

WHITEWATER TOWNSHIP BOARD
AGENDA FOR SPECIAL MEETING – September 19, 2023
9:00 a.m. at the Whitewater Township Hall
5777 Vinton Road, Williamsburg, MI 49690
Phone 231-267-5141/Fax 231-267-9020

At this time, the Board invites everyone to silence their electronic devices.

Whitewater Zoom is inviting you to a scheduled Zoom meeting.

Topic: Township Board Special Meeting

Time: Sep 19, 2023 09:00 AM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/81891998116?pwd=oDW3WzkKkHJKmOOAMCVqKJM73bb2p5.1>

Meeting ID: 818 9199 8116 Passcode: 520183

One tap mobile: +13092053325,,81891998116#,,, *520183# US,
+13126266799,,81891998116#,,, *520183# US (Chicago)

Dial by your location: 1 309 205 3325 US, 1 312 626 6799 US (Chicago)
1 646 558 8656 US (New York), 1 301 715 8592 US (Washington DC)
1 720 707 2699 US (Denver), 1 346 248 7799 US (Houston)

Find your local number: <https://us06web.zoom.us/j/81891998116?pwd=oDW3WzkKkHJKmOOAMCVqKJM73bb2p5.1>

Whitewater Township will provide necessary reasonable auxiliary aids and services to individuals with disabilities upon reasonable advance notice. Contact the Township Clerk at 231.267.5141 Ext. 24 at least 5 days in advance of the meeting.

A. Call to Order

B. Roll Call of Board Members

C. Set/Adjust Meeting Agenda -

D. Declaration of Conflict of Interest

E. Public Comment. Any person shall be permitted to address a meeting of the township board. Public comment shall be carried out in accordance with the following board rules and procedures:

1. Comments shall be directed to the board, with questions directed to the chair.
2. Any person wishing to address the board shall speak from the lectern and state his or her name and address.
3. Persons may address the board on matters that are relevant to township government issues.
4. No person shall be allowed to speak more than once on the same matter, excluding the time needed to answer board member's questions. The chair shall control the amount of time each person shall be allowed to speak, which shall not exceed five (5) minutes.

F. Correspondence –

- 1 Memo Correspondence for 9.19.2023
- 2 Zoning Board of Appeals Decision - 6631 Baggs Road Appeal (1)
- 3 Goss email Zoning Board of Appeals Decision - 6631 Baggs Road Appeal (1)
- 4 Gmail - Re_ Ex parte_
- 5 Beam Gmail - Ex parte_
- 6 Van Solkema Gmail - Re_ Variance approved
- 7 Herring Gmail - Variance approved
- 8 Beam Gmail - ZBA notification
- 8a Goss Gmail - ZBA Decision Form - 6631 Baggs Road Appeal
- 9 Goss Gmail - ZBA Decision Form - 6631 Baggs Road Appeal
- 10 Fox Gmail - Email from Denny and Jan Fox
- 11 Gmail - Baggs rd development
- 11a Beam 3 Gmail - Conduct of Treasurer
- 12 Goss Gmail - HYMORE ZBA INTERFERENCE
- 12a - Gmail - RE_ Regarding the Requested Variance for Baggs Rd Condos
- 13 Patterson Gmail - RE_ Baggs Rd Appeal
- 14 Beam Gmail - Re_ ZBA
- 15 Hymore - Request for Copy of Baggs Partners, LLC Variance Request - 6631 Baggs Rd_
- 16 Hymore Gmail - Re_ ZBA
- 17 Beam 1 Gmail - Re_ ZBA
- 18 ZA Gmail - RE_ ZBA
- 19 ZA Gmail - Variance Request
- 20 Patterson Gmail - RE_ Whitewater Twp – ZBA
- 21 ZA Gmail - RE_ Whitewater Twp – ZBA
- 22 Beam Gmail - Would like a response
- 23 Patterson Gmail - FW_ 6631 Baggs Rd Attorney Fees Refund
- 24 Comments Regarding Corr Goss Whitewater Township Boards Decision to Send 6631 Baggs Rd. to ZBA for Appeal
- 25 Van Solkema Gmail - 6631 Baggs Rd Attorney Fees Refund
- 26 Marshal - FW_ Comments Regarding Whitewater Township Boards Decision to Send 6631 Baggs Rd. to ZBA for Appeal
- 27 Benak - Re_ Comments Regarding Whitewater Township Boards Decision to Send 6631 Baggs Rd. to ZBA for Appeal
- 28 Hymore - Comments Regarding Whitewater Township Boards Decision to Send 6631 Baggs Rd. to ZBA for Appeal
- 29 Patterson Gmail - RE_ Comments Regarding Whitewater Township Boards Decision to Send 6631 Baggs Rd. to ZBA for Appeal
- 30 Hymore Gmail - Zoning Board of Appeals Contact Information
- 31 Patterson Gmail - RE_ 6631 Baggs Rd Appeals Process
- 32 Van Solkema Gmail - Trustee's Homework
- 33 Patterson - RE_ APPEAL - 6631 BAGGS RD - COMPLETED DOCUMENT 6_19_2023
- 34 VanSolkema - Re_ APPEAL - 6631 BAGGS RD - COMPLETED DOCUMENT 6_19_2023
- 35 Herring - RE_ APPEAL - 6631 BAGGS RD - COMPLETED DOCUMENT 6_19_2023
- 36 Van Solkema - Re_ APPEAL - 6631 BAGGS RD - COMPLETED DOCUMENT 6_19_2023
- 37 ZA Gmail - Fwd_ APPEAL - 6631 BAGGS RD - COMPLETED DOCUMENT 6_19_2023
- 38 Goss Gmail - RE_ APPEAL - 6631 BAGGS RD - COMPLETED DOCUMENT 6_19_2023
- 39 Van Solkema Gmail - Code Enforcement Complaint
- 40 Van Solkema Gmail - Re_ 06_13_2023 Twp Board Meeting - 6631 Baggs Rd

- 41 Hymore Gmail - Board Meeting Public Comment 6_13_2023 - In the absence of Zoom
- 42 Beam Gmail - Vicki Beam Shipping Container
- 43 Beam Gmail - Comments for board meeting
- 44 Hymore Gmail - Code Enforcement Complaint Closure
- 45 Benak Gmail - Re_ 6631 Baggs Rd Appeals Process
- 46 Benak 1 Gmail - Re_ 6631 Baggs Rd Appeals Process
- 47 Herring Gmail - RE_ 6631 Baggs Rd Appeals Process

G. Agenda Items as Listed in the Special Meeting Notice

1. Review legal opinion list
2. Review Vollmuth Submittal
 - 2a Heidi email - Agenda packet 1
 - 2b Heidi email - Agenda packet 2
 - 2c Heidi email - Agenda Packet 3
 - 2d Heidi email - Agenda Packet 4
 - 2e Heidi email - Agenda Packet 5
 - 2f Heidi email - Agenda packet 6
 - 2g Heidi email - Agenda Packet 7
3. Review AUGUST 2023-WhitWtr-ZA REPORT-RESCIND
4. Discuss any Park and Recreation item relevant to the camping park operation or improvement project 842850.

H. Board Comments/Discussion

I. Public Comment

J. 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.

Memo

To: Whitewater Township Board of Trustees
CC: None
Date: 9.15.2023
Re: Correspondence for special meeting 9.19.2023

Board Members –

I like many of you may have received several emails regarding the 6631 Baggs Road property. As I was preparing to supply what I considered the most recent correspondence I found it difficult to pick a cutoff date that did not affect one group or another. To resolve this, I have provided all known correspondence to my email address leading up to the 6.13.2023 Township Board meeting.

Respectfully submitted,



Whitewater Township FOIA Coordinator
Supervisor, Whitewater Township

WHITEWATER TOWNSHIP
ZONING BOARD OF APPEALS
WRITTEN DECISION OF ZONING BOARD OF APPEALS

Application Number: ZBA 2023-24

Hearing Date: August 24, 2023

Applicant: Baggs Partners, LLC (“Applicant”).

Site Address: 6631 Baggs Road, Williamsburg, MI 49690. Parcel No. 13-136-001-02 (the “Parcel”).

Purpose of Request: Request a variance from the 4:1 depth to width ratio requirement of the Whitewater Township Ordinance No. 26 (The “Land Division Ordinance”).

In 2020, the Township received and approved an application for a land division which created the Parcel. The parent parcel was a 125-acre parcel owned by Morrison Orchards, which was split to create the Parcel, which is approximately 30 acres in size. On February 2, 2022, the Parcel was sold to Baggs Partners, LLC. On May 3, 2023, the Township Board found that the Parcel is not compliant with the Land Division Ordinance and deemed the parcel ineligible for building permits or zoning approvals. Applicant seeks a variance from the 4:1 depth to width ratio requirements.

Public Hearing: The ZBA opened the public hearing on August 24, 2023, to consider the subject matter of the Application for appeal. The ZBA heard comments from the Applicant, its representative, the Township attorney, and members of the public, along with exhibits submitted by the same.

Standards of Review: The Whitewater Township Land Division Ordinance provides the standards for review by the Zoning Board of Appeals, and in particular the following sections:

Section VII(D), provides that the ZBA “may approve a land division that creates a resulting parcel with a depth to width ratio greater than four to one if the applicant demonstrates that there are exceptional topographic or physical conditions with respect to the parcel and that the greater ratio would be reasonably compatible with the surrounding lands.”

Section VIII, provides that where “there are practical difficulties” the ZBA may “vary or modify the application of the provisions of this Ordinance so that the intent and purpose of the Ordinance is observed, public safety secured and substantial justice done. The Township Board, or its designee [here, the ZBA], may attach reasonable conditions in approving any variance from any provision. The breach of any condition or the failure of any applicant to comply with conditions shall void the variance.

In order for a variance to be granted, evidence must be presented at a public hearing that all of the following conditions exist:

- Exceptional or extraordinary circumstances exist such as exceptional topographical or physical conditions; or that the greater ratio would be reasonably compatible with the surrounding lands.
- Strict compliance with the regulations of this Ordinance will unreasonably prevent the applicant from developing the property or will render conformity with the regulations of this Ordinance unreasonably burdensome.
- The requested variance will not cause an adverse impact on the development of surrounding property, property values, or the use and enjoyment of property in the immediate area.
- Health, safety and welfare will not be compromised.
- The requested variance is the minimum variance necessary to permit reasonable use of the land. [Ordinance, Section VIII]

Findings of Fact: The ZBA finds as follows based upon the Land Division Ordinance, the Application, information and comments received by the Applicant, its representative and the Township attorney, and based on input (both through comments and written submissions) received during the public hearing.

1. By majority vote on June 20, 2023 the Township Board directed the ZBA to accept all relevant information and hear the application for a Land Division Ordinance variance for the Parcel.
2. Pursuant to the Land Division Ordinance, Section VII and Section VIII, and the action of the Township Board, the ZBA has been delegated and does have the authority to hear the request for a variance.
3. Applicant is the owner of 6631 Baggs Road, Williamsburg, MI 49690, the subject of this appeal. The Parcel is vacant, with no structures on the property.
4. Previous owner Morrison Acres applied for the land division of a 125-acre parent parcel in 2020.
5. In 2020, the Zoning Administrator approved the application for a land division, and the division created the Parcel at issue, which is approximately 30 acres in size.
6. On or about May 18, 2020, the Parcel was sold to former owner Debono.
7. On or about January 14, 2022, the Parcel was sold to Derek Van Solkema.
8. On or about February 2, 2022, the Parcel was quit-claimed to Baggs Partners, LLC.
9. On August 29, 2022, the Township received a complaint alleging that the Parcel was improperly split because it did not conform with the 4:1 width to depth ratio under Section VII of the Land Division Ordinance.

10. At a special meeting of the Township Board on May 3, 2023, the Township Board made a number of findings, including that the Parcel is noncompliant with the Land Division Ordinance, specifically the ratio requirement. The Township Board further found that the Parcel is "not eligible for any building permits or zoning approvals such as special land use approval or site plan approval."

11. This Application followed, requesting a variance of the ratio requirement.

Whether the Applicant has shown:

12. ~~That exceptional or extraordinary circumstances exist such as exceptional topographical or physical conditions~~

or

that the greater ratio would be reasonably compatible with the surrounding lands, the ZBA specifically finds:

Agreement - Yes Consensus

13. Whether the Applicant has shown that strict compliance with the regulations of this Ordinance will unreasonably prevent the applicant from developing the property

or

will render conformity with the regulation of the Land Division Ordinance unreasonably burdensome, the ZBA specifically finds:

Unreasonable because it keeps them from using the property:

14. Whether the Applicant has shown that the requested variance will not cause an adverse impact on the

development of surrounding property,

property values *or*

the use and enjoyment of property in the immediate area, the ZBA specifically finds:

No, Yes, Yes, Yes.

15. Whether the Applicant has shown that the health, safety and welfare will not be compromised, the ZBA specifically finds:

No health safety or welfare

16. Whether the Applicant has shown that the requested variance is the minimum variance necessary to permit reasonable use of the land, the ZBA specifically finds:

Yes Best use of land 6:1

Decision:

For the reasons above and stated on the record, the ZBA
Application for a depth-to-width variance.

KRB
GRANTS
8-29-23

DENIES the

ADOPTED:

YEAS: Lake Yes, Garza No, Wronbel Yes, Bowen Jr.

NAYS: Garza No

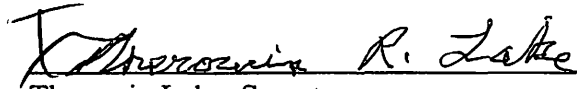
K Bowen

Kenneth Bowen, ZBA Chair

Dated: 8/24 /, 2023

CERTIFICATION

I, Therowin Lake, the duly qualified and acting Secretary of the Whitewater Township Zoning Board of Appeals, Grand Traverse County, Michigan, do hereby certify that the foregoing is a true and complete copy of a resolution adopted by the Whitewater Zoning Board of Appeals at a duly scheduled meeting of the Zoning Board of Appeals held on 8-24, 2023


Therowin Lake, Secretary



Ron Popp <supervisorwhitewater@gmail.com>

ZBA Decision Form - 6631 Baggs Road Appeal

1 message

Cheryl A. Goss <clerk@whitewatertownship.org>

Tue, Aug 29, 2023 at 10:54 AM

To: Christopher Patterson <cpatterson@fsbrlaw.com>, Robert Hall ZA <zoning@whitewatertownship.org>

Cc: Ron Popp Gmail <supervisorwhitewater@gmail.com>, Ron Popp <supervisor@whitewatertownship.org>

Chris –

Ken Bowen, chair of the ZBA, stopped in this morning to make the additional notation on page 4 of the form. See attachment.

FYI -

Cheryl A. Goss

Whitewater Township Clerk

[5777 Vinton Road](#), P.O. Box 159

Williamsburg, Michigan 49690

Telephone: 231.267.5141 x24

Fax: 231.267-9020

clerk@whitewatertownship.org

Office Hours: Mon/Tue/Wed/Thurs 9:00 a.m. to 5:00 p.m.

I Pledge Allegiance to the Flag of the United States of America, and to the REPUBLIC for which it stands, One Nation, Under God, Indivisible, with Liberty and Justice for All.



Zoning Board of Appeals Decision - 6631 Baggs Road Appeal.pdf

193K

WHITEWATER TOWNSHIP
ZONING BOARD OF APPEALS
WRITTEN DECISION OF ZONING BOARD OF APPEALS

Application Number: ZBA 2023-24

Hearing Date: August 24, 2023

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Public Hearing: The ZBA opened the public hearing on August 24, 2023, to consider the subject matter of the Application for appeal. The ZBA heard comments from the Applicant, its representative, the Township attorney, and members of the public, along with exhibits submitted by the same.

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In order for a variance to be granted, evidence must be presented at a public hearing that all of the following conditions exist:

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- Strict compliance with the regulations of this Ordinance will unreasonably prevent the applicant from developing the property or will render conformity with the regulations of this Ordinance unreasonably burdensome.
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1. By majority vote on June 20, 2023 the Township Board directed the ZBA to accept all relevant information and hear the application for a Land Division Ordinance variance for the Parcel.
2. Pursuant to the Land Division Ordinance, Section VII and Section VIII, and the action of the Township Board, the ZBA has been delegated and does have the authority to hear the request for a variance.
3. Applicant is the owner of 6631 Baggs Road, Williamsburg, MI 49690, the subject of this appeal. The Parcel is vacant, with no structures on the property.
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Whether the Applicant has shown:

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or

that the greater ratio would be reasonably compatible with the surrounding lands, the ZBA specifically finds:

Agreement - Yes Consensus

13. Whether the Applicant has shown that strict compliance with the regulations of this Ordinance will unreasonably prevent the applicant from developing the property

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Unreasonable because it keeps them from using the property:

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No, Yes, Yes, Yes.

15. Whether the Applicant has shown that the health, safety and welfare will not be compromised, the ZBA specifically finds:

No health safety or welfare

16. Whether the Applicant has shown that the requested variance is the minimum variance necessary to permit reasonable use of the land, the ZBA specifically finds:

Yes Best use of land 6:1

Decision:

For the reasons above and stated on the record, the ZBA
Application for a depth-to-width variance.

KRB
GRANTS
8-29-23

DENIES the

ADOPTED:

YEAS: Lake Yes, Garza No, Wronbel Yes, Bowen Jr.

NAYS: Garza No

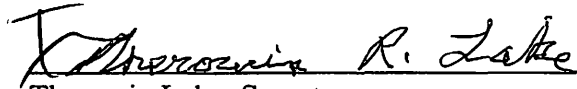
K Bowen Jr

Kenneth Bowen, ZBA Chair

Dated: 8/24 /, 2023

CERTIFICATION

I, Therowin Lake, the duly qualified and acting Secretary of the Whitewater Township Zoning Board of Appeals, Grand Traverse County, Michigan, do hereby certify that the foregoing is a true and complete copy of a resolution adopted by the Whitewater Zoning Board of Appeals at a duly scheduled meeting of the Zoning Board of Appeals held on 8-24, 2023


Therowin Lake, Secretary



Ron Popp <supervisorwhitewater@gmail.com>

Re: Ex parte?

1 message

Michelle Pescatello <4mpescatello@gmail.com>

Tue, Sep 12, 2023 at 6:40 PM

To: Ron Popp <supervisorwhitewater@gmail.com>

Cc: "Cheryl A. Goss" <clerk@whitewatertownship.org>, Heidi Vollmuth <heidivourtrustee@gmail.com>, Don Glenn <dglenn419@gmail.com>, Ardella M Benak <treasurer@whitewatertownship.org>, Vicki Beam <vickibeam@gmail.com>

Good Evening, Ron!

Unfortunately, I was unable to attend today's meeting due to my work obligations. I am interested in hearing about this discussion, as well as the other topics talked about. Can I please get the zoom link when it's ready? Actually, can you just put me on the email list of constituents that get all our meetings zoom links with access codes?

Thank you,

Michelle Pescatello

Sent from my iPhone

On Sep 12, 2023, at 6:25 AM, Vicki Beam <vickibeam@gmail.com> wrote:

I will be commenting on this today! For your records

<IMG_6681.JPEG>

<IMG_6682.JPEG>

<IMG_6683.JPEG>

Sent from my iPhone



Ron Popp <supervisorwhitewater@gmail.com>

Ex parte?

1 message

Vicki Beam <vickibeam@gmail.com>

Tue, Sep 12, 2023 at 6:25 AM

To: Ron Popp <supervisorwhitewater@gmail.com>, "Cheryl A. Goss" <clerk@whitewatertownship.org>, Heidi Vollmuth <heidivourtrustee@gmail.com>, Don Glenn <dglenn419@gmail.com>, Ardella M Benak <treasurer@whitewatertownship.org>

I will be commenting on this today! For your records

Sent from my iPhone

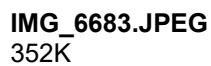
3 attachments



IMG_6681.JPEG
90K



IMG_6682.JPEG
81K





Comment

weeks. I'm letting the rest of our community know what is happening & when. Again, are you ok?

21m Like Reply

1



Della Benak

[Michelle Williams Pescatello](#) that's wonderful. I'm OK are you OK? I'm feeling like you don't want me to question your posting. I think I've expressed my opinions so we can leave it at that. You have a good evening.

18m Like Reply



Michelle Williams Pescatello

[Della Benak](#) I'm fine. You have put more assumptions into my post to fit your narrative. That's wrong, Delia.

13m Like Reply



Della Benak

[Michelle Williams Pescatello](#) it's Della

12m [Like](#) Reply

1



Michelle Williams Pescatello


[Della Benak](#) got it! 😊

Just now Like Reply



Write a reply...



<  **Michelle Williams Pescatello**

1d · 🌐

...



Michelle Williams Pescatello

[Della Benak](#) I will ask you to read my post again. It clearly states who I am in the first sentence. You can assume what I'm doing by putting your own narrative into my post if that helps you justify it.

32m Like Reply

1 



Della Benak

[Michelle Williams Pescatello](#) I've read it twice. And I could have said more. Chose not to. Let the ZBA do their job without interference. I'm sure do not want to be seen as trying to tamper with their decision by inciting people to show up and harass them into making a choice that won't hold up in court do you?

24m Like Reply




Michelle Williams Pescatello

[Della Benak](#) it's a PUBLIC meeting... I'm not harassing anyone, just ask all the people I've spoken to the past couple of weeks. I'm letting the rest of our community know what is happening & when. Again, are you ok?



Write a comment...



<  **Michelle Williams Pescatello**

1d · 🌐

...



Della Benak

[Michelle Williams Pescatello](#) if you mean am I an elected official of the Township than yes I am. From what I was told you never told people that you were not with the township leading them to believe you were. That's disingenuous. Don't know if that was your intention. The previous owners knew but this property was sold what 4 years ago or more? Did you contact the new owners for permission? My point is that people want to control what others do with their property but they did not pay for the land or the taxes on that land but they want to use that same land? To expect nothing to change where you live is a fantasy. Truth is this land your talking about is zoned for those 22 single family homes. This drive to stop this from happening is wrong. It is in the hands of the ZBA and they should have the benefit of doing their jobs based on the law they must follow without being bullied by a ramped up public because someone has decided to spread fear. Let the process work.



Write a comment...





Ron Popp <supervisorwhitewater@gmail.com>

Re: Variance approved

1 message

Derek Van Solkema <derek.vansolkema@gmail.com>

Mon, Sep 11, 2023 at 3:11 PM

To: Michael Herring <mherringlaw@outlook.com>

Cc: "assessordawn@gmail.com" <assessordawn@gmail.com>, Ron Popp <supervisorwhitewater@gmail.com>, "clerk@whitewatertownship.org" <clerk@whitewatertownship.org>, "Ardella M. Benak" <treasurer@whitewatertownship.org>, Ryan Sheffer <sheffer82@gmail.com>, Gary Van Solkema <vansolkema@gmail.com>, dglenn419@gmail.com, heidivourtrustee@gmail.com, cpatterson@fsbirlaw.com

Hello All,

I hope everyone enjoyed the beautiful weather in Whitewater Township over Labor Day Weekend. I know we did! As I looked at the agenda for tomorrow's board meeting, I was surprised we were not part of the agenda given the above email, the ZA's August Report, and the ZBA decision on 8/24/23 as everyone is well aware. I'm sure this was simply an oversight. It is my understanding that items can be added to the agenda and we would hope this important item is addressed tomorrow.

The good news, is that Parliamentary procedure states the following (also in the ZA's August Report) **The motion to rescind can be introduced at a time when no other business is pending by any member of the board. This can be tomorrow!** *After being recognized by the chair, a member makes the motion to rescind. The motion should include a description or reference to the decision in question (worded as closely as possible to any notice that has already been provided). Another member then must second the motion. The chair restates the motion to rescind and asks for debate. During debate, any member may propose amendments (changes that are greater than the scope of notice are not in order). After full debate, the vote is taken on rescinding the motion.*

If the original motion has been acted upon and that action cannot be undone the motion cannot be rescinded. However, any unexecuted part could be rescinded or amended. (see at bottom of email possible motion language.

Also in ZA's August report)

Detailed information on properly rescinding a motion can be found here (also in ZA's August

Report): https://www.canr.msu.edu/news/parliamentary_procedure_what_is_a_motion_to_rescind

We understand the magnitude of the ZBA decision and look forward to getting this behind us, as we all probably are. Although we disagreed with the decision of the board on May 3rd, 2023, we respected the decision and appreciated the approval by the board in June for the ZBA to hear our variance application. The ZBA has made their determination and approved the variance request. We appreciate the board's time in handling this matter and all moving forward.

As you are aware, the ZBA approved a variance request on 6631 Baggs Rd. Parcel #13-136-001-02. Now, your findings of fact from the May 3, 2023 meeting stating the following are negated.

1. Request for variance is nonexistent.

At a June 20, 2023 meeting, the Whitewater Township Board directed the ZBA to hear an application for a variance related to the above referenced parcel, requesting a deviation from the 4:1 (four to one) lot depth to width ratio requirements. The Zoning Board of Appeals APPROVED the Variance which had to pass 5 tests in order to be approved.

- Exceptional or extraordinary circumstances exist such as exceptional topographical or physical conditions; OR that the greater ratio would be reasonably compatible with the surrounding lands.

- Strict compliance with the regulations of this ordinance will unreasonably prevent the applicant from developing the property OR will render conformity with the regulations of this ordinance unreasonable burdensome.

- The requested variance will not cause an adverse impact on the development of surrounding property, property values, or the use and enjoyment of property in the immediate area.

- Health, safety, and welfare will not be compromised.

-The requested variance is the minimum variance necessary to permit reasonable use of the land (Ordinance Section VIII)

2. Parcel B could have been divided in a manner to make it comply with the ordinance, moving the north line.

The ZBA approved the variance application request for a depth to width variance which makes our parcel a conforming parcel. They found that the greater ratio was reasonably compatible with the surrounding lands.

3. No record of topographical or environmental adverse circumstances.

The ZBA approved the variance request because of the greater ratio would be reasonably compatible with the surrounding lands. The ZA, in the original review of the application and decision to create the subject parcel (Parcel #28-13-136-001-02) in May of 2020 was made based upon the ZA's interpretation that the applicant did demonstrate that there were exceptional topographic or physical conditions with respect to the parcel and as observed during a personal site visit. Research utilizing the Grand Traverse County GIS tax mapping and soils viewer, as well as Michigan Department of Environment, Great Lakes, and Energy (EGLE)Wetland Inventory Maps was also performed.

4. The ordinance is a local law, flawed or unflawed.

Our parcel, with the granted variance from the ZBA is now a conforming parcel that adheres to the Township ordinance. According to the Finding of Facts, flawed or unflawed, the ordinance is the law and our parcel conforms to the ordinance. Therefore making our parcel buildable.

5. Following township ordinance is important to the greater good.

If following the township ordinance is important to the greater good, the only action that needs to be completed by the board is to administratively put the ZBA's decision in the record by making a Motion to Rescind. Rescinding the motion on May 3, 2023 that declared the above-referenced parcel is not eligible for any building permits or zoning approvals such as special land use approval or site plan approval. The ZBA decision to grant the variance makes our parcel a conforming parcel that adheres to the local township ordinance. Following the township ordinance can simply be done with the following motion that you will also find in the ZA's August 2023 report to the WWT board.

"Possible motion language: "Motion to rescind the motion of the Whitewater Township Board made on May 3, 2023, declaring that parcel #28-13-136-001-02 is not eligible for any building permits or zoning approvals such as special land use approval or site plan approval; further, finding that based upon the variance granted from the 4:1 (four to one) lot depth to width ratio requirements by the Zoning Board of Appeals on August 24, 2023, that the subject property is now in compliance with all applicable Whitewater Township ordinances."

Regards,

Derek Van Solkema

On Thu, Aug 31, 2023 at 5:06 PM Michael Herring <mherringlaw@outlook.com> wrote:

Hello all,

I'm sure everyone is as relieved as I am that the Variance was approved on August 24. I attached the final decision in case you do not have a copy. I anticipate some housekeeping on this matter given the extraordinary nature on the variance.

I have a few questions about the property status.

1. It is my understanding that once the property was deemed unbuildable it's status would be recorded in the register of deeds? Did that process occur?
2. If something was recorded, when will the current status be updated?
3. Does this matter have to return to the board to finalize the matter?
4. How long should we expect until the properties buildable status is reflected township wide?

As you can imagine, everyone is very excited to move on in the building process. Your help in this matter is greatly appreciated.

Thank you,

Michael Herring

2029 Celadon Dr.

Grand Rapids, MI 49525

Phone: 616-916-6704

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Ron Popp <supervisorwhitewater@gmail.com>

Variance approved

1 message

Michael Herring <mherringlaw@outlook.com>

Thu, Aug 31, 2023 at 5:06 PM

To: "assessordawn@gmail.com" <assessordawn@gmail.com>, Ron Popp <supervisorwhitewater@gmail.com>, "clerk@whitewatertownship.org" <clerk@whitewatertownship.org>, "Ardella M. Benak" <treasurer@whitewatertownship.org>, Derek Vansolkema <derek.vansolkema@gmail.com>, Ryan Sheffer <sheffer82@gmail.com>, Gary Van Solkema <vansolkema@gmail.com>

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[2029 Celadon Dr.](#)

[Grand Rapids, MI 49525](#)

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Zoning Board of Appeals Decision - 6631 Baggs Road Appeal.pdf
193K



Ron Popp <supervisorwhitewater@gmail.com>

ZBA notification

1 message

Vicki Beam <vickibeam@gmail.com>

Tue, Aug 29, 2023 at 3:43 PM

To: Ron Popp <supervisorwhitewater@gmail.com>

I am wondering if the utility companies are supposed to be notified of ZBA meetings similar to those of us that are within 300 feet?

--



Ron Popp <supervisorwhitewater@gmail.com>

ZBA Decision Form - 6631 Baggs Road Appeal

1 message

Cheryl A. Goss <clerk@whitewatertownship.org>

Tue, Aug 29, 2023 at 10:54 AM

To: Christopher Patterson <cpatterson@fsbrlaw.com>, Robert Hall ZA <zoning@whitewatertownship.org>

Cc: Ron Popp Gmail <supervisorwhitewater@gmail.com>, Ron Popp <supervisor@whitewatertownship.org>

Chris –

Ken Bowen, chair of the ZBA, stopped in this morning to make the additional notation on page 4 of the form. See attachment.

FYI -

Cheryl A. Goss

Whitewater Township Clerk

[5777 Vinton Road](#), P.O. Box 159

Williamsburg, Michigan 49690

Telephone: 231.267.5141 x24

Fax: 231.267-9020

clerk@whitewatertownship.org

Office Hours: Mon/Tue/Wed/Thurs 9:00 a.m. to 5:00 p.m.

I Pledge Allegiance to the Flag of the United States of America, and to the REPUBLIC for which it stands, One Nation, Under God, Indivisible, with Liberty and Justice for All.



Zoning Board of Appeals Decision - 6631 Baggs Road Appeal.pdf

193K



Ron Popp <supervisorwhitewater@gmail.com>

ZBA Decision Form - 6631 Baggs Road Appeal

1 message

Cheryl A. Goss <clerk@whitewatertownship.org>

Tue, Aug 29, 2023 at 10:54 AM

To: Christopher Patterson <cpatterson@fsbrlaw.com>, Robert Hall ZA <zoning@whitewatertownship.org>

Cc: Ron Popp Gmail <supervisorwhitewater@gmail.com>, Ron Popp <supervisor@whitewatertownship.org>

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Ken Bowen, chair of the ZBA, stopped in this morning to make the additional notation on page 4 of the form. See attachment.

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Zoning Board of Appeals Decision - 6631 Baggs Road Appeal.pdf

193K

WHITEWATER TOWNSHIP
ZONING BOARD OF APPEALS
WRITTEN DECISION OF ZONING BOARD OF APPEALS

Application Number: ZBA 2023-24

Hearing Date: August 24, 2023

Applicant: Baggs Partners, LLC (“Applicant”).

Site Address: 6631 Baggs Road, Williamsburg, MI 49690. Parcel No. 13-136-001-02 (the “Parcel”).

Purpose of Request: Request a variance from the 4:1 depth to width ratio requirement of the Whitewater Township Ordinance No. 26 (The “Land Division Ordinance”).

In 2020, the Township received and approved an application for a land division which created the Parcel. The parent parcel was a 125-acre parcel owned by Morrison Orchards, which was split to create the Parcel, which is approximately 30 acres in size. On February 2, 2022, the Parcel was sold to Baggs Partners, LLC. On May 3, 2023, the Township Board found that the Parcel is not compliant with the Land Division Ordinance and deemed the parcel ineligible for building permits or zoning approvals. Applicant seeks a variance from the 4:1 depth to width ratio requirements.

Public Hearing: The ZBA opened the public hearing on August 24, 2023, to consider the subject matter of the Application for appeal. The ZBA heard comments from the Applicant, its representative, the Township attorney, and members of the public, along with exhibits submitted by the same.

Standards of Review: The Whitewater Township Land Division Ordinance provides the standards for review by the Zoning Board of Appeals, and in particular the following sections:

Section VII(D), provides that the ZBA “may approve a land division that creates a resulting parcel with a depth to width ratio greater than four to one if the applicant demonstrates that there are exceptional topographic or physical conditions with respect to the parcel and that the greater ratio would be reasonably compatible with the surrounding lands.”

Section VIII, provides that where “there are practical difficulties” the ZBA may “vary or modify the application of the provisions of this Ordinance so that the intent and purpose of the Ordinance is observed, public safety secured and substantial justice done. The Township Board, or its designee [here, the ZBA], may attach reasonable conditions in approving any variance from any provision. The breach of any condition or the failure of any applicant to comply with conditions shall void the variance.

In order for a variance to be granted, evidence must be presented at a public hearing that all of the following conditions exist:

- Exceptional or extraordinary circumstances exist such as exceptional topographical or physical conditions; or that the greater ratio would be reasonably compatible with the surrounding lands.
- Strict compliance with the regulations of this Ordinance will unreasonably prevent the applicant from developing the property or will render conformity with the regulations of this Ordinance unreasonably burdensome.
- The requested variance will not cause an adverse impact on the development of surrounding property, property values, or the use and enjoyment of property in the immediate area.
- Health, safety and welfare will not be compromised.
- The requested variance is the minimum variance necessary to permit reasonable use of the land. [Ordinance, Section VIII]

Findings of Fact: The ZBA finds as follows based upon the Land Division Ordinance, the Application, information and comments received by the Applicant, its representative and the Township attorney, and based on input (both through comments and written submissions) received during the public hearing.

1. By majority vote on June 20, 2023 the Township Board directed the ZBA to accept all relevant information and hear the application for a Land Division Ordinance variance for the Parcel.
2. Pursuant to the Land Division Ordinance, Section VII and Section VIII, and the action of the Township Board, the ZBA has been delegated and does have the authority to hear the request for a variance.
3. Applicant is the owner of 6631 Baggs Road, Williamsburg, MI 49690, the subject of this appeal. The Parcel is vacant, with no structures on the property.
4. Previous owner Morrison Acres applied for the land division of a 125-acre parent parcel in 2020.
5. In 2020, the Zoning Administrator approved the application for a land division, and the division created the Parcel at issue, which is approximately 30 acres in size.
6. On or about May 18, 2020, the Parcel was sold to former owner Debono.
7. On or about January 14, 2022, the Parcel was sold to Derek Van Solkema.
8. On or about February 2, 2022, the Parcel was quit-claimed to Baggs Partners, LLC.
9. On August 29, 2022, the Township received a complaint alleging that the Parcel was improperly split because it did not conform with the 4:1 width to depth ratio under Section VII of the Land Division Ordinance.

10. At a special meeting of the Township Board on May 3, 2023, the Township Board made a number of findings, including that the Parcel is noncompliant with the Land Division Ordinance, specifically the ratio requirement. The Township Board further found that the Parcel is "not eligible for any building permits or zoning approvals such as special land use approval or site plan approval."

11. This Application followed, requesting a variance of the ratio requirement.

Whether the Applicant has shown:

12. ~~That exceptional or extraordinary circumstances exist such as exceptional topographical or physical conditions~~

or

that the greater ratio would be reasonably compatible with the surrounding lands, the ZBA specifically finds:

Agreement - Yes Consensus

13. Whether the Applicant has shown that strict compliance with the regulations of this Ordinance will unreasonably prevent the applicant from developing the property

or

will render conformity with the regulation of the Land Division Ordinance unreasonably burdensome, the ZBA specifically finds:

Unreasonable because it keeps them from using the property:

14. Whether the Applicant has shown that the requested variance will not cause an adverse impact on the

development of surrounding property,

property values *or*

the use and enjoyment of property in the immediate area, the ZBA specifically finds:

No, Yes, Yes, Yes.

15. Whether the Applicant has shown that the health, safety and welfare will not be compromised, the ZBA specifically finds:

No health safety or welfare

16. Whether the Applicant has shown that the requested variance is the minimum variance necessary to permit reasonable use of the land, the ZBA specifically finds:

Yes Best use of land 6:1

Decision:

For the reasons above and stated on the record, the ZBA
Application for a depth-to-width variance.

KRB
GRANTS
8-29-23

DENIES the

ADOPTED:

YEAS: Lake Yes, Garza No, Wronbel Yes, Bowen Jr.

NAYS: Garza No

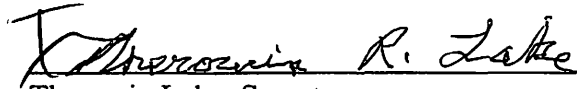
K Bowen

Kenneth Bowen, ZBA Chair

Dated: 8/24 /, 2023

CERTIFICATION

I, Therowin Lake, the duly qualified and acting Secretary of the Whitewater Township Zoning Board of Appeals, Grand Traverse County, Michigan, do hereby certify that the foregoing is a true and complete copy of a resolution adopted by the Whitewater Zoning Board of Appeals at a duly scheduled meeting of the Zoning Board of Appeals held on 8-24, 2023


Therowin Lake, Secretary



Ron Popp <supervisorwhitewater@gmail.com>

Email from Denny and Jan Fox

1 message

Jan F <EssequamvideriV@outlook.com>

Thu, Aug 24, 2023 at 4:30 PM

To: "supervisorwhitewater@gmail.com" <supervisorwhitewater@gmail.com>

Hi Ron, I'm checking to make sure you received our email from EssequamvideriV@Gmail.com about tonight's meeting

Jan Fox



Ron Popp <supervisorwhitewater@gmail.com>

Baggs rd development

1 message

Bonnie Babcock <korsontwin21967@icloud.com>
To: supervisor@whitewatertownship.org

Wed, Aug 23, 2023 at 8:47 PM

Please read at the township meeting Aug 24 2023.

To the the elected township board members, I have concerns about the Baggs rd, proposed development.

My main concern is that the township board is not following ordinances concerning this new development.

Ordinances are in place to protect landowners from being forced to deal with random development issues that could cause problems for them selves and their neighbors.

Not following these ordinances now is setting a precedence for our future that may open the possibility for lawsuits and litigation that we don't need and can't afford.

This type of development does not fit into our rural landscape.

This form of development supports and encourages nonresidential seasonal housing and does not provide a solution to affordable single family homes.

Thank you in advance for your consideration in this matter.

Bonnie Babcock

Sent from my iPhone



Ron Popp <supervisorwhitewater@gmail.com>

Conduct of Treasurer

1 message

Vicki Beam <vickibeam@gmail.com>

Thu, Aug 10, 2023 at 10:26 PM

To: Ron Popp <supervisorwhitewater@gmail.com>

Pretty sure this shouldn't be happening - is the treasurer getting information out to influence the ZBA? Is it appropriate for an elected official to hassle a private citizen like this?

See attached.

--



Facebook - Della Benak posting.pdf
2872K

Michelle's Post



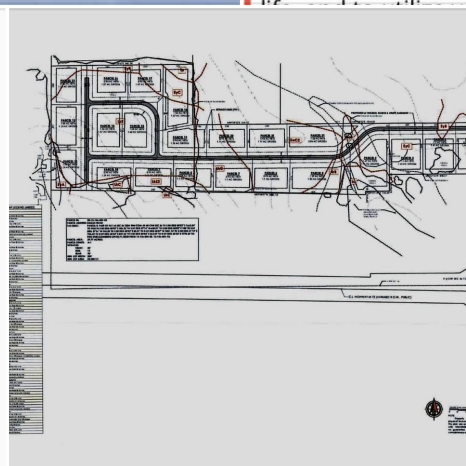
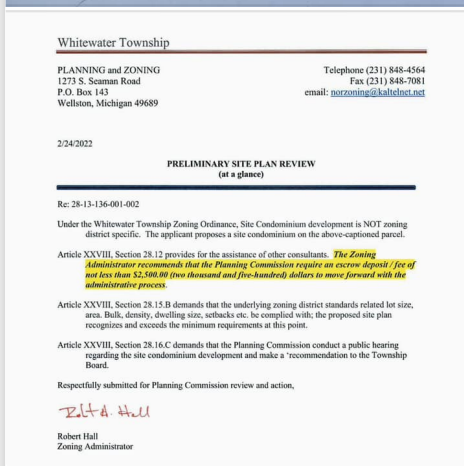
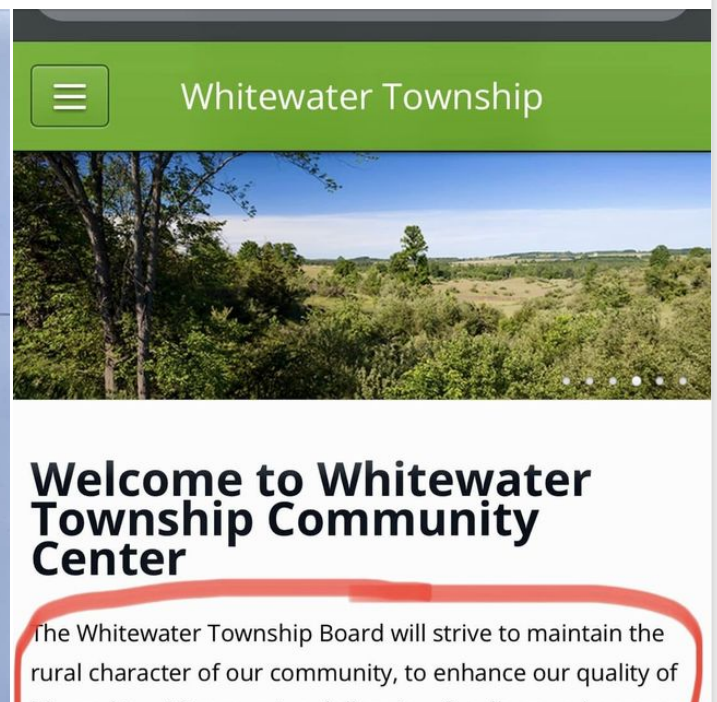
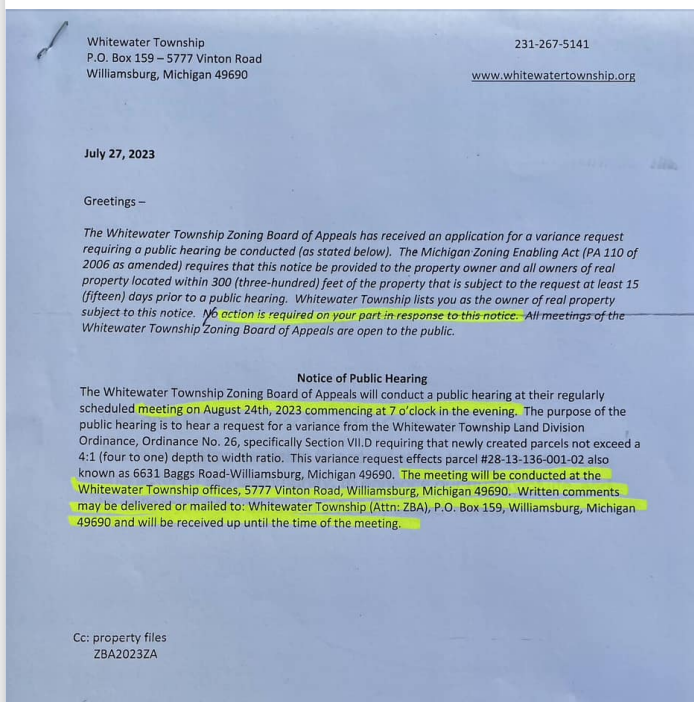
Michelle Williams Pescatello

2d · 🌐



🔴🔴 Attention Whitewater Township Residents 🔴🔴

I received this letter from Whitewater Township because my property is located within 300 feet of the proposed 22 (twenty-two) site condominium project they want to build on Baggs Road, North of M-72. I have been going door-to-door, to our neighbors, sharing the letter and information to inform them of the upcoming meeting on August 24th @ 7 pm. My goal is to reach all the property owners outside of that 300 foot range before th... [See more](#)



+2


👍❤️😮 20

18 comments 28 shares

Like

Comment

Share

**Hunter Kelly**I'm all for it!!!  2

Like Reply 1d

**Della Benak**

If you want to control someone else's property then you should buy it. And for you to openly admit that you are trespassing on someone else's property to hike and look for animals makes me think you have no respect for another's property. Does this mean anyone can walk around your property looking for a wild animal? Wow! 22 condos? You know it's 22 homes right? Leaving the materials you did makes it seem like you're a representative from the township, no where is your name. That gives people the impression that you are from the township. That's wrong.

Like Reply 1d Edited

 Hide 16 Replies**Michelle Williams Pescatello**

Della Benak well, the original owners knew that we hiked the woods... and we also told them we wanted to buy it. But thanks for your input..

Like Reply 1d

**Michelle Williams Pescatello**

Della Benak and the forms are all public records... are you ok? And aren't you on their payroll??

Like Reply 1d Edited

**Della Benak**

Michelle Williams Pescatello if you mean am I an elected official of the Township than yes I am. From what I was told you never told people that you were not with the township leading them to believe you were. That's disingenuous. Don't know if that was your intention. The previous owners knew but this property was sold what 4 years ago or more? Did you contact the new owners for permission? My point is that people want to control what others do with their property but they did not pay for the land or the taxes on that land but they want to use that same land? To expect nothing to change where you live is a fantasy. Truth is this land your talking about is zoned for those 22 single family homes. This drive to stop this from happening is wrong. It is in the hands of the ZBA and they should have the benefit of doing their jobs based on the law they must follow without being bullied by a ramped up public because someone has decided to spread fear. Let the process work.

Like Reply 1d

**Michelle Williams Pescatello**

Della Benak I will ask you to read my post again. It clearly states who I am in the first sentence. You can assume what I'm doing by putting your own narrative into my post if that helps you justify it.

Like Reply 1d





Della Benak

Michelle Williams Pescatello I've read it twice. And I could have said more. Chose not to. Let the ZBA do their job without interference. I'm sure do not want to be seen as trying to tamper with their decision by inciting people to show up and harass them into making a choice that won't hold up in court do you?

Like Reply 1d



Michelle Williams Pescatello

Della Benak it's a PUBLIC meeting... I'm not harassing anyone, just ask all the people I've spoken to the past couple of weeks. I'm letting the rest of our community know what is happening & when. Again, are you ok?

Like Reply 1d



Della Benak

Michelle Williams Pescatello that's wonderful. I'm OK are you OK? I'm feeling like you don't want me to question your posting. I think I've expressed my opinions so we can leave it at that. You have a good evening.

Like Reply 1d



Michelle Williams Pescatello

Della Benak I'm fine. You have put more assumptions into my post to fit your narrative. That's wrong, Delia.

Like Reply 1d



Della Benak

Michelle Williams Pescatello it's Della

Like Reply 1d



Michelle Williams Pescatello

Della Benak got it! 😊

Like Reply 1d



Carole Gilbert

Della Benak ❤️

Like Reply 21h



Carole Gilbert

Michelle Williams Pescatello this is not new news

Like Reply 21h



Michelle Williams Pescatello

Carole Gilbert well, this is the first time I've heard about all the shocking details. I guess the township shouldn't have sent me an invitation if they didn't want my opinions & inclusiveness. 🙄

Like Reply 14h



Heather Lynn Lambrecht

Michelle Williams Pescatello came across your post just now and I'm appaled at an admitted elected officials attempt to silence you with thinly veiled threats of harassment and being in court if you dare to exercise your right to voice your opinion and ask others to do so.

The residents have the right to voice their opinion and that's why they were required to send you that letter. Yet your elected officials think exercising that right is tampering with their decisions?

Like **Reply** 13h



Michelle Williams Pescatello

Heather Lynn Lambrecht seems to be that way. However, I'm not easily silenced.



Ron Popp <supervisorwhitewater@gmail.com>

RE: Regarding the Requested Variance for Baggs Rd Condos

1 message

Zoning Administrator <zoning@whitewatertownship.org>
To: Emilee Machele <emileemachele@yahoo.com>

Thu, Aug 17, 2023 at 1:19 PM

Hello Emilee –

I will print this communication and distribute to the Zoning Board of Appeals as correspondence at the August 24th, 2023 meeting. The Zoning Board of Appeals have already received their packets for this meeting, so it is highly unlikely that this will be distributed beforehand.

Thank you for providing these comments for their review.

Bob

From: Emilee Machele <emileemachele@yahoo.com>
Sent: Thursday, August 17, 2023 12:36 PM
To: Ron Popp <supervisorwhitewater@gmail.com>; Robert Hall <zoning@whitewatertownship.org>
Subject: Re: Regarding the Requested Variance for Baggs Rd Condos

Thanks Ron,

Regardless, the feedback is necessary from residents for the entire township staff to hear and take into account in all future decisions seeing as the urban sprawl will keep pushing into our township.

Hello Bob,

Please confirm receipt and that these comments have been passed on to your board prior to the August 24th meeting.

Sent from my iPhone

On Aug 14, 2023, at 9:30 AM, Ron Popp <supervisorwhitewater@gmail.com> wrote:

Yes Emilee I did receive your comments. Please know that this is a Zoning Board Of Appeals (ZBA) request not a Township Board (TB) question. Mr. Bob Hall, the Zoning Administrator is responsible to get your comments to that body.

On Mon, Aug 14, 2023, 9:08 AM Emilee Machelles <emileemachelle@yahoo.com> wrote:

I have received confirmation of receipt from only the clerk. Following up to ensure this feedback is received by all necessary parties and to add the treasurer to the thread.

> On Aug 9, 2023, at 6:08 PM, Emilee Machelles <emileemachelle@yahoo.com> wrote:

>

> As a township resident I want to share the opinion of my household regarding the proposed condo development on Baggs Rd/PIN 28-13-136-001-02.

>

> I request that the township does not grant the ratio variance requested for these units. Whitewater already has rather loose ordinances in place which do not do a sufficient job in protecting the township's rural character, which is supposed to be a part of the township's mission statement. Lot sizes and shapes are a huge component to protecting this character because it determines how close houses can be together. High density housing is the very antithesis of rural living and I hope that the township will stand firm against the urban sprawl ruining the beauty of Whitewater.

>

> High density housing also affects traffic conditions negatively. M-72 has become very scary to turn on and off from due to increased traffic. With most roads only having stop-sign access to the highway, increasing traffic flow to and from these roads is something the township needs to carefully plan and consider. A prime example is our neighbors in Acme township; who did nothing to account for the change in traffic flow for the Equestrian Festival and has resulted in far too many accidents at the intersection of Bates and M-72.

>

> It is for these reasons I am firmly against any form of higher density housing being brought to this township, and specifically against this variance request. I hope that this feedback will be considered by all those necessary, and that you continue to fight to protect the rural character that makes Whitewater so special to us all. Please know that many neighbors I speak with share the same sentiment, and we hope that you'll keep these concerns in mind for this and all future decisions.

>

>

> Emilee Bruce

> [5070 N Broomhead Rd](#)

> [Williamsburg, MI 49690](#)



Ron Popp <supervisorwhitewater@gmail.com>

RE: Baggs Rd Appeal

1 message

Christopher Patterson <cpatterson@fsbrlaw.com>

Wed, Aug 9, 2023 at 11:03 AM

To: Ron Popp <supervisorwhitewater@gmail.com>, "Cheryl A. Goss" <clerk@whitewatertownship.org>, Zoning Administrator <zoning@whitewatertownship.org>

Cc: Matthew Kuschel <MKuschel@fsbrlaw.com>, Lindsey Gergel <lgergel@fsbrlaw.com>, Kaylin Marshall <kmarshall@fsbrlaw.com>

Good morning Ron, Cheryl, and Bob:

Last night, I was contacted by Ron to discuss the "ZBA Packet" posted on the website. I was not aware that it has a cover letter that references a third section related to components from our office. Consistent with the Township's interest in transparency, we also prepared our documents to be public. So, in short, I apologize for the delay in our materials getting out and was not aware of the public concern it is creating for the Supervisor and other members of the elected board. To facilitate getting those documents made available, we would like to finalize the attached documents. Before doing so, I would appreciate any feedback you can provide today. We will then send final PDFs tonight or tomorrow morning for posting on the Township's website and being made available at the Township hall.

Additionally, I have also been told that the website packet does not relate to a packet being made available at the Township Hall. Our office did work with Bob in review of his "staff report" and the public hearing notice. But, we were not tasked with actually assembling a final copy of the "packet" that is being provided on the website. I will call the Township shortly, but I don't have any personal knowledge of how or what is being provided on the website that is different from what is available at the Township hall. I will work on getting to the bottom of that issue as well and provide any updates as soon as possible.

Again, sorry for the inconvenience and look forward to any comments or concerns you have regarding our attachments.

Talk soon,

Chris



Christopher S. Patterson

Member • Fahey Schultz Burzych Rhodes

Direct: 517.381.3205 • Cell: 269.744.4807

Office: 517.381.0100 • Fax: 517.381.3185

fsbrlaw.com • cpatterson@fsbrlaw.com

[4151 Okemos Road, Okemos, MI 48864 USA](#)

▼ U.S. News & World Report Ranked Best Law Firm

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Neither this information block, the typed name of the sender, nor anything else in this message is intended to constitute an electronic signature unless a specific statement to the contrary is included in this message. Thank you.

2 attachments



2023.08.09 Draft ZBA Form (clean).docx
32K



2023.08.09 Letter to ZBA (final).docx
128K

WHITEWATER TOWNSHIP
ZONING BOARD OF APPEALS
WRITTEN DECISION OF ZONING BOARD OF APPEALS

Application Number: _____

Hearing Date: August 24, 2023

Applicant: Baggs Partners, LLC (“Applicant”).

Site Address: 6631 Baggs Road, Williamsburg, MI 49690. Parcel No. 13-136-001-02 (the “Parcel”).

Purpose of Request: Request a variance from the 4:1 depth to width ratio requirement of the Whitewater Township Ordinance No. 26 (The “Land Division Ordinance”).

In 2020, the Township received and approved an application for a land division which created the Parcel. The parent parcel was a 125-acre parcel owned by Morrison Orchards, which was split to create the Parcel, which is approximately 30 acres in size. On February 2, 2022, the Parcel was sold to Baggs Partners, LLC. On May 3, 2023, the Township Board found that the Parcel is not compliant with the Land Division Ordinance and deemed the parcel ineligible for building permits or zoning approvals. Applicant seeks a variance from the 4:1 depth to width ratio requirements.

Public Hearing: The ZBA opened the public hearing on August 24, 2023, to consider the subject matter of the Application for appeal. The ZBA heard comments from the Applicant, its representative, the Township attorney, and members of the public, along with exhibits submitted by the same.

Standards of Review: The Whitewater Township Land Division Ordinance provides the standards for review by the Zoning Board of Appeals, and in particular the following sections:

Section VII(D), provides that the ZBA “may approve a land division that creates a resulting parcel with a depth to width ratio greater than four to one if the applicant demonstrates that there are exceptional topographic or physical conditions with respect to the parcel and that the greater ratio would be reasonably compatible with the surrounding lands.”

Section VIII, provides that where “there are practical difficulties” the ZBA may “vary or modify the application of the provisions of this Ordinance so that the intent and purpose of the Ordinance is observed, public safety secured and substantial justice done. The Township Board, or its designee [here, the ZBA], may attach reasonable conditions in approving any variance from any provision. The breach of any condition or the failure of any applicant to comply with conditions shall void the variance.

In order for a variance to be granted, evidence must be presented at a public hearing that all of the following conditions exist:

- Exceptional or extraordinary circumstances exist such as exceptional topographical or physical conditions; or that the greater ratio would be reasonably compatible with the surrounding lands.
- Strict compliance with the regulations of this Ordinance will unreasonably prevent the applicant from developing the property or will render conformity with the regulations of this Ordinance unreasonably burdensome.
- The requested variance will not cause an adverse impact on the development of surrounding property, property values, or the use and enjoyment of property in the immediate area.
- Health, safety and welfare will not be compromised.
- The requested variance is the minimum variance necessary to permit reasonable use of the land. [Ordinance, Section VIII]

Findings of Fact: The ZBA finds as follows based upon the Land Division Ordinance, the Application, information and comments received by the Applicant, its representative and the Township attorney, and based on input (both through comments and written submissions) received during the public hearing.

1. By majority vote on July 11, 2023 the Township Board directed the ZBA to accept all relevant information and hear the application for a Land Division Ordinance variance for the Parcel.
2. Pursuant to the Land Division Ordinance, Section VII and Section VIII, and the action of the Township Board, the ZBA has been delegated and does have the authority to hear the request for a variance.
3. Applicant is the owner of 6631 Baggs Road, Williamsburg, MI 49690, the subject of this appeal. The Parcel is vacant, with no structures on the property.
4. Previous owner Morrison Acres applied for the land division of a 125-acre parent parcel in 2020.
5. In 2020, the Zoning Administrator approved the application for a land division, and the division created the Parcel at issue, which is approximately 30 acres in size.
6. On or about May 18, 2020, the Parcel was sold to former owner Debono.
7. On or about January 14, 2022, the Parcel was sold to Derek Van Solkema.
8. On or about February 2, 2022, the Parcel was quit-claimed to Baggs Partners, LLC.
9. On August 29, 2022, the Township received a complaint alleging that the Parcel was improperly split because it did not conform with the 4:1 width to depth ratio under Section VII of the Land Division Ordinance.

10. At a special meeting of the Township Board on May 3, 2023, the Township Board made a number of findings, including that the Parcel is noncompliant with the Land Division Ordinance, specifically the ratio requirement. The Township Board further found that the Parcel is “not eligible for any building permits or zoning approvals such as special land use approval or site plan approval.”
11. This Application followed, requesting a variance of the ratio requirement.

Whether the Applicant has shown:

12. That exceptional or extraordinary circumstances exist such as exceptional topographical or physical conditions

or

that the greater ratio would be reasonably compatible with the surrounding lands, the ZBA specifically finds:

13. Whether the Applicant has shown that strict compliance with the regulations of this Ordinance will unreasonably prevent the applicant from developing the property

or

will render conformity with the regulation of the Land Division Ordinance unreasonably burdensome, the ZBA specifically finds:

14. Whether the Applicant has shown that the requested variance will not cause an adverse impact on the
development of surrounding property,

property values *or*

the use and enjoyment of property in the immediate area, the ZBA specifically finds:

15. Whether the Applicant has shown that the health, safety and welfare will not be compromised, the ZBA specifically finds:

16. Whether the Applicant has shown that the requested variance is the minimum variance necessary to permit reasonable use of the land, the ZBA specifically finds:

Decision:

For the reasons above and stated on the record, the ZBA GRANTS / DENIES the Application for a depth-to-width variance.

ADOPTED:

YEAS: _____

NAYS: _____

Kenneth Bowen, ZBA Chair

Dated: _____, 2023

CERTIFICATION

I, Therowin Lake, the duly qualified and acting Secretary of the Whitewater Township Zoning Board of Appeals, Grand Traverse County, Michigan, do hereby certify that the foregoing is a true and complete copy of a resolution adopted by the Whitewater Zoning Board of Appeals at a duly scheduled meeting of the Zoning Board of Appeals held on _____, 2023

Therowin Lake, Secretary

September 15, 2023

Zoning Board of Appeals
Whitewater Township
5777 Vinton Road
Williamsburg, MI 49690

Dear Board Members:

Re: Parcel Number 13-136-001-02 Variance Request

This letter summarizes the background regarding the application to the Zoning Board of Appeals (the “ZBA”) to be heard on Thursday, August 24, 2023, at 7:00 p.m., for a variance request related to parcel number 13-136-001-02 (the “Parcel”). This letter also addresses the standards for reviewing variance requests under the Whitewater Township Land Division Ordinance (the “Ordinance,” attached as **Attachment A**).

