

WHITEWATER TOWNSHIP PLANNING COMMISSION
AGENDA FOR REGULAR MEETING, *November 6, 2019*
7:00 PM, Whitewater Township Hall
5777 Vinton Road, Williamsburg, MI 49690
Phone 231-267-5141/Fax 231-267-9020

1. Call to Order/Pledge Allegiance
2. Roll Call of Commission Members
3. Set/Adjust Meeting Agenda
4. Declaration of Conflict of Interest
5. **Public Comment:** Any person shall be permitted to address a meeting of the Planning Commission. Public comments shall be carried out in accordance with the following rules and procedures:
 - a. Comments shall be directed to the Commission, with questions directed to the Chair.
 - b. Any person wishing to address the Commission shall speak from the lectern and state his/her name and address.
 - c. Persons may address the commission on matters that are relevant to township planning and zoning issues.
 - d. No person shall be allowed to speak more than once on the same matter, excluding the time needed to answer Commission members' questions.
 - e. Public comment shall be limited to 3 minutes.
6. Public Hearing: NA
7. Approval of October special meeting minutes and regular meeting minutes
8. Correspondence: NA
9. Reports/Presentations/Announcements/Comments
 - a. Zoning Administrator, Hall
 - b. Chair, Mangus
 - c. Township Board Representative, Lawson
 - d. ZBA Representative, Hooper
10. Unfinished Business:
 - a. Site Condominium standards
 - b. Survey questions for December Newsletter
 - c. Masterplan review
11. New Business:
 - a. Next projects to be addressed by PC
12. Next Meeting Agenda
13. Public Comment
14. Commission Discussion/Comments
15. Continuing Education
16. Adjournment

Whitewater Township will provide necessary reasonable auxiliary aids and services to individuals with disabilities who are planning to attend. Contact the township clerk at 231-267-5141 or the TDD at 800-649-3777.

WHITEWATER TOWNSHIP PLANNING COMMISSION
MINUTES FOR SPECIAL MEETING
MASTER PLAN REVIEW
October 2, 2019

Call to Order at 6:07 p.m.

Roll Call: Dean, Hooper, Jacobson, Lawson, Mangus, Savage

Absent: Render

Also in attendance: Recording Secretary MacLean and Zoning Administrator Hall

Set / Adjust Agenda: Set

Declaration of Conflict of Interest: None.

Special Meeting Business:

1. Master Plan Review Open House: Vaughn Harshfield, 4404 N. Broomhead: I have read the Master Plan. Revisions need to be made regarding the fire and ambulance services. According to the Master Plan the citizens are supposed to get a monthly newsletter. Objectives and plans need to be reasonable and provable. Have a PC blurb in each newsletter.

Five acre zoning: In the packet for the next board meeting I appears an issue exists on the five acre minimum. Why can the public not read the legal opinions? After the board reviews it they may choose to release the information.

The five acre minimum has become controversial because proper procedure was not followed. The Board taking steps on this topic is not following proper procedure. Many land transactions have occurred since the five acre minimum came to be. Hall notes that he has just finished a public hearing regarding the validity of zoning amendments. The legal opinion was that if it has been happening or being used for 10 years it stands. It would need to be reviewed and go back through the process of adoption. At one point we had a zoning administrator say, as a compromise, we could make privately owned property a two acre minimum and public property be a larger minimum (5 to 20 acres).

Harshfield notes that the acreage minimum is the reason he bought in that area. It is already building substantially in that area and would be much more busy if the acreage was lower. My dream for this township is for Whitewater to be the Central Park of Northern Michigan. The survey we did in 2009 was accurate at that time. Do another professional survey. If it is going to get changed make sure you follow all of the proper procedures. This issue will not affect me. I believe anything less than the five acre minimum would be detrimental on this township. Even if the zoning goes back, the cost to split properties is very expensive.

Hooper: There is so much public land out there that will never be developed that it will not destroy the rural character of the township.

Hooper: If we get to have a public input meeting I will listen to the public because I haven't made up my mind.

Mangus: The only thing I know for sure is that it needs to be addressed. There are several ways that it can be addressed. Put the controversy to rest by putting it properly on the books.

