has been added, and the footnote related to lot width refers to the definition for consistency. As previously stated, although there are no maximum impervious surface requirements proposed, this item may be addressed in a future revision.

Article 5. Supplemental Zoning District Standards.

- **Planned Unit Developments (Section 5.101)**. Several sections of the Zoning Ordinance address PUD's, and this proposed section consolidates all of these sections. The major changes include the following:
 - A parallel plan is required at the beginning of the process and must demonstrate compliance. This will make the number of allowable units more accurate and realistic.
 - Emphasizing that the setbacks may be modified by the Township to be less than the underlying zoning district.
 - Clarified permitted housing types to explicitly include attached single-family units.

- **Site Condominiums (Section 5.102)**. Major changes include:
 - Adding requirements for initial information.
 - Deleting lot requirements that are in conflict with the Land Division Ordinance.
 - Adding general provisions for monuments, subdivision of lots, encroachments, relocation of boundaries, performance guarantees, and final documents.

Article 6. Standards Applicable to Specific Uses.

Article 5 Supplemental Zoning District Standards

Section 5.101 Planned Unit Developments (currently Section 8.3, Section 7.2.6, and Section 6.5A)

(A) Intent and Purpose (currently Section 6.5A.1 and Section 7.2.6(1))

- (1) This section establishes planned unit development regulations for all residential districts to allow the use planned development in areas of the township where conventional development practices are not suited to the terrain; or existing land use or natural environmental conditions make conventional development practices undesirable yet the density allowed is suitable to the intent of the conventional district designated.
- (2) It is the intent of this Ordinance that residential developments other than conventional subdivisions 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 of the township in which they are located, and that such a use will not change the essential character of the area in which it is proposed. In as much as planned unit developments, mobile home parks and other group housing developments may involve higher densities of land use, or building types may distinctly differ from the single-family, conventionally-built dwellings which predominate the Township, periphery setbacks for such developments are established.

Deleted: the R-1A-PUD, R-1B-PUD, R-1C-PUD and R-1D-PUD,

Deleted: of

- (B) **Authorization (currently Section 8.3.1).** It is the purpose of this Section to encourage more imaginative and livable housing environments within Residential Districts and to encourage the retention of agricultural land in active production within the Agricultural Zoning District through a planned reduction of the individual lot area requirements for each district, providing the overall density requirements for each district remain the same. Such reduction of lot area requirements shall only be permitted when a land owner, or group of owners acting jointly, can plan and develop a project as an entity and thereby qualify for regulation of that project as one land use unit, rather than an aggregation of individual buildings located on separate, unrelated lots. Under these conditions, a special use permit may be issued for the construction and occupancy of a planned unit development providing the standard, procedures, and requirements set forth in this Section can be complied with.

Deleted: the Planned Unit Development Districts and

- (C) **Objectives (currently Section 8.3.2).** The following objectives shall be considered in reviewing any application for a special use permit for planned unit development.

- (1) To provide a more desirable living environment by preserving the natural character of open fields, stand of trees, steep slopes, brooks, ponds, lake shore, hills, and similar natural assets.
- (2) To provide open space options.

Article 5: Supplemental Zoning District Standards

Section 5.101: Planned Unit Developments

- (3) To encourage developers to use a more creative and imaginative approach in the development of residential areas.
 - (4) To provide for more efficient and aesthetic use of open areas by allowing the developer to reduce development costs through the by-passing of natural obstacles in the residential project.
 - (5) To encourage variety in the physical development pattern of the Township by providing a mixture of housing types.
 - (6) To provide for the retention of farmland by locating the allowed number of housing units on the agricultural parcels of land in clusters which are suitable for residential use and keep the remaining agricultural land in production or fallow and available for production.
- (D) **Qualifying Conditions (currently Section 8.3.3).** Any application for a special use permit for a PUD shall meet the following conditions to qualify for consideration as planned unit development:
- (1) **Minimum Site Area.** The planned unit development project shall not be less than twenty (20) acres in area, shall be under the control of one owner or group of owners, and shall be capable of being planned and developed as one integral unit. PROVIDED that the project acreage requirement may be reduced by the Township Board if the Board determines that the proposed use is a suitable and reasonable use of the land.
 - (2) **Permitted Zoning Districts.** The planned unit development project shall be located within a Residential or Agricultural District, or a combination of the above Districts. Individual planned unit developments may include land in more than one zone district in which event the total density of the project may equal but not exceed the combined total allowed density for each district calculated separately.
 - (3) **Water and Sanitary Waste Disposal.** Water and waste disposal shall comply with the Township Master Plan and be approved by Grand Traverse County or State of Michigan requirements. It is recognized that joining water and sewer ventures with contiguous or nearby land owners may prove to be expedient.
 - (4) **Density.** The proposed density of the planned unit development shall be no greater than if the project were developed with the lot area requirements of the particular zone district or districts in which it is located subject to the provisions of Section 14.103 except as provided by Section 5.101(G)(1). (REVISED BY AMENDMENT 168)
 - (5) **Open Space.** Open space shall be provided according to Section 5.101(H).
 - (6) **Exceptions to Open Space.** For purposes of this Section 5.101, Open Space does not include building envelopes, parking lots and roads (roadbed width plus two (2) foot shoulders on each side).

Article 5: Supplemental Zoning District Standards
Section 5.101: Planned Unit Developments

- (7) **General Standards and Conditions.** The proposed planned unit development shall meet all of the standards and requirements outlined in this [Section 5.101](#) and also [Section 14.103](#) and **all applicable requirements of this Ordinance.** Deleted: Article VII
- (E) **Uses That May Be Permitted (currently Section 8.3.4).** The following uses of land and structures may be permitted within planned unit developments:
- (1) Single family dwellings.
 - (2) Two-family dwellings.
 - (3) **Attached single-family residential housing, such as group housing, row houses, garden apartments, or other similar housing types which can be defined as single-family dwelling with no side yards between adjacent dwelling units, subject to Section 6.108.** Deleted: G
Deleted: Provided that there shall be no more than eight (8) dwelling units in any contiguous group
 - (4) Open space according to [Section 5.101\(H\)](#). **In addition to the uses permitted in Section 5.101(H), the following land uses may be set aside within the open space as common land for open space or recreation use under the provisions of this Section:**
 - (a) Private recreational facilities (but not golf courses) such as pools, or other recreational facilities which are limited to the use of the owners or occupants of the lots located within the planned unit development.
 - (b) Historic building sites or historical sites, parks and parkway areas, ornamental parks, extensive areas with tree cover, low lands along streams or areas of rough terrain when such areas have natural features worthy of scenic preservation.
 - (c) Commonly owned agricultural lands.Deleted: ,
Deleted: provided that only
 - (5) **Deed restricted Agricultural lands.** Deleted: <#>Signs as allowed by [Article 10, 1](#)
 - (6) Garages and accessory buildings and uses exclusively for the use of residents of the planned unit development and for the proper maintenance thereof.
- (F) **Uses Permitted by Special Use Permit (currently Section 6.5A.2).** Planned unit developments are subject to all requirements of uses and standards established for the corresponding conventional district described respectively [Article 3](#). Deleted: Article VII, Section 8.1 and 8.3 and
Deleted: [Article 3, 2](#)
Deleted: in Article VI, Section 6.2, 6.3, 6.4 and 6.5
- (G) **Lot Size Variation Procedure (currently Section 8.3.5).** The lot area for Planned Unit Developments within Residential and Agricultural Districts may be reduced from those sizes required by the applicable zoning district within which said development is located by compliance with the following procedures:
- (1) **Parallel Plan.** The number of dwelling units permitted in a PUD shall be based on a parallel plan prepared by the applicant. The parallel plan shall be consistent with State, County, and Township requirements for a tentative preliminary plat, shall meet the requirements of the underlying zoning district for lot area, lot width, setbacks, public

Article 5: Supplemental Zoning District Standards
Section 5.101: Planned Unit Developments

roads, and shall provide an area that conceptually would provide sufficient area for storm water detention. Lots in the parallel plan shall provide sufficient building envelope area to permit the construction of a conforming house without impacting the area of any regulated wetland. The parallel plan must demonstrate a realistic and reasonable development plan based on regulated environmental constraints, availability of utility and other necessary public infrastructure such as roads.

During preliminary site plan review of the PUD, the Planning Commission shall review the parallel plan and determine the number of units that could feasibly be constructed on the site following conventional design standards. This number shall be the number of dwelling units permitted in the PUD.