FACTS

In 2020, a 125-acre parcel was divided and created the Parcel at issue, which is approximately 30 acres in size. The depth to width ratio is approximately 6:1—greater than 4:1 as approved at that time. The Parcel was sold a number of times between 2020 and 2022 before finally being sold to the current owners. On August 29, 2022, neighboring property owners Frank and Connie Hymore submitted a complaint regarding the validity of the split. Since February 2023, the Township devoted extensive time reviewing its ordinances and the nature of the division. At a special meeting on May 3, 2023, the Township Board made the following findings of fact (**Attachment B**, 5/3/23, Minutes):

1. Request for variance is nonexistent.
2. Parcel B could have been divided in a manner to make it comply with the ordinance, moving the north line.
3. No record of topographical or environmental adverse circumstances.
4. The ordinance is a local law, flawed or unflawed.
5. Following township ordinance is important to the greater good.

The Board determined that the Parcel is noncompliant with the Ordinance for failing to comply with the depth to width ratio. In the Board’s review, the record was insufficient to establish an



exemption. As a result, the Board held that zoning permits or building permits could not be issued for the nonconforming Parcel. *Id.*

Following that decision, on June 19, 2023, the Township received a request for a variance (**Attachment C**) from the 4:1 depth to width ratio under Section 7(D) of the Land Division Ordinance. The variance request states:

We are appealing the May 3, 2023 administrative decision of the Whitewater Township Board that declared parcel 28-13-136-001-02 was non-compliant with the Whitewater Township general ordinance #26 Amendment 3, effective 3/19/2011, specifically; section 7(d) and is not eligible for any building permits or zoning approvals such as special land use approvals or site plan approvals and reconsider, reinstate and uphold the original land division approval of zoning administrator #2 seek a variance from the 4:1 depth to width ratio stated in section 7.D of the Ordinance No.26 [Land Division Ordinance].

Supplemental materials were submitted on July 27, 2023, on behalf of the applicant and landowner (**Attachment D**, Owners Report for ZBA).

Since the ZBA does not have the authority to hear appeals of Township Board decisions, the Township Board construed the application as a request for a variance. At its July 11, 2023, meeting, the Board directed the ZBA to hear the application for variance (**Attachment E**, 7/11/23, Minutes). See also MCL 125.3603(1) (The ZBA “shall also hear and decide on matters referred” to it).

STANDARDS FOR CONSIDERATION

Section VII of the Ordinance states that to approve a land division “[t]he ratio of depth to width of any parcel created by the division **does not exceed a four to one ratio** exclusive of access roads, easements, or non-buildable parcels” Ordinance, Section VII(D) (emphasis added). The same subsection provides that a “person designated” may “approve a land division that creates a resulting parcel with a depth to width ratio greater than four to one if the applicant demonstrates that there are exceptional topographic or physical conditions with respect to the parcel and that the greater ratio would be reasonably compatible with the surrounding lands.” *Id.*

Section VIII allows for departure from the requirements of the Ordinance where “there are practical difficulties in the way of carrying out the strict letter of this Ordinance” Specifically, the Ordinance states “the Township Board, or its designee, shall have the power to vary or modify the application of the provisions of this Ordinance so that the intent and purpose of the Ordinance is observed, public safety secured and substantial justice done.” Ordinance, Section VIII.

A variance is “in essence, a license to use property in a way that would not be permitted under” an ordinance. *Frericks v Highland Twp*, 228 Mich App 575, 582 (1998). It grants permission for a specific deviation and exception from the typical ordinance requirements. The Ordinance, Section VIII, lists the following standards for approval of a variance, which must be established with evidence at a public hearing:

- Exceptional or extraordinary circumstances exist such as exceptional topographical or physical conditions; or that the greater ratio would be reasonably compatible with the surrounding lands.
- Strict compliance with the regulations of this Ordinance will unreasonably prevent the applicant from developing the property or will render conformity with the regulations of this Ordinance unreasonably burdensome.
- The requested variance will not cause an adverse impact on the development of surrounding property, property values or the use and enjoyment of property in the immediate area.
- Health, safety and welfare will not be compromised.
- The requested variance is the minimum variance necessary to permit reasonable use of the land. [Ordinance, Section VIII (emphasis added)]

ZONING PRINCIPALS GUIDING THE VARIANCE REQUEST

The ZBA is **not** considering the variance request under the Zoning Ordinance; rather it must consider the variance request under the Land Division Ordinance. Still, several aspects of a zoning variance are present in the land division variance criteria.¹ Therefore, the ZBA may consider interpretations regarding zoning ordinances and prior variance decisions under the Zoning Ordinance in interpreting and understanding the standards set forth by the Land Division Ordinance.

Exceptional or Extraordinary Circumstances

One condition the ZBA must consider is the existence of “[e]xceptional or extraordinary circumstances” such as topographical or physical conditions. Michigan courts have considered “exceptional or extraordinary circumstances” in the zoning context. In one case, the Court found “exceptional or extraordinary circumstances existed” when a property owner was unable to meet a critical dune zone, excessive dune slopes in the rear yard, and MDEQ building restrictions. *Risko v Grand Haven Charter Twp Zoning Bd of Appeals*, 284 Mich App 453, 454-55, 457, 459 (2009). These circumstances satisfied the criteria in the context of a variance request from a 50-foot setback. *Id.*

¹ For example, a “majority of the members of the zoning board of appeals” is required “to grant a [nonuse] variance in the zoning ordinance.” MCL 125.3603(2). Likewise, although this action is under the Land Division Ordinance, a majority of the Board is also required to grant this variance. See MCL 8.3c.

In another case, a variance was appropriate where 60% of the property was in a floodplain and 45% to 50% was wetlands. *Engel v Monitor Twp Zoning Bd of Appeals*, unpublished per curiam opinion of the Court of Appeals, issued September 13, 2016 (Docket No. 327701). These conditions constituted a practical difficulty from “exceptional topographic conditions or other extraordinary situation of the land.” *Id.*

Unreasonably Prevent Development or Is Unreasonably Burdensome

As a general rule, all regulation is burdensome in some sense; the mere fact of a burden does not rise to “unnecessarily burdensome.” For example, a size restriction on signs affected and burdened all commercial property owners similarly and was not unreasonable because it promoted safety and aesthetic goals. *Norman Corp v City of East Tawas*, 263 Mich App 194, 204 (2004).

In one case, a church sought a variance from a ban on the demolition of buildings located within the historical districts. *Heritage Hill Ass’n, Inc v City of Grand Rapids*, 48 Mich App 765, 767 (1973). The church, on behalf of the landowners, proposed to demolish an adjacent four-unit apartment to relieve parking and seating problems at the church. *Id.* The apartment was nearly vacant and next to impossible to rent. *Id.* at 770. In addition, the apartment building had attempted to sell on three occasions and had been appraised at \$22,000, but the best offer received was only for \$15,000. The church offered to purchase it for \$26,000. *Id.* at 771. The Court determined that a hardship existed. *Id.* The owner’s various unsuccessful attempts to otherwise dispose of the apartment property at a reasonable and fair market price supported the practical difficulty and showed the regulations in context were unreasonably burdensome. *Id.*

In another case, the construction of a private road—instead of a public road—was a proper variance because strict conformance would prevent development and was unreasonably burdensome. Four parcels had an access easement and also evidenced some unique topography including a ravine and a creek. *Swieckicki v City of Dearborn & Da’Fish Enterprises*, unpublished per curiam opinion of the Court of Appeals issued September 12, 2006 (Docket Nos. 262892 & 263066). The property was zoned for single family residential but without a variance, the owner could not construct a single home. *Id.* Without the “private road, Lot D could never be developed for any purpose.” *Id.* The Court affirmed the grant of the variance.

Finally, the last two categories—adverse impact as well as health and safety—extend beyond the zoning variance context and will be considered in the next section.

PREVIOUS APPLICATIONS OF THE VARIANCE STANDARDS

The ZBA has considered three variances under the Land Division Act in the years 2010, 2012, and 2013. Generally, “an administrative agency may reexamine its prior decisions” for analytical guidance

or to determine existing precedent. See *Melvindale-Northern Allen Park Federation of Teachers, Local 1051 v Melvindale-Northern Allen Park Pub Sch*, 216 Mich App 31, 37 (1996). A decision is more likely to be upheld if the rationale for following the prior decisions is articulated or the departure from previous decisions explained. Michigan Administrative Law § 4:20 (2019). The ZBA may review its prior interpretations of the Land Division Act and application of variance conditions to guide its interpretation of the facts and standards in the case at hand.

In 2010, the ZBA approved a variance request related to the width to depth ratio of a parcel, but required that the width to depth ratio not exceed more than 1:17 (**Attachment F**, ZBA Draft Minutes, 11/10/2010, and associated documents). In this case, there was wetland in the east portion of the property. The drain field was required to be set well-off the shoreline to satisfy regulations. These contributed to 700 feet of depth being required for the property to develop. Additionally, two adjacent parcels were seeking or already had a similar configuration. The ZBA found that the ratio “is consistent with the area” and found that “there are exceptional topographical or physical conditions” related to the existence of wetlands in the area.

In 2012, the ZBA granted a variance to allow a width to depth ratio of 1:6.18 on a parcel (**Attachment G**, ZBA Minutes, 12/18/2012, and associated documents). It also sought a lot width of 84 feet—a 16 foot variance from the 100 foot minimum lot width requirement. The Zoning Administrator found that exceptional or extraordinary circumstances existed and that strict compliance with the requirement would be unreasonably burdensome because all parcels on the south side of the property exceeded the 1:4 ratio. The Zoning Administrator also found that the variance would not cause an adverse impact to the development of surrounding property, property values, or use and enjoyment of the properties in the area because the lots in the area ranged from 70 feet to 100 feet in width, and that the creation of two lots with 84 feet in width would not have an adverse impact on the area. Health, safety, and welfare would not be compromised because only 70- to 100-foot-wide lots were buildable due to regulated wetlands encompassing most of the area’s parcels. Finally, the Zoning Administrator found that the requested variance is the minimum necessary for reasonable use of the land because “[o]ther split options would create one more non-conforming lot.” The ZBA granted both the lot width variance and the depth-to-width ratio variance.

In 2013, the ZBA granted a variance from the 1:4 ratio requirement on a parcel with a complex history. It was purchased in 1979 and then combined in 1992 for unknown reasons and apparently without the knowledge of the applicant (**Attachment H**, ZBA Minutes, 2/19/2013, and associated documents). The Zoning Administrator had found that granting the variance was not contrary to the public interest because the parcels were combined with a 1:4 ratio, but erosion and collection of eroded material had increased the length of a portion of the parcel. The Zoning Administrator

found that granting the variance would not have an adverse effect on property in the area because other parcels in the area had dimensions similar to the parcel at issue.

Adverse Impact & Health and Safety

With these prior local ZBA cases in mind, we return to the next two standards in the variance consideration. They are broad in scope and specific to the neighborhood. An adverse impact on surrounding development, property values, or the use and enjoyment of property in the immediate area broadly considers all three factors for the parcels in the area. If the totality of the impact is neutral or positive, then there would be no adverse impact.

Health, safety, and welfare are similarly broad. Safety and health concerns are more concrete, connecting to physical dangers or risks. For example, one request considered the health impacts of the drain field location. Other existing developments might consider the location or availability of water or sewer service. Since the parcel at issue is vacant, these concerns are less prevalent here. Because the proposed development itself is not for consideration here, however, we recommend that the ZBA consider not how any proposed development would impact these factors but only how the land division itself would affect the health, safety, and welfare of the Township area.

In contrast to the more concrete health and safety, welfare is more challenging to conceptualize. Black's Law Dictionary defines "welfare" as "[w]ell-being in any respect; prosperity." *Black's Law Dictionary*, 11th ed. "Welfare" is also defined as "state of doing well especially in respect to good fortune, happiness, well-being, or prosperity," *Merriam Webster Dictionary* (online), and as "Health, happiness, and good fortune; well-being," *The American Heritage Dictionary* (online). As the various definitions show, this condition is very broad and allows the ZBA to consider a number of different factors relating to the division. Again, if the totality of the impact to well-being is neutral or positive, then the variance would be consistent with the community welfare.

REACHING A DECISION

We have also included a form that the ZBA can utilize in making its decision. The relevant background and history are included as well as the variance standards from the Ordinance. The ZBA should carefully consider each of the factors and deliberate on whether each standard is met and what facts support each decision. Every member need not agree on each factor or analysis; rather the majority rules. After each standard, space is provided for the ZBA to clearly identify the facts applicable to each standard. How the current request is similar or different from other variance requests can also be articulated. The final determination for each factor should be included.

CONCLUSION

The ZBA is permitted to consider only the conditions under Section VIII of the Land Division Ordinance. In interpreting the Land Division Ordinance, it may use familiar legal principles in the zoning context to apply by analogy to the Land Division Ordinance. It may also reference the historical application of the standards in the three prior variance requests attached as exhibits.

In conclusion, the ZBA must review the information submitted by the Applicant, the public, and other interested parties to determine whether the evidence establishes exceptional topography or physical conditions; that it would be compatible with the surrounding lands; that conformity would be unreasonably burdensome; that it will not cause an adverse impact to surrounding property; that community welfare remains protected; and that any variance from the width-to-depth ratio is the minimal necessary to be appropriate for the Parcel.

Please reach out with any questions or concerns on this matter.

Sincerely,



CHRISTOPHER S. PATTERSON
MEMBER

Direct: 517.381.3205

cpatterson@fsbriaw.com

CSP/kjm

Enclosures



Ron Popp <supervisorwhitewater@gmail.com>

Re: ZBA

1 message

Vicki Beam <vickibeam@gmail.com>

Thu, Jul 13, 2023 at 2:42 PM

To: Ron Popp <supervisorwhitewater@gmail.com>

I'm curious - what date was it signed and by whom was it signed?

On Wed, Jul 12, 2023 at 8:16 AM Ron Popp <supervisorwhitewater@gmail.com> wrote:

Good morning Vicki, I do not understand your question. Please define anything. If you mean an application to the ZBA then yes, I believe Gary Vansloksma delivered an application for a variance on 6.20.2023 to the Clerk and or Treasurer. I believe that was the reason for his presence on that day.

Ron Popp
Whitewater Township Supervisor
231.267.5141 Ext. 23
supervisorwhitewater@gmail.com

On Tue, Jul 11, 2023 at 8:37 PM Vicki Beam <vickibeam@gmail.com> wrote:

Has anything been received regarding the illegal request for variance for Baggs Road Partners?

Sent from my iPhone

--



Ron Popp <supervisorwhitewater@gmail.com>

Request for Copy of Baggs Partners, LLC Variance Request - 6631 Baggs Rd.

1 message

Frank Hymore <fhymore@sbcglobal.net>
Reply-To: Frank Hymore <fhymore@sbcglobal.net>
To: Zoning Administrator <zoning@whitewatertownship.org>
Cc: Ron Popp <supervisorwhitewater@gmail.com>

Mon, Jul 10, 2023 at 12:09 PM

Mr. Hall,

I see that the Township Board is allowing the Baggs Partners, LLC to appeal to the ZBA for a variance for the property at 6631 Baggs Rd., in total violation of Section IX of General Ordinance 26. After talking with Ron Popp, he says you have the application, and it is public knowledge. Can you please send me a copy of the variance request submitted by Baggs Partners, LLC?

Also, as I look through the July Township Board Agenda, in your June report you make numerous statements which are clear, powerful and require no interpretation.

"We all (hopefully) understand that the Master Plan is the 'guide' for the future of Whitewater Township. The Whitewater Township Zoning Ordinance is the 'rule of law' in effect at this time that regulates the land use activity. If our zoning ordinance lists a use, then we are obligated to address an application.

The Zoning Administrator administers the Zoning Ordinance (precisely as it is written) without the authority to interject personal decisions or opinions."

General Ordinance 26 Section IX is quite clear and requires no interpretation. When the Township Board followed the Ordinance and deemed the property at 6631 Baggs Rd. as "not buildable", the land cannot be subject to an appeal and sent to the ZBA. As Zoning Administrator, knowing the Ordinances, you should reply to the Whitewater Township Board that their request is disallowed.

I look forward to receiving a copy of the variance request.

Thank you,

Frank Hymore



Ron Popp <supervisorwhitewater@gmail.com>

Re: ZBA

1 message

Frank Hymore <fhymore@sbcglobal.net>

Thu, Jul 6, 2023 at 11:27 PM

Reply-To: Frank Hymore <fhymore@sbcglobal.net>

To: Vicki Beam <vickibeam@gmail.com>, Ron Popp <supervisorwhitewater@gmail.com>

All,

In my opinion, Bob Hall's error puts him in violation of Genral Ordinance 26 along with a possible monetary fine and jail time. I believe he could benefit from an appeal. So yes, he has a conflict of interest. Also, per Genral Ordinance 26, this parcel cannot be sent to the ZBA. Why are we blatantly violating section IX of General Ordinance 26? It is very clear, no interpretation required. I am still waiting for an answer from Ron Popp and Mr. Patterson to respond to that question.

Thank you,
Frank Hymore

On Thursday, July 6, 2023 at 12:07:28 PM EDT, Vicki Beam <vickibeam@gmail.com> wrote:

WTF

----- Forwarded message -----

From: **Ron Popp** <supervisorwhitewater@gmail.com>

Date: Thu, Jul 6, 2023 at 11:40 AM

Subject: Re: ZBA

To: Vicki Beam <vickibeam@gmail.com>

Vicki - A conflict of interest exists when a decision maker (or family) may benefit from the decision. Bob is not a decision maker for the ZBA.

In this case, you may consider Bob a lobbyist. I am not an attorney, but I do not believe conflict of interest concerns follow lobbyists.

I hope this helps.
Ron Popp
Whitewater Township Supervisor
231.267.5141 Ext. 23
supervisorwhitewater@gmail.com

On Thu, Jul 6, 2023 at 10:41 AM Vicki Beam <vickibeam@gmail.com> wrote:

How is it that Bob Hall will be the one presenting it to the ZBA - isn't that a conflict of interest?

On Thu, Jul 6, 2023 at 9:14 AM Zoning Administrator <zoning@whitewatertownship.org> wrote:

Good Thursday-

I am 'tentatively' looking at the regularly scheduled meeting date of August 24th for the Zoning Board of Appeals.

Bob

From: Ron Popp <supervisorwhitewater@gmail.com>
Sent: Thursday, July 6, 2023 9:09 AM
To: Vicki Beam <vickibeam@gmail.com>; zoning@whitewatertownship.org
Subject: Re: ZBA

Good morning Vicki - I do not know the status of the appeal. Your request for information has been forwarded to Bob Hall.I

Ron Popp
Whitewater Township Supervisor
231.267.5141 Ext. 23
supervisorwhitewater@gmail.com

On Wed, Jul 5, 2023 at 6:45 AM Vicki Beam <vickibeam@gmail.com> wrote:

Do we know status of Baggs in front of them?

Sent from my iPhone

--

--



Ron Popp <supervisorwhitewater@gmail.com>

Re: ZBA

1 message

Vicki Beam <vickibeam@gmail.com>

Thu, Jul 6, 2023 at 10:41 AM

To: Zoning Administrator <zoning@whitewatertownship.org>

Cc: Ron Popp <supervisorwhitewater@gmail.com>

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Sent: Thursday, July 6, 2023 9:09 AM

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Subject: Re: ZBA

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Ron Popp

Whitewater Township Supervisor

231.267.5141 Ext. 23

supervisorwhitewater@gmail.com

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Ron Popp <supervisorwhitewater@gmail.com>

RE: ZBA

1 message

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To: Ron Popp <supervisorwhitewater@gmail.com>, Vicki Beam <vickibeam@gmail.com>

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Bob

From: Ron Popp <supervisorwhitewater@gmail.com>

Sent: Thursday, July 6, 2023 9:09 AM

To: Vicki Beam <vickibeam@gmail.com>; zoning@whitewatertownship.org

Subject: Re: ZBA

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Ron Popp

Whitewater Township Supervisor

231.267.5141 Ext. 23

supervisorwhitewater@gmail.com

On Wed, Jul 5, 2023 at 6:45 AM Vicki Beam <vickibeam@gmail.com> wrote:

Do we know status of Baggs in front of them?

Sent from my iPhone



Ron Popp <supervisorwhitewater@gmail.com>

Variance Request

1 message

Zoning Administrator <zoning@whitewatertownship.org>

Thu, Jun 29, 2023 at 4:02 PM

To: Derek Van Solkema <derek.vansolkema@gmail.com>, Gary Van Solkema <vansolkema@gmail.com>, Ryan Sheffer <Sheffer82@gmail.com>

Cc: Christopher Patterson <cpatterson@fsbirlaw.com>, mherringlaw@outlook.com

Hello Folks-

My apologies if this email drags on too long – in reviewing the record, the Whitewater Township Board at their June 20th special meeting accepted the ... *applicants request to pursue a variance and directed the ZA to accept the application* ...

To that end, the ZBA will not entertain an appeal of the Boards decision as requested on the application, but will instead review the requested variance under the conditions listed in Section VIII of General Ordinance No. 26, being the Whitewater Township Land Division Ordinance.

Additionally, and to serve the best interest of Whitewater Township and to serve the applicant, more time will be needed to devote to a comprehensive report in preparation for a ZBA meeting. While I initially proposed July 2th as a targeted meeting date, it is evident that this will not allow sufficient time to prepare. I am now proposing an August 24th meeting date as more realistic.

I am copying Attorneys Patterson and Herring as well as the appropriate Township personnel to confirm applicable availability.

I will need the applicant's to submit a statement to the Zoning Board of Appeals that addresses the conditions listed in Section VIII as soon as possible so that we can work towards properly publishing and noticing the public hearing that will be required.

Thank you,

Bob

Robert (Bob) Hall

Zoning Administrator

Whitewater Township

P.O. Box 159

Williamsburg, Michigan 49690

231-267-5141 x 21

www.whitewatertownship.org



Ron Popp <supervisorwhitewater@gmail.com>

RE: Whitewater Twp - ZBA

1 message

Christopher Patterson <cpatterson@fsbrlaw.com>

Thu, Jun 29, 2023 at 11:39 AM

To: Zoning Administrator <zoning@whitewatertownship.org>

Cc: "Cheryl A. Goss" <clerk@whitewatertownship.org>, Ron Popp <supervisorwhitewater@gmail.com>, Lindsey Gergel <lgergel@fsbrlaw.com>, Matthew Kuschel <MKuschel@fsbrlaw.com>, Kaylin Marshall <kmarshall@fsbrlaw.com>

Bob:

I think we need to discuss the application at issue and the Board's motion. There is no appeal that has been authorized to go to the ZBA. Instead, the applicant is entitled to pursue a variance. So that clarification resolves and doesn't require the ZBA to worry about Nos. 1 and 2. Also, the Township Board's determination that is unbuildable is based on the documents the Board reviewed. Those same documents will likely overlap and be relevant for the ZBA to review. We can assemble all of those and transmit them to you.

I can also copy and paste the sections from the ordinance for purposes of No. 3. It comes from language in Article 8 of the Zoning Ordinance or provide a statement for the ZBA. Which do you prefer?

Also, did the applicant submit no further information regarding the form you have? That is it?

Sincerely,

Chris



Christopher S. Patterson

Member • Fahey Schultz Burzych Rhodes

Direct: 517.381.3205 • Cell: 269.744.4807

Office: 517.381.0100 • Fax: 517.381.3185

fsbrlaw.com • cpatterson@fsbrlaw.com

[4151 Okemos Road, Okemos, MI 48864 USA](#)

▼ U.S. News & World Report Ranked Best Law Firm

From: Zoning Administrator <zoning@whitewatertownship.org>
Sent: Thursday, June 29, 2023 11:29 AM
To: Christopher Patterson <cpatterson@fsbrlaw.com>
Cc: 'Cheryl A. Goss' <clerk@whitewatertownship.org>; 'Zoning Administrator' <zoning@whitewatertownship.org>
Subject: Whitewater Twp - ZBA

Good Thursday, Chris –

Rather than bore you with the background info, of which you are intimately aware, I need some guidance as I prepare my staff report for the ZBA based upon the application of the appellant (see attached) and the direction of the Whitewater Township Board.

Motion by Goss to accept the applicant's request to pursue a variance before the ZBA and direct the ZA to accept the application and send all relevant information to the ZBA for hearing the application; second by Benak.

Roll call vote: Popp, yes; Goss, yes; Vollmuth, no; Benak, yes; Glenn, yes. Motion carried.

As I prepare my report I always attempt to address the processes followed and the facts which were relied upon that lead to the final decision. My experience tells me that ZBA members will undoubtedly have questions which I am not prepared to answer. I would appreciate your comments on the following:

1. By what authority (statutorily) did the Whitewater Township Board act to essentially reverse / overturn the decision of the Zoning Administrator three (3) years after the 'fact'?

See bottom of

page #1 and top of page #2 of **Minutes of May 3, 2023 special meeting**

- a. If the Board 'did' have the authority to act, what standards were used to base findings upon?
 - b. If the Board 'did not' have the authority to act, is the Board decision valid?
1. What standards does the ZBA apply / use in examining the appeal of what was clearly an administrative decision of the Township Board applicable to a non-zoning ordinance?
 2. Regarding the appellants' request for a variance from the 4:1 lot depth to width ratio, if #1(b) above is true, is it necessary to even address the variance request?

Thank you for any guidance that you able to offer in assistance to the Whitewater Township ZBA.

Bob

Robert (Bob) Hall

Zoning Administrator

Whitewater Township

P.O. Box 159

Williamsburg, Michigan 49690

231-267-5141 x 21

www.whitewatertownship.org



Ron Popp <supervisorwhitewater@gmail.com>

RE: Whitewater Twp - ZBA

1 message

Christopher Patterson <cpatterson@fsbrlaw.com>

Thu, Jun 29, 2023 at 1:41 PM

To: Zoning Administrator <zoning@whitewatertownship.org>

Cc: "Cheryl A. Goss" <clerk@whitewatertownship.org>, Lindsey Gergel <lgergel@fsbrlaw.com>, Matthew Kuschel <MKuschel@fsbrlaw.com>, Ron Popp <supervisorwhitewater@gmail.com>

Bob:

I think the Board assumed that the ZBA would and should have questions. I think they should have a complete understanding of what transpired to the extent it relates to their decision and the scope of the question being set forth under their jurisdiction.

If the ZBA does not think they have authority, they could so decide that. The Board action was to send the application for variance to the Zoning Board of Appeals. If they believe they lack such authority, that would have to be in a final decision with proper findings of fact and legal conclusions.

Great point on Article 8; I just referenced the wrong ordinance. The ZBA should be guided by the LDA ordinance as to the applicable standard. The use and terms are of common parlance in the zoning ordinance as well, and so some guidance may be gleaned from the ZO to the extent we are talking about the meaning of terms as opposed to the actual standards. But the standards and legal application in the ZBA's final decision must be based on the standards in the LDA ordinance—not the ZO.

I would like to see the applicant's submittal when it arrives (and your staff report when available). And I would note that the timing of that is crucial because nothing should be noticed to proceed until the applicant has identified and submitted a complete application. As is consistent with most noticed processes, the public and others will then have an opportunity to review the submission in preparation for the hearing. To further suggest that timing of the hearing is crucial, if you are preparing a report and we are being asked to prepare a report, then we would like to coordinate the date of that hearing for purposes of when our deliverable would be due to the Township (we prefer to get it to the ZBA and applicant a week in advance). Thus, we would probably be recommending a hearing date 4 to 5 weeks out from the applicant's submittal. Moreover, if our attendance would be of assistance, I would prefer to attend in-person on this issue given the importance and novel nature of the process that is proceeding. August and September have more availability for me.

To clarify the Board's document, we can transmit the factual records. I cannot transmit the legal opinions to the ZBA without consent from the Board. I also think that would confuse the question being asked of the ZBA, and thus I don't recommend they have our legal opinions anyway. The ZBA's issue is much narrower than what the Board has to consider.

As my final recommendation, I strongly recommend that the Township prepare a report that explains to the ZBA the standard(s) that applies under the ordinance, what the ZBA is being asked of, and the potential decision options for the ZBA. Is this going to be set forth in your staff report? If not, I would ask if we would be authorized to prepare such an explanation? I can confirm the same with Ron as well. I just think to do justice to the Board's direction for it to proceed to the ZBA, the ZBA should get sufficient direction on what is applicable under the ordinance.

As for what the applicant should provide, I don't have specific direction from the Board that I may assist the applicant. However, the applicant has legal counsel and has already made demands against the Township. My recommendation to the applicant would be to consult with legal counsel and have legal counsel prepare the supplemental filing of the application to conform to the requirements of the ordinance. And note that the burden is on the applicant to satisfy the standards.

This may raise more questions than it answers. But in short, I just want to make sure the Township is preparing the ZBA for this process. With Township authorization and direction, our office would like to be involved to assist this moving forward.

Chris



Christopher S. Patterson

Member • Fahey Schultz Burzych Rhodes

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Office: 517.381.0100 • Fax: 517.381.3185
fsbriaw.com • cpatterson@fsbriaw.com

[4151 Okemos Road, Okemos, MI 48864 USA](#)

▼ U.S. News & World Report Ranked Best Law Firm

From: Zoning Administrator <zoning@whitewatertownship.org>
Sent: Thursday, June 29, 2023 1:26 PM
To: Christopher Patterson <cpatterson@fsbriaw.com>
Subject: RE: Whitewater Twp - ZBA

Thank you for the quick response Chris.

Anyhow – I believe that a written statement from you addressed to the ZBA would be very beneficial.

My point is that I have a very inquisitive ZBA membership that is going to want to know the how and why 'we' got from 'my' original May 2020 decision to the ZBA over a period of 3+ years and 'how' did the Township Board get involved, and is this request within the realm of 'their' authority.

Are you suggesting that the ZBA should / could somehow merge both the non-use variance standards from the zoning ordinance and the variance standards from Section VIII of Ordinance No. 26, or perhaps you simply inadvertently referenced the ZO instead of the LD ordinance??

As is typical – the applicant will be requested to submit an additional narrative supporting their position related to the requested variance.

I do believe that the ZBA should have access to all of the documents that the Board had access to that were reviewed – thank you for sending those at your earliest convenience.

What other materials would you expect the applicant to submit for the record in this unique and particular situation?

Bob

From: Christopher Patterson <cpatterson@fsbirlaw.com>

Sent: Thursday, June 29, 2023 11:39 AM

To: Zoning Administrator <zoning@whitewatertownship.org>

Cc: 'Cheryl A. Goss' <clerk@whitewatertownship.org>; Ron Popp <supervisorwhitewater@gmail.com>; Lindsey Gergel <lgergel@fsbirlaw.com>; Matthew Kuschel <MKuschel@fsbirlaw.com>; Kaylin Marshall <kmarshall@fsbirlaw.com>

Subject: RE: Whitewater Twp - ZBA

Bob:

I think we need to discuss the application at issue and the Board's motion. There is no appeal that has been authorized to go to the ZBA. Instead, the applicant is entitled to pursue a variance. So that clarification resolves and doesn't require the ZBA to worry about Nos. 1 and 2. Also, the Township Board's determination that is unbuildable is based on the documents the Board reviewed. Those same documents will likely overlap and be relevant for the ZBA to review. We can assemble all of those and transmit them to you.

I can also copy and paste the sections from the ordinance for purposes of No. 3. It comes from language in Article 8 of the Zoning Ordinance or provide a statement for the ZBA. Which do you prefer?

Also, did the applicant submit no further information regarding the form you have? That is it?

Sincerely,

Chris



Christopher S. Patterson

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Roll call vote: Popp, yes; Goss, yes; Vollmuth, no; Benak, yes; Glenn, yes. Motion carried.

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Thank you for any guidance that you able to offer in assistance to the Whitewater Township ZBA.

Bob

Robert (Bob) Hall

Zoning Administrator

Whitewater Township

P.O. Box 159

Williamsburg, Michigan 49690

231-267-5141 x 21

www.whitewatertownship.org



Ron Popp <supervisorwhitewater@gmail.com>

Would like a response

1 message

Vicki Beam <vickibeam@gmail.com>

Thu, Jun 29, 2023 at 6:34 AM

To: Ron Popp <supervisorwhitewater@gmail.com>

I would like to find out how the improper division of the property on Baggs Road that does not adhere to General Ordinance 26 is being sent to the ZBA? The division of the property of the proposed site condos owned by Baggs Road Partners LLC was completed and does not comply with the maximum 4 to 1 ratio of depth to width and the consequences are outlined in Section IX of GA 26.

The board voted on it last month to uphold the Ordinance – as the board should. If you don't enforce our Ordinances why do we have them?

How can the ZBA overturn the administrative decision made by the board? More importantly – no where in the General Ordinance does it say that the ZBA can ignore a General Ordinance. There was no request for a variance for this property when Morrison split it – that is the ONLY time a request for variance could have been made. Please do your homework – based upon the vote that occurred after the closed session it appears to me that Trustee Vollmuth was the only one that did her homework – I'm not even confident the WWT attorney did his homework.

In addition, how is it possible that ZA Bob Hall can even take this in front of the ZBA? He has admitted his mistake in this division – him taking it in front of the ZBA to correct his error is like having the fox look over the henhouse!

I also want to express my disappointment in Clerk Goss and Treasurer Benak taking as much time and putting so much effort toward Gary Vansolkema – he is a builder, not a tax payer of the township. Both claim to not have time to do their elected duties – yet have hours to spend giving a non resident and non taxpayer time to help go against our ordinances.

Enough is enough – read the consequences of this improper division. Stop this nonsense.

--



Ron Popp <supervisorwhitewater@gmail.com>

FW: 6631 Baggs Rd Attorney Fees Refund

1 message

Christopher Patterson <cpatterson@fsbirlaw.com>

Mon, Jun 26, 2023 at 12:28 PM

To: Ron Popp <supervisorwhitewater@gmail.com>, "Cheryl A. Goss" <clerk@whitewatertownship.org>

Cc: Zoning Administrator <zoning@whitewatertownship.org>, Jacob Witte <jwitte@fsbirlaw.com>

Ron and Cheryl:

I am not familiar with the status of his application, but if he wants the escrow back and the applications has not had a final decision, I would just confirm he is willing to withdraw his current application. If so, I would see no reason to not disburse the unused escrow. If you need an itemized accounting from us on the amounts subject to legal review, please let us know.

Chris



Christopher S. Patterson

Member • Fahey Schultz Burzych Rhodes

Direct: 517.381.3205 • Cell: 269.744.4807

Office: 517.381.0100 • Fax: 517.381.3185

fsbirlaw.com • cpatterson@fsbirlaw.com

[4151 Okemos Road, Okemos, MI 48864 USA](#)

▼ U.S. News & World Report Ranked Best Law Firm

From: Derek Van Solkema <derek.vansolkema@gmail.com>

Sent: Monday, June 26, 2023 12:23 PM

To: Ron Popp <supervisorwhitewater@gmail.com>; Christopher Patterson <cpatterson@fsbirlaw.com>; Cheryl A. Goss <clerk@whitewatertownship.org>; heidivourtrustee@gmail.com; dglenn419@gmail.com; Michael Herring <mherringlaw@outlook.com>; Ryan Sheffer <Sheffer82@gmail.com>; Debra Van Solkema <vansolkema@gmail.com>

Subject: 6631 Baggs Rd Attorney Fees Refund

Whitewater Township Board,

We have not been given any information or an itemized receipt of our \$2,500 deposit for our site condominium/HOA review.

On 3/9/2023 I emailed Bob Hall the updates/corrections to the Master Deed and HOA per your attorney review. The only two things the township attorney wanted changed were below and which was completed within 1 hr on my end. The fact that those changes were so miniscule, the review process should not have taken longer than 1-2 hours. Therefore, we want a detailed and itemized receipt as soon as possible of the time spent otherwise. We also want our refund back for any unused money which should be about \$2,000+ as soon as possible since you've held that money hostage for over 1 year. Please let us know when we can expect a check.

"Per the township attorney's review, I corrected the language in the Master Deed to include:

"Whitewater Township, Williamsburg, MI , Grand Traverse County Condominium Subdivision Plan No. 1 containing"

I removed section 6.2,6.3,6.4,6.5,6.6 from the Master Deed. I corrected Section 6.1 that states under Expandability of the Condominium **"This condominium is not expandable."**

I believe these corrections take care of the Township attorney's review in order to move our project forward."

Thank you,

Derek



Ron Popp <supervisorwhitewater@gmail.com>

RE: Comments Regarding Whitewater Township Boards Decision to Send 6631 Baggs Rd. to ZBA for Appeal

1 message

Cheryl A. Goss <clerk@whitewatertownship.org>

Mon, Jun 26, 2023 at 12:45 PM

To: Kaylin Marshall <kmarshall@fsbirlaw.com>, Ron Popp <supervisor@whitewatertownship.org>

Cc: Christopher Patterson <cpatterson@fsbirlaw.com>, Matthew Kuschel <MKuschel@fsbirlaw.com>, Lindsey Gergel <lgergel@fsbirlaw.com>

Kaylin –

Thank you for sending the correspondence. However, I find it appalling that the Hymores feel entitled to approach the township's law firm directly and attempt to quiz them about what advice your law firm gave the township board in this matter, what was discussed in a closed session, and why the township board took the action that it did.

With all due respect to all of the attorneys at the Fahey Schultz firm, I will vehemently protest any response going back to the Hymores. If the Hymores want legal advice, they can go hire, and pay for, their own attorney.

Thank you.

Cheryl A. Goss

Whitewater Township Clerk

5777 Vinton Road, P.O. Box 159

Williamsburg, Michigan 49690

Telephone: 231.267.5141 x24

Fax: 231.267-9020

clerk@whitewatertownship.org

Office Hours: Mon/Tue/Wed/Thurs 9:00 a.m. to 5:00 p.m.

I Pledge Allegiance to the Flag of the United States of America, and to the REPUBLIC for which it stands, One Nation, Under God, Indivisible, with Liberty and Justice for All.

From: Kaylin Marshall <kmarshall@fsbirlaw.com>

Sent: Monday, June 26, 2023 12:02 PM

To: Ron Popp <supervisor@whitewatertownship.org>; Cheryl A. Goss <clerk@whitewatertownship.org>

Cc: Christopher Patterson <cpatterson@fsbirlaw.com>; Matthew Kuschel <MKuschel@fsbirlaw.com>; Lindsey Gergel <lgergel@fsbirlaw.com>

Subject: FW: Comments Regarding Whitewater Township Boards Decision to Send 6631 Baggs Rd. to ZBA for Appeal

Good afternoon,

Please see the email correspondence below received from Frank and Connie Hymore. Please let us know if you have any questions, as we are happy to address it for the Board.

Thank you.



Kaylin Marshall

Legal Assistant • Fahey Schultz Burzych Rhodes

Direct: 517.381.3164
Office: 517.381.0100 • Fax: 517.381.5051
fsbirlaw.com • kmarshall@fsbirlaw.com

[4151 Okemos Road, Okemos, MI 48864 USA](#)

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Neither this information block, the typed name of the sender, nor anything else in this message is intended to constitute an electronic signature unless a specific statement to the contrary is included in this message. Thank you.

From: Frank Hymore <fhymore@sbcglobal.net>
Sent: Saturday, June 24, 2023 10:53:26 PM
To: Christopher Patterson <cpatterson@fsbirlaw.com>
Cc: Ron Popp <supervisorwhitewater@gmail.com>
Subject: Comments Regarding Whitewater Township Boards Decision to Send 6631 Baggs Rd. to ZBA for Appeal

Mr. Patterson

We are surprised to hear, that after closed session with you, the Whitewater Township Board voted to allow the owners of [6631 Baggs Rd.](#) to apply for a variance with the Zoning Board of Appeals. This happens to be strictly prohibited in Section IX of General Ordinance 26.

SECTION IX

"Any such parcel shall also be designated as "not buildable" in the Township records, and shall not thereafter be the subject of a request to the Zoning Board of Appeals for variance relief from the applicable lot and/or area requirements, and shall not be developed with any building or above ground structure exceed four feet in height."

Was General Ordinance 26 not reviewed during your closed session with the Board on 6/20/2023? Did you identify the restriction to the Board? Did you advise them to go against the Township General Ordinance?

On 5/3/2023, the Board voted and passed a motion that deemed [6631 Baggs Rd](#) (aka Parcel 28-13-136-001-02) "Not Buildable" per the Townships Zoning and General Ordinances. Section IX above, clearly states that the parcel "shall not thereafter be the subject of a request to the Zoning Board of Appeals for variance relief...". Why did the Board vote to go against the Ordinance? Why would the Board put the members of the ZBA in such an inappropriate situation?

If this continues to track to the ZBA, it is the responsibility of the Zoning Administrator to prepare the appeal and present it to the them. However, that is definitely a conflict of interest, since it is the Zoning Administrators error that resulted in the non compliance. Through investigation, in cases like this, a third party Zoning Administrator must be brought in to submit the appeal. However, this appeal should never get to the ZBA.

Thank you,

Frank & Connie Hymore



Ron Popp <supervisorwhitewater@gmail.com>

6631 Baggs Rd Attorney Fees Refund

1 message

Derek Van Solkema <derek.vansolkema@gmail.com>

Mon, Jun 26, 2023 at 12:23 PM

To: Ron Popp <supervisorwhitewater@gmail.com>, cpatterson@fsbrlaw.com, "Cheryl A. Goss" <clerk@whitewatertownship.org>, heidivyourtrustee@gmail.com, dglenn419@gmail.com, Michael Herring <mherringlaw@outlook.com>, Ryan Sheffer <Sheffer82@gmail.com>, Debra Van Solkema <vansolkema@gmail.com>

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Kaylin Marshall

Legal Assistant • Fahey Schultz Burzych Rhodes

Direct: 517.381.3164

Office: 517.381.0100 • Fax: 517.381.5051

fsbirlaw.com • kmarshall@fsbirlaw.com

[4151 Okemos Road, Okemos, MI 48864 USA](#)

▼ U.S. News & World Report Ranked Best Law Firm



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Neither this information block, the typed name of the sender, nor anything else in this message is intended to constitute an electronic signature unless a specific statement to the contrary is included in this message. Thank you.

From: Frank Hymore <fhymore@sbcglobal.net>

Sent: Saturday, June 24, 2023 10:53:26 PM

To: Christopher Patterson <cpatterson@fsbrlaw.com>

Cc: Ron Popp <supervisorwhitewater@gmail.com>

Subject: Comments Regarding Whitewater Township Boards Decision to Send 6631 Baggs Rd. to ZBA for Appeal

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SECTION IX

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Was General Ordinance 26 not reviewed during your closed session with the Board on 6/20/2023? Did you identify the restriction to the Board? Did you advise them to go against the Township General Ordinance?

On 5/3/2023, the Board voted and passed a motion that deemed 6631 Baggs Rd (aka Parcel 28-13-136-001-02) "Not Buildable" per the Townships Zoning and General Ordinances. Section IX above, clearly states that the parcel "shall not thereafter be the subject of a request to the Zoning Board of Appeals for variance relief...". Why did the Board vote to go against the Ordinance? Why would the Board put the members of the ZBA in such an inappropriate situation?

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Ron Popp <supervisorwhitewater@gmail.com>

Re: Comments Regarding Whitewater Township Boards Decision to Send 6631 Baggs Rd. to ZBA for Appeal

1 message

Ardella Benak <treasurerwhitewater@gmail.com>
To: Ron Popp <supervisorwhitewater@gmail.com>

Mon, Jun 26, 2023 at 9:43 AM

Why are the Hymore's communicating directly with the township attorneys? We don't let anyone but the township board members contact legal but now the Hymore's are freely giving their opinions as legal advice to our attorneys? Unless they want to pay for the council? Should we direct our legal to bill them and not the township? I am not on board with letting this continue. Any suggestions?

On Mon, Jun 26, 2023, 9:17 AM Ron Popp <supervisorwhitewater@gmail.com> wrote:
FYI Board - Here is correspondence from Frank Hymore through Chris Patterson

Ron Popp
Whitewater Township Supervisor
231.267.5141 Ext. 23
supervisorwhitewater@gmail.com
bcc: Township Board

----- Forwarded message -----

From: **Christopher Patterson** <cpatterson@fsbirlaw.com>
Date: Sun, Jun 25, 2023 at 8:37 AM
Subject: Re: Comments Regarding Whitewater Township Boards Decision to Send 6631 Baggs Rd. to ZBA for Appeal
To: Frank Hymore <fhymore@sbcglobal.net>
Cc: Ron Popp <supervisorwhitewater@gmail.com>, Kaylin Marshall <kmarshall@fsbirlaw.com>, Lindsey Gergel <lgergel@fsbirlaw.com>, Matthew Kuschel <MKuschel@fsbirlaw.com>

Mr Hymore:

Received; we will forward to the Township.

Christopher S. Patterson
Member
Fahey Schultz Burzych Rhodes PLC

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Sent: Saturday, June 24, 2023 10:53:26 PM
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If this continues to track to the ZBA, it is the responsibility of the Zoning Administrator to prepare the appeal and present it to the them. However, that is definitely a conflict of interest, since it is the Zoning Administrators error that resulted in the non compliance. Through investigation, in cases like this, a third party Zoning Administrator must be brought in to submit the appeal. However, this appeal should never get to the ZBA.

Thank you,

Frank & Connie Hymore



Ron Popp <supervisorwhitewater@gmail.com>

Comments Regarding Whitewater Township Boards Decision to Send 6631 Baggs Rd. to ZBA for Appeal

1 message

Frank Hymore <fhymore@sbcglobal.net>
Reply-To: Frank Hymore <fhymore@sbcglobal.net>
To: "cpatterson@fsbirlaw.com" <cpatterson@fsbirlaw.com>
Cc: Ron Popp <supervisorwhitewater@gmail.com>

Sat, Jun 24, 2023 at 10:53 PM

Mr. Patterson

We are surprised to hear, that after closed session with you, the Whitewater Township Board voted to allow the owners of 6631 Baggs Rd. to apply for a variance with the Zoning Board of Appeals. This happens to be strictly prohibited in Section IX of General Ordinance 26.

SECTION IX

"Any such parcel shall also be designated as "not buildable" in the Township records, and shall not thereafter be the subject of a request to the Zoning Board of Appeals for variance relief from the applicable lot and/or area requirements, and shall not be developed with any building or above ground structure exceed four feet in height."

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Thank you,

Frank & Connie Hymore



Ron Popp <supervisorwhitewater@gmail.com>

RE: Comments Regarding Whitewater Township Boards Decision to Send 6631 Baggs Rd. to ZBA for Appeal

1 message

Christopher Patterson <cpatterson@fsbirlaw.com>

Mon, Jun 26, 2023 at 9:21 AM

To: Ron Popp <supervisorwhitewater@gmail.com>

Cc: Lindsey Gergel <lgergel@fsbirlaw.com>, Matthew Kuschel <MKuschel@fsbirlaw.com>, Kaylin Marshall <kmarshall@fsbirlaw.com>

Ron:

I can call you later this afternoon. Mr. Hymore is misreading the ordinance. I spoke to Trustee Vollmuth about the same section and this same language last week, explaining that the reference to the ZBA in this section doesn't apply to the stage of the matter now present before the Board because the language cited below is limited by a temporal restraint that doesn't exist in Section 8 and the Board's action that was taken last Tuesday.

We can issue a supplemental opinion to the Board explaining the same. The Board wouldn't have to convene on it, but at least they would have accurate information if asked by community members.

Chris



Christopher S. Patterson

Member • Fahey Schultz Burzych Rhodes

Direct: 517.381.3205 • Cell: 269.744.4807

Office: 517.381.0100 • Fax: 517.381.3185

fsbirlaw.com • cpatterson@fsbirlaw.com

[4151 Okemos Road, Okemos, MI 48864 USA](#)

▼ U.S. News & World Report Ranked Best Law Firm

From: Ron Popp <supervisorwhitewater@gmail.com>

Sent: Monday, June 26, 2023 9:18 AM

To: Christopher Patterson <cpatterson@fsbirlaw.com>

Subject: Fwd: Comments Regarding Whitewater Township Boards Decision to Send 6631 Baggs Rd. to ZBA for Appeal

Let me know when you have time to talk about this Chris.

Ron Popp

Whitewater Township Supervisor

231.267.5141 Ext. 23

supervisorwhitewater@gmail.com

----- Forwarded message -----

From: **Christopher Patterson** <cpatterson@fsbirlaw.com>

Date: Sun, Jun 25, 2023 at 8:37 AM

Subject: Re: Comments Regarding Whitewater Township Boards Decision to Send 6631 Baggs Rd. to ZBA for Appeal

To: Frank Hymore <fhymore@sbcglobal.net>

Cc: Ron Popp <supervisorwhitewater@gmail.com>, Kaylin Marshall <kmarshall@fsbirlaw.com>, Lindsey Gergel <lgergel@fsbirlaw.com>, Matthew Kuschel <MKuschel@fsbirlaw.com>

Mr Hymore:

Received; we will forward to the Township.

Christopher S. Patterson

Member

Fahey Schultz Burzych Rhodes PLC

From: Frank Hymore <fhymore@sbcglobal.net>

Sent: Saturday, June 24, 2023 10:53:26 PM

To: Christopher Patterson <cpatterson@fsbirlaw.com>

Cc: Ron Popp <supervisorwhitewater@gmail.com>

Subject: Comments Regarding Whitewater Township Boards Decision to Send 6631 Baggs Rd. to ZBA for Appeal

Mr. Patterson

We are surprised to hear, that after closed session with you, the Whitewater Township Board voted to allow the owners of 6631 Baggs Rd. to apply for a variance with the Zoning Board of Appeals. This happens to be strictly prohibited in Section IX of General Ordinance 26.

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Thank you,

Frank & Connie Hymore



Ron Popp <supervisorwhitewater@gmail.com>

Zoning Board of Appeals Contact Information

1 message

Frank Hymore <fhymore@sbcglobal.net>

Fri, Jun 23, 2023 at 12:30 PM

Reply-To: Frank Hymore <fhymore@sbcglobal.net>

To: Ron Popp <supervisorwhitewater@gmail.com>

Ron,

I have a correspondence for the ZBA. However, the Township website does not have their contact information. Can you forward their contact information?

Thanks

Frank



Ron Popp <supervisorwhitewater@gmail.com>

RE: 6631 Baggs Rd Appeals Process

1 message

Christopher Patterson <cpatterson@fsbrlaw.com>

Tue, Jun 20, 2023 at 12:11 PM

To: "mherringlaw@outlook.com" <mherringlaw@outlook.com>

Cc: "Cheryl A. Goss" <clerk@whitewatertownship.org>, Ron Popp <supervisorwhitewater@gmail.com>, Matthew Kuschel <MKuschel@fsbrlaw.com>, Lindsey Gergel <lgergel@fsbrlaw.com>, Zoning Administrator <zoning@whitewatertownship.org>

Good afternoon Mr. Herring:

Following up on my prior email, I met with the Township Board this morning at a special meeting. In open session, the Township Board authorized the receipt of an application for a variance from you client to go before the Zoning Board of Appeals. The Zoning Administrator is authorized to accept that application and provide a report and relevant background information. The applicant must also present any appropriate supporting documentation/supplemental information to satisfy the standards required for a variance. The standards for a variance are within the Township Land Division Ordinance.

I expect that the Zoning Board of Appeals would take the application up at a properly noticed public hearing held as part of a public meeting. Notice would also be provided for purposes of due process and notice to the surrounding properties (i.e., mailed notice and published notice).

Sincerely,

Chris



Christopher S. Patterson

Member • Fahey Schultz Burzych Rhodes

Direct: 517.381.3205 • Cell: 269.744.4807
Office: 517.381.0100 • Fax: 517.381.3185
fsbrlaw.com • cpatterson@fsbrlaw.com

[4151 Okemos Road, Okemos, MI 48864 USA](#)

▼ U.S. News & World Report Ranked Best Law Firm

From: Christopher Patterson

Sent: Wednesday, May 31, 2023 3:45 PM

To: mherringlaw@outlook.com

Cc: Ron Popp <supervisorwhitewater@gmail.com>; Matthew Kuschel <MKuschel@fsbriaw.com>; Lindsey Gergel <lgergel@fsbriaw.com>

Subject: RE: 6631 Baggs Rd Appeals Process

Good afternoon Mr. Herring:

I apologize for the delay. Your email originally went into my spam folder. I was able to locate it after being provided notice from the Township that you sent it.

We are preparing to take your correspondence to the Township Board at an upcoming meeting to discuss the points made below. As soon as I have direction from the Board to respond further, I will do so. If you have any additional questions or comments, please feel free to send those and I will include those with our update to the Township Board on this issue.

Sincerely,

Chris



Christopher S. Patterson

Member • Fahey Schultz Burzych Rhodes

Direct: 517.381.3205 • Cell: 269.744.4807

Office: 517.381.0100 • Fax: 517.381.3185

fsbriaw.com • cpatterson@fsbriaw.com

[4151 Okemos Road, Okemos, MI 48864 USA](#)

▼ U.S. News & World Report Ranked Best Law Firm

-----Original Message-----

From: Michael Herring <mherringlaw@outlook.com>

Sent: Thursday, May 25, 2023 3:14 PM

To: Derek Van Solkema <derek.vansolkema@gmail.com>; Ron Popp <supervisorwhitewater@gmail.com>; Ryan Sheffer <Sheffer82@gmail.com>; Cheryl A. Goss <clerk@whitewatertownship.org>

Cc: Christopher Patterson <cpatterson@fsbriaw.com>; zoning@whitewatertownship.org

Subject: RE: 6631 Baggs Rd Appeals Process

Hello Everyone,

My name is Michael Herring, I am the attorney for Derek Van Solkema and Ryan Sheffer.

Now that we know the Baggs property is unbuildable, per Section X, the property was split improperly. Section XI now demands that any person who violates any of the provision of the Ordinance shall be deemed guilty of a misdemeanor. The ordinance is a local law, flawed or unflawed. Following the township ordinance is important to the greater good.

When will the violations be sent to Morrison Orchard, LLC?

Further, MCL 560.265 Sec. 265 Any municipality, board of county road commissioners or county plat board may bring an action in its own name to restrain or prevent any violation of this act or any continuance of any such violation. Such action shall be brought in the county where the land is located, the defendant resides or has his principal place of business.

When can we anticipate your action to stop the continuance of the violation?

As you can imagine a large amount of litigation will be coming. My clients are bonified purchasers who, along with the realtor, the title company, insurance companies and others have substantial damages. Thankfully, we know who is responsible for the chaos... Morrison Orchard, LLC.

Have a great weekend and govern yourself accordingly,

Michael Herring

[2029 Celadon Dr.](#)

Grand Rapids, MI 49525

Phone: 616-916-6704

The information or document(s) contained in this electronic mail message is intended to be privileged and confidential information only for the use of the individual or entity named herein or above. If you are not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this message or document is strictly prohibited. If you have received this electronic mail transmission in error, notify the sender by reply e-mail and delete all copies from your system. Michael Herring is not responsible for errors in this electronic mail message. Any personal comments made do not necessarily reflect the views of Michael Herring.

From: Derek Van Solkema <derek.vansolkema@gmail.com>

Sent: Wednesday, May 24, 2023 4:07 PM

To: Ron Popp <supervisorwhitewater@gmail.com>; mherringlaw@outlook.com; Ryan Sheffer <Sheffer82@gmail.com>;

Cheryl A. Goss <clerk@whitewatertownship.org>

Cc: cpatterson@fsbrlaw.com; zoning@whitewatertownship.org

Subject: Re: 6631 Baggs Rd Appeals Process

Ron,

I can't imagine you are unaware of your own Finding of Facts and vote on 5/3/2023. It is our understanding based on the email below from Cheryl Goss and the letter from Bob Hall that your decision in the 5/3/2023 meeting regarding our parcel of land was deemed unbuildable and is not eligible for any building permits or zoning approvals such as special land use approval or site plan approval. Please confirm the decision of the township.

Thanks,

Derek

Baggs Partners, LLC

See attached letter from Bob Hall and a copy of the email received by my father Gary Van Solkema from Cheryl Goss.

Gary –

These were the findings of fact, motion and vote today on the Hymore Complaint.

Findings of Fact:

1. Request for variance is nonexistent.
2. Parcel B could have been divided in a manner to make it comply with the ordinance, moving the north line.
3. No record of topographical or environmental adverse circumstances.
4. The ordinance is a local law, flawed or unflawed.
5. Following township ordinance is important to the greater good.

Based on the findings of fact, we find parcel 28-13-136-001-02 noncompliant with Whitewater Township general ordinance number 26, amendment 3, effective 03/19/2011, specifically section 7(d) and is not eligible for any building permits or zoning approvals such as special land use approval or site plan approval.

Popp stated he will make that motion.

Glenn seconded.

Roll call vote: Goss, no; Vollmuth, yes; Glenn, yes; Popp, yes; Benak, absent. Motion carried.

FYI -

Cheryl A. Goss

Whitewater Township Clerk

[5777 Vinton Road](#), P.O. Box 159

Williamsburg, Michigan 49690

Telephone: 231.267.5141 x24

Fax: 231.267-9020

clerk@whitewatertownship.org <<mailto:clerk@whitewatertownship.org>>

Office Hours: Mon/Tue/Wed/Thurs 9:00 a.m. to 5:00 p.m.

I Pledge Allegiance to the Flag of the United States of America, and to the REPUBLIC for which it stands, One Nation, Under God, Indivisible, with Liberty and Justice for All.

On Wed, May 24, 2023 at 10:57 AM Ron Popp <supervisorwhitewater@gmail.com <<mailto:supervisorwhitewater@gmail.com>> > wrote:

Good morning Derek - I have no knowledge of correspondence sent to you by the Township. If you can provide a copy I may be able to direct your question to the proper folks. As for 3rd party costs, I believe the condominium deeds review process continued during the timeframe the parcel status was being determined. I will verify that is the case and advise.

I look forward to a copy of the correspondence.

Regards,

Ron Popp

Whitewater Township Supervisor

231.267.5141 Ext. 23

supervisorwhitewater@gmail.com <<mailto:supervisorwhitewater@gmail.com>>

bcc: Township Board

On Tue, May 23, 2023 at 2:04 PM Derek Van Solkema <derek.vansolkema@gmail.com <<mailto:derek.vansolkema@gmail.com>> > wrote:

Ron, Cheryl, and Bob,

We received your letter about our property. Is there any more information we are owed in addition to the letter from Bob Hall regarding the township board's decision deeming our property unbuildable?

Does Whitewater Township have an appeals process that we need to be aware of based on your decision?

If so, please use this email as our formal confirmation to begin our appeals process. Let us know if you need any additional documentation.

Also, when can we anticipate our refund of the \$2,500 Escrow Check from 5/26/2022 Check #105? Obviously we did not require any of the township's legal resources for our site condo project.

Signed,

Baggs Partners LLC



Ron Popp <supervisorwhitewater@gmail.com>

Trustee's Homework

1 message

Derek Van Solkema <derek.vansolkema@gmail.com>

Tue, Jun 20, 2023 at 11:50 AM

To: heidivourtrustee@gmail.com, "Cheryl A. Goss" <clerk@whitewatertownship.org>, Ron Popp <supervisorwhitewater@gmail.com>, dglenn419@gmail.com, Michael Herring <mherringlaw@outlook.com>, Ryan Sheffer <Sheffer82@gmail.com>, Debra Van Solkema <vansolkema@gmail.com>, cpatterson@fsbrlaw.com

Heidi,

What additional "Homework" do you need to do? It has been 18 months with a 6 MONTH moratorium which we feel is/was vindictive and meant specifically hurt Baggs Partners LLC.

Is 18 months not enough time to do your homework? How much more time do you need to find the information you are looking for? What else could you possibly be researching?

I appreciate your help in understanding your process. I look forward to hearing your research and findings in great detail.

Regards,

Derek



Ron Popp <supervisorwhitewater@gmail.com>

RE: APPEAL - 6631 BAGGS RD - COMPLETED DOCUMENT 6/19/2023

1 message

Christopher Patterson <cpatterson@fsbrlaw.com>

Tue, Jun 20, 2023 at 11:36 AM

To: Zoning Administrator <zoning@whitewatertownship.org>

Cc: Ron Popp <supervisorwhitewater@gmail.com>, "Cheryl A. Goss" <clerk@whitewatertownship.org>, Kaylin Marshall <kmarshall@fsbrlaw.com>

Bob:

Mr. Van Solkema's email is not completely accurate. Please note that the Board authorized the application to be accepted and processed by you for review by the Zoning Board of Appeals. You would not have authority to approve it. I would wait to do anything further until you have the exact motion that the Township Board authorized.

Sincerely,

Chris



Christopher S. Patterson

Member • Fahey Schultz Burzych Rhodes

Direct: 517.381.3205 • Cell: 269.744.4807

Office: 517.381.0100 • Fax: 517.381.3185

fsbrlaw.com • cpatterson@fsbrlaw.com

[4151 Okemos Road, Okemos, MI 48864 USA](#)

▼ U.S. News & World Report Ranked Best Law Firm

From: Derek Van Solkema <derek.vansolkema@gmail.com>

Sent: Tuesday, June 20, 2023 11:31 AM

To: Robert Hall <zoning@whitewatertownship.org>; Michael Herring <mherringlaw@outlook.com>; Ryan Sheffer <Sheffer82@gmail.com>; Debra Van Solkema <vansolkema@gmail.com>

Cc: firstname lastname <supervisor@whitewatertownship.org>; supervisorwhitewater@gmail.com; Cheryl A. Goss <clerk@whitewatertownship.org>; Christopher Patterson <cpatterson@fsbrlaw.com>

Subject: Re: APPEAL - 6631 BAGGS RD - COMPLETED DOCUMENT 6/19/2023

Bob,

Whitewater Township board approved the review of the variance request. Please approve the variance request so we can move forward. Again, we've waited 18 months including an absurd, vindictive 6 MONTH moratorium. Enough time has passed. We appreciate it.