Supposed to have a validation for why zoning is the way it is.

Good discussion.

Next Regular Meeting is scheduled for October 2, 2019, immediately following.

Public Comment: The whole meeting was public comment

Adjournment: 7:05 p.m.

Respectfully Submitted
Lois MacLean,
Recording Secretary

WHITEWATER TOWNSHIP PLANNING COMMISSION
MINUTES FOR REGULAR MEETING
October 2, 2019

Call to Order at 7:07 p.m.

Roll Call: Dean, Hooper, Jacobson, Lawson, Mangus, Render, Savage

Absent:

Also in attendance: Recording Secretary MacLean and Zoning Administrator Hall

Set / Adjust Agenda: Set

Declaration of Conflict of Interest: None.

Public Comment: None

Public Hearing:

- a. Open Public Hearing at 7:10 p.m. on Amendment #77 on Article 3, Definition and Article 27, Environmentally Sensitive Areas
Published in the Record Eagle September 15, 2019.
- b. Zoning Administrator Presentation – Rationale regarding Article 27: Two weaknesses: 1. Not supported by the Master Plan and 2. There are other county and state entities that cover Environmentally Sensitive Areas. Plus the site plan review process addresses this.
- c. Correspondence: None
- d. Public Speaking in Favor of Amendment - None
- e. Public Speaking in Opposition to Amendment - None
- f. Anyone Wishing to Speak on the Amendment Who Has Not Already Commented - None
- g. Close Public Hearing at 7:19 p.m.
- h. Discussion of Appeal: We can send it to the board for adoption
- i. Findings of Fact:
 - *The planning commission found that all relevant items which this ordinance purports to regulate are currently addressed by our existing land use process.
 - * Our township does not have staff or resources to enforce these guidelines. These items are addressed by other agencies which have the experience, education, and resources to do so.
 - *Upon review of the text, the planning commission determined that this Article is attempting to replicate or restate existing guidelines which are provided and managed by a several state and county agencies.
 - *It is impossible to accurately replicate and address changes in the standards and guidelines set forth by multiple other agencies. We found that it is more appropriate to refer individuals to the proper governing body for each instance as appropriate.
 - *The planning commission found that while most of the standards within this ordinance are being enforced, they are being enforced by others. The township has never actively enforced this ordinance.
 - *Retaining these items leaves the township open to legal challenge for both overreach of authority and under-enforcement.
 - *This ordinance is not supported by the four goals stated in the 2015 Master Plan.
- *Clarification of the definition of “Accessory Building” specifies that this use is allowed when concurrent with the permit for a primary dwelling.
- j. Decision: Based on the Findings of Fact the PC will send Amendment #77 to the Board with a recommendation to adopt.
- k. Motion by Jacobson, second by Savage to forward Amendment #77 regarding Article 27, Environmentally Sensitive Areas and Article 3, Definitions, to Board with a recommendation to approve. Roll call vote .
Dean-Yes; Hooper-Yes; Jacobson-Yes; Lawson-Abstained; Mangus-Yes; Render-Yes; Savage-Yes
Motion Carried.

Approval of Minutes:

MOTION to approve September 4, 2019, Regular Meeting Minutes as adjusted by Savage, second by Hooper.
All in favor. Motion carried.

Correspondence: None.

Reports:

Zoning Administrator Report, Hall: Brought in some reading material for you, sharing copies of Planning & Zoning News. The PC can subscribe to this for less than \$400 per year for each member to receive it.

Pretty much caught up with things in the zoning office.

I've never seen so many people in the kitchen trying to stir the same pot of soup. There seems to be a cross-over of duties between the Board and the PC.

Should document in the minutes that you are starting to review the Master Plan.

Next month Hall will give the PC what he sees how the Master Plan meets or does not meet the check list supplied.

Chair report, Mangus: I know the board is working on the repeal of the private road general ordinance.

Township Board Rep., Lawson: Not much right now.

ZBA Representative, Hooper: We had a meeting for a lot of record in the five acre minimum area for lot line adjustments and the right to build in the future. It was approved. Accessibility improved. Made all of the non-compliant lots less non-compliant.