- (2) **Maximum Number of Lots and Dwelling Units.** After the parallel plan has been accepted by the above procedure and the maximum number of lots and/or dwelling units that may be approved within a planned unit development have been computed, individual lots may be reduced in area below the minimum lot size required by the zone district in which the planned unit development is located, PROVIDED that the total number of dwelling units and/or lots created within the development is not more than the maximum number that would be allowed under the parallel plan. Units may be distributed without regard to district boundaries.
 - (3) **Permissive Building Envelope.** Building Envelope shall be as shown on the Site Plan and not included as open space. The Township may approve front, side, and rear yard setbacks that are less than the required setbacks the underlying zoning district.
 - (4) **Permissive Minimum Lot Area.** Minimum Lot Area shall be as determined by the Township Board and shown on the Site Plan.
 - (5) **Maximum Permissive Building Height.** 2.5 stories but not exceeding 35 feet. Accessory buildings shall not exceed a height of 15 feet. Provided that the height of agricultural buildings may be increased pursuant to Section 7.108(B).
- (H) **Open Space and Periphery Setbacks (currently Section 8.3.6 and Section 7.2.6)**
- (1) **Open Space.** The Township Board shall utilize one of the following four (4) options for dedication of the provided open space:
 - (a) **Open Space Dedicated for Private Use.** A residential planned unit development with a minimum of 65% of the net acreage kept as open space and owned by the Home Owners Association or Condominium Association. That open space land shall be set aside as common land for the sole benefit, use and enjoyment of present and future lot or home owners within the development and may be used for passive recreation and wildlife corridors.
 - (i) Such open space shall be conveyed by proper legal procedures from the project owner or owners to a home owners association or other similar non-profit organization. (REVISED BY AMENDMENT 170)

Deleted: Site Acreage Computation. The net acreage proposed for a planned unit development shall be computed to determine the total land area available for development into lots under the minimum lot size requirements of the applicable zoning district in which the proposed planned unit development is located.¶

¶
Lands below the Ordinary High Water Mark shall not be considered as part of the net acreage.¶

¶
Street rights-of-way shall be included in net acreage provided the property legal description includes the right-of-way. (REVISED BY AMENDMENT 158)¶

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<#>The fixed percentages for street right-of-way purposes to be subtracted from the net acreage shall be fifteen (15) percent for the R-1A and R-1B residential districts, twenty (20) percent for the R-1C district and thirty (30) percent for multiple family development in the R-1D district. These percentages shall apply regardless of the amount of land actually required for street right-of-way.¶

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Under this procedure

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Article 5: Supplemental Zoning District Standards

Section 5.101: Planned Unit Developments

- (ii) Documents providing for the maintenance of said land and any buildings thereon to assure that open space land remains open shall be provided to the Township Board for its approval.
 - (iii) The access and characteristics of the open space land are such that it will be readily available and desirable for the use intended.
- (b) Open Space Dedicated for Public Use.** A Residential Planned Unit Development with a minimum of 10% of the net acreage dedicated to the Township. That open space land shall be dedicated to the Township for park or recreational purposes by the project owner or owners provided that the Township Board makes the following determinations:
- (i) The location and extent of said land is not in conflict with the Master Plan of Peninsula Township.
 - (ii) The access to and the characteristics of the open space land is such that it will be readily available to and desirable for the use intended.
- (c) Open Space Dedicated for Deed Restricted Agricultural Land.** A Planned Unit Development with a minimum of 65% of the net acreage as deed restricted agricultural land. That open space shall be retained in agricultural use as specified on the site plan with the following conditions:
- (i) The Land shall be used exclusively for farming purposes.
 - (ii) A conservation easement shall be granted to Peninsula Township that restricts uses to those that are allowed on deed restricted agricultural land subject to conservation easements purchased by Peninsula Township pursuant to the Purchase of Development Rights Ordinance No. 23.
 - (iii) A farmstead parcel consisting of a residence for the owner or operator of the farm along with any or all of the following outbuildings may be shown on the site plan if approved by the Township Board:
 - a. Barns existing or proposed for uses necessary for agricultural production.
 - b. Outbuildings existing or proposed for storage of machinery and equipment used for agricultural production.

if a farmstead is shown on the site plan it shall be counted as one of the allowed dwelling units in the planned unit development.
 - (iv) The deed restricted agricultural land may be sold separately from the dwelling parcels.

Article 5: Supplemental Zoning District Standards
Section 5.101: Planned Unit Developments

(v) ~~The Township may permit the deed restricted agricultural land to be located off-site in Peninsula Township, provided the deed restricted agricultural land is of high quality, a parallel plan is approved for the deed restricted agricultural land per Section 5.101(G)(1), and that the density on the buildable site is acceptable to the Peninsula Township Planning Commission and Township Board.~~

Commented [PS33]: This is an introduction to a Transfer of Development Rights (TDR) Program. Please note that this is optional for the Township and that TDR, as it is currently proposed, will not increase the overall density within the Township. TDR is simply another tool for preserving non-contiguous agricultural land.

(d) **Open Space Apportioned Between Private Use and Deed Restricted Agricultural Land.** The Township Board may approve open space apportioned between Private Use and Deed Restricted Agricultural Land described in (1) and (3) above provided, that in addition to the provisions of (1) and (3) above, the Deed Restricted Agricultural Land portion:

- (i) Shall be a minimum of five acres.
- (ii) Shall be viable farmland as determined by the Township Board.
- (iii) Irrespective of (3) above; no buildings shall be allowed.

(2) **Periphery Setbacks.**

(a) **Intent.** It is the intent of this Ordinance that residential developments other than conventional subdivisions 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 of the township in which they are located, and that such a use will not change the essential character of the area in which it is proposed. In as much as planned unit developments and attached single-family housing developments may involve higher densities of land use, abut agricultural land, or have building types that distinctly differ from the single-family, conventionally-built dwellings which predominate the Township, periphery setbacks for such developments are established.

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(b) **General Periphery Setbacks.** All buildings including single-family dwellings and mobile homes within a planned unit development, attached single-family residential housing development, or a mobile home park development shall be placed at least fifty (50) feet from any public right-of-way line for existing roadways bordering a site, and at least thirty (30) feet from any development boundary line which is not a public road right-of-way. Periphery setback spaces shall be occupied by plant materials and appropriately landscaped. The Township may require that attached single-family residences be setback farther from the public road right-of-way of an existing roadway where a larger setback is desired to buffer the use from the road.

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(c) **Setback from Agricultural Areas.** Planned unit developments abutting agricultural areas shall meet the setback requirements of Section 7.109.

(l) **Maximum Percentage of Lot Area Covered by All Structures (currently Section 8.3.7)**

(1) The maximum percent of lot area covered by all structures shall not exceed fifteen (15) percent of net acreage.

Article 5: Supplemental Zoning District Standards
Section 5.101: Planned Unit Developments

- (2) A Building Envelope within which structures may be located shall be shown on the site plan for all existing or future structures.
- (3) The maximum number of square feet to be covered by all structures for each building envelope shall be shown on the site plan or attached to it.
- (J) **PUD Agreement (currently Section 8.3.8).** The applicant shall record **a PUD Agreement** with the **Register of Deeds** containing the legal description of the entire project, specifying the date of approval of the special use permit, and declaring that all future development of the planned unit development property has been authorized and required to be carried out in accordance with the approved special use permit unless an amendment thereto is duly adopted by the Township upon the request and/or approval of the applicant, or applicant's transferee and/or assigns. **The PUD Agreement shall be in accordance with Section 7.102(B).**

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Section 5.102 Site Condominiums (Currently Section 6.9)

(A) **Intent (currently Section 6.9.1).** It is recognized that Michigan statutes provide for the implementation of developments consisting of one-family detached residential dwelling units and sites through procedures other than those enabled by the Subdivision Control Act (Act 288 of 1967, as amended). The intent of this section is to provide procedures and standards for the review and approval or denial of one-family residential subdivisions implemented under the provisions of the Condominium Act (Act 59 of 1978, as amended) and to insure that such developments are consistent and compatible with conventional one-family platted subdivisions and promote the orderly development of the adjacent areas. It is not intended that commercial or industrial condominium projects will be reviewed or approved.

(B) **General Provisions (currently Section 6.9.2).** For the purpose of this section, a Site Condominium Subdivision shall include any residential development in a residential or agricultural district proposed under the provisions of the Condominium Act (Act 59 of 1978, as amended) consisting of two (2) or more single family detached residential structures on a single parcel, with the exception that the provisions of this section limiting condominium subdivisions to single family detached structures shall not apply to condominium developments which are reviewed and approved through the Special Use Permit - Planned Unit Development option.