Thank you,

Derek

On Mon, Jun 19, 2023 at 2:49 PM Robert Hall <zoning@whitewatertownship.org> wrote:

Hello Everyone-

Im reaching out for assistance here as I have no experience whatsoever when someone is appealing (what I believe to be) an administrative decision of the legislative body. The application appears to be very straight-forward in what it's seeking. I have copied Chris so that he is aware and can offer guidance to the Township. What is the appropriate response regarding this application and how does the ZA play into this situation?

Thank-you,

Bob

----- Original Message -----

From: Derek Vansolkema <derek.vansolkema@gmail.com>

To: Ron Popp <supervisorwhitewater@gmail.com>, Zoning Administrator <zoning@whitewatertownship.org>, "Cheryl A. Goss" <clerk@whitewatertownship.org>, Ryan Sheffer <Sheffer82@gmail.com>, Gary <vansolkema@gmail.com>, Michael Herring <mherringlaw@outlook.com>

Date: 06/19/2023 2:32 PM

Subject: Fwd: APPEAL - 6631 BAGGS RD - COMPLETED DOCUMENT 6/19/2023

See below for variance form. Sent 6/19/2023. Confirm receipt.

Sent from my iPhone

Begin forwarded message:

From: Gary <vansolkema@gmail.com>
Date: June 19, 2023 at 11:40:36 AM EDT
To: Robert Hall <zoning@whitewatertownship.org>
Cc: Derek Van Solkema <derek.vansolkema@gmail.com>
Subject: APPEAL - 6631 BAGGS RD - COMPLETED DOCUMENT 6/19/2023

Good Afternoon,

Please see attached completed document filed 6/19/2023 and confirm receipt.

Thank you.

Gary Van Solkema

[\(616\) 437-4368](tel:(616)437-4368)



Ron Popp <supervisorwhitewater@gmail.com>

Re: APPEAL - 6631 BAGGS RD - COMPLETED DOCUMENT 6/19/2023

1 message

Derek Van Solkema <derek.vansolkema@gmail.com>

Tue, Jun 20, 2023 at 11:30 AM

To: Robert Hall <zoning@whitewatertownship.org>, Michael Herring <mherringlaw@outlook.com>, Ryan Sheffer <Sheffer82@gmail.com>, Debra Van Solkema <vansolkema@gmail.com>

Cc: firstname lastname <supervisor@whitewatertownship.org>, "supervisorwhitewater@gmail.com" <supervisorwhitewater@gmail.com>, "Cheryl A. Goss" <clerk@whitewatertownship.org>, "cpatterson@fsbirlaw.com" <cpatterson@fsbirlaw.com>

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Good Afternoon,

Please see attached completed document filed 6/19/2023 and confirm receipt.

Thank you.

Gary Van Solkema
[\(616\) 437-4368](tel:(616)437-4368)



Ron Popp <supervisorwhitewater@gmail.com>

RE: APPEAL - 6631 BAGGS RD - COMPLETED DOCUMENT 6/19/2023

1 message

Michael Herring <mherringlaw@outlook.com>

Tue, Jun 20, 2023 at 7:31 AM

To: Derek Vansolkema <derek.vansolkema@gmail.com>, Ron Popp <supervisorwhitewater@gmail.com>, Zoning Administrator <zoning@whitewatertownship.org>, "Cheryl A. Goss" <clerk@whitewatertownship.org>, Ryan Sheffer <Sheffer82@gmail.com>, Gary <vansolkema@gmail.com>

Quick question, does any of you know Duncan Morrison? He was the plant manager at Shoreline Fruit until recently. I am trying to track him down. I'm still digging, but it looks like he was the one in charge of Morrison Orchard, LLC, the company that sold my clients the land.

Again, not 100%, because there are a lot of Morrison's in the area. But he would be related to Pete Morrison Sr. and Ron Morrison. I'm trying to get in contact with them to defend our split.

If we have to go to the Zoning Board of Appeals, my clients Warranty Deed need to be defended. I'm still working on it, but because Morrison Orchard is responsible for the spit they should be responsible to pay the costs of defending it. Again, per the warranty they gave the buyers in the deed.

I might be wrong, but more than anything, I want Morrison Orchard to know that this board is putting all of their prior splits into question.

Thank you,

Michael Herring

[2029 Celadon Dr.](#)

[Grand Rapids, MI 49525](#)

Phone: 616-916-6704

From: Derek Vansolkema <derek.vansolkema@gmail.com>

Sent: Monday, June 19, 2023 2:32 PM

To: Ron Popp <supervisorwhitewater@gmail.com>; Zoning Administrator <zoning@whitewatertownship.org>; Cheryl A. Goss <clerk@whitewatertownship.org>; Ryan Sheffer <Sheffer82@gmail.com>; Gary <vansolkema@gmail.com>;

Michael Herring <mherringlaw@outlook.com>

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Thank you.

Gary Van Solkema

(616) 437-4368



Ron Popp <supervisorwhitewater@gmail.com>

Re: APPEAL - 6631 BAGGS RD - COMPLETED DOCUMENT 6/19/2023

1 message

Derek Vansolkema <derek.vansolkema@gmail.com>

Mon, Jun 19, 2023 at 3:26 PM

To: Robert Hall <zoning@whitewatertownship.org>, Michael Herring <mherringlaw@outlook.com>, Ryan Sheffer <Sheffer82@gmail.com>, Gary Van Solkema <vansolkema@gmail.com>, "Cheryl A. Goss" <clerk@whitewatertownship.org>, Ron Popp <supervisorwhitewater@gmail.com>

Cc: firstname lastname <supervisor@whitewatertownship.org>, supervisorwhitewater@gmail.com, "Cheryl A. Goss" <clerk@whitewatertownship.org>, cpatterson@fsbrlaw.com

Ron,

We know how much you like to push things off (a ridiculous 6 month moratorium to fix "site condo language") since the township allegedly didn't have site condo language in the township ordinances prior to our application. Why it took 6 MONTHS - I'd love to have a better understanding! I doubt you'll give up that info up to your constituents though. We expect it in the FOIA though.

That said, confirm receipt. This should and better be a priority in your "attorney/client" meeting addressing our property. We expect an answer immediately since you've already had 17-18 months.

Derek

Sent from my iPhone

On Jun 19, 2023, at 2:49 PM, Robert Hall <zoning@whitewatertownship.org> wrote:

Hello Everyone-

Im reaching out for assistance here as I have no experience whatsoever when someone is appealing (what I believe to be) an administrative decision of the legislative body. The application appears to be very straight-forward in what it's seeking. I have copied Chris so that he is aware and can offer guidance to the Township.

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Bob

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To: Ron Popp <supervisorwhitewater@gmail.com>, Zoning Administrator <zoning@whitewatertownship.org>, "Cheryl A. Goss" <clerk@whitewatertownship.org>, Ryan Sheffer <Sheffer82@gmail.com>, Gary <vansolkema@gmail.com>, Michael Herring <mherringlaw@outlook.com>

Date: 06/19/2023 2:32 PM

Subject: Fwd: APPEAL - 6631 BAGGS RD - COMPLETED DOCUMENT 6/19/2023

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Sent from my iPhone

Begin forwarded message:

From: Gary <vansolkema@gmail.com>

Date: June 19, 2023 at 11:40:36 AM EDT

To: Robert Hall <zoning@whitewatertownship.org>

Cc: Derek Van Solkema <derek.vansolkema@gmail.com>

Subject: APPEAL - 6631 BAGGS RD - COMPLETED DOCUMENT 6/19/2023

Good Afternoon,

Please see attached completed document filed 6/19/2023 and confirm receipt.

Thank you.

Gary Van Solkema
[\(616\) 437-4368](tel:6164374368)

<zba form completed.pdf>



Ron Popp <supervisorwhitewater@gmail.com>

Fwd: APPEAL - 6631 BAGGS RD - COMPLETED DOCUMENT 6/19/2023

1 message

Robert Hall <zoning@whitewatertownship.org>

Mon, Jun 19, 2023 at 2:49 PM

To: firstname lastname <supervisor@whitewatertownship.org>, "supervisorwhitewater@gmail.com"

<supervisorwhitewater@gmail.com>, "Cheryl A. Goss" <clerk@whitewatertownship.org>

Cc: "cpatterson@fsbirlaw.com" <cpatterson@fsbirlaw.com>, Robert Hall <zoning@whitewatertownship.org>

Hello Everyone-

Im reaching out for assistance here as I have no experience whatsoever when someone is appealing (what I believe to be) an administrative decision of the legislative body. The application appears to be very straight-forward in what it's seeking. I have copied Chris so that he is aware and can offer guidance to the Township.

What is the appropriate response regarding this application and how does the ZA play into this situation?

Thank-you,

Bob

----- Original Message -----

From: Derek Vansolkema <derek.vansolkema@gmail.com>

To: Ron Popp <supervisorwhitewater@gmail.com>, Zoning Administrator <zoning@whitewatertownship.org>, "Cheryl A. Goss" <clerk@whitewatertownship.org>, Ryan Sheffer <Sheffer82@gmail.com>, Gary <vansolkema@gmail.com>, Michael Herring <mherringlaw@outlook.com>

Date: 06/19/2023 2:32 PM

Subject: Fwd: APPEAL - 6631 BAGGS RD - COMPLETED DOCUMENT 6/19/2023

See below for variance form. Sent 6/19/2023. Confirm receipt.

Sent from my iPhone

Begin forwarded message:

From: Gary <vansolkema@gmail.com>

Date: June 19, 2023 at 11:40:36 AM EDT

To: Robert Hall <zoning@whitewatertownship.org>

Cc: Derek Van Solkema <derek.vansolkema@gmail.com>

Subject: APPEAL - 6631 BAGGS RD - COMPLETED DOCUMENT 6/19/2023

Good Afternoon,

Please see attached completed document filed 6/19/2023 and confirm receipt.

Thank you.

Gary Van Solkema

(616) 437-4368



zba form completed.pdf

1405K



Ron Popp <supervisorwhitewater@gmail.com>

RE: APPEAL - 6631 BAGGS RD - COMPLETED DOCUMENT 6/19/2023

1 message

Cheryl A. Goss <clerk@whitewatertownship.org>

Mon, Jun 19, 2023 at 2:46 PM

To: Derek Vansolkema <derek.vansolkema@gmail.com>, Ron Popp <supervisorwhitewater@gmail.com>, Zoning Administrator <zoning@whitewatertownship.org>, Ryan Sheffer <Sheffer82@gmail.com>, Gary <vansolkema@gmail.com>, Michael Herring <mherringlaw@outlook.com>

Derek –

Received; thank you.

Cheryl A. Goss

Whitewater Township Clerk

5777 Vinton Road, P.O. Box 159

Williamsburg, Michigan 49690

Telephone: 231.267.5141 x24

Fax: 231.267-9020

clerk@whitewatertownship.org

Office Hours: Mon/Tue/Wed/Thurs 9:00 a.m. to 5:00 p.m.

I Pledge Allegiance to the Flag of the United States of America, and to the REPUBLIC for which it stands, One Nation, Under God, Indivisible, with Liberty and Justice for All.

From: Derek Vansolkema <derek.vansolkema@gmail.com>

Sent: Monday, June 19, 2023 2:32 PM

To: Ron Popp <supervisorwhitewater@gmail.com>; Zoning Administrator <zoning@whitewatertownship.org>; Cheryl A. Goss <clerk@whitewatertownship.org>; Ryan Sheffer <Sheffer82@gmail.com>; Gary <vansolkema@gmail.com>; Michael Herring <mherringlaw@outlook.com>

Subject: Fwd: APPEAL - 6631 BAGGS RD - COMPLETED DOCUMENT 6/19/2023

See below for variance form. Sent 6/19/2023. Confirm receipt.

Sent from my iPhone

Begin forwarded message:

From: Gary <vansolkema@gmail.com>

Date: June 19, 2023 at 11:40:36 AM EDT

To: Robert Hall <zoning@whitewatertownship.org>

Cc: Derek Van Solkema <derek.vansolkema@gmail.com>

Subject: APPEAL - 6631 BAGGS RD - COMPLETED DOCUMENT 6/19/2023

Good Afternoon,

Please see attached completed document filed 6/19/2023 and confirm receipt.

Thank you.

Gary Van Solkema

(616) 437-4368



Ron Popp <supervisorwhitewater@gmail.com>

Code Enforcement Complaint

1 message

Derek Van Solkema <derek.vansolkema@gmail.com>

Tue, Jun 13, 2023 at 4:32 PM

To: Ron Popp <supervisorwhitewater@gmail.com>, "Cheryl A. Goss" <clerk@whitewatertownship.org>, Zoning Administrator <zoning@whitewatertownship.org>

Ron and Board,

Your handling of today's meeting was so unprofessional by not addressing that you removed Baggs Rd from the Agenda. We waited almost 8 hours to hear what was going on. Your lack of courtesy is almost unbearable.

We are people with young families and your decision significantly impacts our families lives. Your complete lack of care is just shocking. In the same breath, it doesn't surprise me that you would kick the can down the road another week. Instead, bickering about complete and utter nonsense for 6 hours takes precedent.

That said, Vicki beam has had this shipping container in her yard for approximately 2 YEARS. it obstructs our views and does not conform to the Rural character you and they are trying to hard to "save"

what is the board and ZA doing to immediately rectify this situation? It needs to be removed immediately or hopefully you can start fining Vicki Beam for keeping this on her property.

If shipping containers are allowed on property for years and years, PLEASE let me know. We have 30 acres we could fill with junk and shipping containers.

----- Forwarded message -----

From: acscan@acadviser.com

To: derek.vansolkema@gmail.com

Cc:

Bcc:

Date: Tue, 13 Jun 2023 16:39:56 -0400

Subject: beam complaint

----- Forwarded message -----

From: Derek Vansolkema <derek.vansolkema@gmail.com>

To: Derek Van Solkema <derek.vansolkema@gmail.com>

Cc:

Bcc:

Date: Tue, 13 Jun 2023 16:25:43 -0400

Subject: Beam Shipping Container

Sent from my iPhone

4 attachments



IMG_6109.jpg
142K



Scan06-13-2023-163955.pdf
628K



beam complaint.eml
865K



Beam Shipping Container.eml
195K

WHITEWATER TOWNSHIP
COMMUNITY CENTER
CODE ENFORCEMENT COMPLAINT FORM



Complaints are usually handled in the order received. Health and safety issues take precedence over all other complaints and are usually investigated as soon as possible. Clearing up a violation may take 60 days or more depending on the level of voluntary action on the part of the violator. For more information regarding Whitewater Township's Code Enforcement Policy go to whitewatertownship.org

Date: 6/13/2023

Complainant/Reporting Party:

Name: Derek VanSolkema

Address: 6631 Baggs Rd. Williamsburg, MI

Address of Violation: 6847 Baggs Rd. Williamsburg, MI 49690

Type of Complaint:

The Beans have had a shipping container on their property for approximately 2 years obstructing our view. This shipping container does NOT conform to the Rural Character of Williamsburg. It needs to be removed immediately.

How long has the violation existed? Approximately 2 years

It is important that you supply as much detail as possible. If you have photos or other related information that can be used as evidence of this violation, please submit them with this form. The submitted documentation will not be returned and will become part of the complaint file. Attach a separate narrative if you need additional space.

NOTE: Anonymous complaints will be accepted, but may or may not be investigated at the discretion of the Code Enforcement Employees/Officials depending on the following factors:

- The reliability of the complaint;
- Whether the complaint alleges an imminent threat to public health and safety or the environment;
- The ease or difficulty with which the complaint can be verified.



Ron Popp <supervisorwhitewater@gmail.com>

Re: 06/13/2023 Twp Board Meeting - 6631 Baggs Rd

1 message

Derek Van Solkema <derek.vansolkema@gmail.com>

Tue, Jun 13, 2023 at 9:14 AM

To: "Cheryl A. Goss" <clerk@whitewatertownship.org>, Ron Popp <supervisorwhitewater@gmail.com>

Cheryl and Ron,

I am waiting to get into the Zoom meeting. It states that Zoom has notified you. Please let me into the Zoom meeting as your decision has a substantial impact on my property and my property rights.

On Mon, Jun 12, 2023 at 3:46 PM Cheryl A. Goss <clerk@whitewatertownship.org> wrote:

Gary/Derek –

I see that agenda item #8 under New Business is “6631 Baggs Road – Condominiums.”

I haven’t gotten that far in the board packet, so I don’t know what is going to be discussed, but I wanted to let you know about it.

Here is the link to Zoom for tomorrow’s meeting in this document that apparently just went up on the website today:

https://www.whitewatertownship.org/uploads/2/1/9/6/21966412/whitewater_zoom_is_inviting_you_to_a_scheduled_zoom_meeting.pdf

Also, you can find the 6/13 board packet at this link:

https://www.whitewatertownship.org/uploads/2/1/9/6/21966412/2023.06.13_township_board_packet.pdf

FYI -

Cheryl A. Goss

Whitewater Township Clerk

[5777 Vinton Road](#), P.O. Box 159

Williamsburg, Michigan 49690

Telephone: 231.267.5141 x24

Fax: 231.267-9020

clerk@whitewatertownship.org

Office Hours: Mon/Tue/Wed/Thurs 9:00 a.m. to 5:00 p.m.

I Pledge Allegiance to the Flag of the United States of America, and to the REPUBLIC for which it stands, One Nation, Under God, Indivisible, with Liberty and Justice for All.



WWT Zoom.docx

488K



Ron Popp <supervisorwhitewater@gmail.com>

Board Meeting Public Comment 6/13/2023 - In the absence of Zoom

1 message

Frank Hymore <fhymore@sbcglobal.net>

Sun, Jun 11, 2023 at 8:22 PM

Reply-To: Frank Hymore <fhymore@sbcglobal.net>

To: Ron Popp <supervisorwhitewater@gmail.com>, Don Glenn <dglenn419@gmail.com>, Heidi Vollmuth <heidivourtrustee@gmail.com>, "Cheryl A. Goss" <clerk@whitewatertownship.org>, "Ardella M. Benak" <treasurer@whitewatertownship.org>

Cc: "cpatterson@fsbrlaw.com" <cpatterson@fsbrlaw.com>, "mherringlaw@outlook.com" <mherringlaw@outlook.com>, Vicki Beam <vickibeam@gmail.com>, Karin Boyd <karin@greatlakesweld.net>, Linda Slopsema <lindaslopsema@gmail.com>, Amy K Haskell <amy.k.haskell@gmail.com>, Vern Gutknecht <verngutknecht@sbcglobal.net>, Kim and Deanna Elliott <kelliottwill@gmail.com>

All,

In the absence of Zoom and not being able to attend in person, I am sending out my Public Comment to as much of the public as I can. My comments deal solely with the "Code Enforcement Complaint" and the misinformation that is floating around in numerous emails about ownership, an appeal process, who to prosecute, etc. Again, information that is not fact based with no ordinance or state statute referenced.

Frank Hymore

[6761 Baggs Rd.](#)

Public comment for the 6/13/2023 & 6/20/2023 Whitewater Township Board Meetings

First, Per the Michigan Zoning Enabling Act MCL 125.3208,

Nonconformity travels with the land. If you are the owner of the land, then you are the owner of the nonconformity. As for Mr. Herring's clients being "bonified purchasers", (not sure what "bonified" is on page 230 of the 6/13 agenda), they are also bona fide owners of the nonconformity. It is the responsibility of the purchaser to do their due diligence, when purchasing property, that it can be used per their intent.

Second, Per Whitewater Township General Ordinance 26,

Again on page 230 of the 6/13 agenda, Morrison Orchards LLC did nothing wrong! They are not the violators! They submitted a properly filled out land division application. It is up to the Township, i.e. the Zoning Administrator, the Assessor and the Treasurer to validate that application. Specifically, the Zoning Administrator is responsible that the application meets all code and general ordinance criteria. By allowing this application, knowledgeable or unknowledgeable to the requirements of the ordinances, fault lies with the Zoning Administrator.

Third, again per Michigan Zoning enabling Act MCL 125.3208,

There is no appeal process as asked for on page 233 of the 6/13 agenda. ***"There are only two ways a nonconformity comes to an end or stops. The first is if the local government purchases the nonconformity from the property owner. That can be done on a willing seller-buyer basis or might be done with adverse condemnation. The second is if the property owner chooses on their own volition to stop the nonconformity"***, i.e. the land is deemed "not buildable" not eligible for any building permits or zoning approval such as special land use approval or site plan approval, and deemed "not buildable" through deed restriction with the County Register of Deeds and designated as "not buildable" in the municipal records

Fourth, again per Whitewater Township General Ordinance 26,

There is no appeal process for nonconformity to the ordinance. A variance could have been applied for at the time of the division, if the APPLICANT demonstrated a need, but that was not done.

Finally,

The lack of due diligence on the purchasers part, not to investigate if the land would be usable for their intent, is no one's fault but the purchaser.

The property at [6631 Baggs Rd.](#) is in violation of Whitewater Township General Ordinance 26, as motioned and passed by the Whitewater Township Board on 5/3/2023, and deemed "not buildable" through deed restriction with the County Register of Deeds and designated as "not buildable" in the municipal records.

From the Whitewater Township Code Enforcement Policy and Procedures Manual

"The mission of Code Enforcement is to enhance Whitewater Township's livability by protecting the health, safety and welfare of Township residents and visitors by assuring compliance with the Township's Zoning and General Ordinances. The Township will assure compliance both by encouraging voluntary compliance and by following progressive steps, including legal action for Ordinance violators."

As an added note,

How is it that a non-resident, non property owner, a person with no physical interest in the Township, is officially contacted by the Township Clerk, representing the Township, using her Township email and Township salutation, responds about the results of a code violation complaint and the submitters of the complaint are never contacted. And, when the submitters contacted the Township to get closure of their complaint and assurance that the documentation with the Township and County have been filed, their request is forwarded to the attorney. Why are we paying an attorney to answer an email concerning a resolved complaint?

Thank you.



Ron Popp <supervisorwhitewater@gmail.com>

Vicki Beam Shipping Container

1 message

Derek Van Solkema <derek.vansolkema@gmail.com>

Mon, Jun 12, 2023 at 9:56 AM

To: Ron Popp <supervisorwhitewater@gmail.com>, "dglenn419@gmail.com" <dglenn419@gmail.com>, "heidivyourtrustee@gmail.com" <heidivyourtrustee@gmail.com>, treasurer@whitewatertownship.org, "Cheryl A. Goss" <clerk@whitewatertownship.org>

Hello Board,

Vicki Beam has had a shipping container on her property for over a year. It obstructs our view and does NOT conform to the "Rural" character of Whitewater Township.

Was this structure approved by the board or zoning administrator? If not, should she be getting fined?

Does the township board consider a shipping container "Rural Character" ?

When will the township force her to remove it?

Every time I visit my property I do not want to look at a shipping container. It is not fair to all the neighbors to have to look at this eye soar for 1+ Years.

Bottom line, when can we expect this to be removed from her property?

Thank you,

Derek Van Solkema



Ron Popp <supervisorwhitewater@gmail.com>

Comments for board meeting

1 message

Vicki Beam <vickibeam@gmail.com>

Fri, Jun 9, 2023 at 9:29 AM

To: Ron Popp <supervisorwhitewater@gmail.com>, "Cheryl A. Goss" <clerk@whitewatertownship.org>, Heidi Vollmuth <heidivourtrustee@gmail.com>, Don Glenn <trustee02@whitewatertownship.org>, Ardella M Benak <treasurer@whitewatertownship.org>

I am writing to express my concern about several items that I feel need to be addressed - and I would like this to be read in the board meeting.

First of all - it is a travesty that the meetings are not able to be attended via zoom - I'm not sure why one individual in each of the township meetings could not be trained to push the zoom button, push the record button and then push the button at the end of the meeting. Zoom access is now a part of our lives - regardless if the "pandemic" is over or not. It is just good practice to allow yet another way for members of the township to be a part of the process - and it helps with overall transparency - especially since the minutes of the meetings do not include all commentary that takes place in a meeting. It would be VERY easy to make zoom available again - do you not want more to attend and participate? If you are not going to provide zoom - then the board meetings MUST go back to the evening time slot so that more people can attend.

Second - who gave Clerk Goss the authority to reach out to the 6631 Baggs Road group and recap the board meeting - including votes? Who gave Clerk Goss the authority to send an email to the same group that I had divided my property - including giving them my parcel numbers? I realize it is public record - but I don't believe it is proper to have an elected official voluntarily give out information about a resident to another taxpayer!!! I have not seen any evidence that the information was requested by the VanSlokema group - so why did she do that?

Clerk Goss had NO BUSINESS whatsoever to send that email. Clerk Goss has also called out private residents in board meetings because we have simply discovered the error that occurred with the land division on Baggs Road. Enough is enough. Keep my name out of your comments Clerk Goss!

I'd like to know what relationship Clerk Goss has with Gary VanSlokema and the rest of the group? Why is she being paid by taxpayer dollars to reach out to a potential developer to give them information that they could easily obtain if they attended meetings like the rest of us? Is there collusion going on?

--



Ron Popp <supervisorwhitewater@gmail.com>

Code Enforcement Complaint Closure

1 message

Frank Hymore <fhymore@sbcglobal.net>
Reply-To: Frank Hymore <fhymore@sbcglobal.net>
To: Ron Popp <supervisorwhitewater@gmail.com>

Tue, Jun 6, 2023 at 8:16 PM

Ron,

Since the board has ruled on our code enforcement complaint, we would like an official response from Whitewater Township. Please include the actions taken along with documentation that the land was deemed unbuildable with Whitewater Township and Grand Traverse County.

Thanks

Frank & Connie Hymore



Ron Popp <supervisorwhitewater@gmail.com>

Re: 6631 Baggs Rd Appeals Process

1 message

Ardella Benak <treasurerwhitewater@gmail.com>
To: Ron Popp <supervisorwhitewater@gmail.com>

Mon, Jun 5, 2023 at 10:36 AM

Yes. Did not see it the first time. June is very difficult for me with setting up for the new tax year and the newsletter. You chose to open this can of worms in an open meeting. So why would you want a possible closed session now?

On Mon, Jun 5, 2023, 10:29 AM Ron Popp <supervisorwhitewater@gmail.com> wrote:

Did the forward with that information not show up?

Ron Popp

Whitewater Township Supervisor

231.267.5141 Ext. 23

supervisorwhitewater@gmail.com

On Mon, Jun 5, 2023 at 10:24 AM Ardella Benak <treasurerwhitewater@gmail.com> wrote:

I would need the dates before committing. I'm assuming this is not a closed meeting.

On Mon, Jun 5, 2023, 10:23 AM Ron Popp <supervisorwhitewater@gmail.com> wrote:

All - Here are some dates Mr. Patterson can be available for a special meeting to discuss next steps of General Ordinance 26 Land Division.

Please comment as to your availability and we can get a special meeting organized.

Thank you

Ron Popp

Whitewater Township Supervisor

231.267.5141 Ext. 23

supervisorwhitewater@gmail.com

bcc: Township Board

----- Forwarded message -----

From: **Christopher Patterson** <cpatterson@fsbirlaw.com>

Date: Thu, Jun 1, 2023 at 7:28 PM

Subject: RE: 6631 Baggs Rd Appeals Process

To: Ron Popp <supervisorwhitewater@gmail.com>

Cc: Matthew Kuschel <MKuschel@fsbirlaw.com>, Lindsey Gergel <lgergel@fsbirlaw.com>, Jamy Staffeld <jstaffeld@fsbirlaw.com>

Ron:

With the dates you provided below, I could do the following:

1. June 15th – 9:00 a.m. to 12:00 p.m. (hard stop at 12, but Matt could continue presumably).
2. June 20th – 7:00 a.m. to 3:30 p.m.
3. June 21 – 8:30 a.m. to 1:00 p.m.
4. June 23 – 1 p.m. until 6:00 p.m. (hard stop).

Sincerely,

Chris



Christopher S. Patterson

Member • Fahey Schultz Burzych Rhodes

Direct: 517.381.3205 • Cell: 269.744.4807

Office: 517.381.0100 • Fax: 517.381.3185

fsbirlaw.com • cpatterson@fsbirlaw.com

[4151 Okemos Road, Okemos, MI 48864 USA](#)

▼ U.S. News & World Report Ranked Best Law Firm

From: Ron Popp <supervisorwhitewater@gmail.com>

Sent: Thursday, June 1, 2023 4:42 PM

To: Christopher Patterson <cpatterson@fsbirlaw.com>

Subject: Fwd: 6631 Baggs Rd Appeals Process

Chris please confirm 6.13.2023 is no longer on the table and you have received my email of 1:03 pm today explaining why 6.13.2023 will not work.

Thank you

Ron Popp

Whitewater Township Supervisor

231.267.5141 Ext. 23

supervisorwhitewater@gmail.com

----- Forwarded message -----

From: Ron Popp <supervisorwhitewater@gmail.com>

Date: Thu, Jun 1, 2023 at 1:03 PM

Subject: Fwd: 6631 Baggs Rd Appeals Process

To: <cpatterson@fsbirlaw.com>

Sorry for the back to back emails. On second thought, please disregard the 6.13.2023 meeting. It has been recent common practice to schedule a special meeting for items of high importance. I would categorize this item as high importance.

I will create a business item for 6.13.2023 asking the Board to schedule a special meeting with possible closed session for a different day that week or in the following week of June. If you could comment as to your availability for June 15 or 16, 2023 or week of June 19 thru 23, 2023 that would be great.

Thank you

Ron Popp

Whitewater Township Supervisor

231.267.5141 Ext. 23

supervisorwhitewater@gmail.com

----- Forwarded message -----

From: **Ron Popp** <supervisorwhitewater@gmail.com>

Date: Thu, Jun 1, 2023 at 12:46 PM

Subject: Re: 6631 Baggs Rd Appeals Process

To: Christopher Patterson <cpatterson@fsbirlaw.com>

Chris - We currently are offline with zoom which could make remote participation of the 6.13.2023 meeting an issue. We could use a speaker phone unless you believe this conversation should be in a closed session. If this is the case, please generate a motion and a zoom link for the session and provide it to all board members. If the board decides a closed session is in order we will be prepared. I will create a business item to discuss the topic for the 6.13.2023 agenda.

Thank you

Ron Popp

Whitewater Township Supervisor

231.267.5141 Ext. 23

supervisorwhitewater@gmail.com

On Wed, May 31, 2023 at 3:45 PM Christopher Patterson <cpatterson@fsbirlaw.com> wrote:

Good afternoon Mr. Herring:

I apologize for the delay. Your email originally went into my spam folder. I was able to locate it after being provided notice from the Township that you sent it.

We are preparing to take your correspondence to the Township Board at an upcoming meeting to discuss the points made below. As soon as I have direction from the Board to respond further, I will do so. If you have any additional questions or comments, please feel free to send those and I will include those with our update to the Township Board on this issue.

Sincerely,

Chris



Christopher S. Patterson

Member • Fahey Schultz Burzych Rhodes

Direct: 517.381.3205 • Cell: 269.744.4807

Office: 517.381.0100 • Fax: 517.381.3185

fsbriaw.com • cpatterson@fsbriaw.com

[4151 Okemos Road, Okemos, MI 48864 USA](#)

▼ U.S. News & World Report Ranked Best Law Firm

-----Original Message-----

From: Michael Herring <mherringlaw@outlook.com>

Sent: Thursday, May 25, 2023 3:14 PM

To: Derek Van Solkema <derek.vansolkema@gmail.com>; Ron Popp <supervisorwhitewater@gmail.com>;

Ryan Sheffer <Sheffer82@gmail.com>; Cheryl A. Goss <clerk@whitewatertownship.org>

Cc: Christopher Patterson <cpatterson@fsbriaw.com>; zoning@whitewatertownship.org

Subject: RE: 6631 Baggs Rd Appeals Process

Hello Everyone,

My name is Michael Herring, I am the attorney for Derek Van Solkema and Ryan Sheffer.

Now that we know the Baggs property is unbuildable, per Section X, the property was split improperly. Section XI now demands that any person who violates any of the provision of the Ordinance shall be deemed guilty of a misdemeanor. The ordinance is a local law, flawed or unflawed. Following the township ordinance is important to the greater good.

When will the violations be sent to Morrison Orchard, LLC?

Further, MCL 560.265 Sec. 265 Any municipality, board of county road commissioners or county plat board may bring an action in its own name to restrain or prevent any violation of this act or any continuance of any such violation. Such action shall be brought in the county where the land is located, the defendant resides or has his principal place of business.

When can we anticipate your action to stop the continuance of the violation?

As you can imagine a large amount of litigation will be coming. My clients are bonified purchasers who, along with the realtor, the title company, insurance companies and others have substantial damages. Thankfully, we know who is responsible for the chaos... Morrison Orchard, LLC.

Have a great weekend and govern yourself accordingly,

Michael Herring

[2029 Celadon Dr.](#)

Grand Rapids, MI 49525

Phone: 616-916-6704

The information or document(s) contained in this electronic mail message is intended to be privileged and confidential information only for the use of the individual or entity named herein or above. If you are not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this message or document is strictly prohibited. If you have received this electronic mail transmission in error, notify the sender by reply e-mail and delete all copies from your system. Michael Herring is not responsible for errors in this electronic mail message. Any personal comments made do not necessarily reflect the views of Michael Herring.

From: Derek Van Solkema <derek.vansolkema@gmail.com>

Sent: Wednesday, May 24, 2023 4:07 PM

To: Ron Popp <supervisorwhitewater@gmail.com>; mherringlaw@outlook.com; Ryan Sheffer <Sheffer82@gmail.com>; Cheryl A. Goss <clerk@whitewatertownship.org>

Cc: cpatterson@fsbrlaw.com; zoning@whitewatertownship.org

Subject: Re: [6631 Baggs Rd](#) Appeals Process

Ron,

I can't imagine you are unaware of your own Finding of Facts and vote on 5/3/2023. It is our understanding based on the email below from Cheryl Goss and the letter from Bob Hall that your decision in the 5/3/2023 meeting regarding our parcel of land was deemed unbuildable and is not eligible for any building permits or zoning approvals such as special land use approval or site plan approval. Please confirm the decision of the township.

Thanks,

Derek

Baggs Partners, LLC

See attached letter from Bob Hall and a copy of the email received by my father Gary Van Solkema from Cheryl Goss.

Gary –

These were the findings of fact, motion and vote today on the Hymore Complaint.

Findings of Fact:

1. Request for variance is nonexistent.
2. Parcel B could have been divided in a manner to make it comply with the ordinance, moving the north line.
3. No record of topographical or environmental adverse circumstances.
4. The ordinance is a local law, flawed or unflawed.
5. Following township ordinance is important to the greater good.

Based on the findings of fact, we find parcel 28-13-136-001-02 noncompliant with Whitewater Township general ordinance number 26, amendment 3, effective 03/19/2011, specifically section 7(d) and is not eligible for any building permits or zoning approvals such as special land use approval or site plan approval.

Popp stated he will make that motion.

Glenn seconded.

Roll call vote: Goss, no; Vollmuth, yes; Glenn, yes; Popp, yes; Benak, absent. Motion carried.

FYI -

Cheryl A. Goss

Whitewater Township Clerk

[5777 Vinton Road](#), P.O. Box 159

Williamsburg, Michigan 49690

Telephone: 231.267.5141 x24

Fax: 231.267-9020

clerk@whitewatertownship.org <<mailto:clerk@whitewatertownship.org>>

Office Hours: Mon/Tue/Wed/Thurs 9:00 a.m. to 5:00 p.m.

I Pledge Allegiance to the Flag of the United States of America, and to the REPUBLIC for which it stands, One Nation, Under God, Indivisible, with Liberty and Justice for All.

On Wed, May 24, 2023 at 10:57 AM Ron Popp <supervisorwhitewater@gmail.com> <<mailto:supervisorwhitewater@gmail.com>> > wrote:

Good morning Derek - I have no knowledge of correspondence sent to you by the Township. If you can provide a copy I may be able to direct your question to the proper folks. As for 3rd party costs, I believe the condominium deeds review process continued during the timeframe the parcel status was being determined. I will verify that is the case and advise.

I look forward to a copy of the correspondence.

Regards,

Ron Popp

Whitewater Township Supervisor

231.267.5141 Ext. 23

supervisorwhitewater@gmail.com <<mailto:supervisorwhitewater@gmail.com>>

bcc: Township Board

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If so, please use this email as our formal confirmation to begin our appeals process. Let us know if you need any additional documentation.

Also, when can we anticipate our refund of the \$2,500 Escrow Check from 5/26/2022 Check #105? Obviously we did not require any of the township's legal resources for our site condo project.



Signed,

Baggs Partners LLC



Ron Popp <supervisorwhitewater@gmail.com>

Re: 6631 Baggs Rd Appeals Process

1 message

Ardella Benak <treasurerwhitewater@gmail.com>
To: Ron Popp <supervisorwhitewater@gmail.com>

Mon, Jun 5, 2023 at 10:24 AM

I would need the dates before committing. I'm assuming this is not a closed meeting.

On Mon, Jun 5, 2023, 10:23 AM Ron Popp <supervisorwhitewater@gmail.com> wrote:

All - Here are some dates Mr. Patterson can be available for a special meeting to discuss next steps of General Ordinance 26 Land Division.

Please comment as to your availability and we can get a special meeting organized.

Thank you
Ron Popp
Whitewater Township Supervisor
231.267.5141 Ext. 23
supervisorwhitewater@gmail.com
bcc: Township Board

----- Forwarded message -----

From: **Christopher Patterson** <cpatterson@fsbriaw.com>
Date: Thu, Jun 1, 2023 at 7:28 PM
Subject: RE: 6631 Baggs Rd Appeals Process
To: Ron Popp <supervisorwhitewater@gmail.com>
Cc: Matthew Kuschel <MKuschel@fsbriaw.com>, Lindsey Gergel <lgergel@fsbriaw.com>, Jamy Staffeld <jstaffeld@fsbriaw.com>

Ron:

With the dates you provided below, I could do the following:

1. June 15th – 9:00 a.m. to 12:00 p.m. (hard stop at 12, but Matt could continue presumably).
2. June 20th – 7:00 a.m. to 3:30 p.m.
3. June 21 – 8:30 a.m. to 1:00 p.m.
4. June 23 – 1 p.m. until 6:00 p.m. (hard stop).

Sincerely,

Chris



Christopher S. Patterson

Member • Fahey Schultz Burzych Rhodes

Direct: 517.381.3205 • Cell: 269.744.4807

Office: 517.381.0100 • Fax: 517.381.3185

fsbrlaw.com • cpatterson@fsbrlaw.com

4151 Okemos Road, Okemos, MI 48864 USA

▼ U.S. News & World Report Ranked Best Law Firm

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231.267.5141 Ext. 23

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Thank you

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To: Christopher Patterson <cpatterson@fsbrlaw.com>

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Thank you

Ron Popp

Whitewater Township Supervisor

231.267.5141 Ext. 23

supervisorwhitewater@gmail.com

On Wed, May 31, 2023 at 3:45 PM Christopher Patterson <cpatterson@fsbrlaw.com> wrote:

Good afternoon Mr. Herring:

I apologize for the delay. Your email originally went into my spam folder. I was able to locate it after being provided notice from the Township that you sent it.

We are preparing to take your correspondence to the Township Board at an upcoming meeting to discuss the points made below. As soon as I have direction from the Board to respond further, I will do so. If you have any additional questions or comments, please feel free to send those and I will include those with our update to the Township Board on this issue.

Sincerely,

Chris



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-----Original Message-----

From: Michael Herring <mherringlaw@outlook.com>

Sent: Thursday, May 25, 2023 3:14 PM

To: Derek Van Solkema <derek.vansolkema@gmail.com>; Ron Popp <supervisorwhitewater@gmail.com>; Ryan Sheffer <Sheffer82@gmail.com>; Cheryl A. Goss <clerk@whitewatertownship.org>

Cc: Christopher Patterson <cpatterson@fsbirlaw.com>; zoning@whitewatertownship.org

Subject: RE: 6631 Baggs Rd Appeals Process

Hello Everyone,

My name is Michael Herring, I am the attorney for Derek Van Solkema and Ryan Sheffer.

Now that we know the Baggs property is unbuildable, per Section X, the property was split improperly. Section XI now demands that any person who violates any of the provision of the Ordinance shall be deemed guilty of a misdemeanor. The ordinance is a local law, flawed or unflawed. Following the township ordinance is important to the greater good.

When will the violations be sent to Morrison Orchard, LLC?

Further, MCL 560.265 Sec. 265 Any municipality, board of county road commissioners or county plat board may bring an action in its own name to restrain or prevent any violation of this act or any continuance of any such violation. Such action shall be brought in the county where the land is located, the defendant resides or has his principal place of business.

When can we anticipate your action to stop the continuance of the violation?

As you can imagine a large amount of litigation will be coming. My clients are bonified purchasers who, along with the realtor, the title company, insurance companies and others have substantial damages. Thankfully, we know who is responsible for the chaos... Morrison Orchard, LLC.

Have a great weekend and govern yourself accordingly,

Michael Herring

[2029 Celadon Dr.](#)

Grand Rapids, MI 49525

Phone: 616-916-6704

The information or document(s) contained in this electronic mail message is intended to be privileged and confidential information only for the use of the individual or entity named herein or above. If you are not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this message or document is strictly prohibited. If you have received this electronic mail transmission in error, notify the sender by reply e-mail and delete all copies from your system. Michael Herring is not responsible for errors in this electronic mail message. Any personal comments made do not necessarily reflect the views of Michael Herring.

From: Derek Van Solkema <derek.vansolkema@gmail.com>

Sent: Wednesday, May 24, 2023 4:07 PM

To: Ron Popp <supervisorwhitewater@gmail.com>; mherringlaw@outlook.com; Ryan Sheffer <Sheffer82@gmail.com>; Cheryl A. Goss <clerk@whitewatertownship.org>

Cc: cpatterson@fsbirlaw.com; zoning@whitewatertownship.org

Subject: Re: [6631 Baggs Rd](#) Appeals Process

Ron,

I can't imagine you are unaware of your own Finding of Facts and vote on 5/3/2023. It is our understanding based on the email below from Cheryl Goss and the letter from Bob Hall that your decision in the 5/3/2023 meeting regarding our parcel of land was deemed unbuildable and is not eligible for any building permits or zoning approvals such as special land use approval or site plan approval. Please confirm the decision of the township.

Thanks,

Derek

Baggs Partners, LLC

See attached letter from Bob Hall and a copy of the email received by my father Gary Van Solkema from Cheryl Goss.

Gary –

These were the findings of fact, motion and vote today on the Hymore Complaint.

Findings of Fact:

1. Request for variance is nonexistent.
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5. Following township ordinance is important to the greater good.

Based on the findings of fact, we find parcel 28-13-136-001-02 noncompliant with Whitewater Township general ordinance number 26, amendment 3, effective 03/19/2011, specifically section 7(d) and is not eligible for any building permits or zoning approvals such as special land use approval or site plan approval.

Popp stated he will make that motion.

Glenn seconded.

Roll call vote: Goss, no; Vollmuth, yes; Glenn, yes; Popp, yes; Benak, absent. Motion carried.

FYI -

Cheryl A. Goss

Whitewater Township Clerk

[5777 Vinton Road](#), P.O. Box 159

Williamsburg, Michigan 49690

Telephone: 231.267.5141 x24

Fax: 231.267-9020

clerk@whitewatertownship.org <<mailto:clerk@whitewatertownship.org>>

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I look forward to a copy of the correspondence.

Regards,

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RE: 6631 Baggs Rd Appeals Process

1 message

Christopher Patterson <cpatterson@fsbirlaw.com>
To: Ron Popp <supervisorwhitewater@gmail.com>

Thu, Jun 1, 2023 at 8:04 PM

Thank you!



Christopher S. Patterson

Member • Fahey Schultz Burzych Rhodes

Direct: 517.381.3205 • Cell: 269.744.4807
Office: 517.381.0100 • Fax: 517.381.3185
fsbirlaw.com • cpatterson@fsbirlaw.com

[4151 Okemos Road, Okemos, MI 48864 USA](#)

▼ U.S. News & World Report Ranked Best Law Firm

From: Ron Popp <supervisorwhitewater@gmail.com>
Sent: Thursday, June 1, 2023 8:02 PM
To: Christopher Patterson <cpatterson@fsbirlaw.com>
Subject: Re: 6631 Baggs Rd Appeals Process

Thank you I will pass this information along and try to get folks to commit before 6.13.2023

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FSBR

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Cc: Christopher Patterson <cpatterson@fsbrlaw.com>; zoning@whitewatertownship.org

Subject: RE: 6631 Baggs Rd Appeals Process

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Have a great weekend and govern yourself accordingly,

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Gary –

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Popp stated he will make that motion.

Glenn seconded.

Roll call vote: Goss, no; Vollmuth, yes; Glenn, yes; Popp, yes; Benak, absent. Motion carried.

FYI -

Cheryl A. Goss

Whitewater Township Clerk

[5777 Vinton Road](#), P.O. Box 159

Williamsburg, Michigan 49690

Telephone: 231.267.5141 x24

Fax: 231.267-9020

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Whitewater Township Supervisor

231.267.5141 Ext. 23

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bcc: Township Board

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Also, when can we anticipate our refund of the \$2,500 Escrow Check from 5/26/2022 Check #105? Obviously we did not require any of the township's legal resources for our site condo project.

Signed,



Baggs Partners LLC

Memo

To: Whitewater Township Board of Trustees
CC: None
Date: 9.15.2023
Re: Confidential legal opinions for 9.19.2023 -

Board Members –

I have the follow confidential writings pertaining to the 9.19.2023 special meeting.

Email dated 6.16.2023

Email dated 6.19.2023

Email dated 6.20.2023

Email dated 8.25.2023

If anyone has a different list or cannot locate a specific opinion please provide/request the document one via email to supervisorwhitewater@gmail.com

Respectfully submitted,



Whitewater Township FOIA Coordinator
Supervisor, Whitewater Township

Memo

To: Whitewater Township Board of Trustees

CC: None

Date: 9.15.2023

Re: Vollmuth Packet Submittals -

Board Members –

The following attached 7 articles were provided by Trustee Heidi for the 9.19.2023 special meeting packet for discussion purposes.

Heidi email - Agenda packet 1

Heidi email – Agenda packet 2

Heidi email – Agenda packet 3

Heidi email – Agenda packet 4

Heidi email – Agenda packet 5

Heidi email – Agenda packet 6

Heidi email – Agenda packet 7

No Motion is made pending Board discussion.

Respectfully submitted,



Whitewater Township FOIA Coordinator
Supervisor, Whitewater Township



Ron Popp <supervisorwhitewater@gmail.com>

Agenda packet 1

1 message

Heidi Vollmuth <heidivourtrustee@gmail.com>
To: Ron Popp <supervisorwhitewater@gmail.com>

Thu, Sep 14, 2023 at 5:41 PM

There are several attachments

Dear Board,

Here is where we stand, please see the following attachments for discussion.

Current State of the Baggs Rd parcel is...

Parcel 28-13-136-001-02 is noncompliant with Whitewater Township general ordinance number 26, amendment 3, effective 03/19/2011, specifically section 7(d), and is not eligible for any building permits or zoning approvals such as special land use approval or site plan approval.

Bob Hall Wrote in the packet...

- At a special meeting on May 3, 2023, the Whitewater Township Board by way of a motion declared that the above-referenced parcel is not eligible for any building permits or zoning approvals such as special land use approval or site plan approval.

Per our approved Meeting Minutes...

"Motion by Popp to uphold the elements of general ordinance 26, amendment 3, as written.

Findings of fact:

- 1. Request for variance is nonexistent.*
- 2. Parcel B could have been divided in a manner to make it comply with the ordinance, moving the north line.*
- 3. No record of topographical or environmental adverse circumstances.*
- 4. The ordinance is a local law, flawed or unflawed.*
- 5. Following township ordinance is important to the greater good.*

Based on the findings of fact, we find parcel 28-13-136-001-02 noncompliant with Whitewater Township general ordinance number 26, amendment 3, effective 03/19/2011, specifically section 7(d), and is not eligible for any building permits or zoning approvals such as special land use approval or site plan approval.

Popp stated he will make that motion.

Glenn seconded.

Roll call vote: Goss, no; Vollmuth, yes; Glenn, yes; Popp, yes; Benak, absent. Motion carried."

Bob Hall wrote in the packet...

- At a June 20, 2023 meeting, the Whitewater Township Board directed the ZBA to hear an application for a variance related to the above referenced parcel, requesting a deviation from the 4:1 (four to one) lot depth to width ratio requirements.

My homework shows...

General Ordinance 26 Section IX does not allow this parcel to be sent to the Zoning Board of Appeals.

SECTION IX

"Any such parcel shall also be designated as "not buildable" in the Township records, and shall not thereafter be the subject of a request to the Zoning Board of Appeals for variance relief from the applicable lot and/or area requirements, and shall not be developed with any building or above ground structure exceed four feet in height."

Bob Hall wrote in the packet...

- At an August 24, 2023, meeting, the Whitewater Township Zoning Board of Appeals did grant a variance from the 4:1 (four to one) lot depth to width ratio requirements for parcel #28-13-136-001-02. Based upon the above occurrences, the findings relied upon at the May 3, 2023 meeting wherein the above-referenced parcel was declared 'not eligible for any building permits or zoning approvals such as special land use approval or site plan approval' by the Whitewater Township Board, appear to have been negated.

Response:

The Township Boards decision has not been negated! Our findings of fact are still actual and relevant. The ZBA did not consider or discuss the townships findings of fact. The only mistake the Board made was allowing this appeal to be sent to the ZBA. I voted no because I did my homework. Since the ZBA cannot hear an appeal of this nature, it appears the ZBA's decision has been negated.

Bob Hall wrote in the packet...

The Zoning Board of Appeals was 'not' authorized to consider an appeal of the May 3, 2023 decision of the Whitewater Township Board.

Possible motion language:

Motion to rescind the motion of the Whitewater Township Board made on May 3, 2023, declaring that parcel #28-13- 136-001-02 is not eligible for any building permits or zoning approvals such as special land use approval or site plan approval; further, finding that based upon the variance granted from the 4:1 (four to one) lot depth to width ratio requirements by the Zoning Board of Appeals on August 24, 2023, that the subject property is now in compliance with all applicable Whitewater Township ordinances.

Response:

True, the ZBA is not authorized to consider an appeal of a Whitewater Township Board decision. Also, the ZBA is not allowed to consider appeals of parcels in violation of General Ordinance 26. Their decision to allow a variance is not allowed.

Possible motion language:

Motion to declare that the decision of the Whitewater Township Board made on June 20, 2023, to send this appeal for variance to the ZBA was in error. The parcel #28-13- 136-001-02 cannot be sent to the Zoning Board of Appeals for variance relief per General Ordinance 26. Any decision made by the ZBA is null and void. The Whitewater Township Board decision on May 3,2023 remains intact. The subject property remains noncompliant with the Whitewater Township ordinances.

Thank you,
Heidi V your trustee



Ron Popp <supervisorwhitewater@gmail.com>

Agenda packet 2

1 message

Heidi Vollmuth <heidivourtrustee@gmail.com>
To: Ron Popp <supervisorwhitewater@gmail.com>

Thu, Sep 14, 2023 at 5:42 PM

- 1 – The Zoning Administrator admits the land division is in error and that he committed the error. Again, at the 3-2-2022 Planning Commision Meeting.
- 2 – There is no time limit on a code violation. MSU Land Division Office
- 3 – Non-conformity follows the land. No matter how many times it has been sold. MSU Land Division Office
- 4 - If a zoning violation occurred when it was first started. It remains a zoning violation and should be handled with enforcement measures. MSU Land Division Office
- 5- "A township ordinance is ineffective unless it is uniformly enforced

DEFINITIONS

plural noun: **definitions**

- | | |
|---|--|
| 1. a statement of the exact meaning of a word, especially in a dictionary.
"a dictionary definition of the verb" | 2. the degree of distinctness in outline of an object, image, or sound, especially of an image in a photograph or on a screen.
"the clarity and definition of pictures can be aided by using computer graphics" |
|---|--|

Allmeans everything and everyone.

Shall meaning:

In just about every jurisdiction, courts have held that "shall" can mean not just "must" and "may", but also "will" and "is".

Any

one or some of a thing or number of things, no matter how much or how many.



Ron Popp <supervisorwhitewater@gmail.com>

Fwd: agenda packet 3

1 message

Heidi Vollmuth <heidivourtrustee@gmail.com>
To: Ron Popp <supervisorwhitewater@gmail.com>

Thu, Sep 14, 2023 at 5:42 PM

Pages 35 and 36 reference
Zoning ordinance, number 12

----- Forwarded message -----

From: **Heidi Vollmuth** <heidivourtrustee@gmail.com>
Date: Thu, Sep 14, 2023 at 4:08 PM
Subject: Zoning ordinances
To: <heidivourtrustee@gmail.com>

Refer to zoning ordinance 12



whitewater-township-zoning-ordinance---last-revision-effective-11.11.2021.pdf
14648K

WHITEWATER TOWNSHIP

ZONING ORDINANCE

TOWNSHIP ORDINANCE #6

ADOPTED AND EFFECTIVE
DECEMBER 23, 1972

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1.00

**ZONING ORDINANCE
WHITEWATER TOWNSHIP, MICHIGAN
Ord. No. 6 eff. Dec. 23, 1972**

An Ordinance to establish zoning district and regulations in the Township of Whitewater, County of Grand Traverse and State of Michigan, in accordance with the provisions of Act 184 of the Public Acts of 1943, as amended, and Act 231 of the Public Acts of 1970, as amended (Natural River Act); and to define certain terms used herein; to provide for regulations governing nonconforming uses and structures; to establish a Board of Appeals and define its duties and powers; to provide for the administration and enforcement; to provide for amendments; and to provide penalties for the violation of this Ordinance.

THE TOWNSHIP OF WHITEWATER ORDAINS

1.00

**ARTICLE I
SHORT TITLE**

This Ordinance shall be known as "Whitewater Township Zoning Ordinance" and will be referred to herein as "this Ordinance".

ARTICLE II **INTERPRETATION**

(Effective July 28, 2017)

Section 2.10 Purposes

The fundamental purpose of this Ordinance is to promote the health, safety, and general welfare of the inhabitants of the Township by:

1. Promoting the orderly development of the Township.
2. Encouraging the use of lands and resources of the Township in accordance with their character and adaptability.
3. Securing safety from fire and other dangers and providing for safety in traffic, adequacy of parking and reduction in hazards to life and property.
4. Facilitating the development of adequate systems of fire protection, education, recreation, water supplies and sanitary facilities.
5. Conserving the use of public funds for public improvement and services to conform with the most advantageous use of lands, properties and resources of the Township.
6. Protecting fish and wildlife resources, water quality, scenic and aesthetic qualities, historical and recreational values.
7. Preventing flood damages due to interference with natural drainage characteristics of rivers and streams.
8. Promoting the economic progress of the Township and protecting and enhancing the property values thereof.

Section 2.11 Scope

It is not intended by this Ordinance to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of law or ordinance, except as hereinafter specifically repealed, or with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to law, relating to the use of buildings or premises, or with any private restrictions placed upon property by covenant or deed; provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises than are imposed or required by such existing provisions of law or ordinance or by such rules, regulations or permits or by such private restrictions, the provisions of this Ordinance shall control.

Section 2.12 Splitting Lots Within Recorded Subdivisions

No lot, outlot or other parcel of land in a recorded plat shall be further partitioned or divided unless in conformity with the standard of the district in which it exists. The township may permit the partitioning of land into not more than four (4) parts.

Section 2.13 Rules of Interpretation

The following rules are intended to clarify the intent of the standards within this Ordinance. The following shall apply, except when clearly indicated otherwise:

1. Terms not defined shall be assumed to have the customary meaning assigned them.
2. Any interpretation of this Ordinance shall be defined by the Whitewater Township Zoning Board of Appeals.
3. The particular shall control the general.
4. The word "shall" is always mandatory and never discretionary. The word "may" is permissive.
5. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," and "occupied for."
6. Unless the context clearly indicates otherwise, where a regulation involves two (2) or more items, conditions, provisions or events, the terms "and," "or," "either . . . or," such conjunction shall be interpreted as follows:
 - A. "And" denotes that all the items, conditions, provisions or events apply in combination.
 - B. "Or" indicates that the items, conditions, provisions or events may apply individually or in any combination.
7. "Township" shall refer specifically to "Whitewater Township."
8. The term "person" shall mean an individual, firm, corporation, association, partnership, limited liability company or other legal entity, or their agents.

**ARTICLE III
DEFINITIONS**

(Definition of Condominium Conversion added; Effective 03/28/2021)

ACCESSORY BUILDING: A supplemental building or structure located on the same lot as or a lot contiguous to the primary building or where a primary use is being established.

ACCESSORY USE: A use naturally incident to and subordinate to the main use of the land or building.

AGRICULTURAL COOLING PAD: The area and its related equipment where crops, cherries in particular, are collected, temporarily stored, and rinsed with water to lower the temperature and prepare the crop for transport and processing.

AGRICULTURAL PREMISES: A premises used or occupied for the cultivation of field crops, truck crops, nurseries, orchards, greenhouses, woodlots, pastures, husbandry of livestock, poultry or small animals, or any activities of a similar nature.

AGRICULTURAL STAGING AREA: An area where trucks, transport equipment, harvesting coordination, and assembly and loading of agricultural products takes place related to the logistics of harvesting and transporting agricultural crops.

BED AND BREAKFAST ESTABLISHMENT: A private residential dwelling in which the owner provides overnight accommodations and breakfast to transient guests for compensation.

BILLBOARD: A sign structure generally available for lease or rent, although sometimes owned by the user, intended to support an off-premises business. Commercial Outdoor Advertising and Outdoor Advertising are other terms commonly applied to larger billboards.

BUILDING: A structure having a roof supported by columns or walls for the shelter, support, or enclosure of persons, animals, or property.

BUILDING HEIGHT: The building height is the vertical distance measured from the finished grade level to the highest point of the roof surface if a flat roof; to the deck of mansard roofs; and to the average height level between eaves and ridges of gable, hip and gambrel roofs. Where the building may be situated on sloping terrain, this height shall be measured from the highest finished grade at the building wall.

BUFFER STRIP: A strip of land reserved or used for plant material, berms, walls, or fencing to serve as a visual and/or sound barrier between properties, often required between properties in different zoning districts.

CABIN: A simple housing structure providing temporary accommodation for recreational purposes.

CAMPGROUND, COMMERCIAL: A campground owned and operated expressly for the purpose of renting space in the campground on a transient basis for profit to the general public. A campground owned and operated by a non-profit organization for the exclusive temporary use and enjoyment of its members shall also be considered a commercial campground.

CAMPGROUND, PRIVATE FAMILY: Parcels of land owned and operated exclusively for the temporary use and enjoyment of those sharing in the ownership of the parcel, their invited guests and not for remuneration.

CONDOMINIUM CONVERSION: Any property or group of properties whose form of ownership is changed to condominium units from another form of ownership.

CONDOMINIUM UNIT: That portion of a condominium project or site condominium subdivision which is designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use. The owner of a "condominium unit" also owns a share of the common elements. The term "condominium unit" shall be equivalent to the term "lot" for purposes of determining compliance of a site condominium subdivision with provisions of this Ordinance pertaining to minimum lot size, minimum lot width, maximum lot coverage, and maximum floor area ratio.

CONDOMINIUM PROJECT: A plan or project consisting of not less than two (2) condominium units if established and approved in conformance with the Condominium Act (Public Act 59 of 1978).

COMMERCIAL PREMISES: A premises used or occupied for transportation, retail sales or service businesses, wholesale sales facilities, apartments, hotels, motels, or commercial recreation.

COMMUNITY IMPACT STATEMENT: An assessment of the developmental, ecological, social, economic and physical impacts of a project on the natural environment and the physical improvements on and surrounding the development site. Information required for compliance with other ordinances shall not be required to be duplicated in the Community Impact Statement.

CORRIDOR OVERLAY PLANNED UNIT DEVELOPMENT (COPUD): A corridor overlay zone which employs the methods and techniques of a planned unit development.

CUL-DE-SAC: A circular vehicular turn-around at the end of a private road or easement.

DEED RESTRICTION: A restriction on a property that is recorded as part of a deed with the County Register of Deeds. A deed restriction is binding on subsequent owners and enforced by the parties to the agreement.