Committee Reports: None.

Additional Items: None.

Unfinished Business

1. Condominium Subdivision, Ordinance #28: Postpone to November
2. Master Plan review— It is the plan of the Planning Commission to begin a review of the 2015 Master Plan.
Open House held prior to this meeting. Citizen engagement: Schedule a January 8, special meeting at 6 p.m. Send out a township email blast. Include info in the December newsletter. Put it in the ER Community Calendar. Put an ad in the Record Eagle. Check into the Traverse City Ticker.
Survey to go into the newsletter 5-10 questions. Ted's question for the survey: Do we need five acre minimum lot size in Whitewater Township? Lawson and Mangus will review the 2009 survey questions.

New Business:

1. Direction / Next project discussion. Working on the Master Plan review.
The Zoning Administrator will bring forth to the PC anything he notes that needs addressing in the zoning ordinance as he comes across it.

Next Regular Meeting is scheduled for November 6, 2019.

Regular meeting agenda items: Condo Guidelines. Survey questions. Review of what areas need a tune up in the Master Plan: needs and recommendations, requirements and suggestions.

Public Comment: None

Commission Discussion/Comments: None

Continuing Education: Determine if you would like the Planning & Zoning News. October 14, is the zoning training 5:30 – 8:30 in Leelanau. Contact the clerk if you would like to go.

Adjournment: 8:54: p.m.

Respectfully Submitted
Lois MacLean,
Recording Secretary

Planning & Zoning Department

Whitewater Township
P.O. Box 159 5777 Vinton Road
Williamsburg, MI 49690



Date: May 15, 2019

To: Whitewater Township Board of Trustees & Planning Commission

From: Lindsey Wolf, Zoning Administrator

Subject: Site Condominium Review and Approval Going Forward

Dear Members of the Planning Commission:

After a lengthy review of Whitewater Pines Site Condominium it seems appropriate to discuss the inclusion of an approval process for site condominium subdivisions within the Whitewater Township Zoning Ordinance. Up to this point there have been numerous hours spent and attorney consultation in regards to the approval process. I strongly feel that this process can be streamlined for the applicant and the department in the future. One of the goals stated in the 2015 Master Plan is to streamline the application process for development (p.4).

Issue: Article XXVIII Condominium Regulation

There is conflicting information regarding the review process in the current Zoning Ordinance. Article XXVIII Section 28.11 in the Ordinance states that condominium subdivisions are subject the review procedure and standards imposed by the Township Subdivision Control Ordinance. Section 28.14 also makes reference to the Township Subdivision Ordinance.

Article III definition of a site condominium subdivision: A division of land on the basis of condominium ownership, which is **NOT** subject to the provisions of the Subdivision Control Act, Public Act 288 of 1967, as amended, but **IS** subject to the requirements of the Condominium Act, Public Act 59 of 1978, as amended.

Attorney review determined that the Subdivision Control Ordinance does not apply to site condominiums, but is subject to site plan review. Language included in Article XXV Site Plan Review and Special Land Uses Section 25.10 A(5) requires a site condominium, condominium subdivisions and PUD's be subject to site plan review.

I have researched the approval process in other townships within Grand Traverse County including: Acme, Blair, Paradise, Garfield, Fife Lake, Long Lake, and Green Lake. These entities have addressed site condominiums by amending their zoning ordinances to include a process for reviewing and approving these projects. I have included proposed language for an Amendment to Article XXVIII (revised in its entirety) for your consideration.

Respectfully,

Lindsey Wolf, Zoning Administrator

Color Code:

Black – Original Text and Text proposed by Lindsey Wolf

Red – Notes/adjustment by PC

**ARTICLE XXVIII
CONDOMINIUM SUBDIVISIONS**

28.10 INTENT

The intent of this Article is to provide procedures and standards for the review and approval or denial of condominium developments 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 platted subdivisions as provided for through the Land Division Act (P.A 288 of 1967, as amended), and promote the orderly development of adjacent areas. These regulations are enacted by authority of the Condominium Act, the Michigan Zoning Enabling Act, and this Ordinance, as amended, whereby all developments utilizing any form of condominium subdivision of land shall be approved or disapproved by the Township.