(C) **Initial Information (NEW SECTION).** Concurrently with notice required to be given to Peninsula Township pursuant to Section 71 (notice of proposed action) of Public Act 59 of 1978, as amended (the Condominium Act), a person, firm or corporation intending to development shall provide the following information:

(1) The name, address and telephone number of:

(a) All persons, firms or corporation with an ownership interest in the land on which the condominium development will be located together with a description of the nature of each entity's interest (for example, fee owner, optionee or land contract vendee).

(b) All engineers, attorneys, architects, or registered land surveyors associated with the project.

(c) The developer or proprietor of the condominium development.

(2) The legal description of the land on which the condominium project will be developed together with appropriate tax identification numbers.

(3) The acreage content of the land on which the condominium development will be developed.

(4) The purpose of the development (for example, residential, commercial, industrial, etc.).

(5) Appropriate number of condominium units to be developed on the subject parcel.

(6) A description of the community water system to be provided.

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Article 5: Supplemental Zoning District Standards
Section 5.102: Site Condominiums

~~(7) A description of the community septic system to be provided.~~

~~(8) A topographic survey of the land on which the condominium project will be developed.~~

~~(9) Any other information deemed necessary by the Planning Director.~~

(D) Required Plans, Conditions, and Improvements for New Projects (currently part of Section 6.9.3)

(E) Condominium Lots. The Site Condominium Subdivision Plan shall indicate specific parcel dimensions with front, rear and side condominium lot lines allocated to each condominium dwelling unit. For the purpose of this section and to assure compliance with the provision herein, these parcels shall be referred to as condominium lots. The description, size, location and arrangement of the condominium lots shall conform to the requirements of a conventional platted subdivision and the Land Division Ordinance. All condominium subdivision lots shall be deeded as limited common elements for the exclusive use of the owners of the condominium subdivision units.

(1) Area and Bulk Requirements. Each condominium dwelling unit shall be located within a condominium lot.

(a) The minimum size condominium lot per dwelling unit, maximum dwelling unit height, minimum yard setbacks, minimum elevational width of principal structure, and maximum percentage of condominium lot area covered by all structures shall conform with the requirements of the zoning district in which located, and to Article 4.

(b) Condominium lots shall back into such features as primary roads, except where there is a marginal access road, unless a secondary access is provided. Such condominium lots shall contain a landscaped easement along the rear at least twenty (20) feet wide to restrict access to the primary road, to minimize noise, and to protect outdoor living areas.

(c) ~~Double frontage condominium lots shall be prohibited except where the rear yard abuts a major road and does not take access from the major road.~~

(d) Unless the circumstances are such that the land area is not of sufficient size to develop secondary roads, all condominium lots shall front on secondary roads and condominium lots along M-37, Center Road, Peninsula Drive, Bluff Road, Montague Road and East Shore Drive shall be back up lots.

(e) All condominium lots shall front upon a public road or private road. Variances may be permitted in an approved planned unit development.

(2) Streets. If a condominium subdivision is proposed to have private streets, they shall be designed to at least the minimum design, construction, inspection, approval and

Commented [P534]: The deleted items are either redundant or are not required by the Land Division Ordinance.

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<#>The condominium lot size and the required setbacks shall be measured from the designated front, rear and side condominium lot lines.¶

¶

<#>Side condominium lot lines shall be essentially at right angles to straight roads and radial to curved roads.¶

¶

<#>Narrow deep condominium lots shall be avoided. The depth of a condominium lot generally shall not exceed two and one-half (2-1/2) times the width as measured at the building line.¶

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<#>Corner condominium lots shall have extra width to permit appropriate building setback from each road, or orientation to both roads.¶

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Article 5: Supplemental Zoning District Standards
Section 5.102: Site Condominiums

maintenance requirements of this Ordinance. All public streets within a condominium subdivision shall be constructed as required by the Grand Traverse County Road Commission.

(3) Water Supply and Sewage Disposal Systems. Water Supply and Sewage Disposal Systems shall comply with the requirements of Section 5.4 REQUIRED IMPROVEMENTS: Section 5.4.4 WATER SUPPLY, and Section 5.4.5 SANITATION SEWER SYSTEM: of the Peninsula Township Subdivision Control Ordinance No. 8.

(4) Street Trees. There shall be a minimum of one (1) tree per condominium lot with a frontage of seventy (70) feet or less, or a minimum of two (2) trees per condominium lot with a frontage of more than seventy (70) feet. At least three (3) trees shall be provided for a corner condominium lot. The species and location of street trees shall comply with the requirements of Section 5.4.7 STREET TREES: of the Peninsula Township Subdivision Control Ordinance No. 8.

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(5) Accessory Structures (ADDED BY AMENDMENT 163). Accessory structures to serve all unit owners in a condominium shall be allowed within the general common elements provided the accessory structure is shown on the site plan, and provided further:

(a) Each structure is no more than ~~two hundred (200)~~ square feet in area provided the total percent of the condominium parcel covered by all structures does not exceed the maximum amount allowed in the zoning district;

(b) The site plan includes the maximum area to be covered by all structures for each condominium unit and for the general and the limited common elements.

(c) The structure height is no greater than 15 feet;

(d) The structure meets the underlying zoning district setbacks from the property lines of the condominium project.

(e) The structure is located within the General Common Elements of the Condominium;

(f) The structure and its proposed use(s) is shown on the site plan approved or amended by the Township and receives a Land Use Permit from the Zoning Administrator prior to construction.

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(g) The use of the structure shall be for one or more of the following uses.

(i) Recreational. Deck, gazebo, bus shelter or picnic shelter.

(ii) Utility. Storage of maintenance or recreation equipment or trash enclosures.

(6) Wetland and Floodplain Restrictions. There shall be no development or modification of any kind within a wetland or floodplain area without there first having been issued a wetlands permit by the Department of Environmental Quality and/or an Earth Change Permit from Grand Traverse County as appropriate. Lands subject to high organic content soils, high water table, flooding or otherwise deemed by the Planning Commission to be

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Article 5: Supplemental Zoning District Standards
Section 5.102: Site Condominiums

uninhabitable shall not be used for residential purposes, or for uses that may, in the judgment of the applicable Federal, State, County, Local, or Township agency, increase the danger to health, life, or property or increase the flood hazard. Such land within a condominium subdivision shall be set aside for other uses, such as parks or other open space.

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(7) Removal of Fruit Trees. When an area having existing fruit producing trees, vines or shrubs, is approved for a condominium subdivision, the owner of the property shall remove and destroy all such trees, shrubs and vines before final approval of the condominium subdivision plan pursuant to Section 8.103.

(8) Plans Required for the Control of Erosion and Sedimentation. In the event that any developer shall intend to make changes in the contour of any land proposed to be developed, or changed in use by grading, excavating or the removal or destruction of the natural topsoil, trees, or other vegetative covering thereon, the same shall only be accomplished after the owner of said land or his agent has submitted to the Planning Commission for approval a plan for erosion and sedimentation controls, unless there has been a prior determination by the Planning Commission that such plans are not necessary. Such plans shall contain adequate measures for control of erosion and siltation, where necessary, using the guidelines and policies contained in Section 5.4.12 PLANS REQUIRED FOR THE CONTROL OF EROSION AND SEDIMENTATION: of the Peninsula Township Subdivision Control Ordinance No. 8.

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(9) Setback from Agricultural Areas. Site condominiums abutting agricultural areas shall meet the setback requirements of Section 7.109.

(F) Required Plans for Expandable or Convertible Projects (NEW SECTION). Prior to expansion or conversion of a condominium development to additional land, the new phase of the project shall undergo site plan review and approval pursuant to Section 14.102 of this Ordinance. The conversion of any development to condominium form of ownership shall require all standards and requirements of this Ordinance regarding condominiums to be met.

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(G) Plan Application and Information required (currently Section 6.9.4). The proprietor shall submit a written application to the Township Zoning Administrator for approval of the Condominium Subdivision Plan and also the fee established by the Township Board for review of such plans.

(H) Master Deed, Restrictive Covenants, "As Built" Survey, and Association Bylaws to be furnished (currently part of Section 6.9.4.1). The condominium subdivision developer shall submit to the Township Zoning Administrator eleven (11) copies of the condominium subdivision plan and proposed protective covenants and deed restrictions which would meet the requirements of Section 112(1) and 113 to 119 of the Subdivision Control Act. The name of the proposed project shall be subject to the approval of the Township to eliminate duplicate names or names that are similar to existing developments.