DOMESTIC PETS: Dogs, cats, and other animals customarily housed within a dwelling.

DWELLING: Any building or structure or portion thereof legally occupied as the home, residence, or sleeping place of one or more persons.

MULTIPLE FAMILY DWELLING: A building, structure, or portion thereof used or designed as a residence for three (3) or more families living independently of each other and independently doing their own cooking in said building. This definition includes three-family houses, four-family houses and apartments, but does not include trailer camps or mobile home parks.

SINGLE FAMILY DWELLING: A building, structure, or portion thereof containing not more than one dwelling unit designed for residential use and attached to a permanent foundation except where hereinafter exempt.

TEMPORARY DWELLING: A building, structure, or portion thereof that is intended to be used on a temporary basis, has some of the facilities of a conventional dwelling, and is used in conjunction with the construction of a permanent residence.

TWO FAMILY DWELLING: A building, structure, or portion thereof designed for or occupied exclusively by two families living independently of each other and attached to a permanent foundation except where hereinafter exempt.

EASEMENT: A grant of one or more of the property rights by a property owner to and/or for use by the public, or another person or entity.

EQUIPMENT: Tangible property, excluding land, buildings, and vehicles, which is used in the operations of a business or completion of a task.

EXISTING BUILDING: A building existing or for which the foundations are in place or upon which there has been substantial work done prior to the effective date of this Ordinance or any amendment thereto.

EXISTING USE: A use of premises or buildings or structures actually in operation, openly, visibly and notoriously, prior to the effective date of this Ordinance or any amendment thereto.

FENCE: A fence is a structure usually constructed from posts that are connected by boards, wire, rails or netting enclosing an area of ground to mark a boundary, control access, prevent escape, or provide a decorative feature.

FENCE, RESIDENTIAL STANDARDS:

1. Fences shall have the finished side facing outward away from the property in which it is located.
2. No fence shall be erected within the 50-foot setback of any lakes, rivers, streams.
3. Fences shall not exceed a height of 6 feet.
4. Prohibited fences include barbed wire, electric charges, or fences with sharp materials located on top.

FOOTPRINT: The area of land occupied by the foundation of a building and does not include appurtenances like decks unless they are on a permanent foundation.

GREENBELT: An area of grass, trees and other natural vegetation between a structure or parking area and a public thoroughfare.

HAMMERHEAD TURNAROUND: A T-shaped vehicular turnaround at the end of a road or easement.

HAZARDOUS SUBSTANCES AND POLLUTING MATERIALS: Hazardous substances and polluting materials shall mean hazardous chemicals as defined by the Michigan Department of Public Health and the Michigan Department of Labor; flammable and combustible liquids as defined by the Michigan State Police Fire Marshal Division; critical materials, polluting materials and hazardous waste as defined by the Michigan Department of Natural Resources; hazardous substances as defined by the U.S. Environmental Protection Agency, and hazardous materials as defined by the U.S. Department of Transportation.

HIGHWAY: Any public thoroughfare in Whitewater Township, including federal and state roads and highways.

HOME OCCUPATIONS: An occupation or business activity located within a residential dwelling or in an accessory building which is clearly subordinate to the principal residential use.

IMPLEMENT: A tool or an instrument used in doing work.

INSTITUTIONAL PREMISES: Shall be interpreted to include such premises or portions thereof upon which is situated a public utility or other publicly owned, operated, or administered facility, any public, private or commercial vocational school, a cultural facility, including a museum, library or auditorium, or a religious or charitable facility.

LAND DIVISION: Creation of a new lot or parcel.

LOT: A parcel of land separated from other parcels of land by description on a recorded plat or by metes-and-bounds description which meets the requirements of this Ordinance, a condominium unit in a site condominium which meets the requirements of this Ordinance, a common area or element in a condominium project, a condominium unit.

CORNER LOT: Any lot having at least two (2) contiguous sides abutting upon one or more streets, provided that the interior angle at the intersection of such two sides is less than one hundred thirty-five (135) degrees. A lot abutting a curved street(s) shall be a corner lot if the arc has a radius less than one hundred and fifty (150) feet. Corner lots, for the purpose of setbacks, shall have two front lot lines and two side lot lines.

INTERIOR LOT: A lot which has only one lot line or portion thereof fronting on a street.

LOT DEPTH: The average horizontal distance between the front and rear lot lines, measured along the average midpoint between side lot lines.

LOT FRONTAGE: The length of the front lot line.

LOT OF RECORD: A tract of land which is part of a subdivision shown on a plat or map which has been recorded in the Office of the Register of Deeds for Grand Traverse County, Michigan; or a tract of land described by metes-and-bounds which is the subject of a deed or land contract which is likewise recorded in the Office of the Register of Deeds.

LOT WIDTH: The average horizontal distance between the side lot lines measured perpendicular to the average depth, especially on irregularly shaped lots.

NONCONFORMING LOT: A lot of record which does not meet the requirements of this Ordinance.

THROUGH LOT (also called a double frontage lot): An interior lot having frontage on two (2) more or less parallel streets.

LOT LINES: The property lines bounding a lot or parcel.

FRONT LOT LINE: The line separating a lot from any street right-of-way, private road or other access easement. In the case of a waterfront lot, the line which fronts on a navigable waterway shall be a front lot line. Corner lots, for the purpose of setbacks, shall have two front lot lines and two side lot lines.

REAR LOT LINE: The line opposite and most distant from the front lot line. In the case of a triangular or otherwise irregularly shaped lot or parcel, an imaginary line ten (10) feet in length entirely within the lot or parcel, parallel to and at a maximum distance from the front line.

SIDE LOT LINE: Any lot line other than a front or rear lot line.

ZERO LOT LINE: The location of a building on a lot in such a manner that one or more of the building's sides rest directly on or adjacent to a lot line.

MANAGED VEGETATIVE STRIP: A natural vegetative area extending along both sides of rivers, streams or watercourses, containing native trees, shrubs and other vegetation and natural materials. The purpose of the managed vegetative strip is to stabilize the river banks, prevent erosion, absorb nutrients in water runoff from adjacent lands, provide shading for the stream to maintain cool water temperatures, and screening of adjacent man-made structures.

MANUFACTURED HOME: A dwelling unit constructed primarily within a factory in modules or components, which are then transported to a site where they are assembled on a permanent foundation to form a dwelling, and meet all codes and regulations applicable to conventional home construction.

MASTER DEED: The document recorded as part of a site condominium subdivision to which are attached as exhibits, and incorporated by reference, the approved bylaws for the site condominium subdivision and the site condominium subdivision plan.

MOBILE HOME: A structure, with a title issued by the State of Michigan, that is approved by the U.S. Department of Housing and Urban Development (HUD), and can be moved in one (1) or more sections, which is built on a chassis and designed as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, and electrical systems. "Mobile home" does not include a recreational vehicle or recreational trailer but shall include HUD housing.

MOBILE HOME CONDOMINIUM PROJECT: A condominium project in which mobile homes are located upon separate sites which constitute individual condominium units.

MOBILE HOME PARK, TRAILER COACH PARK, OR PARK: Any parcel or tract of land under the control of any person, upon which three (3) or more occupied trailer coaches are harbored on a continual basis, or which is offered to the public for that purpose, regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment or facility used or intended for use incident to the harboring or occupancy of trailer coaches; except as provided by Section 91, Public Act 172 of 1970.

MOBILE HOME SUBDIVISION: A subdivision approved under the Land Division Act (Public Act 288 of 1967), as amended, which by deed restriction has been designated solely for occupancy by mobile homes, HUD, or similar housing.

MODULAR HOUSING UNIT: See Manufactured Home.

NATURAL FEATURES: Natural features shall include soils, wetlands, floodplain, water bodies, sand dunes, topography, vegetative cover and geologic formations.

NONCONFORMING USE: A use which lawfully occupied a structure or site prior to the effective date of this Ordinance or any amendment thereto, and which does not conform with the current use regulations of the district in which it is located.

NONCONFORMING STRUCTURE: A structure lawfully existing prior to the effective date of this Ordinance or any amendment thereto which does not meet the current zoning ordinance standards for building size or location on a lot for its use and district.

NUISANCE: An offensive, annoying, unpleasant, or obnoxious thing or practice, especially when constant or repetitive. A condition which is perceivable and extends its effect upon neighbors across property lines by the generation of excessive noise, odors, trash, abnormal traffic, congregation of people (particularly at night), or other similar conditions.

ORDINARY HIGH WATER MARK: The point on the bank or shore up to which the presence and action of the water is so continuous as to leave a distinct mark either by erosion, destruction of terrestrial vegetation, or other easily recognized characteristic.

OUTDOOR DISPLAY AREA: A designated outdoor area used for the display of merchandise visible to the public.

OUTDOOR INVENTORY AREA: A designated outdoor area designed to allow for storage of excess inventory in a manner not visible to the public.

PARCEL: A lot described by metes and bounds or described in a recorded plat.

PLANNED UNIT DEVELOPMENT (PUD): A piece of property developed as a separate neighborhood or community unit. This form of development is based on an approved site plan and allows flexibility of design not available under normal zoning district requirements. The plan may contain a mixture of housing types, open spaces, and other various land uses.

PLAT: A map of a subdivision of land.

PLOT PLAN: The documents and drawings normally consisting of a drawing of the subject lot or parcel of land together with an outline drawing of the proposed structure(s) or modification(s), including all porches, extensions and roof overhangs, showing the principal dimensions of the structure(s) and all setback distances measured perpendicular to all lot lines. The documents and drawings shall bear the name, address and telephone number of the landowner and applicant, and the date of the application.

PREMISES: A unit of contiguous real property under common ownership.

PRIMARY or PRINCIPAL BUILDING: A building which houses the main or principal use of the lot on which it is located. All other buildings are accessory structures.

PRIMARY OR PRINCIPAL USE: The main use to which the lot or premises are devoted. For example, the main use of a single-family home is residential, and the main use of a retail store is commercial.

RECREATIONAL PREMISES: A premises used or occupied for recreational purposes, including parks, play areas, indoor or outdoor swimming pools, bathing beaches, boating and fishing areas, winter recreational areas, nature study areas, community halls and fairgrounds.

RECREATIONAL UNIT: A vehicular structure, primarily designed as temporary living quarters for recreational camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle which is self-powered. Recreational units shall include travel trailers, camping trailers, motor homes, truck campers, slide-in campers and chassis-mounted dwellings.

SIGN: Any words, lettering, figures, numerals, phrases, sentences, emblems, devices, designs, trademarks, or combination thereof, by which anything is made known, such as the designation

of an event, a firm, a profession, a business or product, which are visible from any street or road and used as an outdoor display.

SIGN STRUCTURE: A permanent physical structure on a fixed footing, foundation, column or base designed or used for the support and/or illumination of a sign.

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.

SITE CONDOMINIUM SUBDIVISION PLAN: The drawings attached to the master deed for a site condominium subdivision which describes the size, location, area, horizontal and vertical boundaries and volume of each condominium unit contained in the site condominium subdivision, as well as the nature, location and size of common elements.

SITE PLAN: A plan drawn to scale showing proposed uses and structures for a parcel of land, including any details necessary to illustrate the final proposed use. A site plan may include elements such as the location of lot lines, the location of buildings, open spaces, parking, landscaping, and utility lines.

SPECIAL USES: Special uses are those uses which are not essentially incompatible with the uses permitted in a zoning district but require individual review and standards to avoid conflict with adjacent uses of land.

SPECIAL USE PERMIT: A permit issued by the Planning Commission following a public hearing which allows a specific activity in and on a property with additional specified requirements or provisions.

STRUCTURE: A structure is any production or piece of material artificially built up or composed of parts joined together in some definite manner; any construction, including dwellings, garages, building, mobile homes, signs and sign boards, tower, poles, antennae, stand pipes or other like objects, but not including fences.

VARIANCE: A variance is a modification of the literal provisions of the Zoning Ordinance granted by the Zoning Board of Appeals under qualifying circumstances.

VEHICLE: A device or structure for transporting persons or things; a conveyance.

YARD: The space surrounding a structure.

FRONT YARD: The space extending across the full width of the lot between the front of the principal building and the front lot line.

REAR YARD: The space extending across the full width of the lot between the back of the principal building and the rear lot line.

SIDE YARD: The space between a principal building and side lot line, extending from the front yard to the rear yard.

ZONING ADMINISTRATOR (ZA): The officer and/or his duly appointed deputies, agents, employees and inspectors charged with the administration and enforcement of this Ordinance.

4.00**ARTICLE IV
ACCESSORY AND NONCONFORMING USES
AND BUILDINGS****4.10 ACCESSORY BUILDINGS AND USES.**

Nothing contained herein shall be deemed to prevent the erection or maintenance of accessory buildings and uses excepting limitations pertaining to nonconforming uses.

4.11 CONTINUING EXISTING USES.

At the discretion of the owner, the lawful use of any building, structure, land or premises existing prior to the effective date of this Ordinance, although the use does not conform to the provisions of this Ordinance, may be continued; and such use of any building may be extended throughout said building, provided no structural changes be made therein except those required for safety and sanitation.

4.12 CHANGE OF USE.

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

4.13 RECONSTRUCTION OF DAMAGED NONCONFORMING STRUCTURE.

Nothing in this Ordinance shall prevent the reconstruction, repair or restoration and the continued use of any nonconforming building or structure damaged by fire, collapse, explosion, acts of God or acts of the public enemy, subsequent to the effective date of this Ordinance, wherein the nonconforming user has first obtained the approval of the Board of Appeals, wherein the Board of Appeals has first determined that the continued use will be substantially the same as the previous nonconforming use and that such continued use will not be detrimental to the health, safety and welfare of surrounding property owners.

4.14 REPAIR AND ALTERATION OF NONCONFORMING STRUCTURES.

Nothing in this Ordinance shall prevent the repair, alteration, reinforcement improvement or rehabilitation of a nonconforming building or structure or part thereof existing on the effective date of this Ordinance that may be necessary to secure or insure the continued advantageous use of the building or structure during its normal life: provided, however, that such repair, alteration, reinforcement, improvement or rehabilitation proposes no change in the use of said building or structure or any part thereof.

4.15 EXTENSION OF NONCONFORMING USE OR STRUCTURE.

The extension of any nonconforming use or addition to any nonconforming structure for the purpose of extending such nonconforming use or structure throughout all or a portion of a given lot or parcel of land may be granted by the Zoning Board of Appeals if it shall first be determined that such extension shall not be inimical to public health, safety or welfare, particularly with regard to surrounding property owners.

ARTICLE V DISTRICTS

For the purposes of this Ordinance, the township of Whitewater is hereby divided into seven (7) districts, viz:

5.10 RESIDENTIAL DISTRICT R-1.

This district shall comprise that portion of the Township described as follows:

1. All that part of Sections 3, 4, 9, 10, 13, 14, 15, 16, 22, 23, 26 and 27, Town 28 North, Range 9 West, lying within 1000 feet of Elk Lake.
2. All that part of Section 23, Town 28 North, Range 9 West, lying northerly of the East and West quarter line of said Section.
3. All that part of Section 13, 24 and 25 Town 28 North, Range 9 West, lying within 1000 feet of Lake Skegemog (Round Lake).
4. All that part of Section 24, Town 28 North, Range 9, West lying northerly of the East and West quarter line of said Section.
5. All that part of Sections 5, 8, 9 and 17, Town 28 North, Range 9 West, lying within 1000 feet of Petobego Lake.
6. All that part of Sections 17, 20, 28, 29 and 33, Town 28 North, Range 9 West, lying within 300 feet of Petobeco Creek.
7. All that part of Sections 27, 33 and 34, Town 28 North, Range 9 West, lying within 300 feet of Williamsburg Creek.
8. All that part of Sections 26 and 35, Town 28 North, Range 9 West, lying within 300 feet of Bottle Creek.
9. All that part of Sections 2, Town 27 North, Range 9 West, lying within 300 feet of Bottle Creek.
10. All that part of Section 4, Town 27 north, Range 9 West lying within 300 feet of Williamsburg Creek.
11. All that part of Section 4 Town 27 North, Range 9 West, lying within 300 feet of the unnamed creek flowing through said Section 4.
12. All that part of Section 4, Town 27 North, Range 9 West, lying within 300 feet of Bissell Creek and Bissell Pond.
13. All that part of Section 1 and 12, Town 27 North, Range 9 West, lying within 1000 feet of Truax Lake.
14. All that part of Sections 31 and 32, Town 27 North, Range 9 West, lying within the Plats of Nickerson Subdivision #1, Nickerson Subdivision #2, Island Lake Subdivision, Sherwood Shores Subdivision in said sections 31 and 32 including the 8 properties having the following property numbers: 28-13-032-007-00, 28-13-032-008-00, 28-13-031-006-10, 28-13-031-006-02, 28-13-006-01, 28-13-031-006-03, 28-13-031-006-04, 28-13-031-006-00.
15. The North one-half of the Southeast one-quarter of Section 34, Town 28 North, Range 9 West and that part of the South half of the Southeast quarter, Section 34, town 28 North, Range 9 West, lying North of railroad right-of-way.

5.11 RESIDENTIAL DISTRICT R-2.

This district shall comprise that portion of the Township described as follows:

1. The Southeast quarter of the Northwest quarter of Section 4, Town 27 North, Range 9 West, except that portion described in the Residential R1 District.
2. The East half of the Southwest quarter of Section 4, Town 27 North, Range 9 West, except that portion described in Residential District R-1.
3. The East half of Section 4, Town 27 North, Range 9 West, except that portion described in the Residential R1 District, and except that portion lying northerly of a line which is 575 feet southerly of and parallel to the centerline of State Highway M-72.

5.12 COMMERCIAL C-1 and VILLAGE V DISTRICT

A. The Commercial C- 1 district shall comprise that portion of the Township described as follows:

1. The Northwest quarter of Section 3 and the Northeast quarter of section 4, Town 27 North, Range 9 West, lying within 575 feet of the centerline of State Highway M 72 between Vinton Road and Cook or Broomhead Road except that portion described in the Residential District R-1.
2. The Southwest quarter of the Southeast quarter of Section 32, Town 28 North, Range 9 West, except the North half of the North half of the Southwest quarter of the Southeast quarter of Section 32, Town 28 North, Range 9 West (North of the Railroad right of way).
3. The North half of the Northeast quarter of Section 5, Town 27 North, Range 9 West.

B. The Village V district shall comprise that portion of the Township described as follows:

1. The South $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ of Section 33 Town 28 North, Range 9 West.
2. The North $\frac{1}{2}$ of the North $\frac{1}{2}$ of the North $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of Section 4, Town 27 North, Range 9 West (Parcel of land North of M-72, West of Elk Lake Road, South of Old M-72 and East of Moore road)

5.13 INDUSTRIAL DISTRICT N.

This District Shall comprise that portion of the Township described as follows:

1. The North $\frac{1}{2}$ of the Northwest quarter of Section 4, Town 27 North, Range 9 West except that portion already described in the Commercial C-1 and Village V district.
2. That part of the NW $\frac{1}{4}$ of Sec 4, T27N, R9W, more fully described as:
Commencing at the W $\frac{1}{4}$ corner of said Sec 4; Thence N $0^{\circ}10'33''$ E, along the W Sec line, 750' to the POB; then N $0^{\circ}10'33''$ E, along said Sec line, 571.50'; thence N $89^{\circ}55'28''$ E, along the N $\frac{1}{8}$ line, 990'; thence S $0^{\circ}10'33''$ W, 578.45'; thence N $89^{\circ}40'22''$ W, 990'; to the POB.

3. The North 1/2 of the Northwest quarter of Section 4, Town 27 North, Range 9 West except that portion already described in the Commercial C-1 and Village V district. EXCEPT PART OF NW 1/4 COM N 1/4 COR TH S 784.14FT TO POB TH S 544.67 FT TH S 89 DEG 55'W 373 FT TH S 195 FT TH S 89 DEG 55' W 194.63 FT TH N 923.31 FT TO SLY R/W HWY M-72 TH ELY ALG R/W & ARC OF CURVE TO LEFT 382.7 FT RAD EQUALS 43046.83 FT LONG CHORD BEARS S 84 DEG 2' E 382.69 FT TH S 52 DEG 21' E 234.37 FT TO POB.

4. **Whitewater Inn**

Part of the Southeast 1/4 of Section 32, Township 28 North, Range 9 West, Whitewater Township, Grand Traverse County, Michigan, more fully described as: Commencing at the east 1/4 corner of the said Section of 32, thence S02°01'18"E, 1738.34 feet along the East line of Said Section 32 to the Southerly line of the C & O Railroad and the Point of Beginning; thence continuing along said East line S02°01'18", 876.33 feet (recorded as S02°01'18" East 875.66 feet) to the North right of way line of Old M-72; thence S89°43'18"W, 332.14 feet (recorded as S89°43'30"W, 333.45 feet) along said North right of way; thence northwesterly along a 30.00 foot radius curve to the right a distance of 47.01 feet (recorded as 47.39 feet); thence N00°02'20"E 30.71 feet (recorded as N00°13'30" E, 30.64) thence Northerly along a 242.00 foot radius curve to the right, a distance of 61.89 feet (recorded as 61.90 feet); thence N69°42'12"W, 66.23 feet; thence Southerly along a 308.00 foot radius curve tot the left, a distance of 86.98 feet; thence S00°02'20"W, 29.61 feet; thence Southwesterly along a 30.00 foot radius curve to the right, a distance of 46.96 feet to said north right of way line of Old M-72; thence S89°43'18"W, 206.54 feet along said North right of way line; thence N00°11'31"W, 238.62 feet ; thence S69°42'16W, 190.49 feet; thence S14°19'22"W, 349.86 feet (recorded as S14°18'30"W, 350 feet) to the south line of said section 32; thence S89°43'18"W, 403.23 feet (recorded as S89°43'30"W, 403.12 feet) thence N01°23'12"W, 1002.84 feet (recorded as N01°21'46"W, 1003.21 feet) to said southerly line of the C & O Railroad; thence N89°14'22"E, 753.04 feet (recorded as N89°15'22"E, 753.48 feet) along said Southerly line of the C & O Railroad; thence Southeasterly along said Southerly line and a 1610.51 foot radius curve to the right, a distance of 585.54 feet (recoded as 585.00 feet) and a long chord of S80°20'42"E, 582.32 feet to the Point of Beginning

5.18 Corridor Overlay Planned Unit Development COPUD.

1. PT W 1/2, NW 1/4, NW 1/4, LYING N OF NEW M-72, SEC 3 T27N R9W EXC COM AT SW CNR SD PARCEL, E ALG M-72 100', N 200', E 50', N 300' M/L TO RR R/W, W ALG SD RR R/W 150' M/L TO W SEC LINE OF SEC 3; S ALG SEC LN 500' M/L TO POB EXC RD R/W & EXC RR R/W.

2. W $\frac{1}{4}$ W $\frac{1}{2}$ of NW $\frac{1}{4}$ of NW $\frac{1}{4}$ S of New M-72 SEC 3 T27N R9W
3. PT SE $\frac{1}{4}$ SED 4 T27N R9W COM NE SEC CNR; S 684.76' TO N M 72 R/W; N84 DEG W ALG R/W 220.37' TO POB; N 84 DEG W 215'; N 325'; 215.67' N 83 DEG E ALG RR R/W; S 363.95' TO POB EXC RD R/W.
4. PART OF NW $\frac{1}{4}$ COM N $\frac{1}{4}$ COR TH S 784.14FT TO POB TH S 544.67 FT TH S 89 DEG 55'W 373 FT TH S 195 FT TH S 89 DEG 55' W 194.63 FT TH N 923.31 FT TO SLY R/W HWY M-72 TH ELY ALG R/W & ARC OF CURVE TO LEFT 382.7 FT RAD EQUALS 43046.83 FT LONG CHORD BEARS S 84 DEG 2' E 382.69 FT TH S 52 DEG 21' E 234.37 FT TO POB.

DRAFT

ARTICLE VI
RESIDENTIAL R-1

(Revised in its entirety; Effective 06/28/2019)

6.01 INTENT.

It is the intent of the Residential District R1 to provide a dedicated space for residential structures, specifically Single-Family Dwellings, and the structures and uses typically associated with a residential area.

6.10 PERMITTED USES.

The following uses are permitted by Right in the Residential District R-1:

- A.** Single family dwellings.
- B.** Publicly owned and operated parks and recreational facilities.
- C.** The keeping of animals for home use and enjoyment subject to all applicable requirements of Article 37, Supplementary Provisions.
- D.** Adult foster care facilities serving 6 or less individuals.
- E.** Family day-care homes serving 6 or less individuals.
- F.** Churches under 5,000 square feet in area.
- G.** Home occupations subject to the requirements of Article 37, Supplementary Provisions.
- H.** Accessory buildings and uses customarily incidental to the same.

6.11 USES PERMITTED BY SPECIAL USE PERMIT.

The following uses are permitted upon securing a Special Use Permit in accordance with the procedures of Article 25:

- A.** Bed and Breakfast Establishments.
- B.** Schools.
- C.** The keeping, breeding or training of dogs for monetary gain or for profit, subject to all applicable requirements of Article 37, Supplementary provisions.
- D.** Adult foster care facilities serving more than 6 individuals.
- E.** Family day-care homes serving more than 6 individuals.
- F.** Group day-care homes serving more than 6 individuals.

G. Churches 5,000 square feet or greater in area.

H. Planned Unit Developments.

6.12 BUILDING SIZES, LOT SIZES AND YARD REQUIREMENTS.

All structures, lots and setbacks shall comply with the regulations established in Article 12 of this Ordinance.

6.13 SUPPLEMENTARY STANDARDS.

A. Churches and related buildings or structures customarily incidental thereto shall meet the following standards:

- 1.** Churches within under 5,000 square feet shall be allowed as a permitted use with site plan review.
- 2.** Any churches over 5,000 square feet shall require a special use permit per Article 25.
- 3.** Any playground equipment or accessory structures requiring a building permit shall meet the setback requirements for the district.

7.00

ARTICLE VII

(Revised in its entirety; Effective 01/04/2020)

MULTIPLE RESIDENTIAL R-2 & R-3

RESIDENTIAL R-2

7.01 INTENT.

It is the intent of the Residential District R2 to provide a dedicated space for residential structures, specifically, single and two-family dwellings, and accessory structures incidental thereto.

7.10 PERMITTED USES.

The following uses are permitted by right in the R-2 District:

- A.** All uses permitted by right in the Residential District R-1.
- B.** Two family dwellings.
- C.** Schools.
- D.** Farming of all types, subject to the requirements of Article 37, Supplementary Provisions.
- E.** Libraries.

7.11 USES PERMITTED BY SPECIAL USE PERMIT.

The following uses are permitted upon securing a Special Use Permit in accordance with the procedures of Article 25:

- A.** All special uses permitted and as regulated in the Residential District R-1.
- B.** Planned Unit Developments.
- C.** Residential Care Facilities, Convalescent or Nursing Homes.

7.12 BUILDING SIZES, LOT SIZES AND YARD REQUIREMENTS.

All structures, lots and setbacks shall comply with the regulations established in Article 12 of this Ordinance.

7.13 SUPPLEMENTARY STANDARDS – Reserved for Future Use.

7.50 RESIDENTIAL R-3.

7.51 INTENT.

It is the intent of the Residential District R3 to provide a dedicated space for residential structures, specifically multi-family dwellings, townhouse, apartments, and other compatible uses.

7.60 PERMITTED USES.

The following uses are permitted by right in the R-3 District:

- A.** All uses permitted by right in Residential District R-2.

7.61 SPECIAL USES.

The following uses are permitted upon securing a Special Use Permit in accordance with the procedures of Article 25:

- A.** All special uses permitted and as regulated in the Residential District R-2.
- B.** Multi-family dwelling such as townhouses and apartments.

7.62 BUILDING SIZES, LOT SIZES AND YARD REQUIREMENTS.

All structures, lots and setbacks shall comply with the regulations established in Article 12 of this Ordinance.

7.63 SUPPLEMENTARY STANDARDS – Reserved for Future Use.

**ARTICLE VIII
COMMERCIAL C and VILLAGE V**

(Effective September 15, 2017)

8.00 COMMERCIAL DISTRICT C

8.01 INTENT

The purpose of the Commercial C District is to provide a location for a diversity of small and moderate scale business types and is situated along a regional arterial roadway, M-72, to serve local passers-by traffic and local needs.

8.02 GENERAL STANDARDS

The following standards will apply to all structures and uses within the Commercial C District as appropriate.

- A. All uses permitted within this zoning district shall conform to the entirety of this ordinance except those land uses which predate the effective date of this ordinance or any portion thereof, or its subsequent amendments.
- B. All applications for new or expanding uses will be reviewed by the Zoning Administrator for compliance with the required components of this Ordinance. Formal Site Plan Review may be conducted by the Planning Commission at the request of the Zoning Administrator or applicant. All reviews shall be conducted in accordance with Article 25.
- C. All applications for Special Uses shall be reviewed by the Zoning Administrator and Planning Commission for compliance with all relevant ordinances prior to the public hearing. All reviews shall be conducted in accordance with Article 25.
- D. LANDSCAPING: All new or expanding uses shall comply with the landscaping requirements of Article 33.
- E. LIGHTING: All new or expanding uses shall comply with the lighting requirements of Article 29.
- F. SIGNS: All new signs shall conform to the standards of Article 30.
- G. OFF-STREET PARKING AND LOADING: All new or expanding uses shall comply with the requirements of Article 34.
- H. USES which include the following shall require a special use permit: any use in a building that exceeds 10,000 square feet, any use that includes drive-through services, any use offering live entertainment or alcoholic beverages.

8.10 PERMITTED USES

Permitted uses include the following:

- A. All uses permitted in Residential District R1, R2.
- B. Restaurants, bakeries, coffee shops, and diners.
- C. Office buildings and uses such as: accountants, legal services, medical, dental, and physical therapy offices.
- D. Financial institutions.

- E. Retail stores and shops; food, drug, variety, dry goods, clothing, music, hardware, equipment, and other similar light retail uses.
- F. Equipment, tool, and event rental establishments.
- G. Personal service establishments which perform services on the premises such as: barber and beauty shops, shoe repairs, business services, printing, publishing, and related trades.
- H. Places of public assembly, religious, civic, and social facilities not operated for profit and facilities customarily incidental thereto.
- I. Licensed daycare facilities.
- J. Assisted living, extended care, and licensed group homes facilities.
- K. Essential service, including public utility buildings with outside storage.

8.11 USES PERMITTED BY SPECIAL USE PERMIT

The following additional uses may be permitted subject to review and approval of the Planning Commission in accordance with procedures of Article 25. Any use including the following shall require a Special Use Permit:

- A. Any permitted use located in a building that exceeds 10,000 square feet, includes drive-through services, offers live entertainment or serves alcoholic beverages.
- B. Retail sales and/or rental of automobiles, watercraft, farming equipment, or recreational equipment including servicing, repair, and/or storing vehicles.
- C. Fuel and oil service stations.
- D. Hotels and motels.
- E. Dwelling units which are part of a commercial unit, such as second story "flats" or apartment units.
- F. Multi-family dwellings.
- G. Laundry and dry cleaning establishments.
- H. Indoor and outdoor recreational facilities (e.g. miniature golf or athletic clubs).
- I. Production, processing, assembly, manufacturing or packaging of goods or materials. Such facilities may include testing, repair, storage, distribution, and sale of such products.
- J. Schools licensed or chartered by the State of Michigan and private educational institutions.
- K. Funeral homes.
- L. Veterinary clinics, veterinary hospitals, and related kennel facilities.
- M. Carpentry, plumbing, contracting, and other skilled trades.
- N. Rental storage building, with the following conditions included in the rental contracts and posted on the premises: Excluding storage of flammable liquids or gases, explosives or toxic materials.
- O. Places of public assembly, event venues, and social facilities operated for profit.
- P. Sexually oriented businesses.
- Q. Billboards subject to the standards of Article 9.13.
- R. Any other use of a retail commercial nature designed primarily to serve the residents of the area and the traveling public.

8.12 BUILDING SIZES, LOT SIZES AND YARD REQUIREMENTS:

All structures, lots and structure setbacks from property lines shall comply with the regulations established in Article XII of this Ordinance.

8.13 SUPPLEMENTARY STANDARDS: Reserved for future use.

8.50 VILLAGE DISTRICT V

8.51 INTENT

The purpose of the Village District is to maintain and enhance the traditional character of the village of Williamsburg, while allowing it to develop in a manner that follows the historic pattern of rural villages in the Grand Traverse Region.

8.52 GENERAL STANDARDS

The following standards apply to all properties in the Village District V:

- A.** All uses permitted within this zoning district shall conform to the entirety of this ordinance except those land uses which predate the effective date of this ordinance or any portion thereof, or its subsequent amendments.
- B.** All applications for new or expanding uses will be reviewed by the Zoning Administrator for compliance with the required components of this Ordinance. Formal Site Plan Review may be conducted by the Planning Commission at the request of the Zoning Administrator or applicant. All reviews shall be conducted in accordance with Article 25.
- C.** All applications for Special Uses shall be reviewed by the Zoning Administrator and Planning Commission for compliance with all relevant ordinances prior to the public hearing. All reviews shall be conducted in accordance with Article 25.
- D.** No lot or structure in existence on the effective date of Section 8.62 (October 5, 1998) shall be deemed to be a non-conforming lot or structure because of non-compliance with this Section or with any of the requirements in Section 12.11.
- E.** LANDSCAPING: All new or expanding uses shall comply with the landscaping standards of Article 33.
- F.** LIGHTING: All new or expanding uses shall comply with the lighting standards of Article 29.
- G.** SIGNS: All new signs shall conform to the standards of Article 30.
- H.** OFF-STREET PARKING AND LOADING: All new or expanding uses shall comply with the standards of Article 34 and 8.63A.
- I.** USES which include the following shall require a special use permit: any use in a building which exceeds 5,000 square feet, any use which includes drive-through services, any use offering live entertainment or alcoholic beverages.

8.60 PERMITTED USES

Permitted uses shall include the following:

- A.** All uses allowed in the R1, R2, R3, and C Districts in buildings not exceeding 5,000 square feet.
- B.** Apartments and offices located above commercial uses in mixed-use buildings.

8.61 SPECIAL USE

Uses allowed by Special Use Permit shall include the following:

- A. PERMITTED USES allowed in the R1, R2, R3, and C districts in buildings that exceed 5,000 square feet.
- B. Light manufacturing.
- C. All SPECIAL USES allowed in the R1, R2, R3, and C districts.

8.62 BUILDING SIZES, LOT SIZES AND YARD REQUIREMENTS:

- A. All structures, lots and structure setbacks from property lines shall comply with the regulations established in Article XII of this Ordinance.
- B. Minimum lot dimensions shall be as follows:
 - 1. With common sewage disposal **or** water supply: minimum of 20,000 square feet lot area, 80 feet lot width.
 - 2. With common sewage disposal **and** water supply: minimum of 8,000 square feet lot area, 50 feet lot width.
 - 3. Without common water supply **or** sewage disposal: 40,000 square feet lot area, 100 feet lot width.
 - 4. Minimum width to maximum depth ratio shall be **1:4**.
- C. Minimum setbacks shall be as follows, except that they may be modified by the Planning Commission by site plan review.
 - 1. Side yard: 10 feet
 - 2. Rear yard: 15 feet
 - 3. Front Yard: There shall be no minimum front yard setbacks. New buildings shall be constructed so that their front facades are in one of the following locations:
 - a. The same distance from the road as any adjacent principal building (on the same side of the road) within 100 feet, or
 - b. The average distance from the road of both adjacent principal buildings (on the same side of the road) if within 100 feet, or
 - c. If no principal buildings are within 100 feet on the same side of the road, the front setback shall be 15 or more feet from the front lot line or such other distance as the Planning Commission may approve by site plan review.

8.63 SUPPLEMENTARY STANDARDS:

The purpose of these design standards is to enable a variety of different uses to coexist harmoniously and allow compatible infill development while enhancing the historical fabric of the village.

A. Parking and Loading

- 1. The Planning Commission shall reduce the off-street parking and loading requirements of Article 34 if the applicant can demonstrate that full compliance is unnecessary because of characteristics of the proposed use, the availability of shared or public parking, or other circumstances.
- 2. Rear parking lots shall be connected to adjoining parking lots and side streets or alleys.

ARTICLE IX INDUSTRIAL N

(Effective September 15, 2017)

9.00 INDUSTRIAL DISTRICT N

9.01 INTENT

It is the intent of the Industrial District to provide a dedicated location to accommodate the potential noise, outdoor storage, and increased commercial traffic common to wholesale sales and light manufacturing facilities.

9.02 GENERAL STANDARDS

The following standards apply to all structures and uses within the Industrial District N as appropriate.

- A.** All uses permitted within this zoning district shall conform to the entirety of this ordinance except those land uses which predate the effective date of this ordinance or any portion thereof, or its subsequent amendments.
- B.** All applications for new or expanding uses will be reviewed by the Zoning Administrator for compliance with the required components of this Ordinance. Formal Site Plan Review may be conducted by the Planning Commission at the request of the Zoning Administrator or applicant. All reviews shall be conducted in accordance with Article 25.
- C.** All applications for Special Uses shall be reviewed by the Zoning Administrator and Planning Commission for compliance with all relevant ordinances prior to the Public Hearing. All reviews shall be conducted in accordance with Article 25.00.
- D. LANDSCAPING:** All new or expanding uses shall comply with the landscaping requirements of Article 33.
- E. LIGHTING:** All new or expanding uses shall comply with the lighting requirements of Article 29.
- F. SIGNS:** All new signs shall conform to the standards of Article 30.
- G. OFF-STREET PARKING AND LOADING:** All new or expanding uses shall comply with the requirements of Article 34.
- H. USES** which include the following shall require a special use permit: any use that includes drive-through services, any use offering live entertainment or alcoholic beverages.
- I.** All uses may be required to be contained in an approved enclosure.

9.10 PERMITTED USES

Permitted uses include the following:

- A.** All uses permitted and as regulated within the Commercial, Village, and Residential Districts.
- B.** Wholesale warehouses.
- C.** Storage warehouses.
- D.** Outside storage of earth moving and similar large equipment.
- E.** Billboards, subject to the standards of Section 9.13.

9.11 USES PERMITTED BY SPECIAL USE PERMIT

The following additional uses may be permitted subject to review and approval of the Planning Commission in accordance with procedures of Article 25.

- A.** Industry or business, the operation of which uses any product or by-product or other thing which may cause contamination to the water, air, or land of the area unless adequate provision is made for the disposition of such product, by-product or waste which meets the approval of the Planning Commission and shall not be offensive, objectionable, or in any way endanger public health, safety or welfare.
- B.** Junk, scrap metal, or salvage yards.
- C.** Stock yards, slaughterhouses, rendering plants, meat or pelt processing establishments.
- D.** Establishments primarily engaged in heavy industry such as smelters, foundries, heavy industrial stamping operations.
- E.** Any similar business or operation offensive or objectionable to public health, safety, or welfare.
- F.** All special uses permitted within the Commercial, Village, and Residential Districts.

9.12 BUILDING SIZES, LOT SIZES, AND YARD REQUIREMENTS

All structures, lots and structure setbacks from property lines shall comply with the regulations established in Article XII of this Ordinance.

9.13 SUPPLEMENTARY STANDARDS

A. Billboards subject to the following regulations:

- 1. Size:** The size of a single sign panel shall not exceed 12 feet in height and 24 feet in width. Billboards may be double-faced, configured back-to-back, or V-shaped. Additional panels, faces or extensions of any size or shape located above, below or beside the permitted faces and panels shall not be permitted. Sign structures and the signs affixed to them shall not exceed twenty (20) feet in height. The height of the sign including decorative embellishments shall be measured from the surface grade beneath the sign.
- 2. Location:** Billboards shall not be located closer than 600 feet from any existing billboard. Measurement shall be made along a straight line from the nearest existing billboard to the proposed new billboard location. This line of measurement may cross road rights-of-way.
Billboards and off-premise signs and their sign structures shall be located not closer than one hundred (100) feet from any road right-of-way and not closer than two hundred (200) feet from any road rights-of-way which intersect or abut.
- 3. Lighting:** Billboards may be illuminated except during the hours between 11:00 p.m. and 7:00 a.m. Eastern Standard Time. Illumination of billboards shall be from the top and directed downward. Fixtures shall have full cut-off shielding such that no light shall go above the horizontal regardless of type or wattage and also such that no light source shall be visible from any road right-of-way or any adjacent property.

10.00

**ARTICLE X
AGRICULTURAL A-1**

10.10 USES PERMITTED.

No building or structure or any part thereof shall be erected, altered or used, or land or premises used, in whole or in part for other than one or more of the following specified uses, viz:

A. All uses permitted and as regulated in Residential District R- 2, except that each dwelling or main building shall be located on a lot or parcel of land containing not less than forty thousand (40,000) square feet of area unbroken by any public road, street or thoroughfare and having a minimum width of two hundred (200) feet.

B. Farming of all types, including the construction and maintenance of migrant worker's quarters, provided that yard requirements are met and provided further, that no enclosure or space for the permanent housing of livestock, poultry or other animals shall be located less than one hundred (100) feet from any adjoining property line, nor less than one hundred (100) feet from any highway right-of-way.

C. Golf courses.

D. Riding academies and stables, veterinarian hospitals and kennels, provided that no enclosure or space for the permanent housing of animals shall be located less than one hundred (100) feet from any adjoining property line, nor less than one hundred (100) feet from any highway right-of-way.

E. Roadside stands for the sale of fresh and/or processed fruits and vegetables, raw forest products, cut flowers, and potted plants that are grown or produced on said property, provided the following conditions are met.

1. Shall not exceed twenty-five (25) square feet in area.
2. Shall have no more than one (1) double-sided temporary sign, not to exceed 3 square feet in area.
3. Shall not be closer than twelve (12) feet to any road right-of-way.

F. The Planning Commission may permit agricultural dumps when the same are in a land area of not less than twenty (20) acres and are located at least three hundred (300) from the nearest lot line and at least one hundred (100) feet from the nearest right-of-way line and provided that they are utilized only for junk or refuse of the owner and from farming activities and provided that the Planning Commission shall impose as one of the conditions of usage that no bulky items be deposited in said dump.

G. Farm markets for the sale of locally grown fresh and/or processed farm produce, raw forest products, cut flowers, potted plants, and other agricultural products, provided the following conditions are met.

1. Structure shall not exceed six hundred (600) square feet in area and shall be set back at least fifteen (15) feet from the road right-of-way. Or shall not exceed six hundred (600) square feet of sales area in a larger structure that has additional space for

storage or similar farming operation use in that same structure and shall comply with setbacks of the Agricultural A-1 district.

2. Shall be operated in conjunction with a farm operation.
3. Shall be deemed to be an agricultural accessory use.
4. A majority of the agricultural products offered for sale shall be grown on premises. Other agricultural products may be sold, but must be grown in Michigan.
5. An area not to exceed twenty-five percent (25%) of the total square footage of the structure may be devoted to non-farm products.
6. Adequate entrance, exit, and off-street parking shall be provided.
7. Sign Restrictions
 - a. One of the following shall be chosen for on-premise signs:
 - (1) One (1) sign, double-sided, not exceeding twenty-four (24) square feet in area, designating a farm market or farm, and two (2) double-sided temporary signs, not to exceed twelve (12) square feet.
 - (2) One (1) sign, double-sided, not to exceed thirty-two (32) square feet.
 - b. Five (5) off-premise temporary signs directing traffic toward the farm market, each sign not exceeding twelve (12) square feet and not more than two signs visible on the same road by a given farm market.
 - c. All signs shall be set back at least five (5) feet from the public right-of-way.
 - d. All temporary signs shall be removed at the end of the selling season (May 1 to December 31).

H. Private Family Campgrounds subject to Article XXXVII, Section 37.50.

10.11 USES PERMITTED BY SPECIAL USE PERMITS

- A. Planned Unit Development
- B. Commercial Campgrounds subject to Article XXV, Section 25.21 D.

11.00

**ARTICLE XI
RECREATIONAL RC-1****11.10 USES PERMITTED.**

No building or structure or any part thereof shall be erected, altered or used, or land or premises used, in whole or in part for other than one or more of the following specified uses, viz:

A. All uses permitted and as regulated in Residential R-2 except that each dwelling or main building shall be located on a lot or parcel or unit of land containing not less than five (5) acres of area unbroken by any public road, street or thoroughfare and having a minimum width of three hundred (300) feet.

B. Bed and breakfast establishments providing tourist/vacation accommodations.

C. Private Family Campgrounds subject to Article XXXVII, Section 37.50.

D. Riding academies and stables, veterinarian hospitals and kennels provided that no enclosure or space for the permanent housing of animals shall be located less than one hundred (100) feet from any adjoining property line nor less than one hundred (100) feet from any highway right-of-way.

E. State-owned conservation lands.

F. Hydro-electric plants.

11.11 Uses Permitted by Special Use Permit

A. Planned Unit Developments

B. Commercial Campgrounds Subject to Article XXV, Section 25.21 D.

ARTICLE XII
BUILDING SIZES, LOT SIZES AND YARD REQUIREMENTS
(Effective July 28, 2017)

Section 12.10 Building Sizes, Lot Sizes and Yard Requirements Applicable to All Districts

- A. Each dwelling or other main building hereafter erected in any district shall have a permanent foundation and a minimum of seven hundred (700) square feet of floor space, not including breezeways, porches and garages, unless specifically exempted elsewhere in this Ordinance.
- B. The floor area of a mobile home shall be that stated as the manufacturer's declared measurements.
- C. Campground cabins shall not exceed six hundred and fifty (650) square feet including covered porches.
- D. All structures, lots, and structure setbacks from property lines shall comply with the regulations established in Article XII of this Ordinance, unless specifically exempted elsewhere in this Ordinance.

Section 12.11 Schedule of Regulations

(see next page for table)

NOTES:

- 1. No structure shall be built within the minimum yards required except when expressly allowed elsewhere in this Ordinance.
- 2. In no case shall a lot or parcel having frontage on the Boardman River or its tributaries be less than two hundred (200) feet wide at the water's edge or the building setback line, or be less than two hundred (200) feet deep.
- 3. The water's edge shall be considered to be the ordinary high water mark.
- 4. A dock may be constructed parallel to the bank, not exceeding ten (10) feet in length and not protruding in the stream, and when constructed of natural materials such as rocks or logs.
- 5. Variance provisions for the width-to-depth ratio will be found in General Ordinance 26, Land Division Ordinance, Section VII D.

Section 12.12 Hardship

No requirements contained in this Article shall prevent the use of a lot or parcel of land of lesser size, provided the same was of legal record or had been laid out by a registered surveyor prior to the effective date of this Ordinance; and provided, further, that as to any lot or parcel of land not of legal record or so laid out on the date of passage of this Ordinance, if any conditions shall create a hardship in complying with the restrictions contained in this Article, then the Planning Commission may grant deviation therefrom after first determining that the same shall not be inimical to the public health, safety or welfare.

12.11 Schedule of Regulations

Effective 04/09/2017

[illegible]

13.00

**ARTICLE XIII
ESSENTIAL PUBLIC SERVICES**

13.10 UTILITIES AND PUBLIC SERVICES; OPERATIONS.

Utilities and public services shall continue to be operated and maintained subject to the provisions of this Ordinance excepting that poles, wires and usual underground utilities shall be excepted from the requirements of this Ordinance and may be installed without a land use permit and without compliance with setback requirements; provided, however, that nothing herein contained shall abrogate the necessity of any utility to obtain franchises and comply with the provisions of any other law or ordinance and nothing herein contained shall give any utility or municipality the right to install structures in this Township without compliance with the terms of this Ordinance excepting as otherwise provided in this Article.

ARTICLE XIV
WATERFRONT PROPERTY
(Revised in its entirety; Effective 01/04/2020)

14.10 SHARED WATERFRONT EASEMENTS.

In the event that a waterfront property is used for shared easement purposes the following conditions shall apply:

A. A waterfront property accessed by one off-water dwelling unit shall have a minimum of twenty thousand (20,000) square feet and a minimum frontage on the water of not less than one hundred (100) feet.

B. Where a waterfront property is accessed by more than one off-water dwelling unit, an additional fifty (50) feet of continuous frontage on the water is required for each additional off-water dwelling unit accessing the property.

14.11 SPECIAL REQUIREMENTS FOR THE BOARDMAN RIVER VALLEY.

The following special requirements shall apply to all properties within fifty (50) feet of the Boardman River and its tributaries.

A. A managed vegetative strip shall be maintained within fifty (50) feet of the water's edge, as follows:

- 1.** Vegetative strips shall consist of native trees, shrubs, vegetation and other natural materials.
- 2.** Existing native vegetation should be preserved whenever possible.
- 3.** No ponds shall be constructed, no earth moved, surface soils removed or filled for building within the managed vegetative strip.
- 4.** Utility lines shall be installed only as follows:
 - (a)** New distribution lines for utilities within the housing setback line shall be placed underground unless overhead lines are less disruptive to the environment.
 - (b)** Brushy vegetation shall be restored to the disturbed area in the managed vegetation strip.
 - (c)** Local service lines to private dwellings shall originate from the landward side of the dwelling.
- 5.** Chemical control of vegetation shall be prohibited within the managed vegetative strip.

6. Fencing, grazing, riding trails and soil tilling for farm crops is prohibited within the managed vegetative strip.

7. The use of the managed vegetative strip for stock watering areas and stream crossing of horseback trails is subject to the approval of the Zoning Administrator, who may require a plan from the Soil Conservation District, or Department of Environmental Quality (DEQ) as part of the requirement for use.

B. Any variance from these standards shall be in accordance with a plan approved by the Zoning Board of Appeals. In evaluating such applications, the Zoning Board of Appeals shall consider all relevant factors pertaining to the purpose of the vegetative strip which is to:

- 1.** Stabilize the river banks.
- 2.** Prevent erosion.
- 3.** Absorb nutrients in water runoff from adjacent lands.
- 4.** Provide shading for the stream to maintain cool water temperature.
- 5.** Screen adjacent man-made structures.

**ARTICLE XV
SANITATION REQUIREMENTS**

(Effective July 28, 2017)

15.10 County Health Ordinance

Compliance shall be had in all land uses and in all structures erected, altered, or moved upon a premise with all provisions of the County Health Ordinance in force in Grand Traverse County entitled "Sanitary Code of Minimum Standards Regulating Sewage Disposal, Water Supplies, and Sanitation of Habitable Buildings in Grand Traverse County Michigan" as the same may be amended from time to time, and violation of any provision of that Ordinance shall constitute a violation of this Ordinance.

Section 15.11 Distance of System From Any Body of Water

Every subsurface disposal system shall be located at least one hundred (100) feet from the ordinary high-water mark of any body of water.

16.00

**ARTICLE XVI
OUTDOOR STORAGE****16.10 UNUSED, DISCARDED EQUIPMENT, CARS, JUNK.**

No land in any of the foregoing districts shall be used in whole or in part for the storage of unused or discarded equipment or materials or for the storage of unlicensed cars, salvage, waste and junk outside of properly authorized buildings within said districts, except as required for the storage of usable farm machinery necessary for permitted agricultural uses and except as permitted in connection with a use otherwise authorized in the Commercial and Industrial Districts.

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**ARTICLE XVII
ADMINISTRATION****(Effective January 26, 2018)****17.10 ZONING ADMINISTRATOR; APPOINTMENT; DUTIES.**

A Zoning Administrator shall be appointed by and on such terms as shall be determined by the Township Board; provided that the Zoning Administrator shall not be a member of the Township Board, the Planning Commission or the Zoning Board of Appeals. He/she shall perform such duties as the Township Board may prescribe in addition to any duties prescribed in this Ordinance.

17.11 ZONING ADMINISTRATOR ELIGIBILITY.

To be eligible for appointment, the Zoning Administrator shall be generally informed on good building construction, on good practice in fire prevention and the proper installation of safety, health and sanitary facilities. He/she shall be in good health and physically capable of fulfilling his duties. In case he/she is personally interested in the construction of any building subject to the provisions of this code, the Township Board shall designate some other person to examine the plans, to inspect such building and to issue the necessary permits, approvals and certificates.

17.12 ZONING ADMINISTRATOR; DUTIES.

The Zoning Administrator shall:

- A. Receive and review all applications for land use permits and certificates of occupancy and approve or disapprove such applications based on compliance or non-compliance with the provisions of the Whitewater Township General and Zoning Ordinances.
- B. Receive all applications for site plan review and special use permits which the Planning Commission is required to decide under this Ordinance.
- C. Receive all applications for appeals, variances or other matters which the Zoning Board of Appeals is required to decide under this Ordinance.
- D. Receive applications for amendments to this Ordinance.
- E. Conduct field inspections and investigations, prepare maps, charts and other pictorial materials when necessary or desirable, and process applications so as to assist the Planning Commission, Zoning Board of Appeals and Township Board in formulating recommendations and/or approvals.
- F. Notify applicants in writing of any decision of the Planning Commission and implement the decisions of the Planning Commission.
- G. Maintain a map or maps showing current zoning classifications of all land in the Township.
- H. Maintain written records of all actions taken by the Zoning Administrator.
- I. Meet with the Township Board, Planning Commission, Zoning Board of Appeals and related committees as requested.
- J. Be responsible for providing forms necessary of the various applications to this Ordinance and any other forms as directed by the Township Board.

- K. Any additional responsibilities outlined in the Whitewater Township Zoning Administrator Job Description, as revised.

17.13 ZONING ADMINISTRATOR; COMPENSATION.

Compensation for the Zoning Administrator shall be established by the Township Board.

17.14 LAND USE PERMIT REVIEW.

- A. The Zoning Administrator shall verify that all applications for land use permits shall be accompanied by a clearly drawn plot plan which contains the following:
1. Owner Information
 2. Parcel ID Number
 3. Property Address
 4. North Arrow
 5. Scale
 6. Existing and/or Proposed Structures (including fencing)
 7. Existing and/or Proposed Driveways
 8. Road Right of Way and/or Utility Easements
 9. Sanitary Facilities and Well
 10. Water Bodies on the Site
 11. Wetlands
- B. The Zoning Administrator shall request that the applicant submit with the application such additional materials as may be needed to determine whether or not a permit should be issued, such as surveys, soil suitability tests, surface water disposal surveys, erosion control surveys and excavation disposal plans, abstracts, building plans, and permits from other government agencies.
- C. Evidence of Ownership. The Zoning Administrator shall review evidence of ownership for all property affected by the permit application.
- D. Voiding of Permit. The Zoning Administrator may suspend or revoke a permit issued under the provisions of this Ordinance whenever the permit is issued erroneously on the basis of incorrect information supplied by the applicant or his agent and is in violation of any of the provisions of this Ordinance or of any other Ordinances or regulations of the Township.
- E. The Zoning Administrator shall require submission of an application for Site Plan Review in accord with the provisions of Section 25.00 as required.

17.15 LAND USE PERMITS; INSPECTIONS

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

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

17.16 LAND USE PERMITS; DENIAL.

The Zoning Administrator shall promptly inform the applicant, in writing, of the denial of a Land Use Permit if such planned building or structure or land use does not comply with the provisions of this Ordinance. Applicants that have been denied a land use permit may appeal Zoning Ordinance decisions in accordance with Section 18.00 – Zoning Board of Appeals or the standards set forth in the applicable General Ordinance.

17.17 LAND USE PERMITS; FEES.

The fees for land use permits shall be established by the Township Board.

ARTICLE XVIII

Zoning Board of Appeals

18.00

18.10 Purpose of Board

The Zoning Board of Appeals is established to ensure that the objectives of this Ordinance may be more fully and equitably achieved, that a means be provided for competent interpretation of this Ordinance, that reasonable flexibility be provided in the application of this Ordinance, and that the public health, safety and welfare is protected.

18.20 Membership, Terms of Office

The Zoning Board of Appeals shall consist of five (5) members appointed by the Township Supervisor and confirmed by the Township Board. The first member of the Board of Appeals shall be a member of the Planning Commission. The second member shall be a member of the Township Board. The remaining three (3) members shall be selected from the electors of the Township and shall be representative of the population distribution and interests of the Township. An elected officer of the Township shall not serve as chairman of the Zoning Board of Appeals. An employee or contractor of the Township Board may not serve as a member.

Terms shall be for three years except for members serving because of their membership on the Planning Commission or Township Board, whose terms shall be limited to the time they are members of the Planning Commission or Township Board respectively, and the period stated in the resolution appointing them.

Members of the Zoning Board of Appeals shall be removable by the Township Board for nonperformance of duty or misconduct in office upon written charges and after public hearing. A member shall disqualify him or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest shall constitute misconduct of office.

18.30 Organization and Procedures

- A. Rules of Procedure. The Zoning Board of Appeals shall adopt its own rules of procedure as may be necessary to conduct its meetings properly.
- B. Vote.
 - 1. The concurring vote of a majority of members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator or Planning Commission and to decide non-use variances. Use variances shall require a vote of 2/3 of the members of the Zoning Board of Appeals.
 - 2. A member of the Zoning Board of Appeals who also is a member of the Planning Commission or Township Board shall not participate in a public hearing on or

vote on the same matter that the member voted on as a member of the Planning Commission or Township Board. However, the member may consider and vote on other unrelated matters involving the same property.

- C. Meetings. Meetings shall be open to the public and shall be held at the call of the Chairperson and at such other times as the Zoning Board of Appeals shall specify in its rules of procedure. The Board shall choose its own Chairperson, and in his/her absence, an acting Chairperson.
- D. Records. Minutes shall be recorded of all proceedings which shall contain evidence and data relevant to every case considered together with votes of the members and the final disposition of each case. The ground of every determination shall be stated and such determination from which the appeal is taken. Such minutes shall accompany and be attached to the standard forms required of persons appealing as part of the Zoning Board of Appeals permanent records. Such minutes shall be filed in the office of the Township Clerk and shall be public record. A copy of the decision shall be sent promptly to the applicant or appellant and to the Zoning Administrator.
- E. Secretary and Counsel. The Township Clerk shall be responsible for providing secretarial services for the Zoning Board of Appeals and the Township Attorney may give legal counsel to the Zoning Board of Appeals upon its request.
- F. Hearings. When a notice of appeal has been filed in proper form with the Zoning Board of Appeals, the Zoning Administrator shall immediately place the request for appeal upon the calendar for hearing, and shall cause notices stating the time, place and object of the hearing to be served personally or by mail addressed to the parties making the request for appeal.

18.40 Stay

An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Zoning Board of Appeals after the notice of appeal has been filed that, for reason of facts stated in the certificate, a stay would, in his/her opinion, cause immediate peril to life or property, in which case the proceedings shall not be stayed otherwise than by restraining order, which may be granted by the Zoning Board of Appeals, or on application, by the Circuit Court, on notice to the officer from whom the appeal is taken, when due cause can be shown.

18.50 Fee for Appeal

A fee in accordance with the duly adopted schedule of fees shall be paid at the timing of filing an application with the Zoning Board of Appeals. The purpose of the fee is to cover all necessary notification and investigation expenses incurred by the Zoning Board of Appeals in connection with said appeal.

18.60 Duties and Powers of the Zoning Board of Appeals

The Zoning Board of Appeals shall have all powers and duties granted by State law, by this Ordinance and the Township Board including the following specified duties and powers:

- A. Review. Shall hear and decide appeals from and review any order, requirement, decision or determination made in the administration of this Ordinance by the Zoning Administrator or Planning Commission.
- B. Interpretation. Shall have the power to:
 - 1. Hear and decide upon appeals for the interpretation of the provisions of this Ordinance.
 - 2. Determine the precise location of the boundary lines between zoning districts when there is dissatisfaction with a decision made by the Zoning Administrator.
 - 3. Classify a use which is not specifically mentioned in the Zoning Ordinance.
 - 4. Consider use variances.
 - 5. Consider non-use variances.

18.70 Application of the Variance Power

- A. Use Variance. The Zoning Board of Appeals may grant a use variance only upon finding that an unnecessary hardship exists. A use variance is a variance that permits a use that is otherwise prohibited in a zoning district. A finding of an unnecessary hardship shall require demonstration by the applicant of the following:
 - 1. The property cannot be reasonably used for any purpose permitted in the zoning district without the variance.
 - 2. The need for the variance is due to unique circumstances particular to the property and not generally applicable in the area or to others properties in the same zoning district.
 - 3. The problem and resulting need for the variance has not been self-created by the applicant and/or the applicant's predecessors.
 - 4. The variance will not alter the essential character of the area. In determining whether the effect the variance will have on the character of the area, the established type and pattern of land uses in the area and the natural characteristic of the site and the surrounding area will be considered.
- B. Non-Use Variance. The Zoning Board of Appeals may grant a non-use variance only upon finding that practical difficulty exists. A non-use variance is variance from any standard or requirement of the Ordinance, such as, but not limited to, a deviation from density, bulk, setback, parking landscaping and sign standard requirements. A finding if practical difficulty shall require demonstration by the applicant of the following:
 - 1. Granting the variance will not be contrary to the public interest and will not be contrary to the spirit and intent of this Ordinance.
 - 2. Granting the variance shall not permit the establishment within a zoning district of any use, which is not permitted by right within the district.
 - 3. Granting the variance will not cause any significant adverse effect to property in the vicinity or in the zoning district or the Township.