28.11 APPLICABILITY

1. General Provisions

Prior to recording of the master deed, required by Section 72 of the Condominium Act, the condominium development shall undergo a site plan review and approval by the Township in accordance with the provisions of this section. Approval under this section shall be required as a condition to the right to construct, expand or amend a condominium project in the Township.

2. Condominium Conversions – All individuals proposing a Condominium Conversions shall present the township with two copies of all appropriate documents for review. Said review shall be conducted by the township Zoning Administrator and township attorney for compliance with the Condominium Act (Act 59 of 1978, as amended). Applicant shall be provided with a written response of approval or specific reason for failure to approve within 60 days of submission.

3. Plat Approval

There shall be no requirement for a plot approval for a condominium subdivision under the Township Subdivision Control Ordinance.

4. Planned Developments

The procedural provisions of this section shall not apply to condominium developments which are reviewed and approved through the Special Use Permit – Planned Unit Development procedure, **Article 31 of this Ordinance**.

28.12 CONSULTATION

In determining whether to approve a condominium development plan, the Township shall consult with the Planning Zoning Department, and the Township Attorney regarding the adequacy of the master deed, deed restrictions, utility systems, and streets, site layout and design, and compliance with all requirements of the Condominium Act and this Ordinance. All reasonable costs related to said consultation, as established by the Township, shall be paid by the petitioner prior Township signature and issuance of approval.

28.13 GENERAL REQUIREMENTS

1. Compliance with Federal, State and Local Laws

All condominium projects shall comply with all applicable Federal, State and local laws and ordinances. No condominium documents shall conflict with the standards of this Ordinance.

2. Required Content

Size and Scale

The condominium subdivision plan may be on paper and shall not be less than 24 inches by 36 inches, at a scale of at least 1 inch to 200 feet showing the date and north arrow.

3. Information Required

All condominium development plans shall include the information required by **Section 66 of the Condominium Act** and the material required in **Section 25.11 (F)**. A person, firm, or corporation intending to develop a condominium project shall provide the following information:

- a. The name of the proposed condominium subdivision.
- b. The name, address, telephone number of:
 1. All persons, firms, or corporations with an ownership interest in the land on which the condominium project will be located and a description of the nature of each entity's interest (for example, fee owner, optionee, or land contract vendee)
 2. All engineers, attorneys, architects, landscape architects, or registered land surveyors associated with the project.
 3. The developer or proprietor of the condominium project.
- c. The legal description of the land on which the condominium development will be developed together with any expansion plans and appropriate tax identification numbers.
- d. The acreage of the land on which the condominium development will be developed.
- e. The land use and existing zoning of the proposed condominium subdivision.
- f. The names of property owners, zoning classification, and existing structures on the subject parcel and adjoining parcels within 300 feet of the site.
- g. Location, type, dimensions and proposed use of all existing structures.
- h. A location map showing the relationship of the proposed plan to the surrounding area.
- i. Statement of intended use(s). Such as, residential single-family, residential multi-family, commercial, industrial, etc. and the number of acres of each type of land use proposed.
- j. Condominium lot lines and the total number of condominiums units to be developed on the subject parcel.
- k. Description of water system to be provided.
- l. Description of sanitary waste disposal system to be provided.
- m. Right-of-way easements, showing location, width, and purpose.
- n. Existing topographic elevations at two (2) foot intervals, proposed grades and direction of drainage flows.
- o. Location and types of all significant existing vegetation, water courses and bodies, flood plains and water retention areas, wetlands, and soil types.
- p. Any additional information required **during site plan review**.

4. Utility Easements

The condominium development plan shall include all necessary easements for the purpose of constructing, operating, inspecting, maintaining, repairing, altering, replacing, and/or removing pipelines, mains, conduits, and other installations of a similar character providing public utilities.

5. Private Roads

All private roads in a condominium subdivision shall comply with the specifications of the **Whitewater Township Private Road Ordinance No. 32**, as amended.

6. Encroachment Prohibited

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.