Article 5: Supplemental Zoning District Standards

Section 5.102: Site Condominiums

- (1) Size and Sale.** The condominium subdivision plan may be on paper and shall be not less than 24 inches by 36 inches, at a scale of at least 1 inch to 100 feet showing the date and north arrow.
- (2) Information Required.** The following shall be shown on the condominium subdivision plan or submitted with it.
 - (a)** The name of the proposed condominium subdivision.
 - (b)** Names, addresses and telephone numbers of the proprietor and the surveyor preparing the plan.
 - (c)** Location of the condominium subdivision, giving the name of the township and county.
 - (d)** Legal description of the property.
 - (e)** The names of property owners, zoning, and use of abutting lands.
 - (f)** Statement of intended use of the proposed condominium, such as, residential single family, two-family and multiple housing. Also, any sites proposed for parks, playgrounds, schools, or other public uses.
 - (g)** A map of the entire area scheduled for development and all contiguous land owned by the proprietor, if the proposed plan is a portion of a larger holding intended for subsequent development.
 - (h)** A location map showing the relationship of the proposed plan to the surrounding area.
 - (i)** The land use and existing zoning of the proposed condominium subdivision.
 - (j)** Location, type, dimensions, and proposed use of all existing structures.
 - (k)** Condominium lot lines and the total number of condominium lots by block.
 - (l)** Contours shall be shown on the condominium subdivision plan at 5-foot intervals where slope is greater than 10%, and 2-foot intervals where slope is 10% or less.
 - (m)** A site report as described in the rules of the State of Michigan. The site report is required if the proposed condominium subdivision is not to be served by public sewer and water.
 - (n)** Proposed and existing storm and sanitary sewers, water mains and their respective profiles, or indicate alternative methods.
 - (o)** Right-of-way easements, showing location, width, and purpose.

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Article 5: Supplemental Zoning District Standards

Section 5.102: Site Condominiums

- (p) The location and types of all significant existing vegetation, water courses and bodies, flood plains and water retention areas, and soil types.
- (q) In the event soils or vegetation types indicate wetlands may be present, a wetlands determination by Michigan Department of Environmental Quality as to the existence of any wetlands on the property.
- (r) A statement of deed restrictions and by-laws as applicable.

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(l) **Review Procedures (currently Section 6.9.5)**

- (1) **Distribution to Authorities.** The Zoning Administrator shall deliver the proposed condominium subdivision plan to the Planning Commission and Township Board for review. The Zoning Administrator shall retain one copy, send one copy each to the Peninsula Township Fire Chief; the Township Planner; and to Grand Traverse County Planning Commission for plan review.
- (2) **Staff Review.** The Township Planner shall send recommendations to the Planning Commission at least ten (10) days prior to Planning Commission review as provided for in Section 5.102(l)(3).
- (3) **Planning Commission.**
 - (a) The Planning Commission shall review the condominium subdivision plan and the reports of the County Road Commission, the County Drain Commissioner/Soil Erosion Officer, County Health Department, and County Planning Commission, and Township Planner.
 - (b) The Planning Commission shall hold a public hearing on the proposed condominium subdivision plan.
 - (c) If following the review and public hearing prescribed above, the Planning Commission determines that the proposed plan meets all requirements of this Ordinance, the Planning Commission shall send notice of action taken with comments to the Township Board.
 - (d) If the condominium subdivision plan does not meet all requirements, the Planning Commission shall recommend disapproval of the plan by the Township Board, it shall state its reason in its official minutes 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.
- (4) **Township Board.**

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Article 5: Supplemental Zoning District Standards

Section 5.102: Site Condominiums

- (a) The Township Board shall not review, approve or reject a condominium subdivision plan until it has received from the Planning Commission its report and recommendations.
 - (b) The Township Board shall consider the condominium subdivision plan at its next meeting after receipt of the recommendations from the Planning Commission.
 - (c) The Township Board shall either approve the condominium subdivision plan, reject the plan and give its reasons, or table the proceedings pending changes to the plan to make it acceptable to the Board.
- (J) **Conditions and Duration of Approval (currently Section 6.9.6.1 and 6.9.6.2)**
- (1) **Conditions.** The approval of the Township Board will indicate that the proposed condominium subdivision plan meets the provisions of section 141. (1) of the Condominium Act relating to the ordinances and regulations of Peninsula Township, but does not cover additional permits that may be required after the Master Deed has been recorded.
 - (2) **Duration.** Approval of the condominium subdivision plan of phase thereof by the Township Board shall be for a period of one (1) year from the date of its approval by the Township Board pursuant to Section 14.102(D). The Township Board may extend the one (1) year period if applied for and granted in writing but only concerning its own requirements.
- (K) Monuments Required (NEW SECTION). All condominium developments which consist in whole or in part of condominium units which are building sites, mobile home sites or recreational sites shall be marked with monuments as provided in this subsection.**
- (1) All monuments used shall be made of solid iron or steel bars at least one-half (½) inch in diameter and thirty-six (36) inches long and completely encased in concrete at least four (4) inches in diameter.**
 - (2) Monuments shall be located in the ground: at all angles in the boundaries of the condominium development; at the intersection lines of streets; at the intersection of the lines of streets with the boundaries of the condominium development; at the intersection of alleys with the boundaries of the condominium development; at all points of curvature, points of tangency, points of compound curvature, points of reverse curvature and angle points in the side lines of streets and alleys; and at all angles of an intermediate traverse line. It is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the condominium development if the angle points can be readily re-established by reference to monuments along the sidelines of the streets.**
 - (3) If the required location of a monument is in an inaccessible place or where the locating of a monument would be clearly impracticable, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the plans and referenced to the true point.**

Article 5: Supplemental Zoning District Standards

Section 5.102: Site Condominiums

- (4) If a point required to be monumented is on a bedrock outcropping a steel rod, at least one-half (½) inch in diameter shall be drilled and grouted into solid rock to a depth of at least eight (8) inches.
- (5) All required monuments shall be placed flush with the ground where practicable.
- (6) All unit corners and the intersection of all limited common elements and all common elements shall be identified in the field by iron or steel bars or iron pipe at least eighteen (18) inches long and one half (½) inch in diameter or other approved markers.
- (7) The Township Planning Director may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one (1) year on the condition that the proprietor deposits with the Township cash, a certified check, or irrevocable bank letter of credit to Peninsula Township, whichever the proprietor selects in an amount to be established by the Board, by resolution. Such cash, certified check, or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified.
- (L) Compliance with Federal, State, and Local Law (NEW SECTION). All condominium development shall comply with Federal and State statues and local Ordinances.
- (M) Subdivision of Condominium Lots (NEW SECTION). All subdivisions of individual condominium units shall conform to the requirements of this ordinance for minimum lot width, lot area, and building setback requirements, for the district in which the site condominium project is located, and these requirements shall be made part of the bylaws and recorded as part of the master deed.
- (N) Encroachment Prohibited (NEW SECTION). Encroachment of one condominium unit upon another, as described in section 40 of the Condominium Act, shall be prohibited by the condominium bylaws and recorded as part of the master deed.
- (O) Relocation of Boundaries (NEW SECTION). The relocation of boundaries, as described in section 48 of the Condominium Act, shall conform to all setback requirements of this ordinance for the district in which the project is located, shall be approved by the zoning administrator, and this requirement shall be made part of the bylaws and recorded as part of the master deed.
- (P) Performance Guarantee (NEW SECTION). The Township Director of Planning may allow occupancy of the condominium development before all improvements required by this Ordinance are installed provided that cash, a certified check, or an irrevocable bank letter of credit is submitted sufficient in amount and type to provide for the installation of improvements before the expiration of the temporary occupancy permit without expense to the Township. The expiration date of a temporary occupancy permit shall be as determined by the Planning Director upon issuance of the permit.

Article 5: Supplemental Zoning District Standards

Section 5.102: Site Condominiums

(Q) Final Documents to be provided (NEW SECTION). After submittal of the condominium plan and bylaws as part of the master deed, the proprietor shall furnish to the Township a copy of the site plan on 24 inch by 36 inch sheets and in a digital format acceptable to the Township.

having them in the Zoning Ordinance in the event that the Building Code is ever amended to not require a barrier.

- **Accessory Solar Energy (Section 7.116).** With improved technology, solar energy has become more efficient and cost-effective over the years. We recommend minimal standards for roof-mounted and ground-mounted systems, such as maximum height, location, setbacks, screening, and removal. The ground-mounted systems are limited to an output of 10kW or less, so the number of panels would be limited.

Article 11. Signs.

Last summer, the United States Supreme Court decided the case of *Reed v. Town of Gilbert* where it held a municipality's sign ordinance unconstitutional because it violated the First Amendment. While the signs at issue were noncommercial signs (temporary directional signs, ideological signs, and political signs), the Court's decision impacts many other types of signs. Therefore, many of the proposed changes to the sign regulations are with respect to sign content, and we anticipate additional changes after the Township Attorney reviews the proposed article.