4. There are practical difficulties on the site which unreasonably prevent the owner from using the property for a permitted purpose without presenting an excessive burden and the practical difficulty not resulting from any act of the applicant.
5. The variance will do substantial justice to the applicant, but the decision shall not bestow the property special development rights not enjoyed by other properties in the same district, or which might result in substantial adverse impacts on properties in the vicinity which may endanger the public health, safety or welfare.
6. The requested variance is the minimum necessary to permit reasonable use of the land.
7. The practical difficulty is not self-created.

18.80 Rules

In addition to the foregoing conditions the following rules shall be applied in the granting of variances:

- A. The Zoning Board of Appeals may specify, in writing, to the applicant such conditions in connection with the granting that will, in its judgment, secure substantially the objectives of the regulations or provisions to which such variance applies including the requirement of a bond. The breach of any such condition shall automatically invalidate the permit granted.
- B. No more than the minimum variance from the terms of this Ordinance shall be granted which is necessary to relieve the practical difficulty or unnecessary hardship.
- C. Each variance granted shall become null and void unless the provisions of the variance have been utilized by the applicant within one (1) year after the granting of the variance. An extension, not to exceed one year may be granted upon request of the applicant.
- D. Prior to granting a variance, all other existing infractions related to this Ordinance or other Township Ordinances have been resolved.
- E. The applicant shall, in writing, receive the decision upon completion of the hearing.

18.90 Appeal to Circuit Court

The decision of the Zoning Board of Appeals rendered pursuant to Article 18 shall be final. However, a person having an interest affected by the decision may appeal to Circuit Court within 30 days of the decision. Upon appeal, the Circuit Court shall review the record and decision of the Zoning board of Appeals to insure that the decision:

- A. Complies with the Constitution and Laws of the State.
- B. Is based upon proper procedure.
- C. Is supported by competent, material and substantial evidence on the record.

- D. Represents the reasonable exercise of discretion granted by law to the Zoning board of Appeals.

If the court finds the record of the Zoning Board of Appeals inadequate to make the review required by this section, or that there is additional evidence which is material and with good reason was not presented to the Zoning Board of Appeals, the court shall order further proceedings before the Zoning board of Appeals on conditions which the court considers proper. The Zoning Board of Appeals may modify its findings and decision as a result of the new proceedings, or may affirm its original decision. The supplementary record and decision shall be filed with the court.

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ARTICLE XIX REQUEST FOR AMENDMENT

(Effective January 26, 2018)

19.10 INTENT

It is the intent of Article 19, Request for Amendment, to provide a means for individuals, businesses, or groups to formally request changes or alterations to the Whitewater Township Zoning Ordinance.

19.11 PETITION.

Any person proposing or recommending a change in the district regulations or district boundaries shall petition the Township Planning Commission for a consideration of said change per the following procedure:

- A. A request in writing shall be presented to the Township Clerk. All petitions shall include the specific nature of said request accompanied by any relevant details the applicant believes to be pertinent.
- B. All such petitions shall be executed by the owner of the fee title to the subject property or his agent.
- C. The Township Clerk shall not accept any such petition for filing until there is filed with the Clerk the fee required to be paid by the person or persons requesting said change.
- D. The petitioner shall further provide to the Zoning Administrator and Planning Commission any additional information requested which is deemed relevant to consideration of said application.

19.12 PROCEDURE

The procedures for consideration of changes to the Ordinance are as follows:

- A. Petition in writing filed with clerk and deposit paid.
- B. Petitioner shall be notified in writing of the meeting date set for initial consideration of petition no less than ten (10) days prior to said meeting.
- C. The Planning Commission shall formally notice and conduct at least one public hearing on any request to amendment to the Zoning Ordinance. The Planning Commission may propose alternative options or wording for consideration conducted within the same public hearing.
- D. Following all public hearings regarding amendment requests, the Planning Commission shall formally submit to the Township Board a summary of public input provided at the public hearing, along with the evaluation and recommendation of the Planning Commission.
- E. Following consideration, the Township Board may adopt, reject, or return to the Planning Commission for reevaluation any proposed Request for Zoning Amendment. Adopted ordinance changes shall be published.

19.13 COST

Any party proposing or recommending a change in the zoning district regulations or zoning district boundaries shall be responsible for payment of all costs and expense incurred by the Township in considering said proposal or recommendation, including but not limited to costs of special meetings, legal fees, costs of notices and publications as follows:

- A. Petitioner shall deposit with the Township Clerk the sum of Three Hundred (\$300.00) Dollars toward payment of said costs.
- B. The Township Board may require the petitioner to deposit such additional sums with the Township Clerk as it determines to be necessary to cover any additional costs beyond said deposit before it considers any proposal or recommendation.
- C. In the event the amount of said costs incurred by the Township shall be less than the amount of funds deposited by the petitioner, the difference shall be refunded.
- D. It shall be understood that under no circumstances shall said sum or any part thereof be refunded for failure of said change recommended or proposed by the petitioner to be adopted by the Township Board.

20.00

**ARTICLE XX
SEPARABILITY****20.10 VALIDITY.**

If any clause, sentence, sub-sentence, paragraph, section or part of this Ordinance be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, sub-sentence, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.

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21.00**ARTICLE XXI
VIOLATIONS****21.10 PENALTIES.**

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

21.11 NUISANCE PER SE.

Uses of land, dwellings, buildings or structures, including tents and trailer coaches used, erected, altered, razed or converted in violation of any provision of this Ordinance or the regulatory measures or conditions of the Board of Appeals adopted pursuant hereto are hereby declared to be nuisances per se.

22.00

**ARTICLE XXII
EFFECTIVE DATE**

22.10 EFFECTIVE DATE.

This Ordinance shall take immediate effect upon passage by the Township Board. [Passed and Effective: December 23, 1972.]

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23.00

**ARTICLE XXIII
REPEAL**

23.10 REPEAL.

Whitewater Township Ordinance No. 4, Interim Zoning Ordinance, is hereby repealed

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24.00

**ARTICLE XXIV
SANITARY LANDFILL AND WASTE DISPOSAL FACILITIES:****24.01 SPECIAL USE**

Prior to approval of the Planning Commission of a special exception use for a sanitary landfill facility, as herein defined, in any area of the Township, said board shall be certain that the following limitations and conditions are or shall be strictly complied with, in addition to any other requirements contained in the Township Zoning Ordinance, or in any other Township ordinance controlling such operations. The following rules and regulations shall apply specifically to each landfill area, unless county or state regulations on any particular requirement are more restrictive, and then such more restrictive regulation shall apply. Further provided, that no such sanitary landfill facilities shall be allowed within any areas zoned R-1, R-2, R-3 or within any platted subdivisions.

A. Location:

1. All such operations shall be located on a state highway or county primary road, as defined by the County Road Commission of Grand Traverse County, for ingress and egress thereto, and on a road which does not create traffic through an area developed primarily for residential purposes. Where necessary, the Planning Commission may require the applicant to construct and/or improve a road to accommodate the truck travel necessitated by the operations, as a condition of such operation, and for the purpose of routing traffic around residential areas. A stop sign shall be erected and maintained by the owner/ operator at all egress roads of the disposal area. Under no circumstances shall trucks use private drives or private access routes from the applicants' property which are within 150 feet of any residence.
2. Sufficient setback shall be provided from all property lines and public highways to assure adequate lateral support for adjacent public and private property. No such disposal area shall be permitted closer than 200 feet from the interior boundary lines. In addition, no disposal areas shall be permitted closer than 1000 feet to any domicile, or within 1000 feet of any residential district. No such disposal areas shall be permitted closer than 200 feet to adjacent public right-of-ways, property lines, lakes and streams. Such disposal areas shall at no time be permitted where adjoining lateral support for the maintenance of adjoining land is not maintained.
3. Any permanent processing plant and its accessory structures shall not be located closer than 300 feet from the interior boundary lines. In addition, if located within 1,300 feet of a residence, it shall be obscured by a suitable barrier, not less than 10 feet high, with screening of a type to be decided on an individual basis by the Planning Commission at the time of application. Where practicable, the processing plant shall be as close to the center of the subject property as possible, and at a lower level than the surrounding terrain to lessen visual and noise impact. The foregoing shall not apply to the digging or excavating apparatus, nor to the stockpiling or loading and transportation equipment.

4. No disposal area shall interfere with the established natural flow of surface water or groundwater to the detriment of or damage to adjoining or nearby public or private properties. No waste, whether liquid or solid, may be disposed of, at or below ground level by spraying, burying, pumping, ponding or any other means if, in time, it may result in contamination of the soil or groundwater. The Planning Commission shall have the right to require an applicant to construct test wells, sediment basins and such other means of monitoring, controlling and/or containing sediment and contaminants as it may deem necessary for the protection of soils, groundwater and any watercourse or wetland within the watershed in which the disposal area is to be located. Disposal of such material in stormwater retention ponds is prohibited.

5. Any sanitary landfill area, located within the boundaries of the Township, whether publicly or privately owned shall be open to Township residents, property owners and businesses, during established business hours, at a rate competitive with other disposal areas in Northwestern Michigan. Other persons or parties may also be granted access to a public facility by the Township, subject to paying the charges established by the public body having jurisdiction. Special handling fees may be charged for bulky or difficult to process items. Hazardous materials, as defined in Public Act 64 of 1979 for the State of Michigan and defined by the Department of Natural Resources in its Hazardous Waste Management Rules, Sections R 299.630 through R 299.6317 inclusive, containing Rules 301-317 exclusively, and dated February 5, 1981, are prohibited.

6. Greater isolation distances may be required by the Planning Commission if the sanitary landfill area being proposed, is adjacent to special quiet zones, as designated by local or state government.

B. Sight Barriers and Fencing:

1. Sight barriers shall be provided along all setback lines of the sites which lack natural screening conditions through existing contours or evergreen growth. Such barriers shall consist of the following: A berm of at least 10 feet in height and plantings of evergreen trees, not more than 10 feet apart, or shrubbery not more than 5 feet apart, in staggered rows, on the berm, parallel to the boundaries of the property. Evergreens shall be at least 2-year transplants at the time of planting, and shall grow to not less than 10 feet in height; and shall be sufficiently spaced to provide effective sight barriers when 10 feet in height. Trees or shrubs which die must be replaced.

The requirements for screening by means of a berm and plantings may be reduced or eliminated by the Planning Commission if the particular site and terrain of the subject property (with screening of a reduced height), will afford adequate sight barriers for adjoining property owners, residents or passers-by.

2. The sanitary landfill area is to be fenced with an 8 foot high chain link fence with 3 strands of barbed wire angled 45 degrees toward the outside of the premises on the top. Such fence shall be located inside of any berms or screening following the exterior boundaries. The

entrance to the sanitary landfill area shall have a gate which shall be closed and locked at all times that the landfill is not open.

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C. Nuisance Abatement.

1. Air pollution, noise and vibration, and their effect upon adjacent properties shall be minimized by the utilization of adequate sound-proofed equipment and buildings designed to accomplish such minimization, and by the proper use of berms, walls and natural planting screens. Interior and adjoining roads used in the solid waste disposal operations, shall have their surfaces treated to minimize any condition.
2. Rodent traps, if needed, shall be placed every 100 yards, around the perimeter of the sanitary landfill area, inside the fence, and shall be regularly inspected and cleaned, not less frequently than once each week.
3. Any security lighting deemed necessary by the owner/operator shall be the sodium vapor type and shall be aligned so that no part of the illuminated field shall fall on any adjoining residential property.
4. Every sanitary landfill facility, which accepts refuse, shall have adequate water supply and facilities for quick delivery of water to any part of the property, for the purpose of extinguishing fires. Capacity shall be such that at least 50 gallons of water per minute can be applied to any fire, continuously, for at least 10 hours. The source of the water supply and the facilities to provide for the delivery of the water shall be indicated on the plans submitted for approval by the Planning Commission.
5. All litter shall be collected from the sanitary landfill site by the end of each working day and either placed in the fill, compacted and covered that day, or stored in a covered container.
6. In winter operations, snow and ice shall be removed before any material, either refuse or earth cover, is placed on the fill. A supply of unfrozen earth cover material shall be maintained and available, either in protected stockpiles or in a natural bank protected from, or not subject to, freezing. Frozen cover materials shall not be placed on the fill.
7. Prior to the commencement of the construction of any landfill within the Township, the owner/operator of the proposed landfill shall obtain from each lake, stream, creek, watercourse and private, residential, agricultural and commercial waterwells, a water sample for complete chemical analysis. These water samples shall be taken from each of the aforementioned water sources within a mile radius of the exterior boundaries of the property acquired for the construction of the landfill. These samples shall contain the exact location from which they were obtained, the name and address of the property owner who owns the land from which the water sample was taken, and the name and address of the principle user of the waterwell, if different from the owner of the property upon which the well is located. The owner/operator of the proposed landfill shall turn these samples over to a properly accredited laboratory for complete analysis. The results of the individual analysis shall be certified by the laboratory, and then filed with the Township Clerk, for the purpose

of future reference, should there at some later date be suspected groundwater contamination. In addition, copies of the quarterly monitoring test well results shall be delivered to the Township promptly upon receipt by the owner/operator.

D. Time Limits.

All operations, other than the maintenance of equipment within a fully-enclosed building, shall be conducted only between the hours of 7:00 a.m. and 6:00 p.m. Monday through Friday, and 7:00 a.m. and 3:00 p.m. on Saturdays and legal holidays. A sign stating the hours and prohibiting dumping of other items shall be placed in a conspicuous location at the entrance. Keys for admittance to the disposal area shall be given to the Township Clerk. Disposal facilities shall have qualified personnel on duty during hours of operation to direct the dumping, spreading, compaction and covering of materials.

E. Liability Insurance.

All applicants shall be required to carry personal injury and property damage insurance, in addition to any and all bonds required by the state statute, while any open or un-rehabilitated area exists. Such insurance shall be in the amount of not less than \$1,000,000 for each person injured or property damaged, or for any injury or damage to more than one person or one person's property, arising out of one occurrence. Such insurance shall cover injury or damage occurring upon the site of the operation, as well as upon properties adjoining thereto, as the result of conditions or activities existing upon the site. Such policies shall be filed with the Township Clerk, and shall be maintained in effect for a period of not less than 20 years following final closure and termination of sanitary landfill activities. The deductible written into the insurance policy shall not exceed 5% of the per incident limit of the liability of the policy. The coverage obtained by the owner/operator to fulfill the requirements of this section shall include the provisions that the insurer shall notify the Township 30 days prior to the cancellation of the insurance for any reason.

F. Closure of Disposal Areas.

Reclamation or rehabilitation of sanitary landfill areas shall be accomplished as soon as practical following the completion of an area. Where possible, such reclamation or rehabilitation shall be accomplished concurrently with the facility's operations. Substantial completion of reclamation and rehabilitation shall be effected within 2 years after the termination of the waste disposal facility. Inactivity for 12 consecutive months shall constitute, for this purpose, termination of disposal activities. Technical standards which shall control the final reclamation and rehabilitation of the site, and the post-closure monitoring of the site shall be the rules and regulations written by the department of Natural Resources, Resource Recovery Division, Solid Waste Management, for the State of Michigan pursuant to Public Act 641 of 1978, as amended, being Section 299.401 et seq, of the Michigan Compiled Laws and known as the Solid Waste Management Act, or other similar acts which may provide such regulation hereafter.

G. Submission of Operation and Closure Plans.

No sanitary landfill activities shall be allowed or commenced until a plan has been submitted to the Township Planning Commission, disclosing compliance with all of the provisions within this

Ordinance, or the manner in which compliance will be secured by the applicant. Such plans shall include, among other things, the following:

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1. A contour map of the tract of land involved in the operations, including dimensions of the same, access thereto, abutting public streets, and whether or not the same are on state or county primary roads, additional roads, if any, to be constructed and the location and nature of abutting improvements of adjoining properties.
2. The number of acres and the location of the same, proposed to be operated upon within the following 12-month period after commencement of operations.
3. The type of sanitary landfill proposed to be constructed, the nature of the equipment to be used and the materials to be accepted.
4. A survey by a registered surveyor, showing the location of the principal disposal site and the distance of any proposed operations, and the boundaries of the site.
5. A map disclosing the approximate final grade and the levels to be established following completion of the disposal areas, including the proposed uses being contemplated for the future use of the land, and other such matters as may evidence the bona fide nature of the rehabilitation plans and the fact that the land will not be devastated and rendered unusable by the proposed waste disposal area.
6. A map disclosing the location of all lakes, streams, creeks, water-courses and public, private, residential, agricultural and commercial waterwells from which the samples will be taken for analysis, as stipulated in C(7) of this section.
7. A written agreement, signed by the owner/operator of the proposed disposal area, agreeing to abide by the following plan for solutions to groundwater contamination, should such contamination occur as a result, or suspected result of his disposal operations.

H. A Trust Fund for the Mitigation of Landfill Problems.

1. A trust fund shall be established at a convenient bank, within the County, chosen by the Township Board. The operator shall agree to pay \$.10 per cubic yard, of waste disposed of, into this trust fund for the life of the sanitary landfill. Expenditures from the trust fund are to be approved by a committee consisting of one citizen appointed by the Township Board, the Township Supervisor, and one representative of the owner/operator. Funds may be used but are not limited to off-site litter control, groundwater and surface water monitoring and payments to adjacent property owners, and others, at the discretion of the committee, for damages that have been caused as a result of the sanitary landfill or its operations. The trust fund shall exist and earn interest for 20 years following closure, and at that time the funds remaining shall be paid to the owner/operator or its successors or assigns.

2. The mitigation of environmental degradation shall be accomplished by limiting the amount of new leachate produced; steps shall be taken which restrict the movement of existing pollutants in the water. When domestic, agricultural or commercial wells lie in the path of a contaminated plume, one of the following possible solutions to the problems of public health, hazard and environmental degradation shall, at the discretion of the Township be required of the owner/operator of the landfill:

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a. Immediate purging of the groundwater. Studies must be conducted, at the expense of the owner/operator of the waste disposal area, to determine the extent of the groundwater contamination, cleanup required, and the timetable by which the cleanup will proceed.

b. Provision of an alternate water supply. This shall include, but not be limited to:

1. Locating uncontaminated groundwater.
2. Providing bottled water. This shall be a temporary measure, designed to prevent health hazards until another system can be prepared. This service shall be terminated once a permanent water supply system becomes operational.
3. Hooking into an existing municipal water supply system.

The owner/operator of a sanitary landfill reasonably suspected of contamination of the groundwater for residence, farms or businesses, shall guarantee the cost of the construction of the extension of a municipal waterline to the affected area, and the cost of the hookup to this water supply. The Township shall pay for any oversizing of the line to permit the extension of service to areas not affected by the leachate. The owner/operator of the sanitary landfill may make an unrestricted cash payment to the Township to carry out its responsibility to the residents in obtaining for them uncontaminated water. This option shall be at the discretion of the proper authority. If the water is available to the residents of the affected area, it will assume sole responsibility for establishing water rates, assessments and connection charges, and for the granting of waivers of any of these charges to residents whose water supply is endangered by the leachate and for policies governing the system operation and waiver policy.

If the Township does not agree to make water available to its residents, the entire issue shall revert back to the landfill owner/operator's responsibility. The Township shall assume no responsibility or liability for any injuries or property damage resulting from the sanitary landfill operations.

I. Financial Guarantee - Closure and Rehabilitation:

Financial Guarantee shall be given to the Township, insuring the proper closure and rehabilitation of the solid waste disposal area. The amount of the guarantee shall not be less than \$5,000 (Five Thousand dollars) per acre of disposal area, but not less than \$20,000 nor more than \$200,000 for the area proposed to be licensed by the State, or which has previously been operated upon during any preceding period and which has not been reclaimed or rehabilitated. All such financial guarantees shall be reviewed annually on or about the anniversary date of the sanitary landfill construction permit, for adjustment in compliance of the foregoing requirements, by the Zoning Inspector of the Township or other such official as may be designated by the Township Board. In this regard, the amount of the financial guarantee may be increased or decreased, based upon the cost of living index, promulgated by the U.S. Department of Labor, using the effective date of this ordinance amendment as the base period for the \$5,000 per acre amount. Such financial guarantee

shall be in the form of cash, certified check, irrevocable bank letter of credit or a corporate bond of a licensed insurance company, eligible to insure disposal facilities in Michigan. The corporate bond, if it is used, shall be a performance bond which shall be filed with the Township Clerk governing all portions of the sanitary landfill operation required to be maintained in accordance with these regulations, guaranteeing the satisfactory performance of these regulations. The bond shall not be

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cancelable for nonpayment of premium on disposal areas already worked, and shall continue in force for 1 year after closure and reclamation of the sanitary landfill facility.

For all sanitary landfill areas, the minimum financial guarantee shall be at least \$20,000, provided to the Township, if less than 5 acres are required to be covered by the financial guarantee at any time. The bond shall be filed with the Township before the permit is issued, and on or before the first of each year thereafter.

A recommendation by the Planning Commission and approval by the Township Board shall be based upon the criteria set forth within said Ordinance and shall be based, in addition, on a consideration of the following:

1. The most advantageous use of the land, resources and property.
2. The character of the area in question and its particular suitability, if any, for the particular use.
3. Conservation of property values as well as natural resources and the general appropriate trend and character of development in the subject area.
4. The protection and preservation of the general health, safety and welfare of the Township.
5. The scarcity or value of waste disposal areas as compared with the effect upon adjacent communities near the proposed operation.

The Planning Commission may provide for a periodic review of the proposed operations to ascertain compliance with the conditions and limitations imposed upon the same.

J. Existing Sanitary Landfill Operations:

All licensed sanitary landfill operations existing on the effective date of this Ordinance shall be subject to the within regulations with regard to future operations; however, such pre-existing disposal area shall be allowed to continue in operation on its then existing land. A special Exception Use shall not be required therefor.

**ARTICLE XXV
SITE PLAN REVIEW AND SPECIAL LAND USES**

25.10 SITE PLAN REVIEW AUTHORIZATION

A. The Zoning Administrator and/or Planning Commission as specified in this section shall review and approve, approve with conditions or deny all site plans submitted under this Ordinance. Each action taken with reference to site plan review shall be duly recorded in the official record by the Zoning Administrator or in the minutes of the Planning Commission. Those site plans which require Planning Commission review will then be submitted to the Planning Commission for action along with the recommendation of the Zoning Administrator as to compliance with Ordinance requirements. The Zoning Administrator shall also seek the recommendation of the Fire Chief, Road Commission, Drain Commission, Health Department and Michigan Department of Environmental Quality, where applicable.

B. Following approval of a site plan, the petitioner shall apply for the appropriate Township, County and/or State permits as may be required by said agencies.

25.11 SITE PLAN REVIEW: REQUIREMENTS AND PROCEDURES:

A. SITE PLAN REVIEW: WHERE REQUIRED:

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

1. Erection, moving, conversion or structural alteration to a building or structure other than a single-family dwelling.
2. Development of non single-family residential uses in single-family districts and development of non-agricultural uses in the agricultural district except for single-family dwellings.
3. All special land uses.
4. Any excavation, filling, soil removal or mining, except for the creation of ponds for agricultural use.
5. All site condominiums, condominium subdivisions and PUD's.
6. All proposed uses or developments in environmentally sensitive areas as required under Article 27.00, Environmentally Sensitive Areas.

B. PROCEDURES AND REQUIREMENTS

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

C. OPTIONAL PRE-APPLICATION CONFERENCE

In order to facilitate processing of a site plan in a timely manner, the applicant may request a pre-application conference with the Zoning Administrator, up to three (3) members of the Planning Commission and such other Township representatives as appropriate. The purpose of such a conference is to provide information and guidance to the applicant that will assist in preparation of the site plan. The applicant is encouraged to provide rough conceptual drawings or site plans

indicating the location and boundaries of the subject property. No formal action shall be taken on a site plan at a pre-application conference. There is no fee to the applicant for the pre-application conference.

D. PRELIMINARY SITE PLAN REVIEW

The applicant shall submit the following prior to being scheduled for Planning Commission review:

1. Township Review Fee.
2. Township Application.
3. The name and address of the owner and any designated representative of the owner.
4. Written description of the proposed use.
5. Ten copies of the preliminary site plan, illustrating existing features, lot dimensions, general footprints for proposed buildings and parking, relationship to adjacent land uses and a location map.
6. One digital copy of the site plan in a form acceptable to the Township.

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

The Zoning Administrator may waive the preliminary site plan review step upon a written request by the applicant provided that all information required for final site plan review is provided by the applicant.

E. FINAL SITE PLAN REVIEW

The applicant shall submit the following prior to being scheduled for Planning Commission review:

1. Township Review Fee (if applicable).
2. Township Application (if applicable).
3. A written description of the proposed project or use.
4. Any additional information the Planning Commission finds necessary to make determinations required herein.
5. A ten complete site plans that include the information listed in section 25.11 (F), Required Information.
6. One digital copy of the site plan in a form acceptable to the Township.

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

F. REQUIRED INFORMATION

1. Each submittal for site plan review shall contain all information required in this Ordinance including the following:
 - a. The applicant's name, address and phone number in full.
 - b. Proof of property ownership, and whether there are any options on the property, or liens against it.
 - c. A signed statement that the applicant is the owner of the property or officially acting on the owner's behalf.
 - d. The name and address of the owner(s) of record if the applicant is not the owner of record (or firm or corporation having a legal or equitable interest in the land) and the signature of the owner(s).

- e. The address and/or parcel number of the property.
- f. Name and address of the developer (if different from the applicant).
- g. Name and address of engineer, architect, planner and/or land surveyor.
- h. Project title.
- i. Project description, including the total number of structures, units, bedrooms, offices, square feet, total and usable floor area, parking spaces, carports or garages, employees by shift, amount of recreation and open space, type of recreation facilities to be provided, and related information as pertinent or otherwise required by the Ordinance.
- j. A vicinity map drawn at a scale of 1" = 2000' with the north point indicated.
- k. The gross and net acreage of all parcels in the project.
- l. Land uses, zoning classification and existing structures on the subject parcel and adjoining parcels within 300 feet of the site.
- m. Project completion schedule/development phases.
- n. Written statements relative to project impacts on existing infrastructure (including traffic capacity of streets, schools and existing utilities) and on the natural environment of the site and adjoining lands. A formal impact statement may be required.
- o. A listing of types and quantities of hazardous substances and polluting materials which will be used, stored or generated on-site at the facility, and completion of the "Hazardous Substance Reporting Form for Site Plan Review".

2. The site plan shall consist of an accurate, reproducible drawing at a scale of not less than 1" = 20' or more than 1"=200', showing the site and all land within 300' of the site. If multiple sheets are used, each shall be labeled and the preparer identified. Each site plan shall depict the following:

- a. Location of proposed and/or existing property lines, dimensions, legal descriptions, setback lines and monument locations.
- b. Existing topographic elevations at two foot intervals, proposed grades and direction of drainage flows.
- c. The location and type of existing soils on the site at least to the detail provided by U. S. Soil Conservation Service and any certification of borings.
- d. Location and type of significant existing vegetation.
- e. Location and elevations of existing water courses and water bodies, including county drains and man-made surface drainage ways, floodplains and wetlands.
- f. Location of existing and proposed buildings and intended uses thereof, as well as the length, width, and height of each building and typical elevation views of proposed structures.
- g. Proposed location of accessory structures, buildings and uses, including but not limited to all flagpoles, light poles, bulkheads, docks, storage sheds, transformers, air conditioners, generators and similar equipment, and the method of screening where applicable.
- h. Location of existing public roads, rights-of-way and private easements of record and abutting streets.
- i. Location of and dimensions of proposed streets, drives, curb cuts, and access easements, as well as acceleration, deceleration and passing lanes (if any) serving the development. Details of entryway and sign locations should be separately depicted with an elevation view.
- j. Location, design and dimensions of existing and/or proposed curbing, barrier free access, carports, parking areas (including indication of all spaces and method of surfacing), fire lanes and all lighting thereof.
- k. Location, size and characteristics of all loading and unloading areas.
- l. Location and design of all sidewalks, walkways, bicycle paths and areas for public use.

m. Location, design and specifications of existing and proposed service facilities and structures, above and below ground, including:

- (1) Public and private groundwater supply wells on-site and related distribution systems including fire hydrants and shut off valves.
- (2) Septic systems and other waste water treatment systems
- (3) Areas to be used for the storage, use, loading/unloading, recycling, or disposal of hazardous substances and polluting materials, including interior and exterior areas as well as any containment structures or clear zones required by government regulation or designed to meet the standards of this Article.
- (4) Underground storage tank locations together with connected distribution and collection systems.
- (5) Location of exterior drains, dry wells, catch basins, retention/detention areas, sumps and other facilities designed to collect, store or transport wastewater or stormwater to the naturally occurring aquifer. The point of discharge for all drains and pipes shall be specified on the site plan.

n. Location of all other utilities on the site including, but not limited to natural gas, electric, cable TV, telephone and steam.

o. Proposed location, dimensions and details of common open spaces and common facilities such as community buildings or swimming pools if applicable.

p. Location, size and specifications of all signs, both temporary and permanent, and advertising features, with cross-sections, if applicable.

q. Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be used.

r. Location and specifications for all fences, walls, and other screening features with cross sections.

s. Location and specifications for all proposed perimeter and internal landscaping and other buffering features. For each new landscape material the proposed size at the time of planting must be indicated. All vegetation to be retained on the site must also be indicated, as well as its typical size by general location or range of sizes as appropriate.

t. Location, size and specifications for screening and fencing of all trash receptacles and other solid waste or liquid waste disposal facilities.

u. Delineation of areas on the site which are known or suspected to be contaminated, together with a report on the status of site clean-up.

v. Identification of any significant site amenities or unique natural features.

w. Identification of any significant views onto or from the site to or from adjoining areas.

x. A scale model of the proposed development may be required for all projects greater than 40 acres, with more than 200 dwelling units, more than 40,000 square feet of building space or a proposed height of a principal structure of greater than 35 feet.

y. North arrow, scale and date of original submittal and last revision.

z. Seal of the registered engineer, architect, landscape architect, surveyor, or planner who prepared the plan.

25.12 STANDARDS FOR DECISIONS:

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

- A. All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of the lot or unit, the character of adjoining property and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development or improvement of the surrounding property for uses permitted in this Ordinance.
- B. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas and will not adversely affect adjacent properties.
- C. Special attention shall be given to proper site drainage so that removal of storm waters will not adversely affect neighboring properties.
- D. The site plan shall provide reasonable visual and sound privacy for all dwelling units located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.
- E. All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means to all sides.
- F. Every structure or dwelling unit shall have access to a public street, walkway or other area dedicated to common use.
- G. There shall be provided a pedestrian circulation system which is insulated as completely as reasonably possible from the vehicular circulation system.
- H. All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential districts or public thoroughfares, shall be screened, by a vertical screen consisting of structural or plant materials no less than six feet in height unless modified by the Planning Commission.
- I. Exterior lighting shall be designed and installed to conform with the standards required in Article 29.00, Exterior Lighting Regulations.
- J. All signs and advertising features shall be designed and installed to conform with the standards and requirements of Article 30.00, Sign Regulations.
- K. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern which serves adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way equal to that specified in the Comprehensive Master Plan.
- L. All streets including streets in condominium developments shall be developed in accordance with the Subdivision Control Ordinance and County Road Commission or Township Private Road Standard specifications.

M. Site plans shall conform to all applicable requirements of state and federal statutes and approval may be conditioned on the applicant receiving necessary state and federal permits before final site plan approval or an occupancy permit is granted.

N. All land use developments shall be consistent with and promote the intent and purpose of this ordinance and shall not be contrary to the public health, safety and welfare.

O. All land uses and developments shall conform with the applicable goals, policies and objectives in the Township Master Plan.

P. Standards for Groundwater Protection:

1. The project and related improvements shall be designed to protect the natural environment, including lakes, ponds, streams, wetlands, floodplains, groundwater and steep slopes.

2. Stormwater management and drainage facilities shall be designed to retain the natural retention and storage capacity of any wetland, water body or watercourse and shall not increase flooding or the potential for pollution of surface or groundwater, on-site or off-site.

3. General purpose floor drains shall be allowed only if they are connected to a public sewer system, an on-site holding tank, or a system authorized through a state groundwater discharge permit.

4. Sites at which hazardous substances or polluting materials are stored, used, or generated shall be designed to prevent spills and discharges to the air, surface of the ground, groundwater, lakes, streams, rivers or wetlands. In addition, an up-to-date contingency plan for the handling and clean-up of uncontained spills of hazardous substances and polluting materials shall be placed on file in the offices of the Zoning Administrator and the Fire Chief. The requirement to report all uncontained spills immediately to both the Zoning Administrator and the Fire Chief shall be required as a condition of Site Plan approval.

5. Local, State and Federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.

6. In determining conformance with the standards in this zoning ordinance, the municipality shall take into consideration the publication titled "Small Business Guide to Secondary Containment" and other references.

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

1. Secondary containment, for above ground areas where hazardous and polluting materials are stored or used, shall be provided. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance.

2. Outdoor storage of hazardous substances and polluting materials shall be prohibited except in product-tight containers which are protected from weather, leakage, accidental damage and vandalism.

3. Secondary containment structures such as out buildings, storage rooms, sheds and pole barns, shall not have floor drains which outlet to soils, groundwater, or nearby drains or rivers.

4. Areas and facilities for loading and unloading of hazardous substances and polluting materials, as well as areas where such materials are handled and used, shall be designed and constructed to prevent discharge or runoff to floor drains, rivers, lakes, wetlands, groundwater and soils.

R. Standards for Underground Storage Tanks when Permitted:

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

25.13 CONFORMITY TO APPROVED SITE PLANS

Following Final Approval of a site plan by the Zoning Administrator or the Planning Commission, the applicant shall construct the site plan improvements in complete conformity with the approved plan. Failure to do so is a violation of this ordinance and subject to the sanctions of Article 21.00, Violations.

25.14 MODIFICATIONS TO APPROVED SITE PLANS

If the Zoning Administrator finds that a proposed amendment to an approved site plan does not qualify for administrative approval as defined in 25.17 (A), Zoning Administrative Approval, he or she shall forward the to the Planning Commission for consideration.

25.15 FAILURE TO INITIATE CONSTRUCTION

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

1. An error in the original approval is discovered either because of inaccurate information supplied by the applicant or administrative error by a staff member or other agency;
2. Zoning regulations applicable to the project have been changed and the previously approved site plan does not comply with them;
3. A change in state law, local charter, or other local ordinance affecting the previous approval has occurred;
4. Pollution, impairment or destruction of the environment or to another legally protected public interest would occur if the project were to be constructed as previously approved.

B. Thirty days prior to expiration of an approved site plan, an applicant may make application for a one year extension of the site plan at no fee. The applicant shall explain in writing why the development has not proceeded, what the current time frame is and why an extension should be granted. If the original approval of the site plan was by the Planning Commission, the applicant shall present his/her case in person or by representative at the next meeting of the Planning Commission.

C. Revocation of an approved site plan shall be communicated in writing by certified mail to the property owner.

D. Any subsequent re-submittal shall be processed as a new request with new fees.

25.16 PERFORMANCE GUARANTEE

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

A. Performance guarantee as used herein shall mean a cash deposit, certified check or irrevocable bank letter of credit in the amount of 125% of the estimated cost of the improvements to be made as determined by the applicant and verified by the Zoning Administrator.

B. Where the Zoning Administrator or Planning Commission requires a performance guarantee, said performance guarantee shall be deposited with the Treasurer prior to the issuance of a Land Use Permit for the development and use of the land. Upon the deposit of the performance guarantee the Township shall deposit the performance guarantee, if in the form of cash deposit or certified check, in an interest bearing escrow account.

C. An approved site plan shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The period will begin from the date of the issuance of the Land Use Permit.

D. In the event the performance guarantee deposited is a cash deposit or certified check, the township shall rebate to the applicant fifty (50) percent of the deposited funds when sixty (60) percent of the required improvements are completed as confirmed by the Zoning Administrator, and the remaining fifty (50) percent of the deposited funds when one hundred (100) percent of the required improvements are completed as confirmed by the Zoning Administrator.

E. In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the Township, the Township shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make improvements. If the performance guarantee is not sufficient to allow the Township to complete the improvements for which it was posted, the applicant shall be required to pay the township the amounts by which the costs of completing the improvements exceeds the amount of the performance guarantee deposited. Should the Township use the

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

25.17 AS-BUILT SITE PLAN

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

25.18 ZONING ADMINISTRATIVE APPROVAL

A. The Zoning Administrator shall review and approve, approve with conditions or deny the following site plans without their submission to the Planning Commission except where the applicant so requests:

1. Accessory uses or buildings not to exceed 400 square feet, incidental to a conforming existing use where said use does not require any variance and where said site plan conforms with all requirements of this Ordinance.
2. Expansion and/or addition to an existing conforming use where said site plan conforms with all requirements of this Ordinance and does not increase the size of the existing or proposed structure by more than 1000 square feet or does not increase the existing or proposed use by more than ten (10) percent, whichever is less.
3. A change in the internal floor plan which does not increase the intensity of use or parking requirements.
4. Movement of a building, drive, road or parking by up to twenty (20) feet during construction due to unanticipated and documented constraint, to improve safety or to preserve natural features. The site plan shall still meet all required setbacks and other standards of this Ordinance.
5. An existing building and site to be re-occupied by a use permitted in the subject zoning district where the new use will not require significant changes in the existing site facilities.
6. Expansion and alterations of landscaping areas, sidewalks, bike paths and fences consistent with this Ordinance.
7. Relocation of a trash receptacle and/or installation of screening.
8. Relocation or replacement of a sign meeting the dimensional and locational standards.
9. Modifications to upgrade a building to state barrier free design.

10. Increases in off-street parking areas, parking buildings and/or structures, increases in loading/unloading spaces in commercial and industrial Zoning Districts, and landscape improvements as required by this Ordinance.
11. Alterations to the off-street parking layout or installation of pavement and curbing improvements provided that the total number of spaces remains constant and meets, or if necessary has been modified to meet, the ordinance requirements for the building and/or use.
12. Changes to lighting consistent with this Ordinance.
13. Situations similar to the above.

B. The Zoning Administrator shall apply all applicable standards and procedures of this Ordinance in approving, conditionally approving or denying site plans and determine if the submittal shall comply with Section 25.11 (F), Required Information, or Section 25.19, Plot Plans in Lieu of a Site Plan.

C. The applicant shall submit the Township application and established fee.

D. The Zoning Administrator shall make a report of all administrative approvals to the Planning Commission.

25.19 APPEALS OF FINAL SITE PLANS

A. Any person aggrieved by a decision of the Planning Commission or Zoning Administrator in granting or denying approval of a final site plan may appeal the decision to the Zoning Board of Appeals. The appeal must be filed within seven (7) days of the decision and shall state the factual basis for the appeal. An appeal shall stay action on the issuance of any permit pursuant to an approved site plan.

B. The Zoning Board of Appeals shall review the record of action taken on the final site plan and shall determine whether the record supports the action taken. No new evidence shall be presented. The Zoning Board of Appeals shall approve the final site plan if the requirements of this Section and other applicable ordinance requirements are met. The Zoning Board of Appeals shall make written findings in support of its opinion on the appeal.

25.20 PLOT PLANS IN LIEU OF A SITE PLAN

A. The Zoning Administrator may accept a plot plan in specific instances upon determining a complete site plan is not considered essential to ensure compliance with the intent and standards of this Ordinance.

B. A plot plan may be permitted for the following uses, when permitted in the zoning district:

1. Group Day Care Homes.
2. Essential Services Buildings.
3. Home Occupations.
4. Two-family Dwellings.
5. Accessory Open Air Businesses.
6. Accessory Buildings and Structures.
7. Outdoor Recreational Facilities, not including Commercial Campgrounds.

8. Temporary Uses and Seasonal Sales Activities.
9. Bed and Breakfast Establishments.
10. Dog Kennels

C. Plot plan submittals shall include the following:

1. Application form and fee.
2. Name, address and phone number of the applicant.
3. North arrow.
4. Legal description of the property.
5. A plan drawn to scale.
6. Property lines and dimensions.
7. Existing and proposed parking including the number of spaces provided and the number required according to Section 34.00, Off Street Paring and Loading. If changes are made to the parking area, a detail of the pavement, storm water runoff calculations and a description of detentions methods shall be provided.
8. Details of any existing, new, or changes to driveways.
9. Location and details of existing or proposed signage.
10. General illustration of existing or proposed landscaping.
11. Layout of existing or proposed utilities.
12. Layout of existing or proposed drainage.
13. Floor plan of the building under consideration and building elevations if applicable.
14. Any other items as requested by the Zoning Administrator.

25.21 SPECIAL USE PERMIT APPLICATION REQUIREMENTS:

A public hearing shall be required for all special use applications. When an application has been filed in proper form and with the required data, the Zoning Administrator shall immediately place the said application upon the calendar for the hearing and cause notices stating the time, place and object of the hearing to be served.

One (1) notice that said hearing is to be held shall be published in a newspaper that circulates in the Township and shall be served personally or by mail not less than fifteen (15) days prior to the day of such hearing, upon the applicant, or the appellant, the Zoning Administrator and all persons assessed for any real property within three hundred (300) feet, and to the occupants of any structure within three hundred (300) feet of the premises in question. Such notices shall be served personally or by regular mail, addressed to the respective owners and tenants at the address given in the last assessment roll. If the name of the occupant is unknown, the term "occupant" may be used in making notification. Any party may appear at such hearings in person or by agent or by attorney.

25.22 ADDITIONAL CONDITIONS OF SPECIAL USES.

A. BED AND BREAKFAST ESTABLISHMENTS.

1. Statement of Intent. It is the intent of this Section to establish reasonable standards for Bed and Breakfast Establishments to assure that:

- a. The property is suitable for transient lodging facilities.
- b. The use is compatible with other uses in the residential and agricultural districts.
- c. Residential and agricultural lands shall not be subject to increased trespass.

d. The impact of the establishment is no greater than that of a private home with house guests.

2. Minimum Requirements. The following requirements for Bed and Breakfast Establishments together with any other applicable requirements of this Ordinance shall be complied with:

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

B. Sexually Oriented Businesses.

1. INTENT:

Sexually oriented businesses require special supervision in order to protect and preserve the health, safety, and welfare of the patrons of such business as well as the citizens of the communities where they are located.

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

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

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

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

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

2. PURPOSE:

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

3. DEFINITIONS:

- a. ADULT BOOKSTORE OR ADULT VIDEO STORE means a commercial establishment, which, as one of its principal business purposes, offers for sale or rental one or more of the following:
 - 1. books, magazines, periodicals or other printed matter, photographs, film, motion pictures, video cassettes or video reproductions, slides, or other visual

- representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or
2. instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and may still be categorized as ADULT BOOKSTORE or ADULT VIDEO STORE. The sale or rental of those items described in subparagraphs (a) and (b) above shall be deemed to constitute a principal business if it comprises 50% or more of sales volume or display area of visible inventory within the establishment.

For purposes of this section 25.20B the sales volume will mean – the total amount of sales in a six (6) month period. Thus, if more than 50% of the total sales comes from sexually oriented items, then it will be considered an adult bookstore or adult video store;

$$\frac{\text{Sales of Sexually Oriented Items}}{\text{Total Sales}} = \frac{\text{Sales Volume of Sexually Oriented Items}}{\text{Total Sales}}$$

Display Area – For purposes of this section 25.20B the display area shall comprise the area utilized for the display of merchandise and/or inventory including, but not limited to, the surface areas of wall displays.

$$\frac{\text{Sexually Oriented Items Display Area}}{\text{Total Display Area}} = \frac{\text{Display Area of Sexually Oriented Items}}{\text{Total Display Area}}$$

- b. ADULT ENTERTAINMENT ESTABLISHMENT means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances presented for the enjoyment of the audience which has paid or promised to pay an admission fee and which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."
- c. ADULT MINI-THEATER means a commercial establishment where, for any form of consideration, in an enclosed area with a capacity of less than ten (10) persons, films, motion pictures, videocassettes, slides, or similar photographic reproductions are shown which are characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas."
- d. D. ADULT MOTEL means a hotel, motel or similar commercial establishment which:
1. offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right of way which advertises the availability of the adult type of photographic reproductions; or

2. (b) offers sleeping rooms for _____ rent for a period of time that is less than twenty-four (24) hours.
- e. ADULT MOTION PICTURE THEATER means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."
- f. ESCORT means a person who, for a fee, tip, or other consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
- g. ESCORT AGENCY means a person or business association who furnishes, offers to furnish, or advertises to furnish, escorts as one of its primary business purposes for a fee, tip, or other consideration.
- h. ESTABLISHMENT means and includes any of the following:
1. the opening or commencement of any sexually oriented business as a new business;
 2. the conversion of an existing business to any sexually oriented business;
 3. the additions of any sexually oriented business to any other existing sexually oriented business; or
 4. the relocation of any sexually oriented business.
- i. PERMITTEE means a person to whom a permit to operate a sexually oriented business has been issued, as well as, the individual listed as an applicant on the application for a permit.
- j. PERMIT means a special use permit for the operation of a sexually oriented business and issued pursuant to this section 25.20 B.
- k. NUDITY or STATE OF NUDITY means the appearance of a human bare buttock, anus, male genitals, female genitals, or female breast without a fully opaque complete covering of the breast below a point immediately above the top of the areola, or human male genitals in a discernible turgid state even if completely and opaquely covered.
- l. PERSON means an individual, proprietorship, partnership, Limited Liability Company, corporation, association, or other legal entity.
- m. SEXUALLY ORIENTED BUSINESS means an adult bookstore or video store, adult entertainment establishment, adult mini-theater, adult motel, adult motion picture theater, escort or escort agency.
- n. SPECIFIED ANATOMICAL AREAS includes:
1. less than completely and opaquely covered human genitals, pubic regions, buttocks and/or female breasts below a point immediately above the top of the areola;
 2. human male genitals in a discernible turgid state even if completely and opaquely covered.
- o. SPECIFIED SEXUAL ACTIVITIES includes:
1. acts of human masturbation, sexual intercourse, or sodomy;
 2. fondling or other erotic touching of human genitals, pubic regions, buttocks, or female breasts;
 3. human genital in a state of sexual stimulation or arousal.

- p. TRANSFER OF OWNERSHIP OR CONTROL of a sexually oriented business means and includes any of the following:

1. the sale, lease, or sublease of a business;
2. controlling interest in the business, whether by sale, exchange, or similar means;
3. the establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon death of the person possessing the ownership or control.

4. SPECIAL LAND USE PERMIT REQUIREMENTS: In addition to the requirement for Site Plan Review (Article XXV).

- A. It shall be unlawful for a person to operate a sexually oriented business without a valid Special Use Permit issued by the Planning Commission.
- B. An application for a permit must be made on a form provided by the Township of Whitewater. The Township of Whitewater must provide the application. A sketch or diagram showing the configuration of the premises, including a statement of display area occupied by the business, must accompany the application. This sketch or diagram need not be professionally prepared if the building is already established in the township, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.
- C. Applications for a permit shall be made and delivered to the Zoning Administrator. The applicant shall be required to give the following information on the application form:
 1. The name, street address, and mailing address, if different, and driver's license number of the applicant if he/she has such a driver's license.
 2. The name, street address, and mailing address, if different, of the owner(s), if different.
 3. The name under which the establishment is to be operated and a general description of the services to be provided.
 4. The telephone number of the establishment or, if unavailable, the applicant's.
 5. The address and legal description of the tract of land on which the establishment is to be located.
 6. All information necessary to answer the requirements in subsection 5(A.).
- D. The fact that a person possesses other types of state or county permits and/or licenses does not exempt him/her from the requirement of obtaining a Special Land Use Permit to run a sexually oriented business from the Township of Whitewater.
- E. The application shall be accompanied by the following:
 1. Payment of the application fee in full;
 2. Proof of current fee simple ownership of the tract of land on which the establishment is to be situated in the form of a copy of the recorded deed, land contract, or other instrument of conveyance;
 3. The lease, purchase contract, purchase option contract, lease option contract or other document(s) evidencing the legally enforceable right of the ownership or proposed by owners of the establishment to have or obtain the use and possession of the tract or portion thereof that is to be used for the

establishment for the purpose of the operation of the establishment, if the persons identified as the fee simple owners(s) of the tract of land in subsection {4. E (2)} are not also the owners of the establishment.

4. A letter from the owner acknowledging the building is to be used for a Sexually Oriented Business, if the applicant is not in fact the owner of the building or tract of land.
 5. Proof of application to Grand Traverse County Health Department, Construction Code, Drain Commission or Department of Environmental Quality or other agency for the required permits, if applicable.
- F. The application shall contain a notarized statement under oath that:
1. The applicant has personal knowledge of the information contained in the application and that the information contained therein and furnished therewith is true and correct; and
 2. The applicant has read the provisions of this Article XXV (Site Plan Review).

5. ISSUANCE OF PERMIT:

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

j. sexual solicitation of a child.

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

- B. The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, and the address of the sexually oriented business. The permit shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.
- C. In the event that the Planning Commission determines that an applicant is not eligible for a permit, the applicant shall be given notice in writing of the reasons for the denial within sixty (60) days of the receipt of a complete application to the Zoning Administrator. The applicant shall have 10 days from the date of the notice to correct the grounds for denial. If the corrections are not made and notice of the corrections are not received in writing to the Township within the 10 days then the denial shall be deemed to be in effect.
- D. An applicant may appeal the decision of the Planning Commission regarding a denial to the Whitewater Township Zoning Board of Appeals by filing a written notice of appeal within twenty-one (21) days after the applicant is provided with notice of the Planning Commission's decision.
- E. The Zoning Administrator may also take all steps necessary to revoke a permit if he/she determines that a permittee gave false or misleading information in the material submitted during the application process.

6. INSPECTION:

An applicant or permittee shall allow the Township Zoning Administrator or his appointed representative to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law at any time it is occupied or open for business.

7. FEES:

An annual fee for a sexually oriented business permit will be assessed. This fee is to be used to pay for the cost of the administration and enforcement of this ordinance. The Township Board will determine this annual fee.

8. ACTION TO REVOKE PERMIT:

The Whitewater Township Board shall take enforcement action, including the commencement of suit seeking revocation of a permit, if any of the following occurs:

- A. A permittee gave false or materially misleading information in the application process.
- B. A permittee has been convicted of using and/or allowing the use of controlled substances within the establishment.
- C. A permittee has been convicted of prostitution or other activity fostering, promoting or otherwise facilitation prostitution, within the establishment or elsewhere.
- D. A permittee or employee of the sexually oriented business has been convicted of any crime of a sexual nature or involving sexual conduct or the solicitation thereof within the establishment or elsewhere.
- E. A permittee has been convicted of knowingly allowing a person under eighteen (18) years of age to enter the establishment.

- F. There has been a transfer of ownership or control of an establishment without the prior consent of the Planning Commission, as required herein.

9. TRANSFER OF PERMIT:

A permittee shall not transfer his permit to another without prior approval of the Planning Commission, nor shall a permittee operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application. An application must be completed by the proposed permittee prior to the transfer and reviewed by the Planning Commission for continued compliance with section 25.20B.

10. LOCATION RESTRICTIONS:

- A. A sexually oriented business may not be operated within 750 feet of:
1. a church, synagogue or regular place of religious worship;
 2. a public or private elementary or secondary school;
 3. a boundary of any residential zoned district or any residential structure within or without a zoned area;
 4. a boundary of a public park;
 5. a boundary of a licensed day-care center; and/or
 6. another sexually oriented business.
- B. A sexually oriented business may not be operated in the same building, structure, or portion thereof, containing another sexually oriented business.
- C. For the purpose of this Ordinance, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted to the nearest property line of the premises of a church, synagogue, regular place of worship, or public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district, or licensed day-care center or residential structure in a non-residential district.
- D. For purposes of subsection {10. C} of this section, the distance between any two sexually oriented businesses shall be made from the closest roofline of the structure in which each business is located.

11. REGULATIONS PERTAINING TO ADULT ENTERTAINMENT ESTABLISHMENTS:

- A. A person who operates or causes to be operated an adult entertainment establishment which presents live entertainment for the enjoyment of an audience which has paid or promised to pay an admission fee and which depicts specified sexual activities or displays specified anatomical areas, shall comply with the following requirements.
1. Upon application for a sexually oriented business permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures (indicating the type of illumination intensity of each such fixture) and designating any portion of the premises in excess of thirty (30) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required, however, each diagram shall

be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises.

2. The application shall be sworn to be true and correct by the applicant.
3. No alteration in the configuration or location of a manager's station may be made without the prior approval the Township Zoning Administrator.
4. It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
5. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
6. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises to ensure that the view area specified in subsection {11. A(5)} remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times, and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection {11 A(1)} of this section.
7. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1.) foot-candle as measured at the floor level.
8. It shall be the duty of the owners and operator and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described above is maintained at all times that any patron is present in the premises.
9. The premises shall meet all barrier free requirements and building code requirements imposed by the County Building and Inspections Department.

12. EXTERIOR PORTIONS OF SEXUALLY ORIENTED BUSINESSES:

- A. It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from a point that is outside the establishment.
- B. It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have any words, lettering, photographs, silhouettes, drawing, or pictorial representations of a

sexual or explicit manner except to the extent otherwise permitted by the provisions of this Ordinance.

- C. Proposed signage shall not include animated or flashing illumination of any type and otherwise conforms to the requirements of Township Zoning Ordinance Article XXX (Signs). Proposed signage may contain only the name of the sexually oriented business and shall not include photographs, silhouettes, 2drawings, or pictorial representations of any type.
- D. All off-street parking areas shall be illuminated during all hours of operation in accordance with Article XXIX (Exterior Lighting Regulations) of the Whitewater Township Zoning Ordinance and shall otherwise be open to view from the adjacent roadway.
- E. A sexually oriented business may not have outside speakers on the exterior of any buildings or anywhere on the outside of their property.

13. PERSONS YOUNGER THAN EIGHTEEN PROHIBITED FROM ENTRY-
ATTENDANT REQUIRED:

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

14. GENERAL AND SPECIFIC REQUIREMENTS:

- A. General requirements: In reviewing an application for special use permit for a sexually oriented business, the Planning Commission shall determine whether the following general standards have been met:
 - 1. that the applicant has met all the requirements for Article XXV (Site Plan Review) which pertain to one's application.
 - 2. that all required information has been provided.
 - 3. That the proposed use conforms to all specific density and setback regulations, etc. of the zoning district and Article XXV section 25.20 B.
 - 4. That the plan for the proposed use meets all applicable written and duly promulgated requirements of Whitewater Township for fire and

enforcement protection, water supply, sewage disposal or treatment, storm drainage and other public facilities and services.

5. That the submitted Landscape Plan complies with this Ordinance.
6. That parking layout will not adversely affect the flow of traffic within the site, or to and from the adjacent streets.
7. That the outdoor storage of garbage and refuse is contained, screened from view and located so as not to be visible from neighboring properties or the adjacent roadways.

B. **Specific requirements:** To operate a sexually oriented business within the boundary of Whitewater Township the following specific requirements must be met and agreed upon by the owner (s), applicant and operators of the sexually oriented business:

1. Hours of operation shall be limited to 10:00 a.m. to 2:00 a.m.
2. The proposed business will not have a detrimental impact upon the property values of properties located within 750 feet of such a proposed sexually oriented business.
3. The proposed sexually oriented business applicant shall have provided an exterior maintenance program to the Township Zoning Administrator, together with its special use permit. The Applicant shall provide for the routine clearing of trash and rubbish from all parking areas and other portions of the premises not less than once-per-week. Continued adherence to such exterior maintenance program shall be a condition to the issuance of any special use permit pursuant to this section.
4. Persons may not reside in a sexually oriented business establishment. It may be allowed by permit only and based on the issuance of a permit on inspection of living arrangements.
5. The Planning Commission may impose such additional conditions and safeguards deemed necessary to mitigate negative secondary effect reasonably documented to emanate from sexually oriented businesses for the protection of the general welfare and individual property rights of affected property owners, and for insuring that the intent and objectives of this Ordinance will be observed. The breach of any condition, safeguard or requirement shall serve as grounds for revocation of the permit, after written notice and an opportunity to be heard.

15. EXEMPTION:

It is a defense to prosecution under this Ordinance that a person appearing in a state of nudity did so in a modeling class operated:

1. by a proprietary school, licensed by the State of Michigan, a college, junior college, or university supported entirely or partly by taxation;
2. by a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

16. NOTICES:

- A. Any notice required or permitted to be given by the Township or other agency under this Ordinance to any applicant, operator or owner of an establishment may be given either by prepaid, return receipt requested, addressed to the most recent

address as specified in the application for the permit, or transfer Application that has been received by the Township, or any notice of address change that has been received by the Township. Notices mailed as above shall be deemed given upon their deposit in the United States Mail. In the event that any notice given by mail is returned by the postal service, the Township shall cause it to be posted at the principal entrance to the establishment.

- B. Any notice required or permitted to be given to the Township by any person under this Ordinance shall not be deemed given until and unless it is received in the principal office of the Township.
- C. It shall be the duty of each owner who is designated on the permit application and each operator to furnish notice to the Township in writing of any change of a residence or mailing address.

17. INJUNCTION:

A person who operates or causes to be operated a sexually oriented business without a valid permit or otherwise violates this Ordinance shall be subject to a suit for injunctive relief and/or revocation of the sexually oriented business permit, as well as fines or other penalties as provided by the Whitewater Township Zoning Ordinance.

18. SEVERABILITY:

If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby.

19. CONFLICTING ORDINANCES REPEALED

To the extent that any conflict or inconsistency may arise between the provisions of the sexually oriented business Ordinance and other provisions of the Township Zoning Ordinance, the provisions of the Ordinance shall control.

(C) Special Use provisions for Major Home Occupations Revised by ZO Amendment #81
Minimum Requirements: Effective 11/11/2021

1. At no time shall the number of vehicles on site impose a negative impact on adjacent uses. Frequent shipments or deliveries by vehicles having more than two drive axles are prohibited.
2. The occupation may offer for sale any article or service provided that the sale of any articles or services shall not have a negative impact on the surrounding areas with regard to noise, light, odors, etc.
3. Hours of operation shall be stipulated by the Planning Commission.
4. Signage size and number(s) shall be determined by the Planning Commission.
5. Home Occupations shall only be permitted when endorsed by the property owner (if applicant is not the property owner). All application materials, site/plot plans and final conditions shall be authorized by the property owner.
6. Such other conditions as may be determined by the Planning Commission.

D. Commercial Campgrounds.

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

26.00

ARTICLE XXVI

(RESERVED FOR FUTURE USE)

27.00

ARTICLE XXVII
(Effective 11/27/2019)

(RESERVED FOR FUTURE USE)

ARTICLE XXVIII
CONDOMINIUM DEVELOPMENT REGULATIONS
(Effective March 28, 2021)

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 development shall be approved or disapproved by the Township.

28.11 APPLICABILITY

A. 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 development in the Township.

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

C. Plat Approval

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

D. 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 may, as the Zoning Administrator and Planning Commission deem necessary, charge for consultation with the Township Attorney and other experts, regarding the adequacy of the master deed, deed restrictions, utility systems, and streets, site layout and design, and compliance with all requirements of the Condominium Act and this Ordinance. All reasonable costs related to said consultation, as established by the Township, shall be placed in escrow with the Township by the applicant prior to review in addition to the standard nonrefundable application fee.

At any point during the review process, the Township may require that the applicant place additional funds with the Township to cover consultations deemed necessary to complete the review process. If consultation funds are not provided promptly, all reviews shall cease until funds are made available to continue. Any unused consultation funds remaining after the Township completes its review shall be returned to the applicant with a line item record of distributions.

28.13 GENERAL REQUIREMENTS

A. Compliance with Federal, State and Local Laws

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

B. Fee Required

Before the Township reviews a condominium development plan, the applicant shall submit to the Township a nonrefundable application fee **or preliminary review fee** as established by resolution of the Board to cover the Township's cost of **internal** review. Such application fee shall be independent of any required consultation costs as described in Section 28.12.