7. Performance Guarantees

As a condition of approval of the condominium plan by the Township, a performance guarantee may be required to ensure construction of required improvements and the completion of filing requirements before land use permits are issued. Upon fulfillment of all requirements and filings, the developer shall apply to the Township for release of performance guarantees. Performance guarantees shall comply with the requirements in **Section 25.16** of this Ordinance.

28.14 MOBILE HOME CONDOMINIUMS

Mobile home condominium developments shall conform to the requirements of this Ordinance, in accordance with the Condominium Act and other applicable Local, State laws, ordinances and regulations. Such developments shall be located only in a zoning district that provides for mobile homes. The review and approval shall be processed in accordance with Section 28.15 Review Procedures.

28.15 STANDARDS AND DESIGN FOR CONDOMINIUM SUBDIVISION PROJECTS

1. Condominium Lots

The 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 provisions herein, these parcels shall be referred to as “site condominium lots”.

2. Condominium Subdivision Layout and Design

The description, size, location and arrangement of the site condominium lots shall conform to the requirements of this Ordinance. The design of a condominium projects shall be subject to the following requirements. Should there be unusual topographic or other natural feature constraints, these standards may be modified to achieve greater or lesser conformance in accordance with the judgement of the Township **Zoning Administrator, Planning Commission, and Township Board**.

- a. Each condominium lot in a site shall be considered a single lot and shall comply with the zoning district in which it is located. The area and bulk requirements of a dwelling unit or structures are subject to the zoning district in which it is located.
- b. Each condominium dwelling unit shall be located within a condominium lot. In a condominium development containing single-family detached dwellings units, not more than one (1) dwelling unit shall be located on a condominium lot.
- c. The condominium lots size and required setbacks shall be measured from the designated front, rear and side condominium lot lines.
- d. That there is proper relationship between existing streets and highways within the vicinity, and proposed deceleration lanes, service drives, entrance and exist driveways, and parking areas to assure the safety and convenience of pedestrian and vehicular traffic, and that the proposed streets and access plan conform to any street or access plan adopted by the Township or the County Road Commission.
- e. Existing natural features which add value to a residential development and enhance the attractiveness of the community (such as water courses, spots of historic significance, and similar irreplaceable assets) shall be retained, insofar as possible, in the design of the subdivision. Particularly where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes, and help control erosion or discharge of storm waters.

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- f. Lands subject to flooding or otherwise deemed by the Township to be uninhabitable shall not be used for uses that may increase the danger to health, life, or property or increase the flood hazard. Such land within a site condominium may be set aside for other uses, such as parks or other open space.
- g. Easements shall provide for utilities when necessary.
- h. All site condominium lots shall be provided access by either public or private roadways.
- i. All site condominium units shall be accessible to emergency vehicles.
- j. Common open space provided shall remain ~~permanently~~ open for recreational and conservational purposes and recorded as part of the master deed.
- k. Condominium units having water frontage shall meet the requirements of Article 14 Easement to Waterfront Section 14.10.
- l. A plan for erosion control and storm water discharge has been approved by the appropriate public agency.
- m. All site condominiums projects shall obtain approval from all applicable governing agencies.

28.16 REVIEW PROCEDURES

1. Preliminary Review

Any applicant can request a preliminary review of a proposed project with the Zoning Administrator and one to three planning commissioners. This review allows an open dialogue and an opportunity to discuss a proposed project, goals, features, location, and scope of operations prior to a formal application. Preliminary Review is available as a sounding board only, no decisions or approvals shall be rendered, either stated or implied.

2. Agency Submittal

The applicant shall provide copies of the proposed condominium subdivision plan to the following Grand Traverse County Agencies: Health Department (or Department of Public Works if proposed on municipal water and/or sanitary sewer), Drain Commission, Soil Erosion, Road Commission (or Michigan Department of Transportation if proposed on a state highway), Michigan Department of Environmental Quality (when sensitive areas and wetlands are a concern), Fire Department. **Four (4) hard copies and a digital print** shall also be provided to the Whitewater Township Planning and Zoning Department. The Zoning Administrator shall distribute the proposed condominium subdivision plans to the Planning Commission and Board of Trustees for review.