While many of the major changes are noted in the margins of the draft Zoning Ordinance (dated May 10, 2016), they are summarized as follows:

- **Purpose (Section 11.101).** Many items were added to the purpose statements to make them more robust by emphasizing public safety and rural character.
- **Definitions (Section 11.102).** We recommend moving the sign-related definitions from Article 2 to the Signs article. This change will make the sign definitions easier to administer. The sign definitions were grouped based on the sign type and the sign content. Although the regulations are made more content-neutral, the content-based definitions were preserved and put into a subclass as an example of a content-based standard. This way, the only content-based distinctions for signs are whether they are commercial or noncommercial, or on-premise or off-premise. However, if the definitions and regulations must be more content neutral, it will be easy to make them more content neutral based on the proposed format.
- **Substitution Clause (Section 11.103).** A substitution clause is a requirement that any lawful sign may contain noncommercial content. Therefore, commercial speech cannot be favored over noncommercial speech, which is a legal requirement based on a previous U.S. Supreme Court case.
- **Sign Measurement (Section 11.104).** We recommend being more specific regarding how sign area is measured for irregular shapes and two-sided signs.
- **Sign Placement and Design (Section 11.105).** While natural or natural appearing materials are "highly encouraged," we recommend making these materials a requirement along M-37 and "highly encouraged" elsewhere in the township. Also, we recommend minimum maintenance requirements. Finally, we recommend that the Planning Commission or Zoning Administrator review signs instead of the ZBA. However, the ZBA would still review signs where there is a variance application.
- **Prohibited Signs (Section 11.106) and Signs Permitted in All Districts (Section 11.107).** We recommend adding to the lists of Prohibited Signs and Signs Permitted in All Districts to make

them easier to understand and administer. There are corresponding definitions for new signs added to these lists.

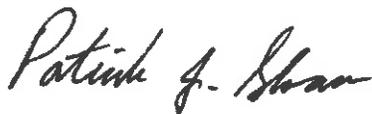
- **Sign Regulations for Specific Zoning Districts (Section 11.108).** We recommend adding a table for each zoning district with corresponding sign regulations. In proposed Section 11.108, there are standards that apply to all zoning districts. In many cases, the number and area of signs has not changed. However, for example, signs for "Construction Site," "Real Estate," "Yard/Garage Sale," and "Event" are now classified as "Temporary On-Premise Commercial Advertising Signs" as a means of making these types of signs more content neutral. Additional sections are added pertaining to signs in the C-1 district and signs in the A-1 district. Please note that the A-1 district permits an "Additional Temporary On-Premise Commercial Advertising Sign," which is a more content neutral substitution for the additional sign currently permitted for Farms, Roadside Stands, Food Processing Plants, and Local Food Production Facilities. In essence, one use will not be favored over another similar use in the same zoning district.
- **Illumination (Section 11.110).** While internally illuminated signs are currently permitted under limited circumstances, we recommend including maximum illumination standards based on the time of day. We also recommend that internally illuminated signs be required to include a photocell and automatic dimmer.
- **Nonconforming Signs (Section 11.111).** Like all other nonconforming structures, there should be regulations for nonconforming signs that allow a nonconforming sign to continue as long as the on-site business remains and the sign is not expanded or changed to be more nonconforming. We recommend including standards for acceptable maintenance and repair. Please note that general standards for nonconformities will be located in Article 12.
- **Appeals and Variances (Section 11.112).** Although appeals and variances will be reviewed under the general standards in Article 14, we recommend including additional standards for the ZBA to consider with respect to signs based on visibility.

NEXT STEPS

We recommend scheduling additional meetings to cover these items to ensure that the Zoning Ordinance update proceeds as scheduled.

Respectfully submitted,

McKENNA ASSOCIATES



Patrick J. Sloan, AICP
Principal Planner

Enclosures

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

Article 11 Signs

Section 11.101 Purpose (currently introductory paragraph of Section 7.11)

It is the intent of this Ordinance to limit the number and size of signs in order to prevent traffic hazards, promote safety for passersby, and to maintain the rural ambience and the environment of the Township. It is also the intent to allow signs that are appropriate, proportional, and in scale with adjacent uses and roadways, and which are compatible with the character of the community.

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(A) Traffic and Pedestrian Safety. To promote the free flow of traffic and protect pedestrians and motorists from injury and property damage caused by, or which may be fully or partially attributable to cluttered, distracting, or illegible signage. Also, to protect public safety by prohibiting or removing signs that are structurally unsafe or poorly maintained.

(B) Old Mission Peninsula Scenic Heritage Route. To allow Peninsula Township to regulate the height, size, display area, setback, lighting, and distances between billboards, and other regulatory powers pursuant to Act 153 of 1990 and the Old Mission Peninsula Scenic Heritage Route Guidebook, in order to control outdoor advertising along federal aid trunk line highways and encourage signage along M-37 to blend with the local character of the community.

(C) Free Speech. To ensure that the constitutionally guaranteed right of free speech is protected and to allow signs as a means of communication.

(D) Effective Communication. To allow signage of an appropriate design, scale, and placement for the purposes of communicating effectively in a manner that provides information, identification, and/or direction, without jeopardizing the beauty of the natural landscape or disrupting the environment of historically significant features or sites.

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(E) Protection of Scenic Areas and Viewsheds. To regulate outdoor advertising in such a way as to create land use patterns that are in concert with future land use objectives of the Master Plan and to prevent signs that would detract from scenic roadways and scenic views (including the preservation of historic and cultural resources, scenic areas and viewsheds, and the dark night sky).

(F) Compatibility with the Area and Protection of Property Values. To insure compatibility with rural lands, neighborhoods, and business areas, in order to protect land values by preventing blight, visual clutter, excessive lighting, and out-of-scale signage that degrade the aesthetic views and/or property values of the community, thereby enhancing the image of the community for residents, tourists, and visitors.

(G) Economic Development. To allow for adequate and effective signage for businesses to inform, identify, and communicate effectively.

(H) Ease of Administration. To have standards and administrative review procedures that are simple for property owners, businesses, tenants, and sign installers to understand and follow.

Article 11: Signs

Section 11.102 Definitions (NEW SECTION, which includes existing definitions in Section 3.2 related to signs)

The following definitions relate to signs in Peninsula Township.

(A) Sign Definitions, Sign Types. The following definitions apply to types of signs based on the characteristics of the sign without respect to the content of the message:

(1) **Banner Sign.** A sign made of natural or synthetic fabric; however, not including pennants or flags.

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(2) **Entrance Way Sign.** A sign located near the public entrance of a permitted development.

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(3) **Flashing Sign.** Any illuminated sign that pulsates, flashes, scrolls, fades, dissolves, osculates, spins, twirls, sequentially reflectorizes, or contains any other type of motion.

Deleted: that identifies a

Deleted: residential or industrial subdivision, apartment complex, condominium development, or permitted institution

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(4) **Ground Monument Sign.** A base-mounted, freestanding sign placed in the ground and not attached to any building or other structure.

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(5) **Ground Pole Sign.** A freestanding sign supported by one (1) or more uprights, poles, braces or some other structure, placed in the ground surface and not attached to any building.

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(6) **Flags.** A sign on paper, cloth, fabric or other flexible or combustible material of any kind that is attached to a permanent conforming pole or attached flat to a wall.

(7) **Illuminated Sign.** A sign that utilizes artificial light internally or externally by either emission or reflection.

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(8) **Incidental Sign.** A small, on premises sign, designed and located to be read only by people within the site and generally not visible or legible from the right-of-way or adjacent properties, used to identify on-site features of a land use such as building entrances, drop boxes, rest rooms, handicapped ramps, traffic control signs that conform to the requirements of the Michigan Manual of Uniform Traffic Control Devices, or similar signs providing information to be read at close proximity.

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(9) **Ingress/Egress Sign.** A small sign located adjacent to the entrance or exit drives of a development to identify the points of vehicular ingress and egress.

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(10) **Interior Directional Sign.** A sign located on the interior of a development used to direct visitors to within the development.

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(11) **Marquee, Canopy, Awning Sign.** A sign attached to a marquee, canopy, or awning projecting from the building.

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(12) **Pennant Sign.** A small, often triangular, tapering flag used in multiples as a device to call attention.

Deleted: "Identification of Business"

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Article 11: Signs

(13) Portable Message Sign. A freestanding sign not permanently anchored or secured to the ground, including trailers or similarly mounted signs, signs on parked vehicles where the sign is the primary use of the vehicle or wheeled object, and signs on vehicles which because of the vehicle's placement and regularity of position serves the same purpose as a "Portable Message Sign. "Portable Message Signs" do not include customary signs located on vehicles that are operating lawfully or parked in a manner where the vehicle does not serve the same purpose as a "Portable Message Sign."