C. Information Required

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

1. Size and Scale - Plans may be on paper and shall not be less than 24 inches by 36 inches, at a scale of at least 1 inch to 200 feet showing the date and north arrow.
2. The name of the proposed condominium development.
3. The name, address, telephone number of:
 - a. All persons, firms, or corporations with an ownership interest in the land on which the condominium development will be located and a description of the nature of each entity's interest (for example, fee owner, optionee, or land contract vendee)
 - b. All engineers, attorneys, architects, landscape architects, or registered land surveyors associated with the condominium development.
 - c. The individual or entity applying for the condominium development.
4. The legal description of the land on which the condominium development will be developed together with any expansion plans and appropriate tax identification numbers.
5. The acreage of the land on which the condominium development will be developed.
6. The land use and existing zoning of the proposed condominium development.
7. The following information for subject parcel and all parcels within 300 feet of the proposed site:
 - a. Name and address of the owners
 - b. The zoning classifications
 - c. Existing structures or significant land marks
8. Location, type, dimensions and proposed use of all existing structures.
9. A location map showing the relationship of the proposed plan to the surrounding area.
10. Statement of intended use(s). Such as, residential single-family, residential multi-family, commercial, industrial, etc. and the number of acres of each type of land use proposed.
11. Condominium lot lines and the total number of condominium units to be developed on the subject parcel.
12. Description of water system to be provided.
13. Description of sanitary waste disposal system to be provided.
14. Right-of-way easements, showing location, width, and purpose.
15. Existing topographic elevations at two (2) foot intervals, proposed grades and direction of drainage flows.

16. Location and types of all significant existing vegetation, water courses and bodies, flood plains and water retention areas, wetlands, and soil types.
17. Any additional information required during site plan review

D. 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.

E. Performance Guarantees

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

28.14 MOBILE HOME CONDOMINIUM DEVELOPMENTS

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 DEVELOPMENTS

A. Condominium Lots

The Condominium Development Plan shall indicate specific parcel dimensions 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 “condominium lots”.

B. Condominium Development Layout and Design

The description, size, location and arrangement of the site condominium lots shall conform to the requirements of this Ordinance. The design of a condominium development shall be subject to the following requirements. 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 Planning Commission.

1. 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 setback requirements of a dwelling unit or structures are subject to the zoning district in which it is located.
2. Each condominium dwelling unit shall be located within a condominium lot. In a condominium development containing single-family detached dwelling units, not more than one (1) dwelling unit shall be located on a condominium lot.
3. The condominium lots size and required setbacks shall be measured from the designated front, rear and side condominium lot lines.
4. There shall be a proper relationship between existing streets and highways within the vicinity, and proposed deceleration lanes, service drives, entrance and exit driveways, and parking areas to assure the safety and convenience of pedestrian and vehicular traffic, and that the proposed streets and access plan conform to any street or access plan adopted by the Township or the County Road Commission.

5. Existing natural features which add value to a residential development and enhance the attractiveness of the community shall be retained, insofar as possible, in the design of the subdivision.
6. Lands subject to flooding or otherwise deemed by the Township to be uninhabitable shall not be used for uses that may increase the danger to health, life, or property or increase the flood hazard. Such land within a condominium development may be set aside for other uses, such as parks or other open space.
7. Easements shall provide for utilities when necessary.
8. All condominium development units shall be accessible to emergency vehicles.
9. Common open space provided shall remain open for recreational and conservational purposes, and recorded as part of the master deed.
10. Condominium development units having water frontage shall meet the requirements of Article 14 Easement to Waterfront.
11. A plan for erosion control and storm water discharge must be approved by the appropriate public agency.
12. All condominium developments shall obtain approval from all applicable governing agencies.

28.16 REVIEW PROCEDURES

A. Preliminary Review

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

B. Agency Submittal

The applicant shall provide copies of the proposed condominium development 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, and Road Commission (or Michigan Department of Transportation if proposed on a state highway), as well as the Michigan Department of Environment, Great Lakes, and Energy (when sensitive areas and wetlands are a concern), and the Whitewater Township Fire Department or the respective successor for any of the above agencies. Four (4) hard copies and a digital print shall also be provided to the Whitewater Township. The Zoning Administrator shall distribute the proposed condominium development plans to the Planning Commission and Board of Trustees for review.

C. Public Hearing

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

D. Planning Commission Determination

After preceding with the **Article 25, 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 development plan and shall send written notice of action taken with comments to the Township Board and applicant.

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

E. Township Board Procedure

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

The Township Board shall consider the condominium development plan at its next meeting after receipt of the report and recommendations from the Planning Commission provided all documents are received 15 days prior to meeting date. The Board shall render a written decision within 15 days of their meeting unless the applicant and Board agree to a later deadline.

F. Township Board Determination

The Township Board shall approve the condominium development plan, with or without conditions, reject the plan and give its reasons, table the proceedings pending further review or pending changes to the plan to make it acceptable to the Board, or refer that application back to the Planning Commission for further review and report.

28.17 CONDITIONS AND DURATION OF APPROVAL

A. Conditions

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

B. Duration

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

C. Condominium Development Plan Approval Contract

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

28.18 FINAL FILINGS REQUIREMENTS

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

28.19 CONDOMINIUM DEVELOPMENT AMENDMENTS

Condominium Development Plans may be amended as follows:

A. Minor Amendments

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

B. Major Amendments.

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

29.00**ARTICLE XXIX****EXTERIOR LIGHTING REGULATIONS****29.10 DECLARATION OF POLICY AND INTENT:**

The Whitewater Township Board of Trustees finds and declares that the naturally lit night sky is an important aspect of our environment and a resource which contributes significantly to our quality of life by contributing to the public peace and to the health, safety and welfare of the residents of Whitewater Township and to its visitors, that to preserve and protect this resource it is necessary, essential, a public purpose and municipal affair for the Township to regulate the use of outdoor light fixtures to minimize light pollution which has a detrimental effect on the environment, astronomical research, amateur astronomy, and general enjoyment of the night sky, and causes unnecessary and/or unwanted illumination of adjacent and even distant properties; that it is in the public interest to conserve electrical energy; and that is in the public interest to protect vehicular and pedestrian traffic from dangerous glare and light pollution in the night sky.

29.11 DEFINITIONS:

(1) Automatic Timing Device: a device which automatically turns on and off outdoor light fixtures or circuits. Photo-electric controls and motion detectors are not considered automatic timing devices for the purposes of this Article.

(2) Light Pollution: artificial light which causes a detrimental effect on the environment, astronomical observation, enjoyment of the naturally illuminated night sky or causes undesirable glare or unnecessary and/or unwanted illumination of adjacent or even distant properties.

(3) Outdoor Light Fixture: an illuminating device which is permanently installed outdoors, including, but not limited to, devices used to illuminate signs.

(4) Cut-off Shielding: a technique or method of construction which causes light emitted from an outdoor light fixture to be projected only below and imaginary horizontal plane passing through the fixture below the light source.

(5) Shielding: in general, a permanently installed, non-translucent shade, cowl, hood, baffle or other construction which limits, restricts or directs light or the visibility of a light source to meet the standards of this Article.

(6) Security Lighting: such lighting fixtures and/or practices intended to discourage intrusion on the premises by unwanted persons.

(7) Yard Lighting: such lighting fixtures and/or practices intended for the convenience, enjoyment and safety of a property owner or tenant or guest.

(8) Light Source: the bulb which creates the light.

(9) Motion Detector: a device triggered by motion and used to energize incandescent lights.

29.12 STANDARDS:

A. Commercial and Industrial Zones and Land Uses:

All outdoor light fixtures and lighting practices shall conform with either standard No. 1 or No. 2 and with all of the remaining standards in this subsection:

- (1) All outdoor light fixtures shall have full cut-off shielding such that no light is emitted above an imaginary horizontal plane passing through the fixture below the light source regardless of type or wattage, EXCEPT for gas lighting, glass tubes filled with Neon, Argon or Krypton, and small decorative fixtures such as porch lights.
- (2) Baffles or shields shall be required as needed so that light sources are not visible beyond the property on which they are installed, so that direct light rays are not directed above a horizontal plane passing through the fixture, and also so that vehicular and pedestrian traffic are protected from unnecessary and dangerous glare and from the intense light of directly visible light sources.
- (3) Exterior lighting should be designed and installed to conserve electrical energy by:
 - a. using fixtures with good optical control to distribute light in the most effective and efficient manner.
 - b. using the minimum amount of light to meet the lighting criteria for safety and visibility.
 - c. using low pressure sodium outdoor light fixtures where required and wherever else feasible.
 - d. energizing light fixtures only when necessary by means of automatic timing devices and through the use of motion detection devices on security lighting.
 - e. requiring that certain outdoor light fixtures be turned off between 11:00 p.m. and sunrise.
- (4) Sodium light sources shall be used for street lighting, parking lot lighting, and for security lighting when such security lighting is not to be energized by motion detection devices. Where feasible, low-pressure sodium lighting is to be encouraged.
- (5) All outdoor recreational facilities, including but not limited to tennis courts, baseball, football and softball fields, ski runs and trails, golf courses and driving ranges, shall be illuminated with fixtures equipped with full cut-off shielding as needed to direct and restrict light to the playing surface and playing air space as well as the immediate surrounding area and to eliminate glare in the night sky insofar as possible as well as unnecessarily reflected light in the immediate vicinity or on adjacent property.

(6) Floodlights shall be directed downward, shielded as necessary so that the light source is not visible from roads or adjacent property, and located and directed so that light is neither unnecessarily reflected onto adjacent property or into the night sky.

(7) In addition to fixture design and shielding, architectural and landscape design features may be incorporated into an outdoor lighting plan to meet the requirements and comply with the intent of this Article.

B. Residential and Recreational Zones and Land Uses:

All outdoor light fixtures and lighting practices shall conform with the following standards:

(1) All outdoor fixtures shall have full cut-off shielding such that no light is emitted above an imaginary horizontal plane passing through the fixture below the light source regardless of type or wattage, EXCEPT for gas lighting, glass tubes filled with Neon, Argon or Krypton, and small decorative fixtures such as porch lights.

29.13 REQUIREMENTS, LIMITATIONS AND PROHIBITIONS:

A. Commercial and Industrial Zones and Land Uses:

(1) Searchlights, lasers or other high-intensity light designed primarily to light the sky for advertising or entertainment purposes are prohibited as being contrary to the express intent of this Article.

(2) Off-premises advertising signs, if permitted, shall not be illuminated externally or internally unless expressly allowed as a condition of site plan approval.

(3) Advertising signs shall not be illuminated between one (1) hour after the close of business and one (1) hour before the opening of business on the following day except by special permission granted as a condition of site plan approval. All fixtures or circuits illuminating advertising signs shall be equipped with automatic timing device. If externally illuminated, all advertising, billboards, advertising kiosks and information boards shall be illuminated from the top downward with full cut-off shielding and such other shielding to direct the light on the sign or structure face only and shield the light source from view of vehicular and pedestrian traffic and adjacent property. If illuminated from the interior, signs, billboards, advertising kiosks and information boards, with the exception of theater marquee-type signs, shall have a dark background with lighter colored translucent (not transparent) lettering, logos and designs. Signs shall not incorporate any flashing or moving lights except as permitted under Article XXX, Sign Regulations.

(4) Quartz and mercury vapor lighting are prohibited because of the broad spectrum of visible light which these sources emit and because of the diffusive and reflective character of such light.

(5) All parking lots in Commercial and Industrial zones shall be illuminated only when in use during regular business hours and thereafter only until the public and employees have left the premises. Approved security lighting will be permitted.

(6) Entrance and traffic marker lights along access roads and drives, in parking lots and along pedestrian ways shall be sodium type and equipped with full cut-off shielding as well as shielding to keep the light source out of view of vehicular and pedestrian traffic.

(7) The use of non-conforming bulbs and fixtures in Commercial and Industrial zones shall not be permitted land use.

(8) Outdoor display areas including but not limited to automobile or equipment dealer display or storage lots may be illuminated during the hours the business is open to the public or until 11:00 p.m. Metal halide light sources may be used provided such fixtures are equipped with full cut-off shielding and project only the minimum amount of light necessary for good visibility.

(9) Lighting of building facades shall be from the top and directed downward with full cut-off shielding and additional shielding to keep the light source from the view of vehicular and pedestrian traffic and adjacent property.

(10) Security lighting shall be directed away from and/or shielded from road traffic and adjacent properties.

B. Residential and Recreational Zones and Land Uses:

(1) Residential security lighting shall be energized by motion detectors unless otherwise permitted as a condition of site plan or plot plan approval. Security lighting shall be directed away from and/or shielded from road traffic and adjacent properties.

(2) Residential yard lights shall be a sodium light source in a fixture with full cut-off shielding.

(3) Quartz and mercury vapor lighting are prohibited because of the broad spectrum of visible light which these sources emit and because of the diffusive and reflective character of such light.

29.14 APPROVED MATERIALS:

A. The provisions of this Article are not intended to prevent the use of any design, material or method of installation, even if not specifically prescribed by this Article, provided that such alternate has been approved by the Planning Commission and meets or exceeds the Illuminating Engineers Society (EIS) standards.

29.15 EXEMPTIONS:

The following uses and activities shall be exempt from these Exterior Lighting Regulations:

(1) Emergency equipment.

(2) Holiday decorations, provided that such decorative exterior lighting shall not include search lights, flood lights, stroboscopic lights, or lights which create glare or distractions potentially dangerous to vehicular or pedestrian traffic, or lights which create unnecessary and unwanted glare in the night sky.

(3) All outdoor light fixtures producing light directly by the combustion of fossil fuels, such as kerosene lanterns or gas lamps, are exempt from the requirements of this Article.

(4) Voluntary compliance with the intent of this Article at any facility exempt from this Article is encouraged.

29.16 RELIEF FROM EXTERIOR LIGHTING REGULATIONS:

Applications for relief from the regulations of this article may be made to the Whitewater Township Zoning Board of Appeals. Any ruling granting relief shall contain all conditions upon which said permit has been granted, including, but not limited to, the effective dates, times, locations and specifications of the lighting fixtures and plan permitted.

29.17 CONFLICTS:

Where any provision of the statutes, codes or laws of the United States of America or the State of Michigan or the County of Grand Traverse conflict with any of the provisions of this Article, the most restrictive shall apply unless otherwise required by law.

29.18 VIOLATION AND ENFORCEMENT:

(1) It shall be unlawful for any person to violate any of the provisions of this Article.

(2) Any person who shall violate any provision of this Article shall be subject to the penalties specified under Article XXI of this Ordinance.

(3) The Zoning Administrator or his agent is hereby empowered to enforce this Article.

(4) The Zoning Administrator or his agent shall notify each applicant for a Land Use Permit that compliance with the provisions and regulations of this Article is a condition of such Land User Permit.

29.19 SEVERABILITY:

If any provision, clause, sentence, sub-sentence, paragraph, section or part of this Article be adjudged by any court of competent jurisdiction to be invalid, such judgement shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the provision, clause, sentence, sub-sentence, paragraph, section or part thereof directly involved in the controversy in which said judgement shall have been rendered.

ARTICLE XXX

SIGN REGULATIONS

30.10 General Provisions

30.11 Purpose and Intent

A. Safety. Promote the safety of persons and property by providing that signs:

1. Do not create traffic hazards by distracting or confusing motorists, impairing motorists' ability to see pedestrians, other vehicles, obstacles, or to read traffic signs.
2. Do not create a hazard due to collapse, fire, collision, decay or abandonment.
3. Do promote the aesthetics, safety, health, and general welfare and the assurance of protection of adequate light and air within said township by regulation of the posting, displaying, erection, use and maintenance of signs.

B. Public welfare. Protect the public welfare and enhance the overall appearance and economic value to the landscape and preserve the unique natural environment that distinguishes the township. It is also acknowledged that the township economic well being is heavily dependent upon the resort and tourism industry. This dependence makes the preservation of the environment from unreasonable signage a matter of critical importance to the township.

30.12 Applicability

This Article shall apply to all persons, firms, partnerships, associations, and corporations owning, occupying or having control or management of any premises located within the Township of Whitewater.

30.13 Conflict With Other Laws

In any case where a provision of this Article is found to be in conflict with a provision of any Zoning, Building, Housing, Fire, Safety or Health Article or Ordinance or Code of Whitewater Township existing on the effective date of this Article, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail. In any case where a provision of any other Article, Ordinance or Code of Whitewater Township existing on the effective date of this Article establishes a lower standard for the promotion and protection of the people, the provisions of this Article shall be deemed to prevail, and such other Articles, Ordinances or Codes are hereby declared to be repealed to the extent that they may be found in conflict with this Article.

30.14 Definitions

The following definitions will apply in the interpretation, administration and enforcement of this Article:

"Agricultural Premises" shall mean premises used or occupied for the cultivation of field crops, truck crops, nurseries, orchards, green houses, woodlots, pastures, husbandry of livestock, poultry or small animals, or any activities of a similar nature.

"Commercial Premises" shall mean premises used or occupied for transportation, retail sales or service businesses; wholesale sales facilities; apartment hotels, tourist homes or motels; or commercial recreation.

"Construction Sign" shall mean a sign erected at a construction site identifying the architects, engineers, contractors or other parties responsible for a project, or identifying the intended purposes or uses of the building.

"Development Entry Sign" shall mean a sign which identifies the name of a residential development or the developer or the type of residential structures included in the development, and which is harmonious in appearance with that of the vicinity.

"Directional Sign" shall mean a sign identifying the exit(s) and entrance(s) of premises, and containing only the name or logo of the premises or information directional thereto.

"Free Standing Sign" shall mean a sign the principal support of which is independent of any building.

"Height of Sign", except where otherwise defined in this Article, shall mean the maximum vertical distance from the uppermost extremity of a sign or sign support to the average ground level at the base of the sign.

"Indirectly Illuminated" shall mean illuminated from an exterior light source.

"Institutional Premises" shall be interpreted to include such premises or portions thereof upon which is situated a public utility or other publicly owned, operated, or administered facility, any public, private or commercial vocational school, a cultural facility, including a museum, art gallery, library or auditorium, or a religious or charitable facility.

"Major Street" shall mean Regional Arterial, Local Arterial, Principal Collectors, or Secondary Collectors Route.

"Multiple Family Residential Premises" shall mean premises used or occupied as residences for three or more families or as group housing.

"Off-premises Sign" shall mean a sign which directs attention to a use, business, commodity, service or activity not conducted, sold or offered upon the premises where the sign is located.

"On-premises Sign" shall mean a sign which identifies the occupant of the premises or relates solely to the use, business or profession conducted, or to a principal commodity, service or entertainment sold, offered, or provided upon the premises.

"Political Sign" shall mean a sign relating to the election of a person or persons to public office or relating to a political party or relating to a matter to be voted upon at an election called by a public body.

"Pole sign" shall mean a type of freestanding sign that is elevated above the ground on a pole.

"Portable Sign" shall mean any sign which by its description or nature may be or is intended to be moved from one location to another.

"Premises" shall mean a unit of contiguous real property under common ownership.

"Projecting Sign" shall mean any sign attached to a building which extends more than twelve (12) inches beyond any vertical surface of the building which supports it.

"Real Estate Sign" shall mean a sign advertising the sale, rental, or lease of the premises or part of the premises on which the sign is displayed.

"Recreational Premises" shall mean premises used or occupied for recreational purposes, including parks, play areas, indoor or outdoor swimming pools, bathing beaches, boating and fishing areas, winter recreational areas, nature study areas, community halls and fairgrounds.

"Roof Sign" shall mean any sign which is attached to a building and any part of which extends above either the top line of the building silhouette or any portion of the roof surface.

"Sign" shall mean any name, identification, description, display, illustration, surface or device which is affixed to, painted on, or otherwise represented directly or indirectly upon a building, structure, or land which bears any inscription, notice, motto or design, or which directs attention to an object, product, place, activity, person, institution, organization, or business and which is visible from a public street, right-of-way, sidewalk, alley, park or other area open to the public.

"Surface Display Area" of a sign shall mean the area expressed in square feet, within a single continuous rectilinear perimeter of straight lines enclosing the extreme limits of writing, representations, emblems or figures of a similar character together with all material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, provided that:

1. In the case of a sign designed with more than one (1) exterior face, the area shall be computed as including only the maximum single displayed surface which is visible from any ground position.
2. The supports, uprights, or structure on which any sign is supported shall not be included in determining the surface display area unless such supports, uprights or structure is designed in such a manner as to form an integral background of the display.

3. The areas of lamps, neon tubing or artificial illumination on walls of any structure shall be counted as part of the total allowable sign area.

"Temporary Sign" shall mean a sign not constructed or intended for long term use. Examples of temporary signs include signs which announce a coming attraction, a sale or bargain, a community or civic project or other special events that occur for a limited period of time.

"Wall Sign" shall mean a sign which is attached directly to, or painted, or otherwise inscribed upon a building wall.

"Zoning Administrator" shall mean the officer or officers charged, pursuant to this chapter, with the administration and enforcement of this ordinance and/or his duly appointed deputies, agents, employees, and inspectors.

30.15 Signs Permitted - Single-Family and Two-Family Structures

- A. On premises used or occupied as a single-family or two-family residence there shall be permitted one (1) indirectly illuminated wall sign not to exceed four (4) square foot in surface display area.
- B. On single-family or two-family development premises (subdivisions, condominiums, or apartment developments) there shall be permitted one (1) indirectly illuminated development entry wall sign or free standing sign at each entrance of a subdivision. Free standing signs shall be set back so that the face of the sign is not less than fifteen (15) feet from the nearest existing right of way and shall not exceed five (5) feet in height. The surface display area of such sign shall not exceed thirty-two (32) square feet.

30.16 Signs Permitted - Multiple-Family Residences

On multiple-family residence premises there shall be permitted indirectly illuminated on-premise wall sign(s) or on-premise free standing development entry signs(s). The aggregate area of such sign(s) shall not exceed two (2) square feet of surface display area. Free standing signs shall not exceed five (5) feet in height and shall be set back at least fifteen (15) feet from the nearest existing right of way.

30.17 Signs Permitted - Commercial and Industrial

A. Individual Development Signs allowed:

1. Wall signs. One or more on-premise wall sign(s) with an aggregate surface display area not to exceed one (1) square foot per two (2) foot of building frontage.
2. Free standing signs. One (1) on-premises free standing sign, directly or indirectly illuminated, shall be permitted. Corner premises shall be permitted one (1) free-standing on-premises sign on each major street frontage. Such signs may be multi-faced but shall not exceed forty-five (45) square feet in

surface display area per face and shall be set back fifteen (15) feet from the nearest existing right of way. Pole signs shall have a maximum height of twenty (20) feet.

3. Directional signs. Each premise shall be permitted one (1) directional sign located immediately adjacent to each exit, entrance or change of direction of vehicular or pedestrian travel. The sign shall not exceed five (5) feet in height and shall not exceed four (4) square feet per side. The sign may be directly or indirectly illuminated.

B. Multi-Tenant Identification Signs

1. One (1) on-premise free-standing sign. The sign may not exceed ten (10) feet in height measured from the grade at the property line or the predominant grade of the property area including berms, and must be set back fifteen (15) feet from the nearest existing right of way. Such signs may be multi-faced and may not exceed sixty (60) square feet in surface display area per face.

2. One (1) on-premise wall sign per each individual user with an aggregate surface display area not to exceed twenty (20) square feet of surface display area.

30.18 Signs Permitted - Agricultural; Recreational; Institutional Premises:

A. Agricultural Premises: On agricultural premises there shall be permitted wall or free standing on-premises signs not to exceed sixty (60) square feet in surface display area in the aggregate and no one sign to exceed thirty-two (32) square feet of surface display area. Such signs shall not exceed ten (10) feet in height. The signs shall be located at the entranceway of a structure or facility on the premises and shall not be placed in the right of way. Temporary signs shall be removed immediately following the end of the appropriate season.

B. Recreational and Institutional Premises: On recreational or institutional premises there shall be permitted a total of five (5) indirectly illuminated wall or free standing on-premises signs not to exceed fifty (50) square feet in surface display area in the aggregate and no one sign to exceed thirty-two (32) square feet of surface display area. Such signs shall not exceed ten (10) feet in height. The signs shall be located at the entranceway of a structure or facility on the premises and shall be set back at least twelve (12) feet from the nearest existing right of way.

30.19 Temporary Signs.

The following temporary signs shall be permitted in accordance with the regulations herein.

A. Grand Opening Sign

A new business, as part of its start-up phase, may use a temporary sign for up to forty-five (45) days, not to exceed thirty-two (32) square feet.

B. Portable Sign/Banner Sign

One (1) portable sign/banner sign is permitted in the C-1 district per premise at any given time, but in no case shall it remain in place for six (6) non-consecutive

fourteen (14) day periods per calendar year, not to exceed thirty-two (32) square feet.

C. Civic and Charity Signs

Permission for civic and charity events shall be permitted by the Planning/Zoning Administrator.

30.20 Temporary Off-Site Sign(s) for Advertising the Sale of Agricultural Products including Agritourism.

Up to four (4) temporary, off-premise, way-finding signs may shall be permitted that direct travelers to seasonal sales of agricultural products and related activities. Said signs shall conform with all state and county regulations and shall be placed on private property with permission from the property owner(s).

Signs shall not exceed thirty-two (32) square feet each. Signs shall be removed immediately following the end of the appropriate season.

Temporary Off-Premise Agricultural Signage shall not be counted against the hosting property owners.

All signs shall bear the name, address and telephone number of the sign owner.

30.21 Signs Not Regulated.

The following signs, except as in this Article expressly included, shall be excluded from the requirements of this Article except as otherwise noted and shall not require permits for construction.

A. One (1) wall sign or one (1) ground sign not exceeding four (4) square foot in surface display area to designate an assigned house number or building name. Such signs shall not be counted in the total sign area permitted on the premises. Such signs in excess of one (1) square foot in surface display area may be permitted as part of the total sign display area otherwise permitted under this Article.

B. Any sign, traffic signal or warning device erected or displayed by any public agency, such signs shall not be counted against the number of signs or against the total sign area permitted on the premises in which they are located.

C. Free standing signs or wall signs indicating "No Parking", "Fire Lane", "Entrance" and similar wording when such signs are required to be erected by a public agency. Such signs shall not be counted against the number of signs or against the total sign area permitted on such premises, provided they do not exceed three (3) square feet per sign. No license shall be required for such sign if approved by the Zoning Administrator.

D. Signs existing on the effective date of the adoption of this Article which are maintained by a church, school, community center or other public entity.

E. Vehicle mounted signs which are either painted or permanently attached and denote only the products, business or services offered by the owner of the vehicle.

F. Memorial signs or tablets denoting the name or date of erection of a building when cut into any masonry surface or when constructed of bronze or other incombustible material.

G. Flags bearing the official design of a unit of government, educational institution or civic league or organization, fraternal benefit societies, order or association or any organization operated exclusively for religious, charitable, scientific, literary or educational purposes.

H. Signs not exceeding two (2) square feet which contain only non-commercial messages including designation of restrooms, telephone location or direction of door openings.

I. Seasonal decorations and community event signs which advertise public entertainment or events of public interest, providing the placing of the signs shall be approved and the locations designated by the Zoning Administrator. These signs shall remain in place for not more than twenty-one (21) days before and seven (7) days after the event and may not exceed ten (10) square feet in area.

J. Parking information signs containing only directional information or pedestrian or vehicular warning and control material. Such signs shall have a surface display area not more than three (3) square feet and shall not exceed five (5) feet in height.

K. Parking reservation signs not exceeding one (1) square foot in surface display area and not exceeding three (3) feet in height.

L. One double-faced free standing or wall construction sign with a maximum limit of two (2) signs per premises subject to the height and clearance limitation applicable to said premises for a permanent sign and subject to the following restrictions:

- 1.** Construction signs in a residential district shall not exceed twelve (12) square feet in surface display area per face and shall be set back at least fifteen (15) feet from the nearest existing right of way.

- 2.** Construction signs in all other districts shall not exceed fifty (50) square feet in surface display area and shall be set back at least one (1) foot from the nearest property line.

- 3.** Construction signs shall not be permitted in any district for more than thirty (30) days after issuance of the occupancy permit.

M. Political signs not exceeding three (3) in number per premises and not exceeding six (6) square feet in surface display area or three and one-half (3 1/2) feet in height per sign if not displayed for a period in excess of thirty (30) days prior to, and if removed within two (2) days after the election for which they are erected. All signs shall bear the name, address and telephone number of the person(s) responsible for the sign(s).

N. One (1) wall or free standing real estate sign provided that such signs are removed ten (10) days after the sale, lease, or rental of the property upon which erected, subject to the following further conditions:

1. Real estate signs in residential areas shall not exceed six (6) square feet in surface display area per face and shall not exceed three and one-half (3 1/2) feet in height, and if free standing shall be set back at least fifteen (15) feet from the nearest property line.
2. Real estate signs in commercial areas shall not exceed fifteen (15) square feet in surface display area per face or exceed ten (10) feet in height and if they are free standing shall be set back at least fifteen (15) feet from the nearest existing right of way.

O. Signs maintained by a political subdivision of the State of Michigan.

P. Signs which do not contain any illustration or communicate any message other than time, temperature, barber poles or market quotations.

Q. Development entry signs identifying the name of single and two family residential developments and any development entry sign located adjacent to the public right of way which is located and maintained pursuant to a valid permit authorized by the Township Planning Commission.

R. One wall or free-standing sign identifying a home occupation where permitted which shall not exceed four (4) square feet in surface display area or five (5) feet in height and be of a character in keeping with the neighborhood.

30.22 Signs Prohibited

Unless otherwise permitted by any other provision of this Article no sign shall be constructed, erected, or maintained:

A. Which purports to be, is an imitation of, resembles an official traffic sign or signal which bears the words "Stop", "Go Slow", "Caution", "Danger", "Warning", or similar words used in traffic control.

B. Which by reason of its size, location, context, coloring or manner of illumination may be confused with or construed as a traffic control sign which hides from view any approved traffic or street sign or signal, confuses or misleads traffic, obstructs vision necessary for traffic safety or distracts from visibility of traffic signs.

C. Which consists of posters, pennants, ribbons, streamers, strings of light bulbs, spinners, and elements creating sound except seasonal decorations and community event signs.

D. Which has any visible moving part, visible revolving parts, visible mechanical movement of any description or other apparent visible movement achieved by electrical, electronic or mechanical means, including intermittent electrical pulsations.

E. Signs, other than those described in 30.21(16), which incorporate in any manner any flashing or moving lights.

F. Which is structurally unsafe, constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation or abandonment, is not kept in good repair, and is capable of causing electrical shocks to persons likely to come in contact with it or vehicles colliding with it.

G. Which obstructs the ingress to or egress from a required door, window, fire escape or other required exit way.

H. Which is unlawfully installed, erected or maintained.

I. Which consists or is part of an outdoor merchandise display not screened from public streets or adjacent residential property.

J. Which is a projecting sign.

K. Which is a roof sign.

L. Which is not expressly permitted by this Article or which violates any provision thereof.

M. Which is mounted on a vehicle parked on private property or within a public right-of-way, when such vehicle is parked for the purpose of display.

N. Which is an off premise sign unless otherwise allowed within this Article.

30.23 Existing Signs

Any existing sign on the effective date of this Article or any amendment thereto, which does not at that time comply with all of the provisions thereof including any amendment:

A. Shall not be changed to another type of sign which is not in compliance with this Article.

B. Shall not have any changes made in the words or symbols used or the message displayed on the sign unless the sign is designed for periodic change of message.

C. Shall not be structurally altered so as to prolong the life of the sign, change the shape, size, type or design of the sign.

D. Shall not have its face or faces changed unless the sign is brought into conformance with the requirements of this Article or unless the sign is an off-premises sign or billboard constructed to permit a change of face.

E. Shall not be re-established after the activity, business or usage to which it relates has been discontinued for a period of ninety (90) days or longer, unless the business is of a seasonal nature.

F. Shall not be re-established after damage or destruction if the estimated expense of reconstruction exceeds fifty percent (50%) of the appraised replacement cost as determined by the Zoning Administrator.

G. Shall not be placed, maintained or displayed by anyone other than the person who owned the premises on the date of adoption of this Article.

H. Shall not be placed, maintained or displayed by any person on or after December 31, 1999.

Additional Signage By Special Use

In order to permit creativity in development throughout the Township, the Planning Commission shall have the authority to permit additional signage, including additional square footage, and in general, alternatives to the standard sign permit requirements, by special use under Section 25.20 when an applicant and/or owner submits an application containing a complete sign scheme, addressing all signage proposed on the site and structure(s). Applications for special uses under this section shall also contain, at a minimum, the following information:

- A. A detailed color elevation or such images that show the proposed sign or signs.
- B. A written statement that describes how the sign or signs meets or exceeds the criteria for approval, specifically:
 - i. The sign or signs are consistent with the building and the surrounding uses in terms of architectural compatibility, mass, bulk, quality of materials and overall appearance, with an emphasis on maintaining or improving the existing fabric of the streets and/or neighborhood.
 - ii. Signs shall be constructed in such a manner as to ensure the longevity of the sign and the safety of the general public.

The Planning Commission shall decide applications under this section in accordance with the the following procedures and criteria:

- A. Signage shall be reviewed for consistency with the building and the surrounding uses in terms of architectural compatibility, mass, bulk, quality of materials and overall appearance, with an emphasis on maintaining or improving the existing fabric of the streets and/or neighborhood.
- B. Signs shall otherwise meet the requirements of this Ordinance.

- C. Signs shall be constructed in such a manner as to ensure the longevity of the sign and the safety of the general public.
- D. The Planning Commission shall have the ability to approve the sign or signs as presented, to deny the application in whole or in part, or to approve the application the conditions relative to the sign or signs.
- E. Owners or applicants who are aggrieved by the Planning Commission's decision on special uses under this section may appeal the decision to the Zoning Board of Appeals.

30.25 Conflicts

There any provision of the statutes, codes or laws of the United States of America or the State of Michigan or the County of Grand Traverse conflict with any provision of this Article, the most restrictive shall apply unless otherwise required by law.

30.26 Violations and Enforcement

- A. It shall be unlawful for any person to violate any of the provisions of this Article.
- B. Any person who shall violate any provision of this Article shall be subject to the penalties specified under Article XXI of this Ordinance.
- C. The Zoning Administrator or his agent is hereby empowered to enforce this Article.
- D. The Zoning Administrator or his agent shall notify each applicant for a Land Use Permit that compliance with the regulations of this Article is a condition of such Land Use Permit.
- E. The Zoning Administrator or his agent shall remove improperly placed signs, contact the listed owner, and store said sign(s) at Whitewater Township Hall for a period of 7 days, after which they will be disposed of.

30.27 Severability

If any provision, clause, sentence, sub-sentence, paragraph, section or part of this Article be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the provision, clause, sentence, sub-sentence, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.

ARTICLE XXXI

PLANNED UNIT DEVELOPMENT

ARTICLE 31.10 PURPOSE, AUTHORITY, APPLICABILITY, AND PROCEDURES

The purpose of a Planned Unit Development (PUD) is to preserve large tracts of intact open space land in order to maintain the rural landscape and environmental resources of Whitewater Township by allowing planned unit development standards. This Article is adopted pursuant to MCL 125.286c and MCL 125.286d and shall apply only in the A-1, RC, R2 and R3 Districts.

31.11 Conventional Developments

Conventional developments are those that are not PUDs and that comply with the conventional development requirements without setting aside land as permanently protected open space. The Township discourages this type of development where it may detract from the Township's rural landscape and natural resources.

31.12 Planned Unit Developments

The Township encourages the use of Planned Unit Developments as an alternative to conventional developments. Planned Unit Developments allow units to be clustered on those portions of a property most suitable for development, while leaving substantial portions as undeveloped open space. Planned Unit Developments also may include a variety of lot sizes, ranging from large farm lots to small village-size lots. Planned unit development results in the preservation of contiguous open space and important environmental resources, while allowing compact development, more walkable neighborhoods, and more flexibility than conventional developments. Planned Unit Developments commonly consist of clusters of three or more homes that share lot, parcel or site unit lines. Non contiguous land shall not be considered open space. Planned Unit Developments must satisfy the standards in Sections 31.20 and 31.40.

ARTICLE 31.20 STANDARDS FOR PLANNED UNIT DEVELOPMENTS

31.21 Density Calculation

The maximum density allowed for residential units is calculated by a formula based upon the "net" acreage of the property.

- A. Density calculations shall be based on contiguous parcels of land. If the parcels are not contiguous each tract shall be a separate application (road right of ways do not break continuity).

- B. To determine the net acreage of a piece of property verify with Section 31.41 that your property has conservation value then subtract from the total (gross) acreage of the site the total acreage of all the existing road right-of-ways.
- C. To determine the number of allowable residential units on the site, divide the net acreage by .92 in the A1 District, by 4.0 in the RC District, .27 in R-2 and R-3 District. Fractional units shall be rounded up if .5 or greater and rounded down if less than .5. If the intent of this Article is met and Whitewater Townships private road requirements are used, the Planning Commission may also allow for additional lots or units up to 15% of the gross acreage.
- D. For parcels that are located within more than one district, calculations shall be made separately for the portion of the parcel in each district. This density may then be combined and distributed anywhere within the parcel, provided that the plan protects open space with conservation value (see Section 31.40).

31.22 Types of Residential Development

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

31.23 Minimum Lot Dimensions in Planned Unit Developments

- A. The minimum parcel size for a planned unit development shall be twenty (20) acres.
- B. Without common or municipal sewage disposal services or water supply: The Planning Commission may allow for lots or units to be a minimum of 20,000 square feet with 100 feet of road frontage.
- C. With common or municipal sewage disposal services or water supply: The Planning Commission may allow for lots or units to be a minimum of 12,000 square feet in area with 80 feet of road frontage.
- D. With common or municipal sewage disposal services and water supply: The Planning Commission may allow for lots or units to be a minimum of 8,000 square feet with 50 ft. of road frontage.
- E. The applicant shall submit proposed setback requirements if they deviate from the required setbacks in the zoning district.
- F. The above minimum requirements are subject to Health Department approval.

- G. Larger lots or units may be required for multi-family dwellings.

31.24 Minimum Preserved Open Space

Since the major purpose of a planned unit development is to preserve open space, all Planned Unit Developments shall preserve at least 50% of the parcel(s) as open space in the A-1, R2 and R3 districts, and 80% in the RC district. The requirements for preserving such open space are described in Section 31.40.

31.25 Open Space Land

Preserved open space may be included as a portion of one or more large lots. Such open space may be owned by, private landowner(s), a non-profit organization, the Township or another governmental entity, as provided in Section 31.40, as long as it is protected from development by a conservation easement.

The required open space land may not include land within a lot parcel or a site condo unit.

31.26 Arrangement of Lots or Sites

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

31.27 Project Phasing

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

31.28 Infrastructure

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

31.29 Recreational Uses

Recreational areas are recommended to be incorporated in a portion of the open space in order to create a park like setting. Paths for walking throughout the open space are required in a planned unit development. Outdoor basketball or tennis courts that create impervious surfaces may be allowed in 10% of the required open space in the planned unit development, structures such as buildings are not allowed in the open space.

31.30 ASSESSMENTS

The Planning Commission may require an Environmental Impact Statement, Traffic Impact Study or any other assessment to ensure the public health safety and welfare of the Whitewater Township residents.

ARTICLE 31.40 PERMANENT OPEN SPACE

Open space set aside in a planned unit development or as a condition of any Special Use Permit or Site Plan approval (see Article 25.00) shall be permanently preserved as required by this Section. Land set aside as permanent open space may be included as a portion of one or more large parcels on which dwellings and other structures are permitted, provided that a conservation easement is placed on such land pursuant to Section 31.43 below, and provided that the Planning Commission approves such configuration of the open space as part of its Subdivision, Special Use Permit, or Site Plan approval. Any development permitted in connection with the setting aside of open space land shall not compromise the conservation value of such open space land.

31.41 Conservation Value of Open Space

The open space protected pursuant to this Section 31.40 must have "conservation value," which may include recreational, historic, ecological, agricultural, water resource, scenic or other natural resource value. Examples of lands with conservation value include land in active agriculture, large areas of contiguous mature forest, stream corridors, ridgelines, and scenic areas including important vistas or viewsheds seen from public places.

Wetlands are considered to have conservation value yet will not count towards density calculation. Land of conservation value shall be included for purposes of calculating density in Section 31.21. Whenever the Planning Commission approves a plan with protected open space, it shall make written findings identifying the specific conservation values protected and the reasons for protecting such land.

31.42 Notations on Plat or Site Plan

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

31.43 Permanent Preservation by Conservation Easement

- A. A perpetual conservation easement restricting development of the open space land and allowing use only for agriculture (not including structures), forestry, recreation, protection of natural resources, or similar conservation purposes, pursuant to MCL 324.2140 - 2144, shall be granted to the Township, with the approval of the Township Board, to a qualified not-for-profit conservation organization acceptable to the Planning Commission (see section 31.44). Such conservation easement shall be approved by the Planning Commission and shall be required as a condition of municipal approval. The Planning Commission may require that the conservation easement be enforceable by the Township if the Township is not the holder of the conservation easement. The conservation easement shall be recorded in the office of the Register of Deeds prior to or

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

- B. Access roads, driveways, water supply wells, septic waste disposal facilities, local utility distribution lines, trails, temporary structures for outdoor recreation, are permitted provided that they do not impair the conservation value of the land. The conservation easement shall prohibit residential, industrial, or commercial use of open space land.
- C. A development rights easement under MCL 324.36101 *et seq.* may be substituted for a conservation easement for purposes of this Section 31.43 only if its term is perpetual.

31.44 Ownership of Open Space Land

- A. Open space land may be dedicated to Township, County, or State governments, home owners association, private ownership, transferred to a non-profit organization acceptable to the Planning Commission or held in such other form of ownership as the Planning Commission finds adequate to properly manage the open space land and to protect its conservation value.

31.45 Maintenance Standards

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

ARTICLE 31.50 PROCEDURE FOR PUD APPROVAL

The procedure for Planned Unit Development review shall follow the Special Use Permit procedure and Subdivision Ordinance #16 procedure concurrently.

32.00

ARTICLE XXXII**CORRIDOR OVERLAY
PLANNED UNIT DEVELOPMENT ZONING DISTRICT**

A Corridor Overlay Planned Unit Development (COPUD) Zoning District is hereby established consistent with the goals and objectives of the Whitewater Township Master Plan adopted in 1990 and amended in 1991 and pursuant to the zoning enabling statutes of the State of Michigan, including but not limited to Act 184 of 1943 as amended.

All developments proposed within this District shall be subject to the procedures, standards and guidelines specified in the following sections, in addition to those standards pertaining to the particular base zoning district in which the development occurs.

The purposes of establishing this district are as follows:

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

32.10 DEFINITIONS:**BENEFIT, RECOGNIZABLE AND SUBSTANTIAL:**

A clear benefit, both to the ultimate users of the property in question and to the community, which would reasonably be expected to accrue, taking into consideration the reasonable foreseeable detriments of the proposed development and use(s); including without limitation: long-term protection and/or preservation of natural resources and natural features and/or historical and/or architectural features of a significant quantity and/or quality in need of protection or preservation on a local, state and/or national basis; reducing to a significant extent the non-conformity of a non-conforming use or structure so that, to a significant extent, it is rendered more conforming, or less offensive, to the zoning district in which it is situated.

COMMUNITY IMPACT STATEMENT:

An assessment of the the developmental, ecological, social, economic and physical impacts of a project on the natural environment and the physical improvements on and surrounding the development site. Information required for compliance with other ordinances shall not be required to be duplicated in the Community Impact Statement.

NATURAL FEATURES:

Natural features shall include soils, wetlands, floodplain, water bodies, sand dunes, topography, vegetative cover and geologic formations.

PLANNED UNIT DEVELOPMENT:

A planned unit development may include such concepts as cluster development, planned development, community unit plan, planned commercial development, planned commercial/residential developemnt and other terminology denoting zoning requirements designed to accomplish the objectives of this Ordinance through a land development review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area and the community master plan.

PUD:

A planned unit development.

COPUD:

A corridor overlay zone which employs the methods and techniques of a planned unit development.

UNDERLYING ZONING:

The zoning classification and regulations applicable to the property immediately preceding the designation of the property as a Corridor Overlay Planned Unit Development Zoning District.

32.11 DELINEATION TO THE CORRIDOR OVERLAY PLANNED UNIT DEVELOPMENT ZONING DISTRICT

The Corridor Overlay Planned Unit Development zoning district shall include all those lands adjoining M-72 from Cook Road westward to the west township line and lying 500 feet north and 500 feet south of the centerline of the M-72 right-of-way.

32.12 APPLICABILITY OF THIS ARTICLE

Within this COPUD District, all development projects are eligible to employ the design standards and applicable procedures of this article. Development projects entailing principal structures with an over-all floor area in excess of 5,000 square feet shall be subject to the design standards and application procedures of this article (Sections 32.13 to end). Development projects in this Copud District on parcels of land fronting on M-72 but of greater depth than 500 hundred feet may extend the applicability of these procedures and design standards by means of rezoning or through variances.

32.13 GENERAL DESIGN STANDARDS

1. Subject to paragraph 2 of this section, all regulations applicable to lot size, lot width, lot coverage, setback, parking and loading, general provisions, and to other requirements and facilities, shall meet the regulations applicable in the underlying district in which the project is located. In addition, all projects in this COPUD Zoning District shall meet the design standards and guidelines of this article.

2. Consistent with the planned unit development concept, and toward the end of encouraging flexibility and creativity in development, departures from compliance with the regulations provided for in the immediately preceding paragraph 32.13.1 may be recommended in the discretion of the Planning Commission and granted by the Township Board as part of the approval of a planned unit development. Such departure may be authorized on the condition that there are features or planning mechanisms, deemed adequate by the Planning Commission and the Township Board, designed into the project for the purpose of achieving the objectives intended to be accomplished with respect to each of the regulations from which a departure is sought.

3. The development shall be designed so as to promote preservation of natural resources and natural features. In the interpretation of this provision, natural resources and natural features may be impaired or altered, moved or removed if it is in the public interest to do so. In determining whether action is in the public interest, the benefit which would reasonably be expected to accrue from the proposal shall be balanced against the reasonably foreseeable detriments of the activity, taking into consideration the local, state and national concerns for the protection and preservation of natural resources and natural features, and taking into account the provisions and standards of Act 127 of the Public Acts of 1970, as amended, the Michigan Environmental Protection Act.

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

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

Front Yard Setbacks:

No permanent structure other than a free-standing sign approved by the Township shall be constructed closer to a public right-of-way than seventy-five (75) feet.

Side Yard Setbacks:

No permanent or temporary structure shall be constructed or placed within twenty-five (25) feet of any side yard not facing a public right of way. Of this minimum side yard, an open strip of fifteen (15) feet in width shall be maintained as a service drive, as a lawn or planted in low-growing ground cover (such as myrtle or euonymus) to permit emergency equipment access. At least five (5) feet of the side yard adjacent to the property line shall be planted and maintained as a green-belt/buffer strip to the adjacent property (see Article XXXIII). In no case shall structures occupy more than sixty percent (60%) of the width of any parcel when measured along lines perpendicular to the centerline of the principal adjoining road.

Rear Yard Setbacks:

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

32.15 OFF-STREET PARKING AND LOADING

1. All off-street parking and loading areas shall comply with the standards and regulations of Article XXXIV, Off-Street Parking and Loading.
2. Parking allowed in the front yard setback in excess of six (6) vehicles shall be screened from view of the adjoining roads as follows:
 - a. In the C-1, R-3 and N zoning districts adjoining M-72, parking shall be screened by means of a buffer zone six (6) feet high as described in Section 33.3.1, Buffer Zone - 30 Feet, and 33.60, Greenbelts, of Article XXXIII, Landscape Standards. Similar screening by means of a six (6) foot high buffer zone shall be required along side yards of corner lots where parking is located in the side yard adjoining the side street.

32.16 ARTERIAL ROAD ACCESS, DRIVEWAY, AND SERVICE DRIVE REGULATIONS

Access to arterial roads, side roads on corner lots, and other roads; driveways; connections between parking lots on adjacent parcels; and service drives shall comply with Article XXXV, Arterial Access Management Regulations.

32.17 ARCHITECTURAL DESIGN REVIEW AND STANDARDS

The compatible relationship of the proposed development in the District is of critical public concern for any buildings or site improvements. The intent of the design review is not to stifle innovative architecture but to assure respect for existing designs that substantially comply with the intent and design standards of this article and to reduce incompatible and adverse impacts on the visual experience from the roadways in these corridors, parks, and residential districts. To accomplish this the Site Plan Review Committee and the Planning Commission shall exercise the following standards and guidelines in reviewing all such proposed development:

1. Proposed development shall avoid excessive or unsightly grading, indiscriminate earth moving or clearing of property, and removal of trees and vegetation which could cause disruption of natural water courses or disfigure natural land forms.

2. Proposed development shall be located and configured in a visually harmonious manner with the terrain and vegetation of the land parcel and surrounding parcels. Structures shall impede, as little as reasonably practical, scenic views of the natural environment from the corridor.
3. Although maximum site densities and special site regulations listed in the particular zoning districts of Articles VIII, IX, and XII shall be preserved, proposed structures shall not dominate, in an incompatible manner, any existing general development or adjacent building which is substantially in compliance with this article. This may be accomplished by use of appropriate site design, architectural features, and/or landscaping to reduce the appearance of excessive and inappropriate height or mass of proposed structures. When viewing the site in a direction perpendicular to the adjacent roadway, no more than sixty (60) percent of the view to property or open space beyond the site may be obstructed by structures and in no case will more than three hundred (300) feet of uninterrupted structure with no view to the property or open space beyond be allowed.
4. The architectural design of structures and their materials and colors shall be visually harmonious with the overall traditional appearance and cultural history of the township and region, that is, structures which are designed to be unobtrusive and which are situated and landscaped in a manner to blend with or to be complementary to natural land forms and existing vegetation or vegetation indigenous to this region.
5. Structures shall demonstrate the general principles of good design including, but not limited to those dealing with form, mass, scale, height, texture and color. Specific consideration shall be given to compatibility with adjacent structures where such structures are substantially in compliance with this Article.
 - a. Pitched roofs with a minimum slope of 4/12 and with wide overhangs are strongly encouraged. False mansard roofs are not acceptable. Shingles, metal standing seam, tile or other roof materials which are nature-blending in texture and appearance are considered appropriate to the township and regional character.
 - b. Long monotonous facade designs including, but not limited to, those characterized by unrelieved repetition of shape and form or by unbroken extension of line shall be avoided. Excessive ornamentation shall be avoided to prevent visual clutter. All facades of a building or structure which may be visible from a roadway, an adjacent R1 District or School shall receive design consideration. Exterior building components such as windows, doors, eaves and parapets shall have balanced proportions. Screening of monolithic or monotonous facades by means of trees or other vegetation may be considered in design reviews.
 - c. Natural wood siding, log or quarter log siding, brick, stone, or other materials of similar texture and appearance are considered appropriate to the township character. Reflective surfaces are not acceptable. Metal or plastic surface materials which are visually similar in color and texture to natural materials may be considered.

- d. Colors of paints, stains, and other finishes or materials shall be nature-blending in colors natural to the predominant hues of spring, summer and fall, with generally no more than three colors per building. Semi-transparent stains are recommended for application on natural wood finishes.
- e. Exterior architectural, display and decorative lighting visible from the roadway shall be generated from concealed light source, low level light fixtures. Refer to items (7) and (9)b in this section for other types of lighting and to Article XXIX Exterior Lighting. The most restrictive regulations shall apply.
- f. All interior lighting shall be so designed to prevent the light source or high levels of light from being visible from the corridor roadway.
- g. All projections and mechanical details such as louvers, exposed flashing, flues, vents, gutters and downspouts are to be recognized as architectural features and are to be treated to match the color of the adjacent surface or an approved complementary color.
- h. Mechanical equipment or other utility hardware on the roof, ground, or elevations of a structure shall, whenever possible, be located so as not to be visible from any public ways or adjacent residential areas. Where such limitation on location is not possible, the facilities shall be screened from public view with materials harmonious with the building.
- i. In any design in which the structural frame or mechanical components are exposed to view as architectural features, the structural materials shall be compatible within themselves and the overall structure design and their surroundings.
- j. Refuse and waste removal areas, service yards, storage yards, and exterior work areas shall be screened from view from public ways with materials harmonious with the building. Solid Waste collection and storage facilities shall be designed to accommodate trash collection and recycling as well as composting, if the planned use will generate compostable waste.
- k. Structures shall be so sited or screened by means of berms and/or vegetation that garage doors and larger service entrance doors are not visible from the public roadways.
- l. The outdoor display of vehicles, equipment, boats, etc. for sale shall be limited to not more than four (4) representative units. All other such units, if not stored or displayed in a completely enclosed structure, shall be fully screened from view from public roads and all adjacent properties by means of berms and/or vegetation barriers or fences, approved by the Planning Commission, which shall be maintained to be fully effective year around. Units being serviced or stored shall be similarly enclosed or screened.

- m. Structures, whenever reasonably possible, shall be oriented to the sun, with window sizing and placement, roof overhangs or awnings, and landscaping designed to provide shade and wind protection to achieve economies in heating and cooling costs.
- n. Monotony of design in single or multiple building projects shall be avoided. Variation of detail, form and siting may be used to provide visual interest. In multiple building projects, variable siting of individual buildings may be used to prevent a monotonous appearance.

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

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

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

9. Streetscape Improvements:

a. Streetscape improvements include those architectural or functional facilities or structures which occur on site but are not part of the building and which encourage and facilitate human interaction with the environment. Examples include, but are not limited to the following: decorative light fixtures, fountains, sculpture, benches and tables, planters, retaining walls, pedestrian and bicycle paths, bicycle parking structures, trash receptacles and enclosures, vendor areas, bollards and fences. These improvements shall be designed to be consistent with all guidelines of this section and shall be reviewed for design function and compatibility with the character of the Township.

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

10. Signs

- a. All signs shall meet all requirements of Article XXX Sign Regulations. The Site Plan Review Committee and/or the Planning Commission may place further requirements on signs visible from adjacent roads if consistent with the provisions of this Article.
- b. New or replacement signs in the COPUD District shall receive approval from the Site Plan Review Committee prior to installation.
- c. The Site Plan Review Committee and/or the Planning Commission is authorized to approve or disapprove the appearance of features on such proposed signs. Signs will be reviewed for compliance with the guidelines of this section and for compatibility with the township character. The Zoning Administrator's approval shall be given only after the Site Plan Review Committee and/or the Planning Commission's approval is granted.
- d. The amount of information on signs shall be no more than is necessary to provide reasonable identification of the business and whether the business is open or, in the case of hotels or motels, whether there are vacancies. "Open" or "Vacancy" signs shall be no more than two(2) square feet in area and shall be incorporated in the free standing sign which identifies the business.
- e. Flags: (1) Non-governmental flags are deemed to be signs and shall be subject to the provisions of this article and Article XXX of this ordinance. Poles or any other means used to fly flags are deemed structures and shall be subject to the restrictions on structure heights (see Section 12.11, Schedule of Regulations).

32.18 LANDSCAPE STANDARDS

The information required for Site Plan Review shall include a detailed and comprehensive Landscape Plan for the entire project which achieves the following objectives:

1. retains existing trees insofar as possible and retains natural or existing topographic patterns which contribute to the beauty and utility of the development.
2. addresses the functional aspects of landscaping, such as drainage, erosion prevention, wind barriers, provision of shade, sound absorption, dust abatement, and reduction of glare.
3. enhances architectural features, strengthens vistas and important axis and sight lines.
4. achieves unity of design by repeating certain plant varieties and other materials and by correlation with adjacent developments.
5. selects plant material for interest in its structure, texture, and color and also for its ultimate growth. Indigenous plant species and others that will be hardy, harmonious to the design and of attractive appearance shall be used. A list of species which are recommended to be used or to be avoided may be obtained from the Zoning Administrator.

6. enhances parking areas and related vehicular and pedestrian trafficways with landscaped areas, including trees and tree groupings.
7. protects plants from injury by pedestrians or motor traffic with appropriate curbs, tree guards, or other devices.
8. where landscaping is used as screening, it shall be equally effective in winter and summer and shall attain a height and density so that it provides the full desired effect within three(3) years growing time.
9. controls run-off of fertilizers and pesticides.
10. minimizes watering and maintenance requirements.
11. in areas where general plantings will not prosper, other material is used such as wooden, brick or stone fences, wall, and pavings of wood, brick, stone, gravel or cobbles. Suitable plants shall be combined with such materials where possible.
12. avoids monotony by offering visual variety to structural masses and helps the man-made structures achieve harmonious appearance with the retained natural trees, vegetation and features and with the setting as a whole.
13. is consistent with the regulations, guidelines and intent of Article XXXIII Landscape Standards.

32.19 INTERIOR ROADS, SERVICE DRIVE, AND PATHWAY STANDARDS

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

32.20 SPECIAL DESIGN STANDARDS AND REGULATIONS

For Special Land Uses the standards of Article XXV Site Plan Review including section 25.11, Standards for Decisions, and section 25.13, Additional Site Development Requirements and Standards for Special or Conditional Use Permits shall also apply in addition to the design standards of this Article XXXII (specifically sections 32.14 through 32.21).

32.21 PROCEDURE FOR REVIEW AND APPROVAL:

A. The grant of a planned unit development application shall require a rezoning, i.e., an amendment of the Zoning Map constituting a part of this ordinance so as to designate the property which is the subject of the application as planned unit development. Further, an approval granted under this Article, including all aspects of the final plan, and conditions imposed, shall constitute an inseparable part of the zoning amendment.

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

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

1. Statement of intent of proposed use of land and phasing of the project. Later phases of the development may be revised to allow for different building types when the possible need for such deviation is indicated on the approved plan.
2. All open spaces, including preserves, recreational areas, and the like, and each purpose proposed for such areas together with copies of deeds, deed restrictions, easements, restrictive covenants or other legal instruments to be recorded as a condition of approval of the application and site plan.
3. All known natural resources and natural features to be preserved.
4. Density calculations, number and types of units (if applicable), and floor area per habitable space.
5. A separately delineated specification of all deviations from this Ordinance which would otherwise be applicable to the uses and development proposed in the absence of this planned unit development Article. This specification should include ordinance provisions from which deviations are sought, and if the applicant elects to be governed by Section 31.12 B. 1., the reasons and mechanisms to be utilized for the protection of the public health, safety and welfare in lieu of the regulations from which deviations are sought shall be specified.

6. In the event the property on which the project is to be situated consists of ten (10) acres or more, a community impact statement shall be submitted as part of the application.
7. A detailed landscaping plan.
8. A specific schedule of the intended development and construction details, including phasing or timing, and the general improvements to constitute a part of the development, including without limitation, lighting, signage, the mechanisms designed to reduce noise, utilities and visual screening features.

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

32.22 Performance Guarantees:

The planning Commission may require reasonable performance guarantees, as authorized under the Township Rural Zoning Act (Act 184 of 1943) to insure completion of improvements.

32.23 Conditions:

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

32.24 Phasing and Commencement of Construction:

A. Phasing:

Where a project is proposed for construction in phases, the planning and designing shall be such that, upon completion, each phase shall be capable of standing on its own in terms of the presence of services, facilities, and open space, and shall contain the necessary components to insure protection of natural resources and the health, safety, and welfare of the users of the planned unit development and the residents of the surrounding area. In addition, in developments which include residential and non-residential uses, phasing shall contemplate that at least 35% of all proposed residential uses are completed concurrent with the first phase of any

non-residential construction; completion of at least 75% of all proposed residential construction prior to the second phase of non-residential construction; and completion of 100% of all residential construction prior to the third phase of non-residential construction. For purposes of carrying out this provision, the percentages shall be approximations as determined in the discretion of the Planning Commission, and further, such percentage may be significantly varied should the Planning Commission determine, in its discretion, that the applicant has presented adequate and effective assurances that the residential component or components of the project shall be completed within the specified period.

B. Commencement and Completion of Construction:

Construction shall be commenced within one year following final approval of a planned unit development, or within one year of any other necessary governmental approval for commencement of the project, whichever is later, provided all other necessary approvals have been actively pursued. Each phase of the project shall be commenced within one year of the schedule established for same in the application submitted for the planned unit development. If construction is not commenced within such time, any approval of the final plan for the project shall expire and be null and void, provided, an extension for a specified period may be granted by the Planning Commission upon good cause shown if such request is made to the Planning Commission prior to the expiration of the initial period.

32.25 Effect of Approval:

If and when approved, the planned unit development, with all conditions imposed, if any, shall constitute the land use authorization for the property, and all improvement and use shall be in conformity with such approval. The applicant shall record an affidavit with the Register of Deeds containing the legal description of the entire project, specifying the date of approval of the planned unit development, and declaring that all future development of the planned unit development property has been authorized and required to be carried out in accordance with the approved planned unit development unless an amendment thereto is duly adopted by the Township upon the request and/or approval of the applicant, or applicant's transferee and/or assigns.

32.26 Modification or Waiver of Standards or Requirements:

Since the express purpose of this Article is to achieve better use of land than would be likely under strict adherence to the standards and requirements of the Zoning Ordinance, the Planning Commission may recommend and the Township Board may approve applications for rezoning to Planned Unit Development where the application requires the modification or waiving of specific standards or requirements contained within this Article provided that the proposed PUD complies with the full intent and purpose of this Article, and further that it is clearly shown that such modification or waiving of specific standards or requirements will result in a recognizable and substantial benefit which would not otherwise accrue to the community if all provisions of this Article were to be met. In no case, however, may the dwelling unit density limits established in Table 31.13 F be modified or waived.