3. Public Hearing

The Planning Commission shall hold a public hearing on the proposed site condominium subdivision plan, for the purpose of reviewing and making a recommendation of approval, approval with conditions, or denial to the Township Board.

4. Planning Commission Determination

After preceding with **Article 25 the Site Plan Review** process, if the Planning Commission determines that the proposed plan meets all the requirements of this Ordinance and the Condominium Act, the Planning Commission shall recommend approval or approval with conditions of the site condominium subdivision plan and shall send **written** notice of action taken with comments to the Township Board and Property Owner.

If the Planning Commission determines that the site condominium subdivision plan does not meet all requirements, the Planning Commission shall state its reason in its official minutes **and shall provide written notice of said decision to the Township Board and Property Owner. The Planning Commission**

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shall recommend to the board, disapproval of the plan until the objections causing disapproval have been changed to meet the requirements of this Ordinance and the Condominium Act.

5. Township Board Procedure

The Township Board shall not review, approve or reject a condominium subdivision until it has received from the Planning Commission its report and recommendations.

The Township Board shall consider the condominium subdivision plan at its next meeting after receipt of the report and recommendations from the Planning Commission.

6. Township Board Determination

The Township Board shall approve the condominium subdivision plan, with or without conditions, reject the plan and give its reasons, table the proceedings pending further review or pending changes to the plan to make it acceptable to the Board, or refer that application back to the Planning Commission for further review and report. The Board shall render a written decision within 45 days of receipt of the Planning Commission's recommendation.

28.17 CONDITIONS AND DURATION OF APPROVAL

1. Conditions

The approval of the Board of Trustees will indicate that the proposed condominium subdivision plan meets the ordinances and regulations of Whitewater Township, but does not cover additional permits that may be required after the Master Deed has been recorded. The Township may impose reasonable conditions on the approval of any condominium subdivision plan consistent with the Condominium Act, this Ordinance, and the protection of public health, safety and welfare.

2. Duration

Approval of the site condominium plan by the Township shall be for a period of two (2) years from the date of approval. If no Master Deed is recorded with the Grand Traverse County Register of Deeds Office within two years of approval, such approval shall be considered null and void. The ~~Planning Commission~~ Zoning Administrator may extend the two year period by one additional year if applied for and shall be subject to the requirements of Section 25.15 Failure to Initiate Construction.

3. Condominium Subdivision Plan Approval Contract

If the Township Board approves the site condominium subdivision plan, it shall prepare a written order setting forth the conditions upon which the approval is based. Such order shall be entered into between the Township and the applicant prior to the issuance of a Land Use Permit for any construction in accordance with the approved site condominium subdivision plan. All reasonable costs related to the preparation of said order, as established by the Township, shall be paid by the petitioner to the Township Treasurer prior to Township signature and issuance of such order.

28.18 FINAL FILING REQUIREMENTS

Prior to the recording of the Master Deed the Township Treasurer shall certify that all taxes and special assessments are paid in full. A copy of the Master Deed, Bylaws/ Restrictive Covenants must be recorded with the County Register of Deeds. The Township shall be provided with two (2) copies of each document including as-built prints, and all pertinent attachments which shall remain on file with the Township.

28.19 CONDOMINIUM AMENDMENTS

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Site condominium guidelines may be amended as follows:

a. Minor Amendments

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

b. Major Amendments.

Any amendment not qualifying as a minor amendment as determination by the zoning administrator shall be considered a major amendment and must be approved by the Planning Commission according to the procedures authorized by this section for approval of a site condominium.

28.20 REQUIRED FEES

Fees for the review of site plans shall be established by resolution of the Township Board.

Note: Neither the ordinance nor the fee schedule indicates what is or is not covered by the initial deposit required by the township for a condo development land use permit. The PC would like clarification from the board on this matter. Is this simply a fee or does it cover the basic review of documents by the za and attorney barring complications?

Proposed Action:

Amend Article XXVIII to include Condominium Subdivision Approval (Section 28.11 & 28.14 specifically in conflict)