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(14) Roof Sign. Any sign which is on or attached to the roof of a building.

(15) Wall Sign. A sign which is attached directly to, painted upon, or inscribed on a building wall.

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(16) Window Sign. A sign that is painted on or attached to a window or glass door and is intended to be viewed from outside, including sign located inside a building but visible primarily from the outside of the building.

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(17) Yard Sign. A portable temporary freestanding sign that is temporarily anchored or secured to the ground.

(B) Sign Definitions, General.

(1) Sign. Any device, structure, fixture, or placard using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying any establishment, product, good, or service, or any other message.

(2) Sign Face. That part of a sign structure which is used to graphically communicate a message or announcement.

(C) Sign Definitions, Sign Types Based on Activity. It is the intent of this sub-section to define sign types based on the activity the sign promotes.

(1) Sign, Noncommercial. Any sign consisting only of non-commercial content. Examples of non-commercial content include, but are by no means limited to, political signs and ideological signs.

(2) Sign, Off-Premise Commercial Advertising. A sign that identifies or communicates a message relating to an activity conducted, a service rendered, or a commodity sold at a location other than where the sign is located. Examples of off-premise commercial signs include, but are not limited to, the following:

(a) Sign, Permanent Billboard/Highway Advertising. An off-premise sign owned by a person, corporation or the entity that engages in the business of selling the advertising space on that sign.

(b) Sign, Temporary Directional. A temporary off-premise sign that is used to identify the route to an event or activity that is commercial in nature such as bazaars, races, tours and quasi-public fund raising events. Directional Event Signs include such

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Article 11: Signs

things as marks painted on or along the road surface whether or not approved by the Department of Transportation or County Road Commission.

(3) Sign, On-Premise Commercial Advertising. A sign identifying or advertising a commercial business, person, activity, or service located on the premises where the sign is located. Examples of on-premise commercial signs include, but are not limited to, the following:

- (a) **Sign, Agricultural Products.** An on-premises sign which indicates the retail sale of agricultural products including those sold at roadside stands and U-Pick operations.
 - (b) **Sign, Business Center.** A sign which gives direction, name, and identification to a business center and which may include identification of individual businesses within the center.
 - (c) **Sign, Business Identification.** A sign identifying a business operating on the premises where located.
 - (d) **Sign, Construction Site.** A sign identifying a construction site.
 - (e) **Sign, Event.** An on-premises sign placed for a period of time that is used to identify an event that is temporary in nature such as Home Tours, bazaars, races, tours and quasi-public fund raising events.
 - (f) **Sign, Local Food Production Facility.** An on-premises sign identifying a Local Food Production Facility.
 - (g) **Sign, Promotional.** A sign that is placed for a limited period of time and is used to advertise a sale, a special event, or similar activity.
 - (h) **Sign, Real Estate.** A temporary sign advertising the real estate upon which the sign is located as being for lease, sale/auction, or seasonal rent.
 - (i) **Sign, Roadside Stand.** A sign located on the same premises with a roadside stand which identifies the roadside stand and may also identify products to be sold at the roadside stand.
 - (j) **Sign, Yard/Garage Sale/Personal Event.** A temporary sign which is placed on the premises of a yard sale, garage sale or on-site events.
- (4) Sign, On-Premise Identification.** A non-electric on-premises identification sign giving name and address of an occupant.
- (5) Sign, On-Premise Safety.** A sign placed to control access to a property such as: "No Hunting", "No Trespassing", or "Private Property".

Deleted: This sign does not include Home Occupation or Bed and Breakfast business.

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Section 11.103 Substitution Clause (NEW SECTION)

Any lawful sign permitted under the provisions of this Ordinance may contain a non-commercial message.

Section 11.104 Measurement of Sign Area and Height (currently part of Section 7.11.1)

(A) Sign Area. The area of a sign shall be the minimum area of a parallelogram, ellipse, or circle, or combination of geometric shapes, that is capable of containing the graphics, symbols, and/or written copy along with the background area.

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(B) Two or More Sides. A two-sided sign (e.g., V-type sign or double-faced [back-to-back sign]) shall be considered as one (1) sign when the angle between the sign faces does not exceed fifteen (15) degrees nor does the distance between the backs of each face exceed three (3) feet.

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With respect to a V-type sign,

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(C) Height. Height of signs shall be measured from the highest point of the sign or supporting structure to the elevation of the highest point of grading beneath the sign exclusive of architectural landscaping related to the sign.

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<#>With respect to double faced (back-to-back) signs, the distance between the backs of each face does not exceed three (3) feet.¶

Section 11.105 Sign Placement and Design Requirements (currently part of Section 7.11.1)

All signs shall conform with this Article and all other provisions of this Ordinance.

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(A) On-Premise Location. All signs shall be located on the same premises as the associated use, unless otherwise provided for in this Ordinance.

(B) Alterations, Repair, and Message Changes. No sign shall be constructed, erected, moved, enlarged, illuminated, or substantially altered unless authorized in accordance with this Ordinance. Repainting or changing the message of a sign in accordance with this Ordinance shall not in and of itself be considered a substantial alteration.

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(C) Wall Signs. Wall signs shall meet the following requirements:

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(1) The sign does not project more than twelve (12) inches from the building wall;

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(2) The exposed face of the sign is in a plane parallel to the building wall or structure; and

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(3) The sign does not extend above the height of the building or wall.

(D) Materials. Materials, supports, frames, letters, and sign surfaces may be any commonly used material, however, the use of natural or natural appearing materials is required along M-37 and highly encouraged elsewhere in the township.

(E) Freestanding Sign Width. The sign width, including supporting structures and base, shall not be more than one and one-half times the width of the sign face alone.

Article 11: Signs

(F) Setbacks. Setbacks shall be measured from the lot line to the leading edge of the sign or support structure whichever is less.

Deleted: of the road from which the sign will be viewed

(G) Maintenance. Signs shall be properly maintained, including keeping the sign secured and/or anchored, and replacing or repairing materials that are faded, discolored, torn, or deteriorated.

(H) Planning Commission and Zoning Administrator Review. All plans for construction, design, and appearance of signs associated with a development for which site plan review is required shall be reviewed by the Planning Commission as part of the site plan approval process. Changes to existing signs shall be reviewed by the Zoning Administrator in accordance with this Ordinance. In addition to any other consideration, the Planning Commission and/or the Zoning Administrator shall consider the following content-neutral provisions in reviewing and approving signs:

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<#>All plans for the construction, design and appearance of Entrance Way Signs and Subdivision Development Signs not subject to a Special Use Permit shall be submitted to the Zoning Board of Appeals for review and approval.¶
<#>¶

(1) Compatibility of the sign with the character of the neighborhood;

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(2) The sign does not unreasonably block views from other properties;

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(3) Materials and colors used are natural looking and consistent with surrounding structures in the vicinity, and with the intent of the Ordinance; and

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(4) Where the Planning Commission or Zoning Administrator has discretion on the number and location of certain signs, the number and location of signs shall be reasonably necessary to meet the intent of this Ordinance.

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(I) Signs approved in association with a Special Use Permit. In approving a Special Use Permit, the Township Board may approve any or all signs allowed in this Ordinance provided that the approved signs meet the following content-neutral provisions:

(1) Are related to an approved use in the Special Use Permit;

(2) The design, size, setback and lighting are shown on a scale drawing;

(3) The number and location of all signs is reasonably necessary to meet the intent of this Ordinance.

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Section 11.106 Prohibited Signs (currently Section 7.11.2 and parts of Section 7.11.1)

The following signs shall be prohibited in the township unless explicitly permitted elsewhere in this Ordinance:

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(A) Off-premises commercial advertising signs unless explicitly permitted in this Article

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(B) Signs that are illegal under applicable Federal, State, or local laws, regulations and/or ordinance.

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Article 11: Signs

(C) Signs that are not clean and in good repair or that have become unsafe or not secure.

(D) Signs that violate the building code or electrical code.

(E) Signs not securely fastened to a substantial structure.

(F) Signs that interfere with or resemble any official traffic sign, signal, or device, or signs that are deemed hazardous or dangerous by the local road agency or public safety department

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(G) Signs that do not comply with the standards in this Ordinance.

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(H) Flashing Signs.

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(I) Portable Message Signs or signs utilizing vehicles, trucks, vans, or other wheeled devices.

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(J) Roof Signs.

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(K) Pennant Signs.

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(L) Any sign that revolves, rotates, moves, or is animated.

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(M) Signs with automated changes in sign appearance.

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(N) Banner Signs, pennants, streamers, festoons, and airborne or air-activated devices attached to the ground or buildings except where otherwise specifically permitted by this Ordinance.