33.00**ARTICLE XXXIII****LANDSCAPE STANDARDS****33.10 INTENT.**

It is the intent of this chapter to require buffer zones and landscape screening to reduce the negative impacts between incompatible land uses and to provide for landscaping within parking lots. In addition, it is intended to help sustain a pleasing gateway - corridor to the Grand Traverse region consistent with the natural features of the region that attract tourism and support land values. It is further intended to preserve and enhance the aesthetic qualities, character, privacy and land values of the township.

33.20 BUFFER ZONES REQUIRED.

- A.** A buffer shall be required on the subject parcel between zoning districts as indicated in Table 33-1.
- B.** A buffer shall be required on the subject parcel even if the adjacent parcel is unimproved land.
- C.** When any developed parcel requiring a buffer zone changes to a more intense land use or a special land use approval and/or site plan review is required, the buffer shall comply with the buffer zone matrix (Table 33-1) and buffer zone development standards (Section 33.3.0).
- D.** If existing conditions are such that a parcel cannot comply with the buffer zone standards (Table 33-1 and Section 33.3.0), then the zoning administrator shall determine the character of the buffer based on the following criteria:
 - 1.** Traffic impacts.
 - 2.** Increased building and parking lot coverage.
 - 3.** Increased outdoor sales, display or manufacturing area.
 - 4.** Physical characteristics of the site and surrounding area such as topography, vegetation, etc.
 - 5.** Visual, noise and air pollution levels.
 - 6.** Health, safety and welfare of the township.
 - 7.** Additional dwelling units and resulting density (residential development).

- E. If two zoning districts requiring a buffer zone are separated by a thoroughfare, the design of the buffer zone shall be determined by the Zoning Administrator based on the criteria contained in Section 33.20, D, 1-7.

TABLE 33-1

LANDSCAPE - BUFFER MATRIX

ADJOINING ZONE								
Subject Zone		A-1	RC-1	R-1	R-2	R-3	C-1	N
	RC-1							
	A-1							
	R-1							
	R-2							
	R-3			10'				
	C-1		10'	30'	10'	10'	10' SHARED	
	N		30'	30'	30'	30'	30'	

33.30 BUFFER ZONE DEVELOPMENT STANDARDS.

Required buffer zones shall comply with the following standards:

- (1) Buffer Zone Thirty (30) Feet (see Fig. 33-1).
 - (a) 30 ft. minimum width.
 - (b) The equivalent of 1 canopy tree per linear ft. or fraction of buffer zone length.
 - (c) 6 ft. high continuous obscuring screen comprised of plant material, berming, screen walls or fences or any combination of these elements.
 - (d) If berming is used for all or part of the buffer zone, all required plant material shall be placed on the top and side slope facing the exterior of the site.
 - (e) If a screen wall or fence is used for all or part of the buffer zone then:

1. The equivalent of 4 shrubs are required per 20 linear feet of wall or fence with at least 50 percent being 24" high at time of planting.
 2. All required plants shall be placed on the side facing the exterior.
- (f) All areas outside of planting beds shall be covered with grass or other living ground cover.
 - (g) All applicable standards in Section 33.70.
- (2) Buffer Zone Ten (10) feet (see Fig. 33.2).
 - (a) 10 ft. minimum width.
 - (b) The equivalent of 1 canopy tree per 30 linear feet or fraction of buffer zone length.

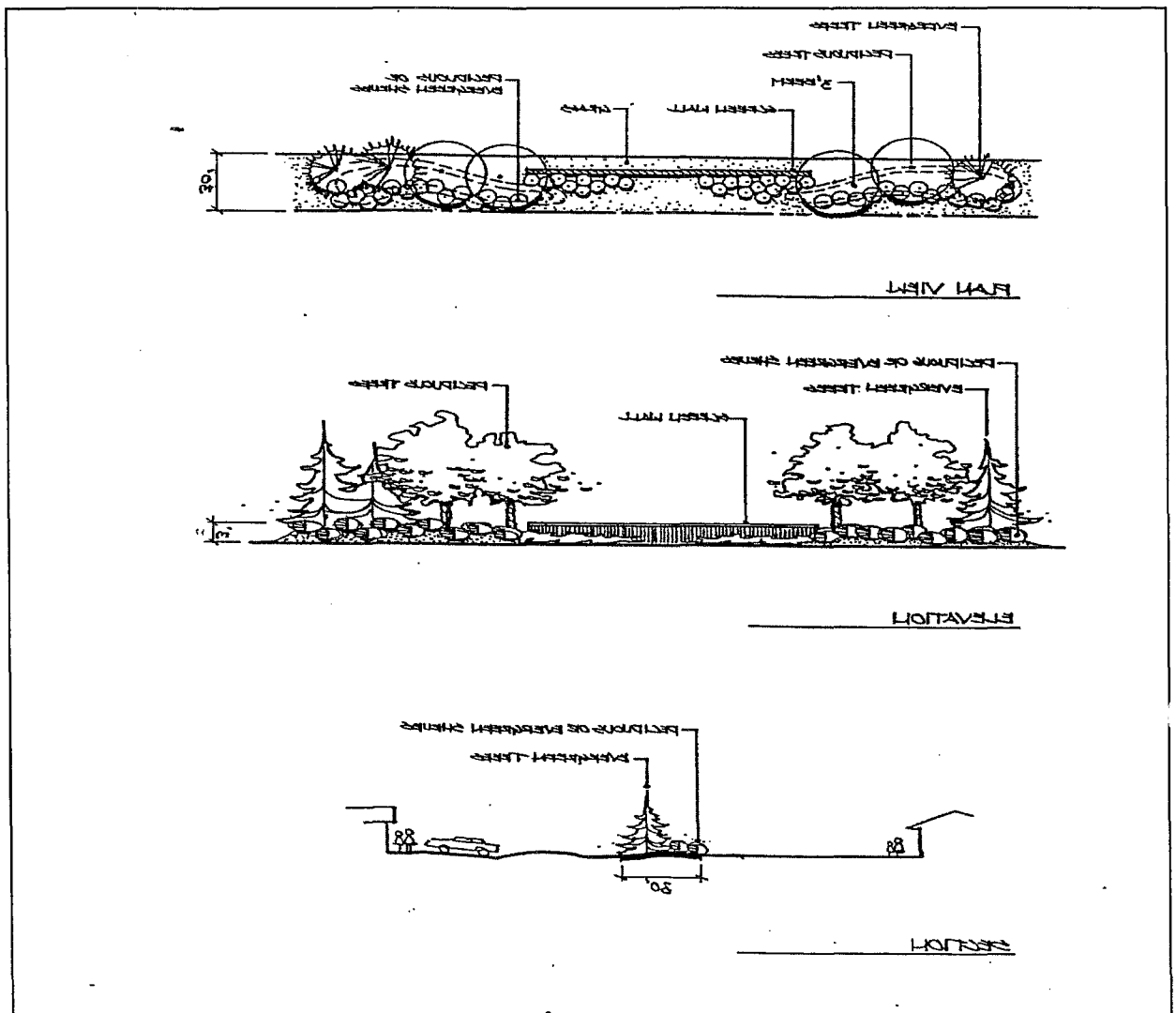


FIGURE 33 - 1

(Whitewater Township Zoning Ordinance)

(Whitewater Township Zoning Ordinance)

- (c) 6 ft. high continuous obscuring screen comprised of plant material, berming, screen walls or fences or any combination of these elements.
- (d) If berming is used for all or part of the buffer zone, then:
 - 1. All required plant material shall be placed on the top and side slope facing the exterior.
 - 2. The minimum buffer width shall be increased to accommodate a side slope of 3 to 1.
- (e) If a screen wall or fence is used for all or part of the buffer zone then:
 - 1. The equivalent of 4 shrubs are required per 20 linear ft. of wall with at least 50 percent being 24" high at time of planting.
 - 2. All required plants shall be placed on the side facing the exterior.
- (f) All areas outside of planting beds shall be covered with grass or other living ground cover.
- (g) All applicable standards in Section 33.70.

33.40 OFF-STREET PARKING AREAS (see Fig.33.3).

A. Off-street parking areas containing 6 or more parking spaces shall be provided with landscaping in accordance with the following:

6 through 100 spaces: 1 canopy tree and 100 sq. ft. of landscaped area per 6 spaces.

101 through 200 spaces: 1 canopy tree and 100 sq. ft. of landscaped area per 8 spaces.

201+ spaces: 1 canopy tree and 100 sq. ft. of landscaped area per 10 spaces.

B. In no case shall any buffer zones or greenbelts required in Sections 33.2.0, 33.3.0 and 33.5.0 be considered as part of the off-street parking landscape area.




FIGURE 33 - 3

**33.50 OFF-STREET PARKING LANDSCAPE DEVELOPMENT
STANDARDS.**

A. Required parking lot landscape areas shall comply with the following standards:

- 1.** The minimum size of a landscaped area shall be 60 sq. ft. and at least 6 ft. wide.
- 2.** All landscaped areas shall be covered by grass, shredded bark, stone or a living ground cover.
- 3.** All landscaped areas shall contain at least 1 canopy tree. The tree shall be located so as not to be damaged by any surrounding vehicle (see Fig. 33.4).
- 4.** The Zoning Administrator shall approve the location of required off-street parking landscaping using the following criteria:
 - a.** Landscaping shall be installed such that, when mature, it does not obscure traffic signs, fire hydrants, lighting, drainage patterns on site or adjacent properties, or obstruct vision for reasons of safety, ingress or egress.
 - b.** Trees shall be installed in such a manner that parked motor vehicles are shaded whenever possible.
 - c.** Landscaping shall be dispersed throughout the parking lot in order to break up large expanses of impervious surfaces.
 - d.** At least 50 percent of the required trees shall be installed in the interior of the parking area and 50 percent on the perimeter. The interior shall be considered as any point 10 ft. from the outside boundary of the parking area.
- 5.** All landscaped areas shall be protected by a raised standard or rolled concrete curb.
- 6.** Where any parking area, with the exception of parking serving single-family or two-family dwellings, abuts or faces a thoroughfare, a 3 ft. high continuous obscuring screen shall be required between the parking area and the road R.O.W. The screen may be comprised of plant material, berming, or any combination of these elements, in compliance with the following requirements:
 - a.** If a berm is used for all or part of the screen, all required plant material shall be placed on the side facing the thoroughfare.

b. If plant material is used for all or part of the screen, it shall be 24" high at time of initial planting and at least 36" high within one (1) year of initial planting.

c. Minimum width for screen area shall be 8 ft. A berm will require a width sufficient to accommodate a side slope of 3 to 1.

7. All applicable requirements of Section 33.70 shall be complied with.

33.60

GREENBELTS.

- A. Greenbelts shall be required where any developed parcel abuts or faces a public thoroughfare in the C-1 and N districts.
- B. If a buffer zone is required along a thoroughfare, then the greenbelt requirement shall be waived.
- C. In no case shall off-street parking lot landscaping required in sections 33.30 and 33.40 be considered as part of any greenbelt requirement.

33.70

GREENBELT DEVELOPMENT STANDARDS (see Fig. 33-5).

- A. All greenbelts shall comply with the following standards:
 - 1. One canopy tree for every 40 linear ft. or fraction of frontage abutting a public thoroughfare.
 - 2. All greenbelts shall be covered by grass.
 - 3. The width of the greenbelt shall correspond to the required front setback requirements for off-street parking areas contained in 34.30, C, 4.
 - 4. All applicable standards in Section 33.70.

33.80

GENERAL LANDSCAPE DEVELOPMENT STANDARDS.

A. Minimum Plant Material Standards:

1. All plant material shall be hardy to Grand Traverse County, free of disease and insects and conform to the standards of the American Association of Nurserymen. A list of recommended plants are available from the Zoning Administrator.
2. All plant materials shall be installed in such a manner so as not to alter drainage patterns on site or adjacent properties or obstruct vision for reasons of safety, ingress or egress.
3. All plant material shall be planted in a manner so as to not cause damage to utility lines (above and below ground) and public roadways.
4. Minimum plant sizes at time of installation (see Figs. 33-6 and 33-7):

Deciduous Canopy Trees:	2 1/2" caliper
Deciduous Ornamental Trees:	2" caliper
Evergreen Tree:	6' height
Deciduous Shrub:	2' height
Upright Evergreen Shrub:	2" height
Spreading Evergreen Shrub:	18" - 24" spread

5. Existing plant material which complies with the standards and intent of the Ordinance, as determined by the Zoning Administrator, shall be credited toward meeting the landscape requirements.
6. The plant material shall achieve its horizontal and vertical screening effect within 4 years of initial installation.
7. The overall landscape plan shall not contain more than 33 percent of any plant species.

8. The following trees are not permitted as they split easily; their wood is brittle and breaks easily; their roots clog drains and sewers; and they are unusually susceptible to disease or insect pests:

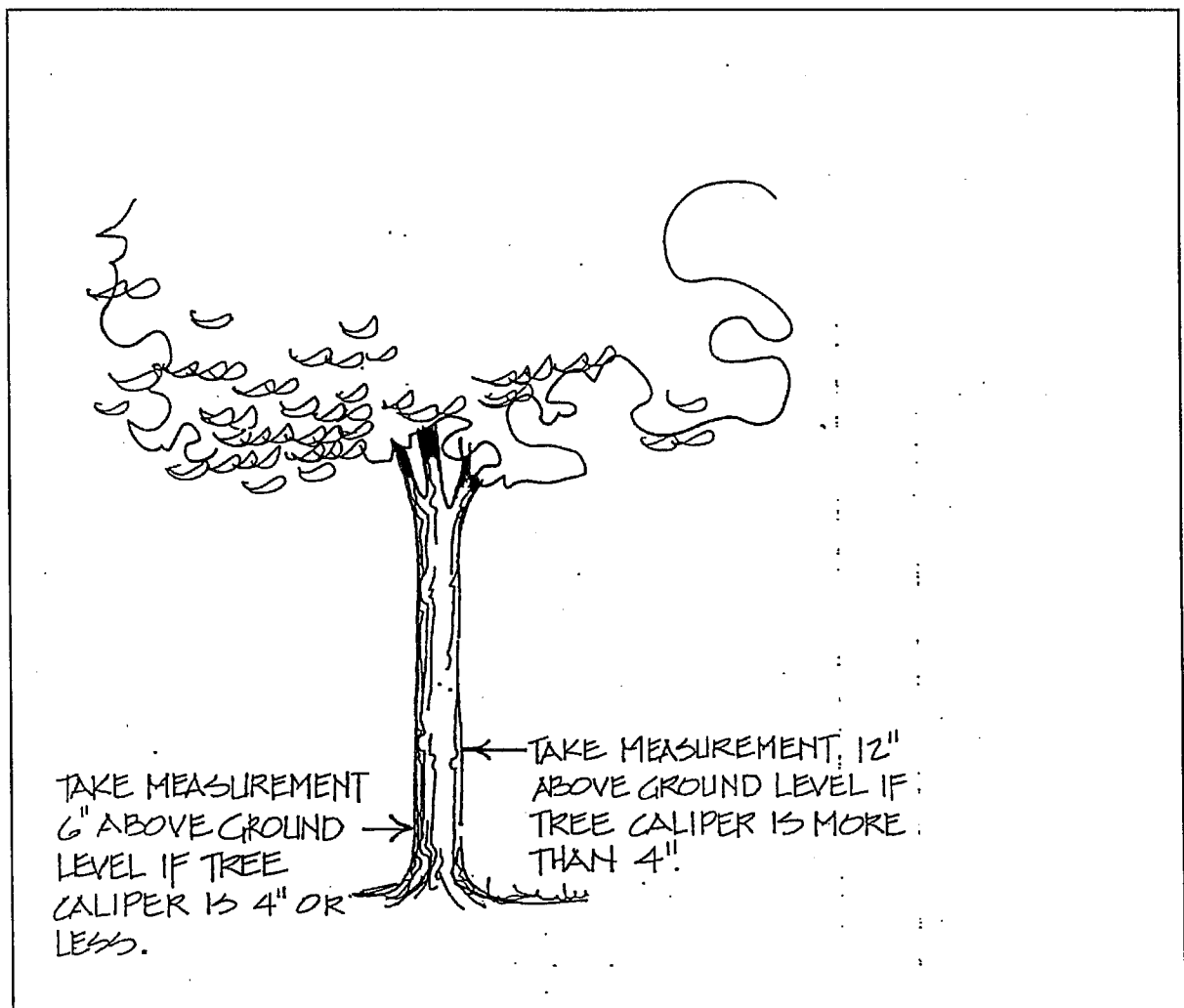


FIGURE 33 - 6
TREE CALIPER MEASUREMENTS

(Whitewater Township Zoning Ordinance)

<u>COMMON NAME</u>	<u>HORTICULTURAL NAME</u>
Boxelder	Acer Negundo

(Whitewater Township Zoning Ordinance)

Ginkgo	Ginkgo Biloba (female only)
Honey Locust	Gleditsia Triacanthos (with thorns)
Mulberry	Morus Species
Poplars	Populus Species
Black Locust	Robinia Species
Willows	Salix Species
American Elm	Ulmus Americana
Siberian Elm	U. Pumila
Slippery Elm: Red Elm	U. Rubra
Chinese Elm	U. Parvifolia

(excluding White Oak and Black Walnut)

Minimum Standard for Berms:

- (1) Berms shall be constructed so as to maintain a side slope not to exceed a 1' rise to a 3' run ratio (see Fig. 33-8).
- (2) Berm areas not containing planting beds shall be covered with grass or living groundcover maintained in a healthy growing condition.
- (3) Berms shall be constructed in such a manner so as not to alter drainage patterns on site or adjacent properties or obstruct vision for reasons of safety, ingress or egress.
- (4) If a berm is constructed with a retaining wall or by terracing, the earthen slope shall face the exterior of the site (see Fig. 33-8).

Minimum Standards for Screen Walls and Fences:

- (1) All screen walls and fences shall be constructed with new, durable, weather resistant and easily maintainable materials. Chain link and barbed wire fences are not permitted.

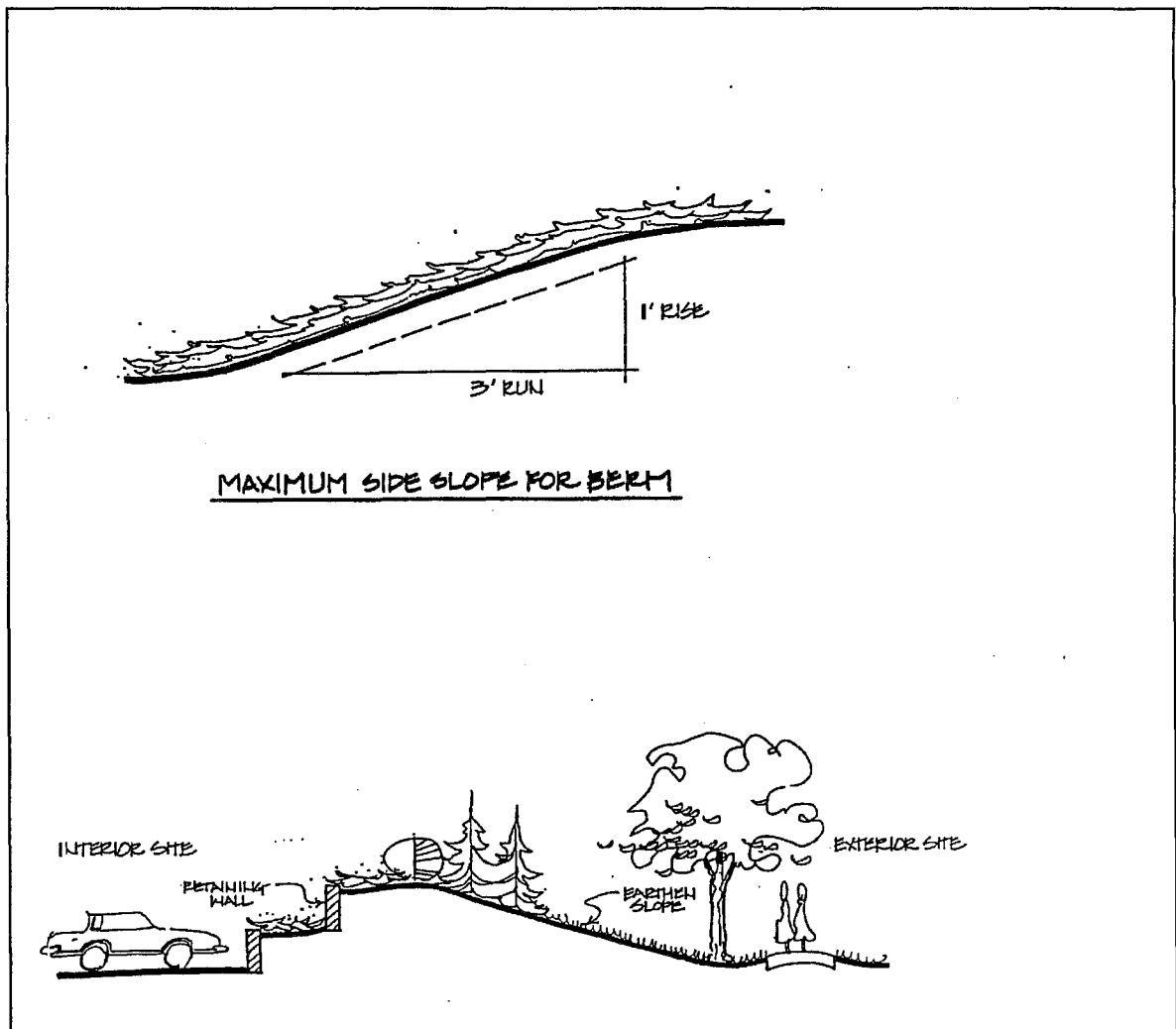


FIGURE 33 - 8
BERM WITH RETAINING WALLS

(2) The wall or fence may be constructed with openings that do not exceed 20 percent of the wall surface. The openings shall not reduce the intended obscuring effect of the wall.

(3) Screen walls or fences shall not be constructed so as to alter drainage on site or adjacent properties or obstruct vision for reasons of ingress or egress.

Detention/retention areas shall be permitted within buffer zones provided they do not hamper the screening intent of the buffer or jeopardize the survival of the plant materials.

Solid waste dumpsters may be installed in buffer zones provided they contain a continuous opaque screen at least 6' high. The screen may be comprised of berming, plant material, screen walls or fences, or any combination of these elements which are harmonious to the building design.

F. Requirements for Projects Developed in Phases: If a project is constructed in phases, the landscape screen may also be constructed in phases. The Zoning Administrator shall determine the extent of each phase on:

1. Adjacent land uses.
2. Distance between land uses.
3. Operational characteristic both on and off site.
4. Building heights.
5. Physical characteristics of the site such as topography, existing vegetation, etc.

G. Landscape Screening Waiver: Should the Zoning Administrator determine, upon inspection, that adequate landscaping screen on a site already exists or that such landscaping screen shall not be required, the applicable zoning ordinance provisions may be waived in whole or in part. Criteria which shall be used when considering a landscaping screen waiver shall include, but shall not be limited to:

1. Topography variations.
2. Existence of natural vegetation.
3. Existing and proposed building placement.
4. Sight distances.
5. Adjacent land uses.
6. Existence of floodplain and poor soils areas.

H. Installation and Maintenance Provisions:

1. The Zoning Administrator shall mandate a financial guarantee of a sufficient amount to insure the installation of all required landscaping.
2. All landscaping shall be maintained in a healthy, neat and orderly state free from refuse and debris. Any dead or diseased plants shall be replaced.

34.00

**ARTICLE XXXIV
OFF-STREET PARKING AND LOADING**

34.10**SCOPE OF REGULATIONS.**

- A.** At the time any building or structure is erected, enlarged or increased in capacity, or uses established, off-street parking and loading spaces shall be provided in all zoning districts according to the requirements of this Article.
- B.** No parking or loading area or space which exists at the time of the adoption of this Article shall thereafter be relinquished or reduced in any manner below the requirements established by this Ordinance.
- C.** Parking areas must have the same zoning classification as the property on which the principal use is located which they are serving.

34.20**LOCATION OF PARKING AND LOADING AREAS.**

- A.** Off-street parking and loading facilities required by this Article shall be located on the same lot or parcel as the use for which the parking or loading is required or on an abutting lot or parcel under the same ownership. This requirement does not apply to joint parking or loading facilities developed in accordance with the requirements of this Article.

34.30**PARKING LOT AND LOADING AREA REQUIREMENTS.**

- A.** Plans and specifications showing required off-street parking and loading spaces, including the means of access and interior circulation shall be submitted to the Zoning Administrator for review at the time of application for a land use permit for the erection or enlargement of a building. All such plans and specifications shall be submitted to the Zoning Administrator and Site Plan Approval obtained prior to the issuance of the land use permit. Such plans and specifications shall be prepared at a scale of not less than one (1) inch equals one hundred (100) feet and shall include the following:
1. Existing and proposed grades;
 2. Drainage, including catch basins, pipe sizes and connections to existing drainage structures;
 3. Typical dimensions of parking and loading spaces and maneuvering aisles, including handicapped spaces required by State regulations;
 4. Lighting;
 5. Existing or proposed buildings;
 6. Sidewalks, including ramps for use of handicapped persons;

7. Landscaping and required screening;
8. Surfacing and base materials to be used in the construction of the parking lot.

B. Parking lots required by this Ordinance shall be installed and completed within six (6) months of the issuance of a Land Use Permit. In the event of unusual delays or adverse weather conditions that make it impossible to complete the improvements, the Zoning Administrator may grant a single extension of the time limit for a further six (6) month period.

C. Every parcel of land hereafter used as a public or private parking area shall be developed and maintained in accordance with the following requirements:

1. All off-street parking areas shall be drained so as to prevent drainage onto abutting properties. No more than 50 percent of the required parking area shall be hard surfaced with concrete or asphalt paving. The unpaved parking area shall be maintained in lawn, gravel or crushed stone and landscaped according to the same standards as the hard surfaced parking areas. The intent of this provision is to limit impervious surface area and reduce storm water run-off retention needs. Off-street storage areas shall not be surfaced with impervious materials except as approved by the Planning Commission.
2. Lighting fixtures and lighting plans and design used to illuminate off-street parking areas shall be in compliance with Article XXIX, Exterior Lighting Regulations, of this Ordinance and shall be so arranged as to deflect light away from any adjoining residential properties or streets and highways. Lighting levels in required parking facilities for commercial or industrial use shall be of the lowest intensity necessary to accomplish its purpose. Lighting fixtures within one-hundred and fifty (150) feet of any residential area shall not exceed twenty (20) feet in height. All other fixtures shall not exceed thirty-five (35) feet in height. Decorative light fixtures which are adjacent to residential areas which are unshielded and permit light to spread outward rather than downward may be prohibited by the Zoning Administrator.
3. All off-street parking and loading areas that make it necessary for vehicles to back directly into a public road are prohibited, provided that this prohibition shall not apply to off-street parking areas serving residential dwellings housing four (4) or less units.
4. Parking may be permitted within any required yard with the following exceptions:

- a. Parking is not permitted within the first thirty (30) feet of the required front yard setback in the C-1 and N zoning districts adjoining the M-72 corridor.
 - b. Loading areas may not occupy any front yard setback. The side yard setback area along the street side of a corner lot shall not be used for loading space.
- 5. Wheel stops shall be provided and so located so as to prevent any vehicle from projecting over lot lines, required setbacks or sidewalks.
 - 6. All parking spaces shall be striped with paint or a material approved by the Zoning Administrator. Striping shall be at least four (4) inches in width. The striping shall be maintained at all times.

34.40**MIXED USE/JOINT PARKING FACILITIES.**

- A. In the case of mixed uses in the same building or on the same lot or parcel, the total requirements for off-street parking and loading shall be the sum of the requirements for the individual uses computed separately.
- B. Joint or collective provision of off-street parking areas for buildings or uses on two or more properties shall not be less than the sum of the requirements for the participating individual uses computed separately except that the Zoning Administrator may approve a lesser parking requirement for such uses provided that the following requirements are met:
 - 1. The uses proposing to combine parking requirements shall have hours of operation which do not coincide.
 - 2. Evidence of a signed agreement between the owners of both properties agreeing to such joint use shall be provided to the Zoning Administrator.
 - 3. Sufficient area shall be available such that the required parking for both uses computed separately may be provided on each lot or parcel involved in the event that one party to the joint parking agreement abrogates or otherwise withdraws from such agreement. Should such agreement be withdrawn by either party each use shall provide the parking as herein required.

34.50**PARKING SPACE AND MANEUVERING AISLE REQUIREMENTS.**

- A. All parking spaces and maneuvering aisles shall comply with the requirements contained in Figure 34-1.

34.60**UNITS OF MEASUREMENT.****A.****Floor Area:**

1. Where floor area is the unit for determining the required number of off-street parking and loading spaces, said unit shall mean the gross floor area, except as noted in subsection 34.60 A.2 which follows.
2. Where the floor area measurement is specified as net floor area, parking requirements will apply to all building areas except that floor area used for incidental service, storage, installations of mechanical equipment, heating systems and similar uses and other areas where service to the general public is not provided. For buildings where use areas are not yet defined, the gross floor area may be reduced by fifteen percent (15%) for calculating net floor area. When use areas are defined, the greater of the above calculations (actual net floor area versus 15% of gross floor area) shall be used to compute parking requirements.

B.

Places of Assembly: In stadia, sports arenas, churches and other places of assembly in which any portion of the seating consists of benches, pews or other such seating, each 18 inches of such seating shall be counted as one seat.

C.

Employees: For requirements stated in terms of employees, the calculation shall be based upon the total number of employees.

D.

Fractions: When units of measurement determining the number of required parking or loading spaces result in a fractional space, any fraction shall be counted as one additional space.

34.70 SCHEDULE OF OFF-STREET PARKING REQUIREMENTS.

Each use shall provide parking spaces in conformance with the following schedule of requirements:

<u>A.</u> <u>USE</u> <u>Residential</u>	Number of Motor Vehicle Parking Spaces Required Per Unit of Measure
1. Single family, two family or multiple family with three or more bedrooms.	Two for each dwelling unit.
2. Multiple family with one or two bedrooms.	Two for each two bedroom dwelling unit and 1.5 for each one bedroom dwelling unit.
3. Efficiencies	One for each dwelling unit
4. Mobile home parks	Two for each mobile home or mobile home site.
5. Elderly Housing	For independent living units, two for each unit. For "interim" or "intermediate care" units, one for each two beds, plus one per employee.
<u>B. INSTITUTIONAL</u>	
1. Churches or Temples	One for each three seats
2. Hospitals	One for each two beds plus one for each staff doctor, plus one for each two additional employees.
3. Nursing homes, homes for the aged and convalescent homes.	One for each four beds, plus one for each staff doctor, plus one for each two additional employees.
4. Day Care Centers	Two spaces, plus one for each additional employee or administrator.
5. Elementary and Junior High Schools	One per teacher plus one for each additional employee or administrator, plus requirements of the auditorium or assembly hall therein.
6. High schools	One for each teacher plus one for each ten students, plus one for each employee or administrator, plus requirements of the auditorium or assembly hall therein.

7. Theaters	One for each four seats plus one for each two employees.
8. Auditoriums and assembly halls	One for each three seats plus one for each two employees.
9. Stadiums, sports arenas or similar places of outdoor assembly.	One for each three seats.
10. Dance and union halls, civic clubs, fraternal orders, conference rooms, exhibit halls, ball rooms or any similar type of use	One space for every two persons allowed within the maximum occupancy load as determined by the Uniform Building Code, or one for each 100 square feet of NUA, whichever is greater.
11. Private golf clubs, ski clubs, swimming clubs or beaches, tennis clubs, or similar uses	One per every four persons of maximum anticipated capacity as determined by the Uniform Building Code.
12. Golf Courses open to the general public.	Five for each golf hole and one for each employee, plus amount required for accessory uses
C. <u>BUSINESS & COMMERCIAL</u>	
1. Retail Centers containing between 25,000 and 400,000 square feet	Four Spaces per 1,000 square feet of net useable space.
2. Retail Centers containing between 400,000 and 600,000 square feet.	Four and one-half spaces per 1,000 square feet of net useable space
3. Retail Centers containing greater than 600,000 square feet.	Five Spaces per 1,000 square feet of net useable space.
4. Other retail not otherwise specified herein.	Five spaces per 1,000 square feet of net useable space.
5. Furniture and home furnishing stores (not including appliance stores)	One for each 800 square feet of NUA
6. Supermarket, self service food or beverage shop.	One for each 200 square feet of net useable space.
7. Motor vehicle and mobile home sales establishments	One for each 1,000 square feet of net useable space plus one for each employee

8. Restaurants, taverns, bars, nightclubs.	One space for each three persons allowed within the maximum occupancy load as established by the Building Code, plus one for each three employees.
9. Drive-in restaurants and self service restaurants.	One space for each 2.5 persons allowed within the maximum occupancy, plus one space for each employee on the largest shift
10. Barber Shops, beauty salons.	Two for each barber or beauty operator chair/station plus one for every two employees.
11. Laundromats and coin operated dry cleaners.	One for each two washing machines.
12. Car washes	One for each employee on the largest shift.
13. Auto Service Station	Two for each service bay, plus one for each employee, plus one for each road service vehicle.
14. Auto service station with sale of convenience goods	The requirements for an auto service station, plus one space per each fifty square feet of NUA devoted to non-gasoline sales area.
15. Bowling Alley	Five for each bowling lane, plus amount required for accessory uses.
16. Miniature or Par 3 golf course	Three for each hole, plus one for each employee.
17. Video rental stores	One for each 100 square feet GFA plus one for each employee on largest shift.
18. Funeral home or mortuary	One for each fifty square feet in service parlors, chapels and reception areas plus one for each funeral vehicle maintained on the premises.
19. Hotel, motel or other commercial lodging establishment.	One space for each guest room, plus one for each employee, plus amount required for accessories uses.

D. <u>OFFICES</u>	
1. Banks, credit unions and savings and loan establishments.	One for each 150 square feet of NUA, plus one for each employee, plus two for each automatic teller machine.
2. Business and professional offices; not otherwise specified herein.	One for each 200 square feet of NUA.
3. Medical and dental offices or clinics.	One for each 150 square feet of NUA.
4. Office space in a retail shopping center occupying greater than 10% of the center's GLA.	One for each 500 square feet of GFA.
E. <u>INDUSTRIAL</u>	
1. Industrial or manufacturing establishment, research and testing labs.	Two for each three employee computed on basis of total number of employed on all shifts plus one for each company vehicle stored on the premises.
2. Warehouses, truck terminals	Two for each three employees based on total number employed on all three shifts.
3. Mini-warehouse, storage	One for each employee plus one for each 20 or fewer storage units.
F. <u>BARRIER FREE PARKING REQUIREMENTS</u>	
<u>TOTAL PARKING IN LOT</u>	<u>REQ'D # OF ACCESSIBLE SPACES*</u>
1 - 25 SPACES	1
26 - 50	2
51 - 75	3
76 - 100	4
101 - 150	5
151 - 200	6
201 - 300	8
301 - 400	12
Over 400	12 (plus 2 for every 250 or fraction thereof over 400)

*State or Federal regulations shall apply if requiring more accessible spaces.

- G.** Where a use is not specifically listed in Sec. 34.70, A through Sec. 34.70, E, the parking requirements of a similar use shall apply. The Zoning Administrator shall make such interpretation.

34.80**OFF-STREET LOADING REQUIREMENTS.**

- A.** Off-street loading spaces shall be provided in size and quantity sufficient to prevent interference with adjacent streets or required off-street parking areas.
- B.** Required loading spaces shall not be included in the count of off-street parking spaces.

34.90**PARKING RESTRICTIONS.**

- A.** Commercial or Other Vehicles:
- 1.** Parking of commercial vehicles in residential districts shall be limited to not more than one vehicle of light delivery type (not to exceed one ton) for each dwelling unit. The parking of any other type of commercial vehicle in a residential district, except those associated with a lawful use permit in the subject zoning district is prohibited.
 - 2.** The open storage or parking of commercial vehicles greater than one (1) ton, semi-trucks and trailers, mobile homes, tractors, bulldozers, earth carriers, cranes or other such equipment, unless in use during construction work, is prohibited in any residential district.
- B.** The parking of semi-truck trailers for more than a twenty-four (24) hour period in any off-street parking area in Commercial (C1) zoning districts is prohibited.
- C.** Parking of Recreational Vehicles and Equipment:
- 1.** No mobile homes, tent and travel trailers, motor homes, boats and snowmobiles and trailers designed for them, general purpose trailers, and similar equipment, shall be parked or stored within the primary front setback area in excess of forty-eight (48) hours. It is the intent of this section to provide clear vision areas in front of structures, to insure adequate emergency vehicle access to structures and to maintain the character of existing neighborhoods.

35.00

**ARTICLE XXXV
TELECOMMUNICATIONS TOWERS**

AN AMENDMENT TO THE WHITEWATER TOWNSHIP ZONING ORDINANCE #6, ADDING ARTICLE XXXV, ENTITLED "WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS"; PROVIDING DEFINITIONS; PROVIDING FOR PERMITTED LOCATIONS; PROVIDING CONDITIONS FOR PERMITTED USES, ACCESSORY USES, AND SPECIAL USES; PROVIDING FOR PERMITS AND LEASE AGREEMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Township of Whitewater has received or expects to receive, requests to site wireless communications towers and antennas within the municipal boundaries; and

WHEREAS, the Township of Whitewater finds that it is in the public interest to permit the siting of wireless communications towers and antennas within the municipal boundaries, and

WHEREAS, it is the intent of the Township of Whitewater to permit the siting of wireless communications towers and antennas within the municipal boundaries; and

WHEREAS, it is the intent of the Township of Whitewater to protect and promote the public health, safety and welfare by regulating the siting of wireless communications towers and antennas,

NOW, THEREFORE, BE IT ORDAINED BY THE WHITEWATER TOWNSHIP BOARD:

35.10: Intent & Purpose.

The purpose of this ordinance is to establish general guidelines for the siting of wireless communications towers and antennas. The goals of this ordinance are to: (1) protect residential areas and land uses from potential adverse impacts of towers and antennas; (2) encourage the location of towers in non-residential areas; (3) minimize the total number of towers throughout the community; (4) strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers; (5) encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal; (6) encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques; (7) enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently; (8) consider the public health and safety of communication towers; and (9) avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, Whitewater Township shall give due consideration to the Whitewater Township master plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

(WHITEWATER TOWNSHIP ZONING ORDINANCE)

35.11: Definitions.

As used in this ordinance, the following terms shall have the meanings set forth below:

- A. "Alternative tower structure" means man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.
- B. "Antenna" means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.
- C. "Backhaul network" means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.
- D. "FAA" means the Federal Aviation Administration.
- E. "FCC" means the Federal Communications Commission.
- F. "Height" means, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.
- G. "Preexisting towers and preexisting antennas" means any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this ordinance, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.
- H. "Tower" means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.
- I. "Microcell" means the antenna cables and appurtenances necessary for cellular telecommunications.

35.12: Applicability.

- A. New Towers and Antennas. All new towers or antennas in Whitewater Township shall be subject to these regulations, except as provided in Sections 35.12(B) through (D).
- B. Amateur Radio Station Operators/Receive Only Antennas. This ordinance shall not govern any tower, or the installation of any antenna, that is under thirty five (35) feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.
- C. Preexisting Towers or Antennas. Preexisting towers and preexisting antennas shall not be required to meet the requirements of this ordinance, other than the requirements of Sections 35(f) and 35(g).
- D. AM Array. For purposes of implementing this ordinance, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

35.13: General Requirements.

- A. Principal or Accessory Use. Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
- B. Lot Size. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.
- C. Inventory of Existing Sites. Each applicant for an antenna and/or tower shall provide to the Zoning Administrator an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of Whitewater Township or within one mile of the border thereof, including specific information about the location, height, and design of each tower. The Zoning Administrator may share such information with other applicants applying for administrative approvals or special use permits under this ordinance or other organizations seeking to locate antennas within the jurisdiction of Whitewater Township provided, however that the Zoning Administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
- D. Aesthetics. Towers and antennas shall meet the following requirements:
 - 1. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

2. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
 3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- E. Lighting. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
- F. State or Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- G. Building Codes; Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Township of Whitewater concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- H. Measurement. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in Whitewater Township irrespective of municipal and county jurisdictional boundaries.
- I. Not Essential Services. Towers and antennas shall be regulated and permitted pursuant to this ordinance and shall not be regulated or permitted as essential services, public utilities, or private utilities.

- J. Franchises.** Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in Whitewater Township have been obtained and shall file a copy of all required franchises with the Zoning Administrator.
- K. Public Notice.** For purposes of this ordinance, any special use request, variance request, or appeal of an administratively approved use or special use shall require public notice to all abutting property owners and all property owners of properties that are located within the corresponding separation distance listed in Section 32.15(B)(5)(b) Table 2, in addition to any notice otherwise required by the Zoning Ordinance.
- L. Signs.** No signs shall be allowed on an antenna or tower.
- M. Buildings and Support Equipment.** Buildings and support equipment associated with antennas or towers shall comply with the requirements of Section 35.16.
- N. Multiple Antenna/Tower Plan.** Whitewater Township encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.

35.14: Permitted Uses.

- A. General.** The uses listed in this Section are deemed to be permitted uses and shall not require a special use permit.
- B. Permitted Uses.** The following uses are specifically permitted:
 - 1.** Antennas or towers located on property owned, leased, or otherwise controlled by Whitewater Township provided a license or lease authorizing such antenna or tower has been approved by Whitewater Township.

35.15: Special Use Permits.

- A. General.** The following provisions shall govern the issuance of special use permits for towers or antennas by the Planning Commission:
 - 1.** If the tower or antenna is not a permitted use under Section 35.14 of this ordinance, then a special use permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts.
 - 2.** Applications for special use permits under this Section shall be subject to the procedures and requirements of Article XXV [Article on special uses] of the Zoning Ordinance, except as modified in this Section.
 - 3.** In granting a special use permit, the Planning Commission may impose conditions to the extent the Planning Commission concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.

4. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.
5. An applicant for a special use permit shall submit the information described in this Section and a non-refundable fee as established by the Whitewater Township Board, as well as any additional fees which may be required should outside professional assistance be required in the review of the application, to reimburse Whitewater Township for the costs of reviewing the application.

B. Towers.

1. Information required. In addition to any information required for applications for special use permits pursuant to Article XXV [Article on special uses] of the Zoning Ordinance, applicants for a special use permit for a tower shall submit the following information:
 - a. A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), Master Plan classification of the site and all properties within the applicable separation distances set forth in Section 32.15(B)(4), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Zoning Administrator to be necessary to assess compliance with this ordinance.
 - b. Legal description of the parent tract and leased parcel (if applicable).
 - c. The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.
 - d. The separation distance from other towers described in the inventory of existing sites submitted pursuant to Section 35.13(C) shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
 - e. A landscape plan showing specific landscape materials.
 - f. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.

- g. A description of compliance with Sections 35.03(C), (D), (E), (F), (G), (J), (L), and (M), 35.15(B)(4), 35.15(B)(5) and all applicable federal, state or local laws.
 - h. A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
 - i. Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the municipality.
 - j. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
 - k. A description of the feasible location(s) of future towers or antennas within the Township of Whitewater based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
2. Factors Considered in Granting Special Use Permits for Towers. In addition to any standards for consideration of special use permit applications pursuant to Article XXV [Article on special uses] of the Zoning Ordinance, the Planning Commission shall consider the following factors in determining whether to issue a special use permit, although the Planning Commission may waive or reduce the burden on the applicant of one or more of these criteria if the Planning Commission concludes that the goals of this ordinance are better served thereby:
- a. Height of the proposed tower;
 - b. Proximity of the tower to residential structures and residential district boundaries;
 - c. Nature of uses on adjacent and nearby properties;
 - d. Surrounding topography;
 - e. Surrounding tree coverage and foliage;
 - f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
 - g. Proposed ingress and egress; and

- ### 3. Availability of Suitable Existing Towers, Other Structures, or Alternative Technology.
- No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's a proposed antenna. An applicant shall submit information requested by the Planning Commission related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
- a. No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
 - b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
 - c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 - d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
 - e. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
 - f. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
 - g. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

4. Setbacks. The following setback requirements shall apply to all towers for which a special use permit is required; provided, however, that the Planning Commission may reduce the standard setback requirements if the goals of this ordinance would be better served thereby:
- a. Towers must be set back a distance equal to at least seventy-five percent (75%) of the height of the tower from any adjoining lot line.
 - b. Guys and accessory buildings must satisfy the minimum zoning district setback requirements.
5. Separation. The following separation requirements shall apply to all towers and antennas for which a special use permit is required; provided, however, that the Planning Commission may reduce the standard separation requirements if the goals of this ordinance would be better served thereby.
- a. Separation from off-site uses/designated areas.
 - (1) Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 1.
 - (2) Separation requirements for towers shall comply with the minimum standards established in Table 1.

Table 1:

Off-site Use/Designated Area	Separation Distance
Single-family or duplex residential units ¹	200 feet or 300% height of tower whichever is greater
Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired	200 feet or 300% height of tower ² whichever is greater
Vacant unplatted residentially zoned lands ³	100 feet or 100% height of tower whichever is greater
Existing multi-family residential units greater than duplex units	100 feet or 100% height of tower whichever is greater
Non-residentially zoned lands or non-residential uses	None; only setbacks apply

¹Includes modular homes and mobile homes used for living purposes.

²Separation measured from base of tower to closest building setback line.

³Includes any unplatted residential use properties without a valid preliminary subdivision plan or valid development plan approval and any multi-family residentially zoned land greater than duplex.

A. Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 2.

B. Table 2: Existing tower types, all measurements are in feet. (next page)

Table 2.

	Lattice	Guyed	Monopole 75 feet or Higher	Monopole less than 75 feet
Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole 75 feet or higher	1,500	1,500	1,500	750
Monopole less than 75 feet	750	750	750	750

A. Security fencing. Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device; provided however, that the Planning Commission may waive such requirements, as it deems appropriate.

B. Landscaping. The following requirements shall govern the landscaping surrounding towers for which a special use permit is required; provided, however, that the Planning Commission may waive such requirements if the goals of this ordinance would be better served thereby.

1. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound.
2. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.
3. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

35.16: Buildings or Other Equipment Storage.

- A. Antennas Mounted on Structures or Rooftops.** The equipment cabinet or structure used in association with antennas shall comply with the following:
1. The cabinet or structure shall not contain more than one hundred (100) square feet of gross floor area or be more than thirty five (35) feet in height. In addition, for buildings and structures which are less than thirty five (35) feet in height, the related unmanned equipment structure, if over one hundred (100) square feet of gross floor area or thirty five (35) feet in height, shall be located on the ground and shall not be located on the roof of the structure.
 2. If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than ten (10) percent of the roof area.
 3. Equipment storage buildings or cabinets shall comply with all applicable building codes.
- B. Antennas Mounted on Utility Poles or Light Poles.** The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:
1. In residential districts, the equipment cabinet or structure may be located:
 - (a) In a front or side yard provided the cabinet or structure is no greater than ten (10) feet in height and one hundred, seventy six (176) of gross floor area and the cabinet/structure shall comply with all setback requirements within the specific zone. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least 42-48 inches and a planted height of at least 36 inches.
 - (b) In a rear yard, provided the cabinet or structure is no greater than ten (10) feet in height and one hundred, seventy six (176) square feet in gross floor area. The cabinet/structure shall comply with all setback requirements within the specific zone and be screened by an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least 36 inches.
 2. In commercial or industrial districts the equipment cabinet or structure shall be no greater than ten (10) feet in height and one hundred, seventy six (176) square feet in gross floor area. The structure or cabinet shall comply with all setback requirements within the specific zone and be screened by an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least 36 inches. In all other instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid fence six (6) feet in height or an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least 36 inches.
- C. Antennas Located on Towers.** The related unmanned equipment structure shall not contain more than ten (10) square feet of gross floor area and be more than ten (10) feet in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which located.

- D. Modification of Building Size Requirements. The requirements of Sections 35.16 (A) through (C) may be modified by the Planning Commission in the case of uses permitted by special use to encourage collocation.

35.17: Removal of Abandoned Antennas and Towers.

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the Township of Whitewater notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety (90) day shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower. A performance guarantee may be required in order to effectuate the terms and conditions of this ordinance.

35.18: Nonconforming Uses.

- A. Not Expansion of Nonconforming Use. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.
- B. Preexisting towers. Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this ordinance.
- C. Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas. Notwithstanding Section 32.17, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a special use permit and without having to meet the separation requirements specified in Sections 35.15(B)(4) AND 35.15(B)(5). The type, height, and location of the tower onsite shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in Section 35.17.

35.19: Severability.

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Section 35.20: Repealer.

Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 35.21: Effective Date.

This Ordinance shall take effect October 6, 1997.

ARTICLE XXXVI
MOBILE HOME STANDARDS

(Effective July 28, 2017)

36.10 INTENT

The purpose of the Mobile Home standards is to establish guidelines for persons and families who choose to live in a mobile home, HUD, or similar approved structure rather than a conventional single-family structure that conforms to the Michigan Residential Code (MRC).

36.11 MOBILE HOME REGULATIONS

A mobile home may be permanently located on a lot as a single-family dwelling provided the following qualifying conditions are met:

- A. Each mobile home shall require a land use permit and shall be subject to the inspection standards of the Grand Traverse Construction Code Division.
- B. Each mobile home shall bear a label required by section 3282.362(c)(2) of the Federal Mobile Home Procedural and Enforcement Regulations.
- C. Each mobile home shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Manufactured Housing Commission.
- D. Within ten (10) working days following installation, all towing mechanism shall be removed from each mobile home. No mobile home shall have any exposed undercarriage or chassis.
- E. All legally anchored mobile homes shall be exempt from foundation requirements.
- F. All mobile homes shall be located within the Agricultural and RC districts, and are subject to all existing regulations.
- G. All construction, plumbing, electrical apparatus and insulation within and connected to each home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR Section 3280, as is from time to time amended.
- H. To the extent that any of these provisions conflict with any provision of the Mobile Home Commission Act or its administrative rules as applied to a mobile home in a residential neighborhood, the Mobile Home Commission Act provision will control.

36.12 BUILDING SIZES, LOT SIZES AND YARD REQUIREMENTS

All structures, lots, and structure setbacks from property lines shall comply with the regulations established in Article XII of this Ordinance.

36.30 MOBILE HOME CONDOMINIUM

Multiple mobile homes may be placed on a common property under the provisions of Article 28.15, Mobile Home Condominiums. Mobile home condominium projects shall conform to the requirements for mobile home parks established under the regulations of the Michigan Mobile Home Commission and the Schedule of Regulations in Article 12.11.

Article XXXVII
Supplementary Provisions

37.10 Temporary Buildings and Uses

A. Permitted Temporary Buildings and Uses. The following buildings and uses are permitted subject to meeting all of the following requirements of this section:

1. Temporary Dwellings. No temporary dwelling shall be erected or moved onto a lot and used for dwelling purposes except during construction of a permanent dwelling on the premises which has been issued a building permit and conforms to the following:
 - a) The residence under construction shall conform to all other Township Ordinances.
 - b) The reasonable date for removal of the temporary dwelling, established on the permit issued by the Zoning Administrator, shall not exceed ninety (90) days from the date of occupancy of the permanent structure.
 - c) The temporary dwelling shall be connected to a water supply and sewage disposal system approved by the Grand Traverse County Environmental Health Department.
 - d) The applicant for a temporary dwelling permit shall complete the "Temporary Dwelling Agreement" as adopted by the Township Board.
2. Temporary Use of an Existing Residence during Construction of New Residence. A property owner may utilize an existing residence while building a new home on the same parcel of land when conforming with the following:
 - a) The residence under construction shall conform to all other Township Ordinances.
 - b) The reasonable date for removal of the temporary dwelling, established on the permit issued by the Zoning Administrator, shall not exceed ninety (90) days from the date of occupancy of the permanent structure.
 - c) The applicant for a temporary dwelling permit shall complete the "Temporary Dwelling Agreement for the use of Existing Homes" as adopted by the Township Board.
3. Temporary Camping. A property owner shall be entitled to a camping permit for temporary recreational use when conforming with the following:
 - a) The structure shall not be permanently connected to a water supply, electrical supply, septic system, natural gas supply, nor permanently attached to a foundation.

- b) No "gray water" or sewage shall be drained or dumped from the structure, except into such collection vehicles, or septic disposal systems as may be approved by the Grand Traverse County Environmental Health Department.
- c) The maximum duration of stay shall not exceed one hundred and twenty (120) days per year.
- d) All camping activities shall be kept 50 feet from the ordinary high water mark.
- e) Camping activities shall not be a nuisance to surrounding property.

4. Temporary Construction Structures. Temporary structures used for storage of equipment and construction offices may be used only during the construction of a permanent structure(s) which has been issued a building permit. The temporary structures shall be removed from the site prior to the issuance of a certificate of occupancy.

5. Special Events and Other Temporary Uses. The Township Zoning Administrator may grant temporary use of land and structures for special events and other temporary uses as listed below:

- a) Carnival, Circus and Musical Concert or other Transient Entertainment or Recreational Enterprise
- b) Sidewalk or Tent Sale or other Similar Outdoor Sale
- c) Other Special Events as deemed similar by the Zoning Administrator.

B. Temporary Building or Use Permit. A temporary building or use shall require issuance of a land use permit from the Zoning Administrator under Article 17 of this Ordinance. The Zoning Administrator shall make a determination that the location of a temporary building or use will not adversely affect adjoining properties, not adversely affect the public health, safety, and the general welfare of the Township. The permit shall set forth all conditions to be placed and may require a fee as established by the Township Board.

C. Performance Guarantee. The Township may require a deposit by the applicant in the form of a certified check, cash or letter of credit in an amount sufficient to hold the Township free of all liabilities incident to the operation of a temporary building or use, to indemnify any adjoining land owner for any damages resulting from the operation of such activity and to ensure proper cleanup after the temporary use and removal of all temporary structures. The amount of the guarantee shall be estimated by the Zoning Administrator. The Township shall rebate to the applicant upon satisfactory removal of all temporary uses and structures.

37.20 Raising and Keeping of Animals

- A. The keeping of domestic animals shall be allowed provided that the animals are maintained so as to not constitute a public nuisance. Dogs shall be limited to three (3).
- B. The keeping of livestock, including horses and poultry shall be allowed provided that the same are kept on a parcel of land of not less than two and one-half (2 1/2) acres and provided further that all livestock and poultry be properly housed and fenced so as not to be a public nuisance and provided that no enclosure or space for the permanent housing of livestock or poultry shall be located nearer than one hundred (100) feet from any adjoining property line or highway right-of-way.
- C. The keeping of female poultry and rabbits is permitted on parcels of land less than two and one-half (2 1/2) acres provided that the female poultry is properly housed and adequately contained within the property so as not to be a public nuisance and provided that no enclosure or space for permanent housing shall be located nearer than forty (40) feet from any adjoining property line or highway right-of-way.

37.30 Dog Kennels

Dog kennels shall be subject to the following conditions:

- A. The parcel of land upon which such activity is conducted shall be no less than ten (10) acres in area.
- B. All enclosures for breeding, rearing, shelter or other uses in conjunction with the harboring of dogs, shall be hard surfaces and provide proper drains for washing with water pressure.
- C. All breeding areas, runs and shelter areas shall not be located nearer than two hundred (200) feet from any adjoining property line or highway right-of-way.
- D. The entire facility including breeding areas, shelters and runs shall be enclosed by a visual screen or sound reducing wall or fence six (6) feet in height.

37.40 Home Occupations

Home Occupations shall be divided into 2 classes: Minor and Major Home Occupations.

- A. Minor Home Occupations shall be conducted entirely within a residence, must be operated by the occupants of the residence and there shall be no visible external evidence of the occupation. This type of occupation shall not require permitting from the Township. Examples – Internet Sales, Accountants, Artists, Engineers, Medical Marijuana Caregivers, Private Teachers/Tutors, Authors, Wedding Planners and similar uses.
- B. Major Home Occupations can be conducted within the residence and/or an accessory building located on the property. Signage shall be allowed on site and non-resident employees may be allowed. Further, this type of occupation shall require a special use permit from the Planning Commission and meet the special conditions listed in Article 25.22 (C). Examples – Hairdresser, Retail Shops (including antiques and gifts) and similar uses as determined by the Planning Commission.

37.50 Private Family Campgrounds

A. Private Campgrounds are intended to allow owners to utilize their property for the purpose of temporary but-reoccurring recreational uses. The private campground may consist of temporary and/or permanent structures and shall meet the following conditions:

1. The property shall contain a minimum of 10 acres.
2. Cabins shall be limited to one per 5 acres.
3. Permanent camping pads shall be allowed at a rate of one per 2 acres.
4. Each cabins or pad shall be provided water and sanitary service approved by the Grand Traverse County Health Department.
5. No structures or pads shall be located within 50 feet of a property line.
6. An accessory/service building for storage, cooking, etc. shall be allowed provided that the building does not exceed 1200 square feet.
7. A pavilion up to 400 square feet shall be allowed.
8. Permanent residency is prohibited on the property.
9. Recreational elements shall not have a negative impact on the surrounding areas with regard to noise, light, odors, etc.
10. The campground or portions thereof shall not be rented or offered to the public.
11. A document shall be filed with the Grand Traverse County Register of Deeds stating the conditions and limitations of the site plan by the property owner.

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DRAFT

Township of Whitewater
County of Grand Traverse – State of Michigan
Ordinance 26
Adopted: May 20, 1997
Effective: June 26, 1997
AMENDED NOVEMBER 2008
AMENDED FEBRUARY 2011

Land Division Ordinance

An Ordinance to regulate partitioning or division of parcels or tracts of land, enacted pursuant but not limited to Michigan Public Act 288 of 1967, as amended, and Act 246 of 1945, as amended, being The Township General Ordinance Statute; to provide a procedure therefore; to repeal any ordinance or provision thereof in conflict herewith; and to prescribe penalties and enforcement remedies for the violation of this Ordinance.

Township of Whitewater
Grand Traverse County, Michigan,
Ordains:

Section I

Title

This Ordinance shall be known and cited as the Whitewater Township Land Division Ordinance.

Section II

Purpose

The purpose of this Ordinance is to carry out the provisions of the State Land Division Act (1967 PA 288, as amended, formerly known as the Subdivision Control Act), to prevent the creation of parcels of property which do not comply with the applicable ordinances and said development of the Township, and otherwise provide for the health, safety and welfare of the residents and property owners of the Township by establishing reasonable standards for prior review and approval of the land divisions with the Township.

Section III

Definitions

For purposes of this Ordinance certain terms and words used herein shall have the following meaning:

- A. “Applicant” – a natural person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land, whether recorded or not.
- B. “Divided” or “Division” – the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of Sections 108 and 109 of the State Land Division Act.

- C. “Exempt split” or “exempt division” – the partitioning or splitting of a parcel or tract of land by the proprietor thereof, or by his or her heirs, executors, administrators, legal representatives, successors or assigns, that does not result in one or more parcels of less than 40 acres or the equivalent; provided all resulting parcels are accessible for vehicular travel and utilities from existing public roads through existing adequate roads or easements, or through areas owned by the owner of the parcel that can provide such access.
- D. “Forty acres or the equivalent” – either 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.
- E. “Governing Body” – The Whitewater Township Board.

Section IV

Prior Approval Requirement for Land Divisions

Land in the Township shall not be divided without the prior review and approval of the Township Assessor and Township Zoning Administrator, or other official(s) designated by the Governing Body, in accordance with this Ordinance and the State of Michigan Land Division Act; provided that the following shall be exempted from this requirement:

- A. A parcel proposed for subdivision through a recorded plat pursuant to the Township’s Subdivision Control Ordinance and the State Land Division Act.
- B. A lot in a recorded plat proposed to be divided in accordance with the Township’s Subdivision Control Ordinance and the State Land Division Act.
- C. An exempt split as defined in this Ordinance.

Section V

Application for Land Division Approval

An applicant shall file all of the following with the Township Clerk or other official designated by the Governing Body for review and approval of a proposed land division before making any division either by deed, land contract, lease for more than one year, or for building development:

- A. A completed form on such form as may be provided by the Township.
- B. Proof of fee ownership of the land proposed to be split.
- C. A survey map of the land proposed to be divided, prepared pursuant to the survey map requirements of 1970 Public Act 132, as amended, (MCL 54.211) by a land surveyor licensed by the State of Michigan, and showing the dimensions and legal descriptions of the existing parcel and the parcels proposed to be created by the division(s), the location of all existing structures and other land improvements, and the accessibility of the parcels for vehicular traffic and utilities from the existing roads.