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(O) Tripods or sandwich boards

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(P) Changeable message boards.

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(Q) Wall signs extending perpendicularly from a building wall.

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(R) On-site and off-site directional Signs except those specifically allowed by this Ordinance.

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(S) Signs within a road right-of-way except traffic direction and control signs placed by the County Road Commission or Michigan Department of Transportation.

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(T) Signs attached to trees and other vegetation.

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(U) Signs attached to utility structures or poles, including light poles, except by the utility company.

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(V) Signs located in a Clear Vision Area unless permitted in Section 7.112.

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(W) Signs attached to street furniture, such as benches and trash cans.

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(X) Projected image signs.

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Deleted: shall not be placed so as to interfere with driver or pedestrian vision at intersections of public roads, private roads, or driveways. In order to not obstruct the view of on-coming traffic from the ingress or egress point of the property, signs, if higher than three (3) feet, shall not be placed within a clear site zone which is a triangle with sides fifteen feet from the beginning of the radius of the entrance way measured along the road providing access to the property and along the access drive fifteen feet from the end of the radius of the entrance way

Article 11: Signs

Section 11.107 Signs Permitted in All Districts (currently Section 7.11.3)

The following signs shall be allowed in all zoning districts (Section 11.107 and Section 11.108 may apply):

- (A) Memorial/Historical Markers when the site is recognized for its historical significance by a Federal or State agency.
- (B) On-Premise Identification Sign, which is necessary for public safety and emergency vehicle access.
- (C) Official signs of a non-commercial nature erected by a public utility.
- (D) On-Premise Safety Signs, such as a Private Property/No Hunting/No Trespassing Sign.
- (E) Public notice signs placed by public agencies.
- (F) Signs required by law or placed by any governmental agency for traffic control in accordance with the Michigan Manual of Uniform Traffic Control Devices.
- (G) Incidental Signs.
- (H) Flags or insignia of any governmental or non-profit organization when not displayed in connection with a commercial promotion or as an advertising device.
- (I) Signs carried by a person if operating lawfully in a public or private road right-of-way.

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Commented [PS64]: The deleted list of signs is covered in the following section because they are regulated as either permanent or temporary signs. Rather than regulate garage sales signs, construction signs, and other on-site commercial signs, we recommend regulating the length of the use elsewhere in the Zoning Ordinance. This way, the sign is only permitted as long as the on-site commercial use.

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- <#>Agricultural Products Signs on the same premises with a general farm or horticultural use while the retail outlet is in operation. Signs may be two sided and may have changeable strips identifying specific products or products in season.¶
- ¶
- <#>Church/Non-profit Social Organization/Governmental Sign.¶
- ¶
- <#>Construction Site Sign may be displayed while construction is taking place.¶
- ¶
- <#>Entrance Way Sign.¶
- ¶
- <#>Event Sign and Directional Event Signs are permitted under the following conditions:¶
- ¶
- <#>The event has been approved by the Peninsula Township Board.¶
- ¶
- <#>The specific size, number, location, and duration of placement of the signs has been approved by the Peninsula Township Board.¶
- ¶
- <#>Real Estate Sign while the property is available for rent/lease or sale.¶
- ¶
- <#>Roadside Stand Sign.¶
- ¶
- <#>Subdivision Development Sign.¶
- ¶
- <#>Yard/Garage Sale Signs. The on-site sign may not be displayed for more than three (3) consecutive days and not more than ten (10) days in any 365-day period.¶
- ¶
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Section 11.108 Sign Regulations for Specific Zoning Districts (currently Sections 7.11.4 – 7.11.6, including part of Table 7.11.6)

In addition to signs permitted in Section 11.107, the following standards apply (all areas are in square feet and all setbacks are from any lot line):

(A) Signs Permitted in All Districts. The following signs are permitted in all zoning districts:

Sign Type	Maximum Number Per Lot	Maximum Area	Maximum Height	Minimum Setback	Illumination	Permit Required?
Temporary On—Premise Commercial Advertising Sign	1	6 sq. ft.	4 ft.	0 ft.	No	No
Temporary Off-Premise Commercial Advertising (limited to 30 days in a calendar year)	1	6 sq. ft.	4 ft.	0 ft.	No	Yes
Temporary Noncommercial Signs	4	24 sq. ft. total	4 ft.	0 ft.	No	No
Ground Monument Entrance Way Sign (Excluding uses located in a Commercial District, single-family dwellings, and two-family dwellings)	1	9 sq. ft.	6 ft.	15 ft.	Yes	Yes
Wall or Marquee/Awning (For the following uses not located in a Commercial District: Institutional Uses, Non-Profit Uses, and Government Uses)	1	30 sq. ft.	N/A	N/A	Yes	Yes
Window Sign	1	3 sq. ft.	N/A	N/A	No	No
Name Plate	1	3 sq. ft.	4 ft. (unless attached to a building)	0 ft.	Yes	No
On-Premise Safety Signs	1 per 100 feet of frontage or portion thereof	1 sq. ft.	6 ft.	0 ft.	No	No
Ingress/Egress Signs	***	2 sq. ft.	3 ft.	0 ft.	***	Yes
Incidental Signs	***	2 sq. ft.	***	***	***	Yes
Interior Directional Sign	***	2 sq. ft.	***	***	***	Yes

***As per approved site plan or plot plan.

Commented [PS65]: This replaces the provisions for "Construction Site," "Real Estate," "Yard/Garage Sale," and "Event Sign."

Commented [PS66]: Currently, the Township Board has discretion on temporary event and directional signs. However, this can lead different standards based on the content of the message or the commercial nature of the event taking place. The proposed regulation will make the approval administrative and will treat all off-premise commercial signage equally.

Commented [PS67]: This would include political signs and ideological signs, though the Substitution Clause would allow noncommercial content on any permitted sign. If additional noncommercial signs are desired to allow for more political signs, we would recommend allowing additional signage for 90 days in a calendar year. This way, the regulation would not be tied to an event.

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Commented [PS68]: This replaces the provisions for "Church/Non-Profit/Governmental" and "Entrance Way"

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Article 11: Signs

(B) Signs Permitted in Commercial Districts. In addition to the signs permitted in Section 11.107 and Section 11.108(A), the following signs shall be permitted in the Commercial Districts:

Sign Type	Maximum Number	Maximum Area	Maximum Height	Minimum Setback	Illumination	Permit Required?
Billboards (along M-37 only)	1	30 sq. ft.	10 feet	15 feet	No	Yes
Ground Monument Sign	1	30 sq. ft.	10 feet	15 feet	Yes	Yes
Wall or Marquee/Awning	1	30 sq. ft.	N/A	N/A	Yes	Yes

(C) Signs Permitted in the A-1 Agricultural District. In addition to the signs permitted in Section 11.107 and Section 11.108(A), the following signs shall be permitted in the A-1 District:

Sign Type	Maximum Number	Maximum Area	Maximum Height	Minimum Setback	Illumination	Permit Required?
Additional Temporary On-Premise Commercial Advertising Sign (Farms, Roadside Stands, Food Processing Plants, and Local Food Production Facilities only)	1	9 sq. ft.	6 ft.	0 ft.	No	No

Section 11.109 Billboards (Permanent Off-Premise Commercial Advertising Signs) (current Section 7.11.1(6), 7.11.1(20), and 7.11.2(12))

- (A) **Setbacks.** The support system for billboards is a structure which must meet all setbacks, and requires a lot that meets the area and size requirements for the district in which located.
- (B) **Separation Distance.** There shall be a minimum horizontal spacing of **two thousand (2,000)** feet between any two (2) billboards including both sides of a highway.
- (C) **Prohibited Billboards.** The following types of billboards shall not be permitted:
 - (1) A billboard within 500 feet of any residential district, historic district, park, school, church, hospital, retirement home, cemetery, or government building. A billboard located within 500 feet of a residential, commercial, industrial, or agricultural use on the same property.
 - (2) A billboard that is stacked, tiered, stepped, or placed next to or alongside of any other billboard or sign.
 - (3) A billboard which would, by its erection, destroy significant natural vegetation and/or cause significant existing vegetation to be removed.
 - (4) A billboard mounted on or over the roof of a building.

Deleted: the following signs shall be permitted

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¶
Not in a Business Center

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9 sq. ft.

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¶
10 feet

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15 feet

Deleted: ¶
<#>Promotional sign provided it pertains to the business or product on the property and also provided that it is changed at least bi-weekly.¶

Commented [PS69]: The deleted sign for agricultural awards could be covered under allowable temporary noncommercial or commercial signs

Deleted: The

Commented [PS70]: This allows an additional on-premise commercial sign for these agricultural uses. Currently, Farm Processing Facilities and Roadside stands are permitted 1 sign, and Agricultural Products are permitted 2 signs. We recommend grouping agricultural uses and allowing 1 additional temporary on-premise commercial advertising sign in addition to the 1 permitted in the general standard above

Deleted: <#>Signs Not Requiring a Permit.¶
¶
<#>Areas are in square feet.¶
¶
<#>Setbacks are measured from road rights-of-way that are lot lines, however no signs shall be placed in required side yards that are not road rights-of-way.¶
¶
<#>The following signs do not need a sign permit:¶
Sign Type

Deleted: **Wall or Marquee/Awning only¶
***As per approved site plan¶
¶
<#>Such permit shall be preceded by the submission of an application on a form prescribed by the Board of Appeals accompanied with a filing fee. The Board of Appeals shall thereafter hold a hearing on the application, said hearing to be at such time and place and preceded by such notice as the Board of Appeals may determine. If the Board of Appeals shall determine that the granting of the application will not be inimical to the public health, safety, morals or welfare, then...

- (5) Billboards which may otherwise be prohibited by any other laws, ordinances or regulations.

Section 11.110 Illumination and Changeable Copy Standards (currently part of Section 7.14.3(5) and part of Section 7.11.1)

- (A) General Lighting. If illumination is allowed by this Ordinance, such illumination shall conform to the requirements of Section 8.107,
- (B) Hours of Illumination. Illuminated signs must be turned off no more than one (1) hour after the close of business and may be turned on no earlier than one (1) hour before the opening of business except by special permission granted as a condition of site plan approval and/or special land use approval.
- (C) External Illumination. External illumination of signs, including billboards, advertising kiosks, and information boards, shall be mounted at the top of the sign or sign structure and be fully shielded;
- (D) Internal Illumination. Internally illuminated signs, billboards, advertising kiosks, and information boards shall have a dark background with lighter-colored translucent (not transparent) lettering, logos, and/or designs. The maximum luminance level of an internally illuminated sign shall not exceed the ambient light at all times, except that the luminance level shall be 700 nits from 30 minutes before dusk until dawn, as determined by the National Oceanic and Atmospheric Association (NOAA). All electronic message center signs and other internally illuminated signs shall be equipped with a photocell and automatic dimmer, and a cut sheet for the sign must be submitted to the Township at the time of permit application showing compliance with these requirements.

Deleted: Section 7.14

Section 11.111 Nonconforming Signs (NEW SECTION)

- (A) Removal of Nonconforming Signs. If the owner of a sign or the premises on which a sign is located changes the location of a building, property line or sign, or changes the use of a the land or building so that any sign on the premises is rendered nonconforming, such sign must be removed or made to conform to this Article.
- (B) Lawful Existing Signs. Any sign lawfully existing at the time of adoption of this Article which does not fully comply with all provisions shall be considered a legal non-conforming sign and may be permitted to remain as long as the sign is properly maintained, there is no increase in nonconformity, and the sign is not detrimental to the health, safety, and welfare of the community except as hereafter provided.
- (C) Continuance. A nonconforming sign shall not be:
 - (1) Expanded or changed to another nonconforming sign unless the sign is specifically designed for periodic message change.

Article 11: Signs

(2) Relocated or structurally altered so as to prolong the life of the sign or so as to change the shape, size, type, placement or design of the sign.

(3) Repaired or re-erected after being damaged if the repair or re-erection of the sign would cost more than fifty (50) percent of the cost of an identical new sign.

(D) Alteration. No nonconforming sign shall be altered or reconstructed, unless the alteration or reconstruction be is in compliance with the provisions of this Article. For the purpose of this Article only, the term "altered" or "reconstructed" shall not include normal maintenance; changing of surface sign space to a lesser or equal area, ornamental molding, frames, trellises or ornamental features or landscaping below the base line; or the addition, construction, installation or changing of electrical wiring or electrical devices, backgrounds, letters, figures or characters or other embellishments. Nonconforming signs and sign structures shall be removed or made to conform within ninety (90) days of the termination of the use to which they are accessory.

(E) Intent. It is the intent of this Article to encourage eventual elimination of signs that, as a result of the adoption of this Article, become nonconforming and to administer this Article to realize the removal of illegal nonconforming signs and to avoid any unreasonable invasion of established private property.

Section 11.112 Appeals and Variances (currently part of Table 7.11.6)

(A) Any person aggrieved by any decision, ruling or order from the Planning Department, may make an appeal to the Zoning Board Appeals in accordance with Section 14.104 of this Ordinance. In determining whether a variance is appropriate, the ZBA shall also study the sign proposal, giving consideration to any extraordinary circumstances, such as those listed below, that would cause practical difficulty in complying with the sign standards. The presence of any of the circumstances listed may be sufficient to justify a practical difficulty; however, the ZBA may decline to grant a variance even if certain of the circumstances is present.

(1) Permitted signage could not be easily seen by passing motorists due to the configuration of existing buildings, trees, or other obstructions, which cannot be legally and/or practically removed.

(2) Permitted signage could not be seen by passing motorists in sufficient time to permit safe deceleration and exit. In determining whether such circumstances exist, the BZA shall consider the width of the road, the number of moving lanes, the volume of traffic, and speed limits.

(3) Existing signs on nearby parcels would substantially reduce the visibility or advertising impact of a conforming sign on the subject parcel.

(4) Construction of a conforming sign would require removal or severe alteration to natural features on the parcel, such as but not limited to: removal of trees, alteration of the natural topography, filling of wetlands, or obstruction of a natural drainage course.

Article 11: Signs

(5) Construction of a conforming sign would obstruct the vision of motorists or otherwise endanger the health or safety of passers-by.

DRAFT Proposed Work Calendar for Peninsula Township 2016 Zoning Ordinance Update

WORK TASK	MONTH											
	Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sept.	Oct.	Nov.	Dec.
Project Initiation												
Kick-off Meeting (1 meeting - January 14 Special Joint TB/PC/ZBA Meeting)	✓											
Diagnostic (Technical) Review												
Diagnostic Review (1 meeting - February 22 Special Joint TB/PC Meeting)		✓										
Annotated Outline and Format for Ordinance												
Outline and Format (1 meeting - March 21 Special PC Meeting)			✓									
Zoning Ordinance First Draft & First Draft Review												
1. April 18 Special Joint TB/PC Meeting												
Reviewed Article 1 (Title, Purpose, and Scope) and Started Review of Article 2 (Definitions) - through "Building, Height of"				✓								
2. April 25 Special Joint TB/PC Meeting												
Reviewed Section 3.113 (Shoreline Overlay) and Section 7.114 (Fences and Walls)				✓								
3. May 3 Special Joint TB/PC Meeting												
Reviewed Section 6.103 (Bed and Breakfast Establishments), Section 6.110 (Food Processing Plants), Section 6.123 (Local Food Production Facility), and Section 6.138 (Winery, Use by Right)					✓							
4. May 16 Regular PC Meeting												
Reviewed Article 8 (Environmental Performance Standards), Article 9 (Parking, Loading, and Access Management), Article 10 (Landscaping and Screening), and Article 11 (Signs)					✓							
5. June 20 Special PC Meeting												
Reviewed Sections 3.101-3.112 (Zoning Districts and Map)						✓						
6. June 20 Meeting (Regular PC)												
Reviewed Article 12 (Nonconformities), Article 13 (Administrative Organization), and Article 14 (Administrative Procedures)						✓						
7. July 18 Special PC Meeting												
Reviewed Section 3.117 (Neighborhood Overlay) and Sections 7.102-7.113 (Accessory Buildings and Structures)							✓					
8. August 15 Special PC Meeting												
Review Article 5 (Supplemental Zoning District Standards), Article 7 (General Provisions - Fences and Walls, Accessory Buildings and Structures, Swimming Pools, and Solar Energy), and Article 11 (Signs)								x				
9. August 22 Special PC Meeting												
Review Article 2 (Definitions), Article 6 (Standards Applicable to Specific Uses), and Zoning Map								x				
10. Additional PC Special Meeting?												
Address Major Issues Remaining								x				
Planning Commission Public Hearing and Approval												
Public Hearing Presentation (1 PC meeting - September Meeting)									x			
Zoning Ordinance and Map Revised After PC Public Hearing and Distributed to Township										x		
PC Recommendation of Approval of Zoning Ordinance and Map (October Meeting)											x	
Township Board Public Hearing and Approval												
Public Hearing Presentation (1 TB Meeting - November Meeting)												x
Zoning Ordinance and Map Revised After TB Public Hearing and Distributed to Township												x
TB Approval of Zoning Ordinance and Map (December Meeting)												x
Distribution of Adopted Copies of Zoning Ordinance and Map												x