In lieu of such survey map, at the applicant’s option, the applicant may waive the 45 day statutory requirement for a decision on the application until such survey map and legal description are filed with the Township and submit a tentative preliminary parcel map drawn to scale of not less than that provided for on the application form including an accurate legal description of each proposed division, and showing the boundary lines, dimensions, and the accessibility of each division from existing or proposed public roads

for automobile traffic and public utilities, for preliminary review, approval, and/or denial by the designated official prior to a final application under Section V.

The Governing Body or its designated agent delegated such authority by the Governing Body, may waive the survey map requirement where the foregoing tentative parcel map is deemed to contain adequate information to approve a proposed land division considering the size, simple nature of the divisions, and the undeveloped character of the territory within which the proposed divisions are located. An accurate legal description of all proposed divisions, however, shall at all times be required.

- D. Proof that all standards of the State Land Division Act and this Ordinance have been met.
- E. The history and specifications of any previous divisions of land of which the proposed division was a part sufficient to establish the parcel to be divided was lawfully in existence as of March 31, 1997, the effective date of the State Land Division Act.
- F. Proof that all due and payable taxes or installments of special assessments pertaining to the land proposed to be divided are paid in full.
- G. If a transfer of division rights is proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.
- H. Unless a division creates a parcel which is acknowledged and declared to be “not buildable” under Section VIII of the Ordinance, all divisions shall result in “buildable” parcels containing sufficient “buildable” area outside of unbuildable wetlands, flood plains, and other areas where buildings are prohibited there from, and with sufficient area to comply with all required setback provisions, minimum floor areas, off-street parking spaces, on-site sewage disposal and water well locations (where public water and sewer service is not available), and maximum allowed area coverage of buildings and structures on the site.
- I. The fee as may from time to time be established by resolution of the Governing Body for land division reviews pursuant to this Ordinance to cover the costs of review of the application and administration of this Ordinance and the State Land Division Act.

Section VI

Procedure for Review of Applications

For Land Division Approval

- A. Upon receipt of a land division application package, the Township Clerk or other official designated by the governing body shall forthwith submit the same to the Township Assessor and Township Zoning Administrator or other designated official(s) for decision. The Township Assessor and Township Zoning Administrator or other designee(s) shall approve, approve with reasonable conditions to assure compliance with applicable ordinances and the protection of public health, safety and general welfare, or disapprove the land division applied for within 45 days after receipt of the application package conforming to this Ordinance’s decisions and the reasons for any denial. If the application package does not conform to this Ordinance’s requirements, the Assessor and Zoning Administrator or other designee(s) shall return the same to the applicant for completion and refilling in accordance with this Ordinance and the State Land Division Act.
- B. Any person or entity aggrieved by the decision of the Assessor and Zoning Administrator or designee(s) may with 30 days of said decision appeal the decision to the Governing

Body or such other board or person designated by the Governing Body which shall consider and resolve such appeal by a majority vote of said board or by the designee at its next regular meeting or session affording sufficient time for a 20 day written notice to the applicant (and appellant where other than the applicant) of the time and date of said meeting and appellate hearing.

- C. A decision approving a land division is effective for 90 days, after which it shall be considered revoked unless within such period a document is recorded with the County Register of Deeds office and filed with the Clerk or other designated official accomplishing the approved land division or transfer.
- D. The Township Assessor and the Township Zoning Administrator or designee(s) shall maintain an official record of all approved and accomplished land divisions or transfers.

Section VII

Standards for Approval of Land Divisions

A proposed land division shall be approved if the following criteria are met:

- A. All the parcels to be created by the proposed land division(s) fully comply with the applicable lot (parcel), yard and area requirements of the applicable Zoning Ordinance, including, but not limited to, minimum lot (parcel) frontage/width, minimum road frontage, minimum lot (parcel) area, minimum lot width to depth ratio, and maximum lot (parcel) coverage and minimum setbacks for existing buildings/structures.
- B. The proposed land division(s) complies with all requirements of the State Land Division Act and this Ordinance.
- C. All parcels created and remaining have existed adequate accessibility or an area available therefore, to a public road for public utilities and emergency and other vehicles not less than the requirements of the applicable zoning ordinance, major thoroughfare plan, road ordinance or this Ordinance. In determining adequacy of accessibility, any ordinance standards applicable to plats shall also apply as a minimum standard whenever a parcel or tract is proposed to be divided to create 4 or more parcels.
- D. The ratio of depth to width of any parcel created by the division does not exceed a four to one ratio exclusive of access roads, easements, or non-buildable parcels created under ~~Section VIII~~ IX of this Ordinance and parcels added to contiguous parcels that result in all involved parcels complying with said ratio.

The Governing Body or other board or person designated by the Governing Body may approve a land division that creates a resulting parcel with a depth to width ratio greater than four to one if the applicant demonstrates that there are exceptional topographic or physical conditions with respect to the parcel and that the greater ratio would be reasonably compatible with the surrounding lands.

The permissible depth of a parcel created by a land division shall be measured within the boundaries of each parcel from the abutting road right of way to the most remote boundary line point of the parcel from the point of commencement of the measurement.

The permissible minimum lot (parcel) width shall be defined in the Whitewater Township Zoning Ordinance.

Section VIII

Variances

Where there are practical difficulties in the way of carrying out the strict letter of this Ordinance the Township Board, or its designee, shall have the power to vary or modify the application of the provisions of this Ordinance so that the intent and purpose of the Ordinance is observed, public safety secured and substantial justice done. The Township Board, or its designee, may attach reasonable conditions in approving any variance from any provision. The breach of any condition or the failure of any applicant to comply with conditions shall void the variance.

- In order for a variance to be granted, evidence must be presented at a public hearing that all of the following conditions exist:
- Exceptional or extraordinary circumstances exist such as exceptional topographical or physical conditions; or that the greater ratio would be reasonably compatible with the surrounding lands.
- Strict compliance with the regulations of this Ordinance will unreasonably prevent the applicant from developing the property or will render conformity with the regulations of this Ordinance unreasonably burdensome.
- The requested variance will not cause an adverse impact on the development of surrounding property, property values or the use and enjoyment of property in the immediate area.
- Health, safety and welfare will not be compromised.
- The requested variance is the minimum variance necessary to permit reasonable use of the land.

Further, in the event that a variance is granted under this Section, said variance and any conditions, if applicable, shall be recorded with the Grand Traverse County Register of Deeds by the seller and/or proprietor.

Section IX

Allowance for Approval of Other Land Divisions

Notwithstanding disqualification from approval pursuant to this Ordinance, a proposed land division which does not fully comply with the applicable lot, yard, accessibility and area requirements of the applicable Zoning Ordinance or this Ordinance may be approved in any of the following circumstances:

- A. Where the applicant executes and records an affidavit or deed restriction with the County Register of Deeds, in a form acceptable to the municipality, designating that the parcel as “not buildable.” Any such parcel shall also be designated as “not buildable” in the Township records, and shall not thereafter be the subject of a request to the Zoning Board of Appeals for variance relief from the applicable lot and/or area requirements, and shall not be developed with any building or above ground structure exceed four feet in height.

- B. Where, in circumstances not covered by paragraph A above, the Zoning Board of Appeals has granted a variance from the lot, yard, ratio, frontage and/or area requirements with which the parcel failed to comply.
- C. Where the proposed land division involves only the minor adjustment of a common boundary line or involves a conveyance between adjoining properties which does not result in either parcel violating this Ordinance, and applicable Zoning Ordinance, or the State Land Division Act.

Section X

Consequences of Noncompliance with Land Division Approval Requirements

Any parcel created in noncompliance with this Ordinance shall not be eligible for any building permits, or zoning approvals, such as special land use approval or site plan approval, and shall not be recognized as a separate parcel on the assessment roll. In addition, violation of this Ordinance shall subject the violator to the penalties and enforcement actions set forth in Section ~~X~~ XI of this Ordinance, and may otherwise be provided by law.

Section XI

Penalties and Enforcement

Any person who violates any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$500.00 or by imprisonment in the County Jail not to exceed 90 days or by both such fine and imprisonment.

Section XII

Severability

The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of this Ordinance other than said part of portion thereof.

Section XIII

Repeal

All ordinances or parts of ordinance in conflict with this Ordinance are hereby repealed, except that this Ordinance shall not be construed to repeal any provision in the Township Zoning Ordinance, the Township Subdivision Control Ordinance, or the Grand Traverse County Building Code.

Section XIV

Effective Date

This Ordinance shall take effect 30 days following its publication after adoption.

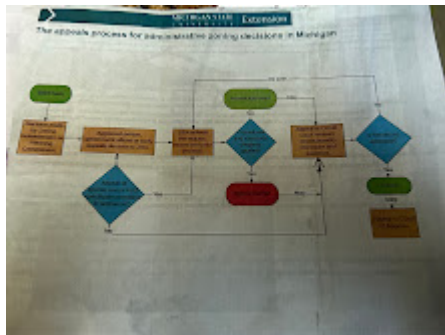
Packet item 5

1 message

Heidi Vollmuth <heidivourtrustee@gmail.com>
To: supervisorwhitewater@gmail.com

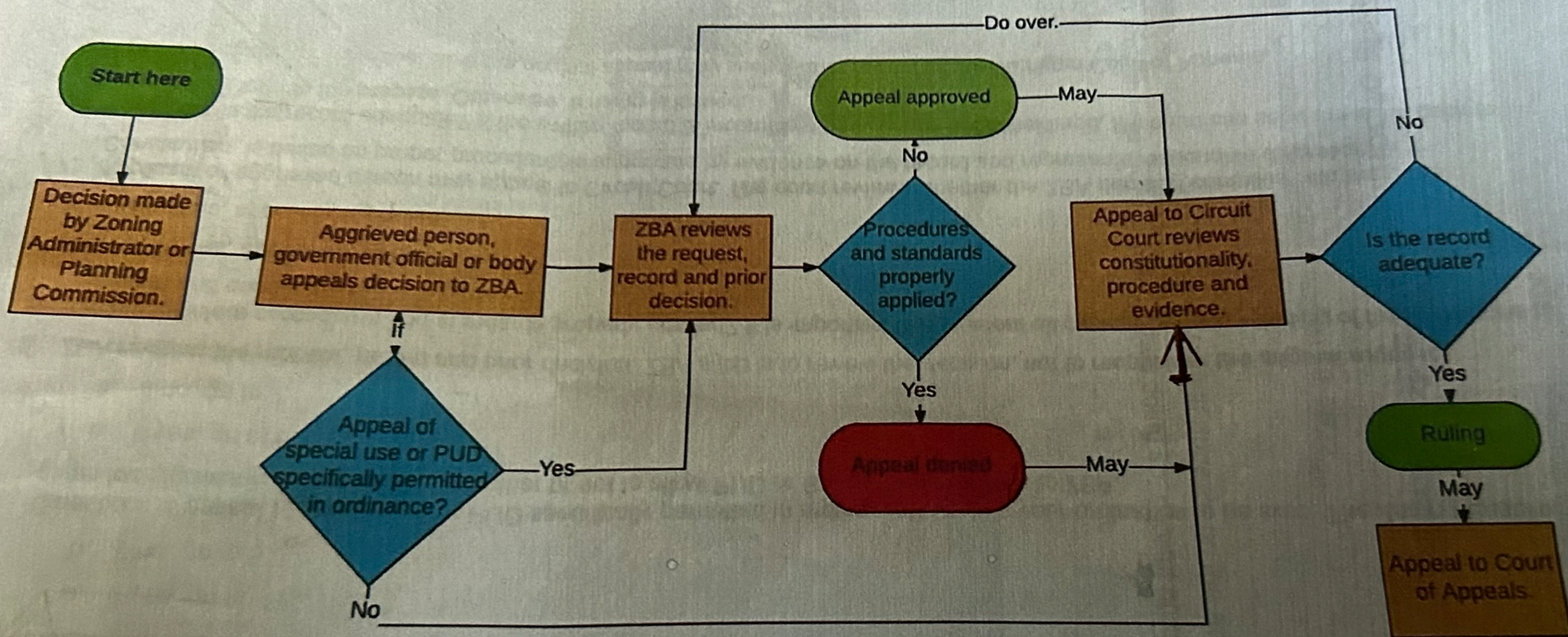
Thu, Sep 14, 2023 at 5:51 PM

This document shows a flow chart of the process.



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2153K

The appeals process for administrative zoning decisions in Michigan





Ron Popp <supervisorwhitewater@gmail.com>

Packet info 6

1 message

Heidi Vollmuth <heidivourtrustee@gmail.com>
To: supervisorwhitewater@gmail.com

Thu, Sep 14, 2023 at 5:36 PM

Please refer to pages 4 thru 9

https://www.whitewatertownship.org/uploads/2/1/9/6/21966412/whitewater_master_plan_draft__high_quality_posted_to_website_05152015.pdf



whitewater-master-plan-draft--high-quality-posted-to-website-05152015.pdf
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WHITEWATER TOWNSHIP



Master Plan 2015

**5777 Vinton Road
PO Box 159
Williamsburg, Michigan 49690
Telephone 231-267-5141
Fax 231-267-9020
www.whitewatertownship.org**

Acknowledgements

Planning Commission

Mickey Dean, Chair
Kim Mangus, Vice-Chair
Matt Lyons, Secretary
Patrick Miller
Brad Link
Doug Bowerman
Lloyd Lawson, Township Trustee,
Township Board Representative

Township Board

Ron Popp, Supervisor
Cheryl Goss, Clerk
Ardella Benak, Treasurer
Paul Hubbell, Trustee
Lloyd Lawson, Trustee

Contributors

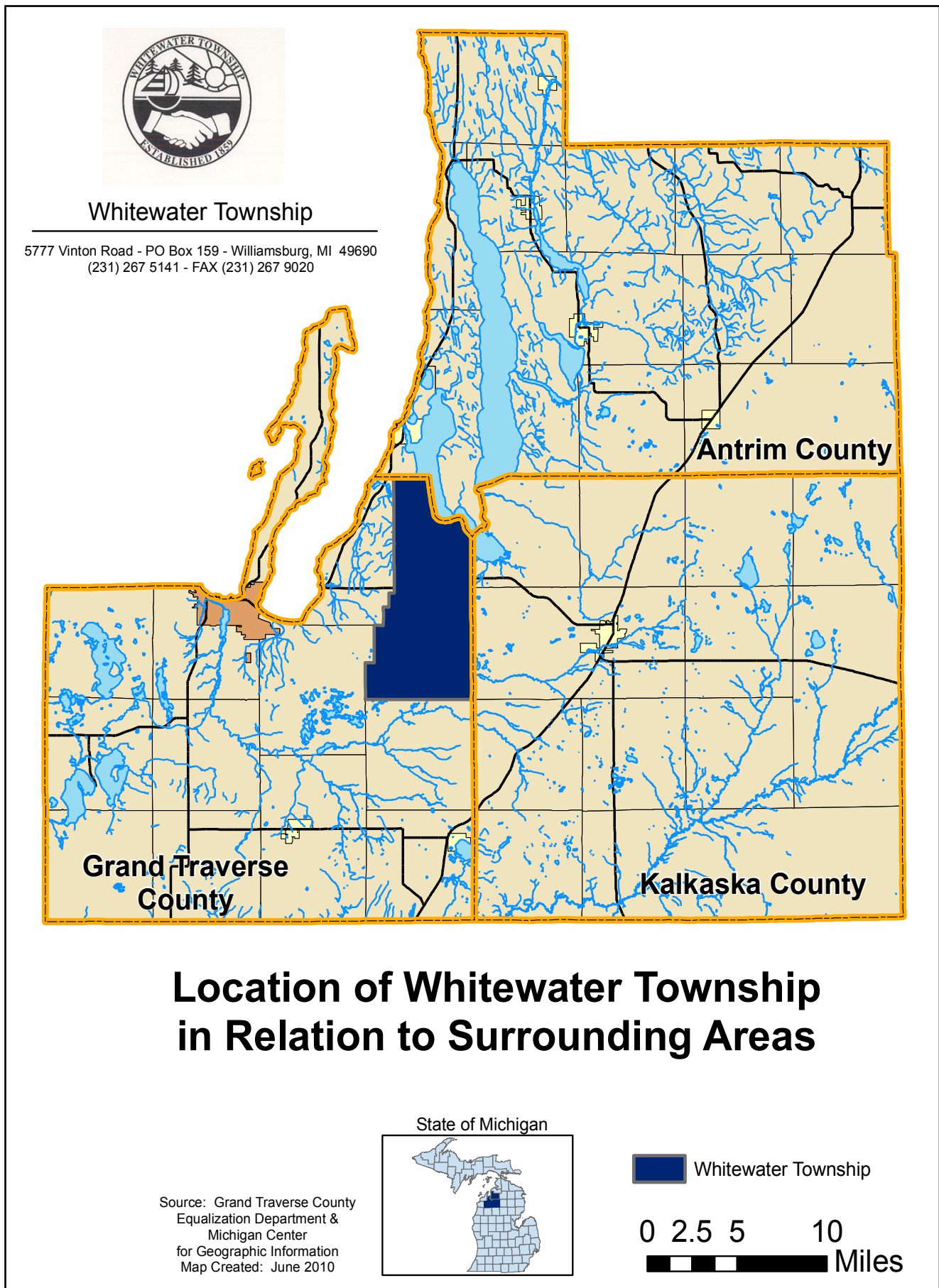
Leslie Meyers Planning/Zoning Administrator 2008 – 2012	Arnell Boyd Township Trustee, Township Board Rep 2007 – 2012
Dylan Sullivan Planning Intern 2011 – 2012	Ron Akers Planning Intern 2009 – 2011
Lois MacLean Deputy Treasurer and Recording Secretary	Dennis Habedank Zoning Administrator 2013 – 2015
Julie Courtade, PC 2007 – 2011	Ron Popp Interim Zoning Administrator 2012 – 2013
Glenn Savage, PC 2007 – 2010	Luann Snider Chairwoman, WWT Historical Society
Steve Zakrajsek, PC 2007 – 2012	

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Appendix

Figure 1. Location of Whitewater Township



PART 1

Introduction

Whitewater Township is located in the northeast corner of Grand Traverse County, Michigan. Since the adoption of the previous Master Plan in 1999, a number of changes have occurred within the Township, the surrounding area and in State Law. The Planning Commission determined that it was essential to Whitewater Township for the Master Plan to be rewritten in order to address these changes.

What is the Master Plan?

The Master Plan is a comprehensive long-range plan intended to guide growth and development of Whitewater Township. It is based on public input, the Whitewater Township Community Input Survey 2009, existing development, physical characteristics, and social and economic conditions. This plan pro-

vides an outline for: Township Officials, residents, developers, and business people interested in living, locating and/or working in the community.

The Whitewater Township Master Plan is not a zoning document; therefore the recommendations of the plan are only for guidance, not to regulate property. Whitewater Township Zoning Ordinance remains the authority in all Township zoning matters.

How does the Township derive its authority?

The Township derives its authority for the preparation of a Master Plan from the Michigan Planning Enabling Act, Public Act 33 of 2008, as amended. Section 33 of the Act requires:

Michigan Planning Enabling Act of 2008, Public Act 33

“(1) A master plan shall address land use and infrastructure issues and may project 20 years or more into the future. A master plan shall include maps, plats, charts, and descriptive, explanatory, and other related matter and shall show the planning commission’s recommendations for the physical development of the planning jurisdiction.

(2) A master plan shall also include those of the following subjects that reasonably can be considered as pertinent to the future development of the planning jurisdiction:

a) A land use plan that consists in part of a classification and allocation of land for agriculture,

residences, commerce, industry, recreation, ways and grounds, public buildings, schools, soil conservation, forests, woodlots, open space, wildlife refuges, and other uses and purposes.

b) The general location, character, and extent of streets, railroads, airports, bicycle paths, pedestrian ways, bridges, waterways, and waterfront developments, sanitary sewers and water supply systems, facilities for flood prevention, drainage, pollution prevention, and maintenance of water levels, and public utilities and structures.

c) Recommendations as to the general character, extent, and layout of redevelopment or rehabilitation of blighted areas; and

the removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of streets, grounds, open spaces, buildings, utilities, or other facilities.

d) A zoning plan for various zoning districts controlling the height, area, bulk, location, and use of buildings and premises. The zoning plan shall include an explanation of how the land use categories on the future land use map relate to the districts on the zoning map.

e) Recommendations for implementing any of the master plan’s proposals.”

How will Whitewater Township use this plan?

The Plan serves many functions and is to be used in a variety of ways:

1. The Plan is a general statement of the Township's goals and policies and provides a comprehensive view of Whitewater Township's desires for the future.
2. The Plan serves as an aid in decision-making. Goals and policies outlined in the Plan guide the Planning Commission and Township Board in their deliberations on zoning, subdivisions, capital improvements, and other matters relating to land use and development.
3. The Plan provides the basis upon which the zoning ordinance is written. The Michigan Zoning Enabling Act of 2006, Public Act 110 as amended, requires that the Zoning Ordinance be based upon a plan designed to promote the public

health, safety, and general welfare.

4. The Plan attempts to coordinate public improvements and private developments. An outcome of the Plan should be that public investments such as infrastructure improvements will be located in areas identified in the Plan as having the greatest benefit to the Township and its residents.
5. The Plan is an educational tool and gives citizens, property owners, developers and adjacent communities a clear indication of the Township's direction for the future.

In summation, the Whitewater Township Master Plan is a document which sets forth a long-range statement of general goals and policies aimed at the unified and coordinated development of the Township.



Figure 2. "The Corners" in Old Williamsburg at the corner of Church Street and Vinton Road. F.E. White's store (left) housed the Post Office. Circa 1910

PART 2

Goals and Policies

Master Plan Goals

1. Respect the Rights of the Township Residents and Property Owners
 - Respect private property rights as guaranteed by the State of Michigan and United States Constitutions.
 - Encourage new development in areas with infrastructure that is available or attainable.
 - Encourage land uses that are compatible with adjacent land uses.
 - Encourage the clean-up or containment of blighted and/or contaminated sites.
 - Increase awareness of land use issues and the techniques available to address land use issues.
2. Preserve Whitewater Township's Rural Character
 - Encourage development that retains or mimics natural features.
 - Encourage guidelines that preserve the environmental integrity of the Township floodplains, wetlands, watersheds and water bodies.
 - Encourage community sewer and water systems in areas of the greatest environmental need.
 - Encourage the continuation of hunting, fishing, trapping, and other outdoor recreational opportunities.
3. Build a Sense of Community
 - Encourage social and cultural activities for year-round and seasonal residents.
 - Recognize and preserve the scale and compact nature of the commercial district.



Figure 3. Birdseye of Williamsburg

- Support and encourage the development and implementation of a recreation plan.
- Encourage preservation of historically significant features within the Township.

4. Encourage Economic Opportunities

- Support property owners who engage in home occupation activities which are in character with the area/neighborhood.

- Support business, agricultural production and agri-tourism.
- Streamline the application process for development.
- Encourage municipal infrastructure for the benefit of the Township and areas of the greatest need.



Figure 4. Williamsburg Depot with Western Union Telegraph and American Express Agency. Beehive Hotel is on the extreme left. Circa 1895



Figure 6. Power, Whitmore and Power Bank, Hobb's Store and White's Store in Upper Williamsburg. Water tower on Gardner-Wilkinson house (far right) supplied water to four daily trains. Circa 1923



Figure 5. Rob Clow's store in Williamsburg.

PART 3

Information and Background Studies Summary

This portion of the Master Plan inventories Whitewater Township's geography, history, past trends, current conditions and future projections, thereby illustrating the point from which planning begins. The following summarizes significant findings. A bibliography of Background Studies is included in the Appendix.

Boards, Commissions, and Administration

The Township has a number of official bodies associated with the planning and development of the Township. A description of each body and its function in relation to planning follows:

Township Board

The Township Board is the chief governing body of the Township and consists of the Supervisor, Clerk, Treasurer, and two Trustees. All Board members are elected for concurrent four year terms.

State statute, Public Act 33 of 2008, as amended, requires that the Board hears and decides rezoning

requests, zoning maps, text amendments, and subdivision plats.

Planning Commission

In accordance with planning and zoning enabling statutes, the Township has established a seven member Planning Commission. The Planning Commission's main responsibility is to develop the Master Plan and to draft zoning ordinance for adoption by the Township Board. The Township Board grants additional authority to the Planning Commission to approve special land uses, most site plans and general development based on the current Zoning Ordinance while protecting public health, safety, and welfare. The Master Plan may be considered when making such decisions.

Zoning Board of Appeals

The Zoning Board of Appeals (ZBA) is the quasi-judicial branch of zoning administration. The ZBA hears and decides on appeals involving zoning variances or conditional uses.



Figure 7. Williamsburg United Methodist Church 1881, Corner of Church Street and Williamsburg Road

The ZBA consists of five members appointed to three year staggered terms.

Zoning Administrator

The Zoning Administrator processes and reviews site plans, rezoning requests and special land uses, performs zoning inspections, issues land use permits, addresses code enforcement; and provides support to the Planning Commission and Zoning Board of Appeals as requested by the Township Board.

Location

Whitewater Township is located in Northwest Michigan in Grand Traverse County. The unincorporated village of Williamsburg is considered the Township's center and is bisected by M-72. The

Township Hall is located within this area, as are the commercial and industrial districts. The central area is situated 12 miles east of Traverse City, 13 miles west of the Village of Kalkaska and 10 miles south of the Village of Elk Rapids.

History

Archaeologists theorize that five or six different cultures of people have occupied the area of the Township around Skegemog Point beginning approximately 10,500 BC. Prior to the white settlers of the area, the Mascoutin (or "People of the Open Prairie"), a branch of the Algonquin Tribe, lived in the area until the 1630s, followed by the Chippewa and Ottawa Indian Tribes. The majority of Native



Figure 9. Samels Farm. The site is listed in the National Register of Historic Places.



Figure 8. Entering Torch River

Americans were moved north to a reservation after 1857.

Following Father Baraga's mapping of the area between 1830 - 1840, the Government Survey of 1850 was completed and the area received its first permanent white settlers. Amon Langworthy, George Brown and William H. Fife (who later became the Township's first supervisor) came in 1854, Joseph Sours in 1855, H. S. Beach in 1856, and J. M. Merrill in 1858. At "Hi" Pray Park, a stone memorializes the Williamsburg pioneers of 1856.

Prior to the construction of roads and railroads in the area, supplies came by boat from Elk Rapids on Elk and Round (today known as Skegemog Lake) Lakes and were transported cross-country to the Williamsburg area. Construction of the Grand Rapids and Indiana Railroad began in the area in 1867 and reached Lake Michigan in 1872.

The area of Williamsburg was originally part of a large county called Michilimackinac and was the largest settlement in the area. In 1859, Whitewater Township became the third township in the county, after Peninsula and Traverse. It covered the area from Elk Lake to Grand Traverse Bay. The current Township Hall was built in 1889 on land donated by David Vinton, Jr. and is still in use today.

In 1903, the population of Williamsburg was about 150. With agriculture on the rise, the town contained



Figure 10. Evening on the Torch River

a store, hotel, blacksmith shop, sawmills, gristmill, grange hall, Township Hall, a Methodist-Episcopal Church, and was home to seven schools.

By the 1930s the population was 460. Charles M. Greenway's estate "Weesh-Ko-Wong", now "Millbrook" was a notable fish hatchery. Famous for his brook and rainbow trout fingerlings, he also tried to repopulate the grayling, a native fish decimated by logging and non-native trout species. Williamsburg was expanding northward; growth included a bank, potato warehouse, barber shop, a new post office, and a new high school, complete with a gymnasium.

Like everywhere in America, the 1960s brought change to Williamsburg and her 630 residents. The State of Michigan relocated M-72, bisecting the town, and the last railroad steam engine had traveled the tracks. The Williamsburg Consolidated School became a part of the Elk Rapids School District. The gymnasium remained, hosting community events and well known dances attended by people from miles around well into the decade.

The new millennium brought new interests into Williamsburg. The Grand Traverse Band of Ottawa and Chippewa Indians constructed Turtle Creek Casino. Elk Rapids School District built Mill Creek



Figure 11. Whitewater Township Hall, by Jennifer Oakley

Elementary School. Grand Traverse Plastics, Inc. anchors the industrial section of town, shipping products worldwide, and small businesses populate the M-72 corridor. With more than 2,500 people calling Whitewater Township home in 2010, balancing growth with the desire to maintain a rural character is the community’s main focus.

Demographics

Population

Master plans attempt to accommodate population growth, the need for future land uses, and community services. Economic fluctuations influence regional growth as illustrated in the chart below. Chart 1 summarizes past population projections compared to actual population per the US Census as compiled by The Northwest Michigan Council of Governments (NWMCOG), now known as Networks Northwest.

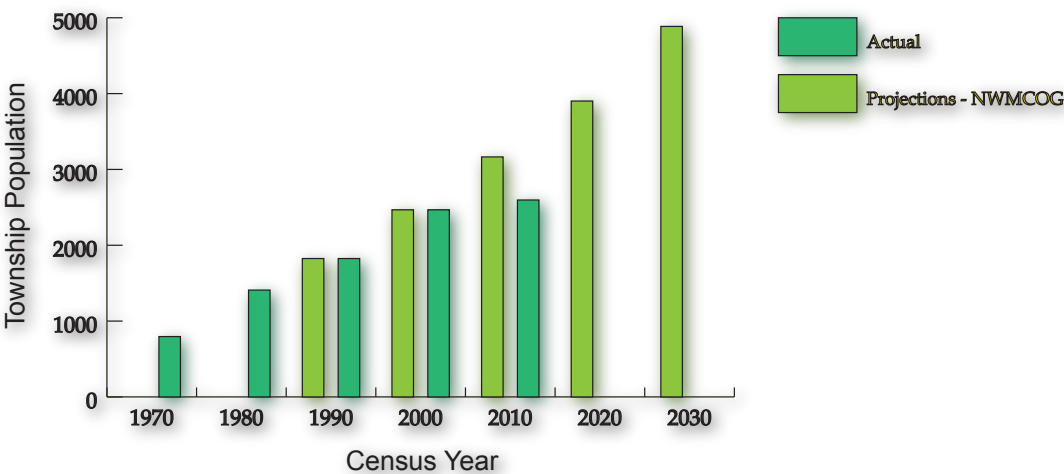


Chart 1. NWMCOG Population Projections and US Census Population Record

According to the 2010 Census the median age of a Whitewater Township resident was 46.1 years. The median age in 2000 was 39.5. years. Chart 2 shows the change in age distribution over the past 20 years.

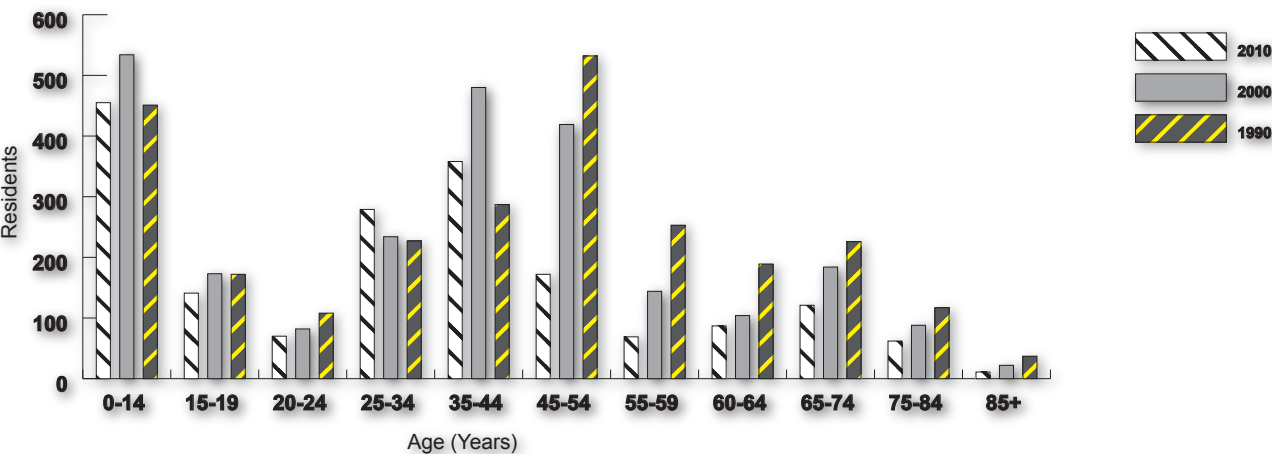


Chart 2. Age Distribution based on Data Driven Detroit report 8-11-2011



Housing and Households

According to the 2010 Census, permanent households total 1,012. Approximately 93% are single family homes, 278 of these are seasonal. Table 1 provides data on household trends.

	1990	2000	2010
Permanent Households	634	896	1012
Seasonal Housing Units	243	240	278
Households w/individuals 65 years or over	132	196	264
Households w/children under 18 years	270	362	306
Average Household Size	2.88	2.72	2.57

Table 1. Household Trends

Economic Base

Major employment industries in the area include tourism, agriculture, healthcare, and manufacturing. Most of our residents are employed outside the Township.



Figure 13. Williamsburg High School, Mid 1920s to mid 1960s, Elk Lake Road

The state equalized value (SEV) for real property by percentage in Whitewater Township is presented in Chart 3.

Existing Land Use

Existing land use patterns are illustrated in Chart 4. Whitewater Township remains a relatively low density residential community.

Township expenditures, by percentage, are categorized by Chart 5.

Community Facilities and Services

The Township Hall has been located at 5777 Vinton Road since 1889. The building was enlarged in the late 1960s with a major renovation taking place in 1999. The hall serves as offices for the Supervisor, Clerk, Treasurer, Zoning Administrator, Assessor, Historical Society, and neighborhood association meetings.

Emergency Services

Whitewater Township is a member of the Grand Traverse Rural Fire Department.

Emergency Medical Services (EMS) are provided by township staff, many of whom are cross-trained in fire and rescue.

Police protection is provided via the Michigan State Police and the Grand Traverse County Sheriff’s Department.

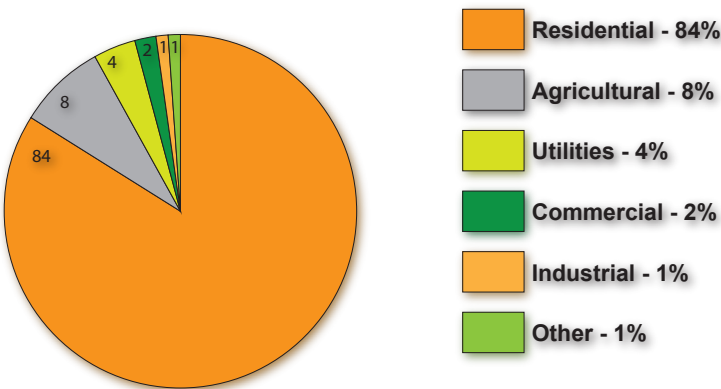


Chart 3. State Equalized Value for real property by percentage

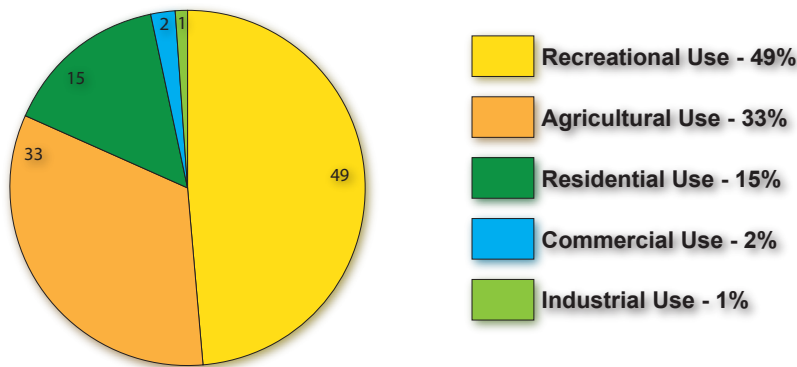


Chart 4. Existing land use

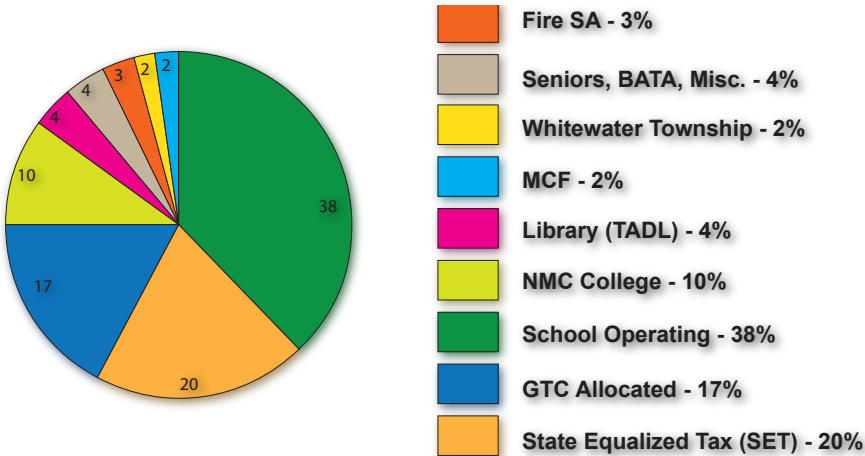
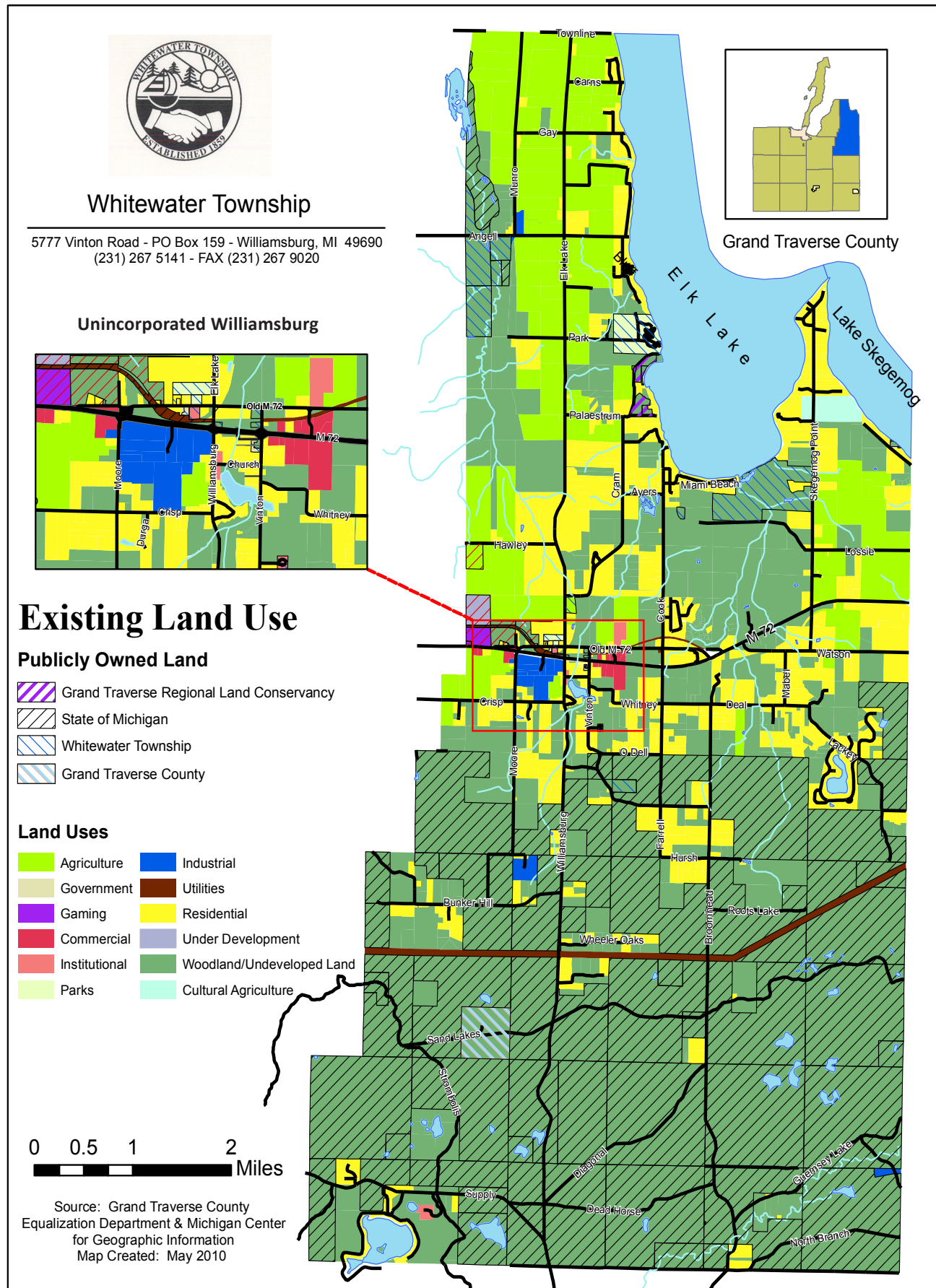


Chart 5. Categorization of Whitewater Township tax revenue

Figure 14. Existing Land Use in Whitewater Township



Water

The Grand Traverse Band of Ottawa and Chippewa Indians provide municipal water along the west end of Old M-72, through the village, out to Mill Creek School.

Sewer

There are currently no public wastewater treatment facilities serving Whitewater Township. In the event municipal sewer can be made available to Township Residents, the Village District Area is our highest priority.

Utilities

Electricity, traditional and cellular telephone, internet services are available within the township.

Community growth, changes in technology, and obsolescence affect all utilities. Great care should be exercised to protect the township's rural character when designing and implementing these changes.

Education

Two school districts serve the residents of Whitewater Township: Elk Rapids (which serves the

majority of residents) and Traverse City Area Public Schools. Elk Rapids Schools' Mill Creek Elementary is centrally located within the Township. The southwest corner of the Township contains a Charter School, the Woodland School.



Figure 16. The Fish Pond, Williamsburg, Michigan

Parks and Recreation

The Township enjoys two public park systems offering recreational facilities. The Whitewater Township park system includes Petobego Natural Area, Battle Creek Natural Area, Hi Pray Park, Lossie Road Nature Trail and Whitewater Township Park. The State of Michigan maintains the Sand Lakes Quiet Area and public access to numerous lakes and forest trails including the VASA trail system.

Cemeteries

Whitewater Township owns and maintains Circle Hill Cemetery and Williamsburg Cedar Rapids Cemetery.

Transportation/Traffic

Both private and public roads exist within the Township. Private landowners are responsible for maintenance of over 25 miles of private roads in the community.



Figure 15. Main Street in Old Williamsburg, a view to the east down Church Street. Circa 1912

The Michigan Department of Transportation and the Grand Traverse County Road Commission share the responsibility for operating and maintaining all public roads in Whitewater Township. The Township may request additional road maintenance at Township expense.

Natural Features

Geology

The surface geology, like much of Northern Michigan, is characterized by upland areas, moraines, coastal areas, lake beds, outwash and glacial channels.

Topography

The surface topography in Whitewater Township ranges from flat marshy areas to very steep and rolling hills. The highest point in the Township is approximately 1,007 feet above sea level, which is located near Broomhead and Roots Lake Roads. The lowest surface elevation is the surface of Elk and Skegemog (Round) Lakes averaging 590 feet above sea level.

Soils

Soils in the south portion of the Township are characterized as Kalkaska-Montcalm soils, which are well-drained. The northern areas are a mixture of well-drained soils that provide for prime fruit farming (Emmet-Leelanau) and very poorly drained soils along streams and lakes (Lupton-Roscommon).

Wetlands, Lakes and Streams

Whitewater has more than 3700 acres of inland water area (lakes and streams) and more than 1200 acres of wetlands. It is estimated that lakes and wetlands make up 15% of the Township.

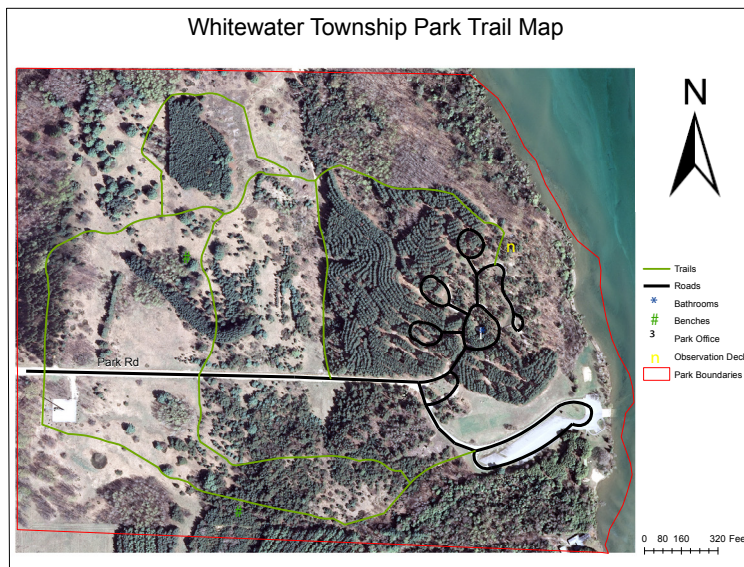
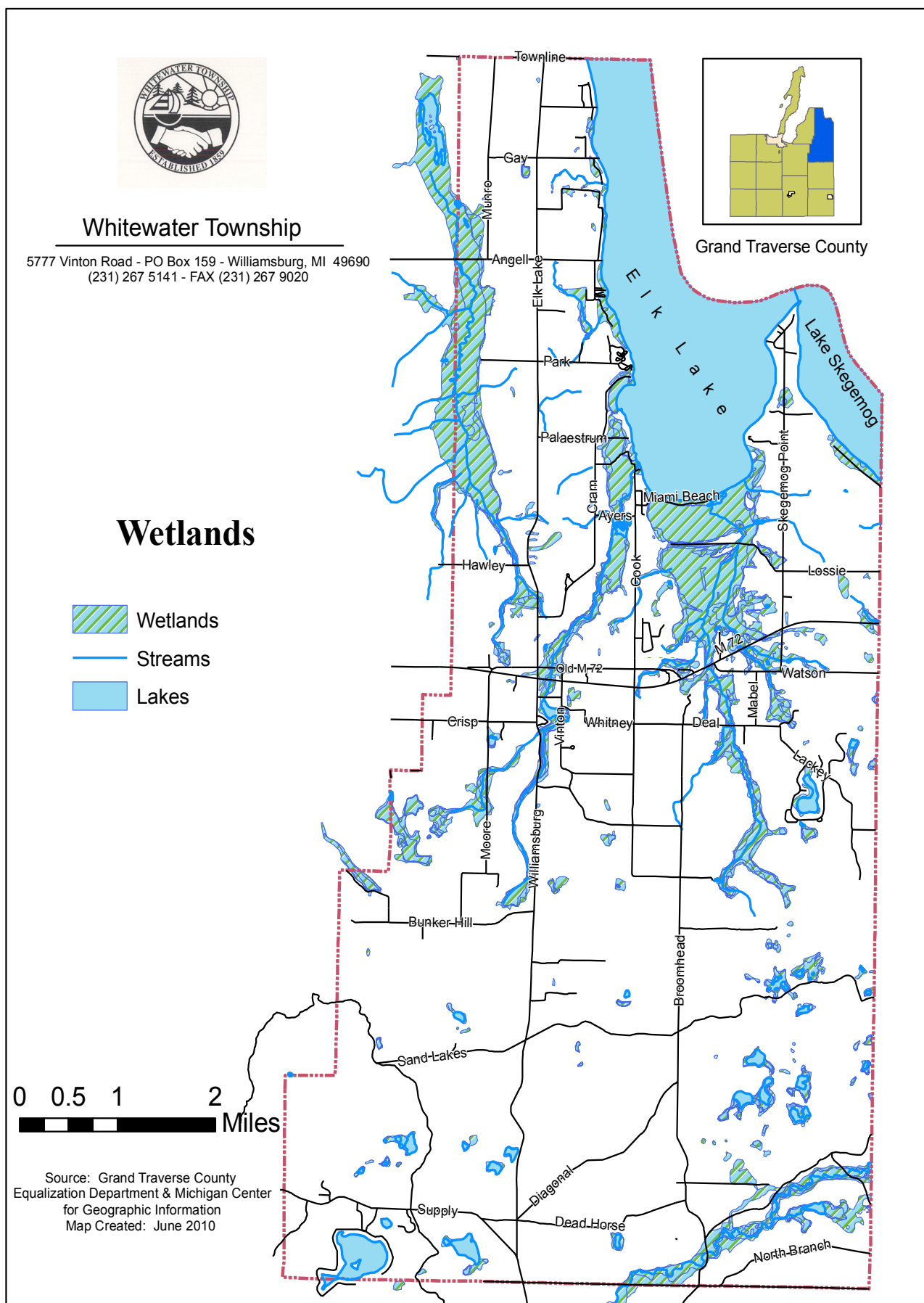


Figure 17. Trail map overlayed on satellite image of Whitewater Township Park.



Figure 18. Boat launch at Whitewater Township Park.

Figure 19. Whitewater Township Wetlands Map



Wetlands are a part of floodwater control, ground-water recharge and discharge, water quality, sediment entrapment, shoreline stabilization, fish and wildlife habitat, and recreation. These environments can be impacted by draining and filling practices. Since wetlands are often associated with lake and stream shorelines, they receive considerable attention due to the pressure to develop these highly desirable areas.

Flood Plains

The Township joined the National Flood Insurance Program (NFIP) in 1988. The program is underwritten by the Federal Government.

Watersheds

Whitewater Township contains five different watersheds. The majority of Whitewater is within the lowest part of the Elk River, Chain of Lakes, followed by the Boardman River, Petobego, Acme Creek and Yuba Creek systems.



Figure 20. Boat launch off Baggs Road



Figure 21. Looking north from Skegemog Point: Elk Lake to the left, Lake Skegemog on the right

Figure 22. Map of Whitewater Township Major Watersheds

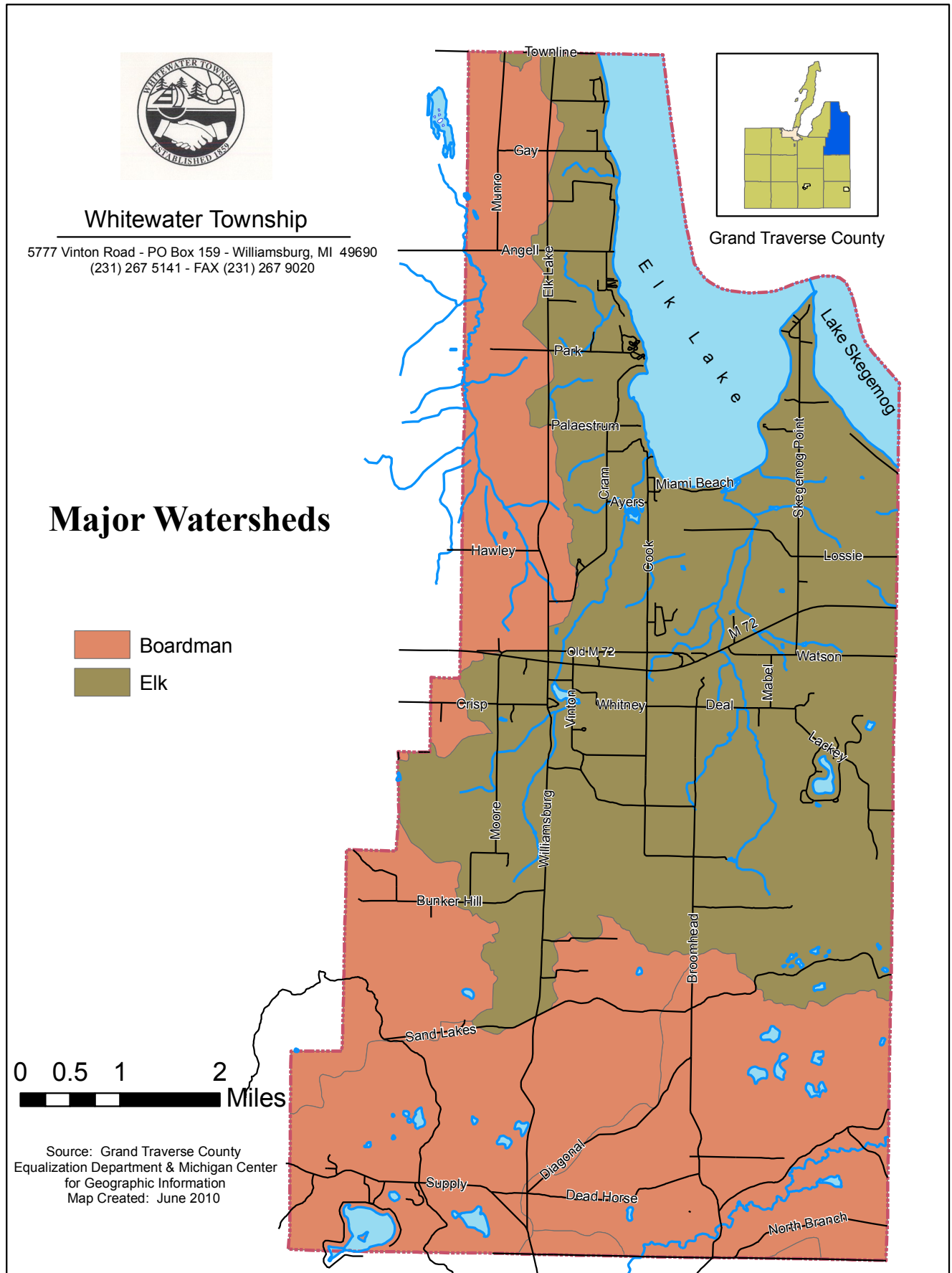




Figure 23. Elk Lake Road near the corner of Angell Road



Figure 24. M-72 at Turtle Creek Casino

PART 4

Public Participation in the Development of the Master Plan

Realizing that community input is an essential element in the creation of a Master Plan, it is the goal of the Planning Commission to involve and inform all residents in the planning and development of Whitewater Township. This can be accomplished by attending meetings, registering for monthly e-newsletters, or direct contact with Township Representatives.

The Planning Commission began a complete rewrite of the Master Plan with two Open Houses, one

in March and again in May of 2009. The structure of the Open Houses consisted of 7 stations, each manned by a Planning Commissioner. The purpose of the Open Houses was to provide a casual venue in which Planning Commissioners could learn the attitudes and opinions of township residents and landowners regarding the direction of Whitewater Township.

Following the Open Houses, the Planning Commission established a Survey Design



Figure 25. Aerial view of Williamsburg, looking south along Elk Lake Road (bottom). 1955.



Figure 26. Looking east along Old M-72 with the Williamsburg depot near the center of the photograph

Team. The Team consisted of two Township trustees, two Planning Commissioners and a Citizen at Large. The Team hired a Consultant, McKenna Associates Inc. to assist with the survey's preparation, dissemination and result compilation. The Whitewater Township Community Input Survey of 2009 was sent to all property owners resulting in the mailing of 1425 surveys, with an excellent return of 560 (39%). (See appendix)

Subsequent to the presentation of the Survey results in November of 2009, the Planning Commission created six committees corresponding with the Open House topic stations. Many additional meetings were held with interested citizens, property owners and proprietors to discuss issues relevant to their specific interests.

Over recent years, Whitewater Township has compiled an e-mail list of over 400 Township residents. Residents on the e-mail list receive a newsletter each month from township officials regarding

current issues and events going on throughout the Township. This has proven to be a great asset to the community, keeping residents informed and up to date on the current status of the Township.



Figure 27. Scofield School, later called the Williamsburg School. SW corner of M-72 and Williamsburg Roads. 1888

PART 5

Future Land Use Plan

The Future Land Use Plan serves as a general guide to the Township's future development. The Future Land Use Plan is based on and is in strong alignment with our existing land use, development patterns, and the goals and policies defined in this Master Plan. The Future Land Use Plan is expected to be made up of the following Districts and Overlay Zones. Periodic review and revision is necessary and should be expected.

A-1 – Agriculture: Districts are intended to encompass those areas of the Township where the principal activity is farming. While residential uses are allowed, deference is given to Agricultural uses.

RC:

- **Public Recreation/Conservation Districts** are intended to protect and preserve publicly held land that provides parks, recreation and helps maintain the rural character of our Township.
- **Low Density Residential Districts** are intended for private developments within areas where public recreation/conservation is the predominate use.

R-1 - High Density Residential: Districts are intended for areas compatible with high density development. This land use is planned for areas with adequate roads and where environmental conditions are capable of supporting development.

R-2 - Medium Density Residential: Districts are intended for areas compatible with medium density development. This land use is planned for areas with adequate roads and where environmental conditions are capable of supporting development.

R-3 – Multiple Family Residential: Districts are intended for areas compatible with multiple family dwelling units. This land use is planned for areas with adequate roads and where environmental conditions are capable of supporting development.



Figure 28. The New Stores, Williamsburg

MHP - Manufactured Home Park: Districts are intended to provide for manufactured home parks. This land use is planned for areas with adequate roads and where environmental conditions are capable of supporting development.

V – Village District Mixed-Use/Village: Districts are intended to include a mixture of

Figure 29. Whitewater Township Current Zoning Map

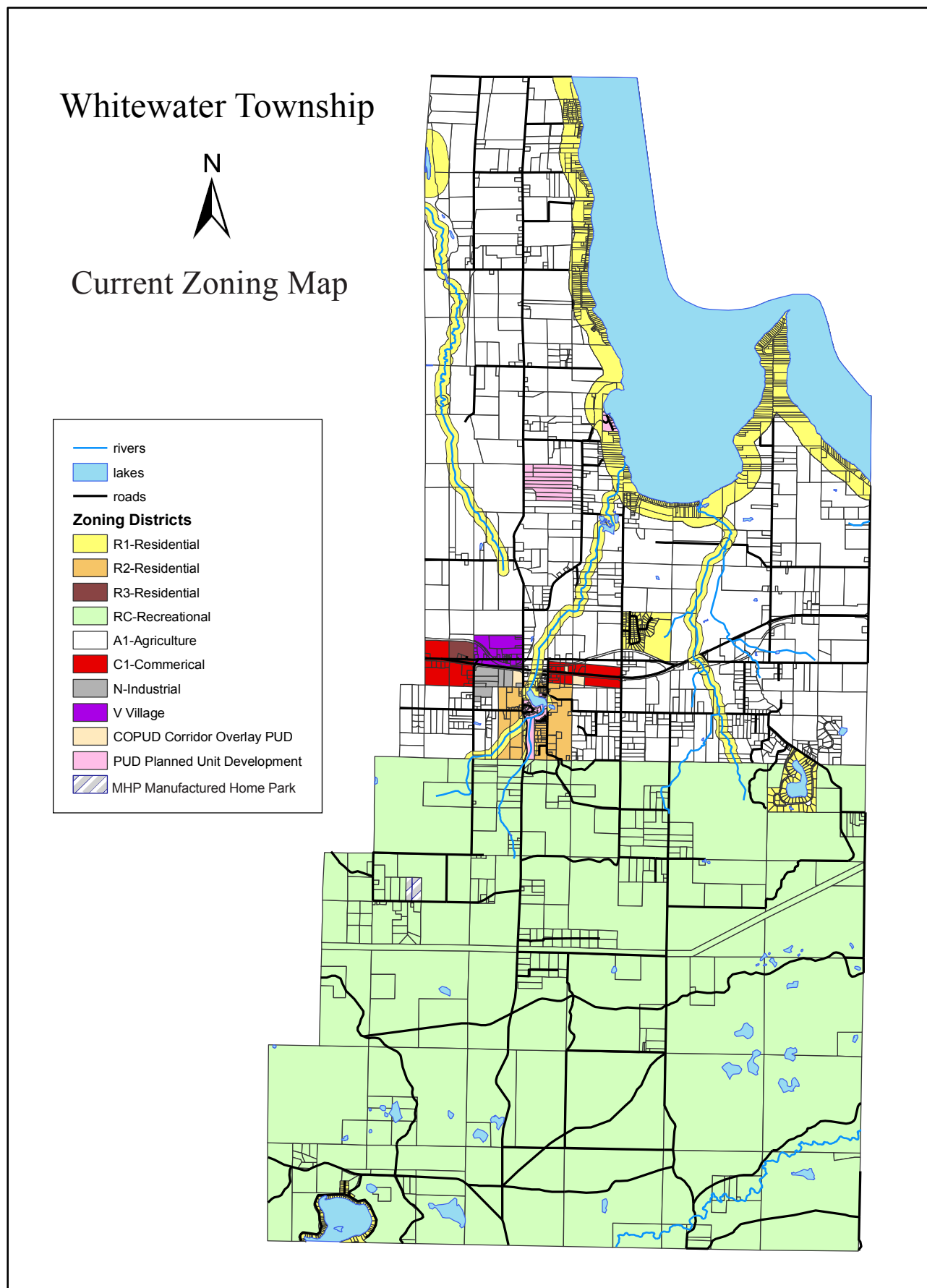
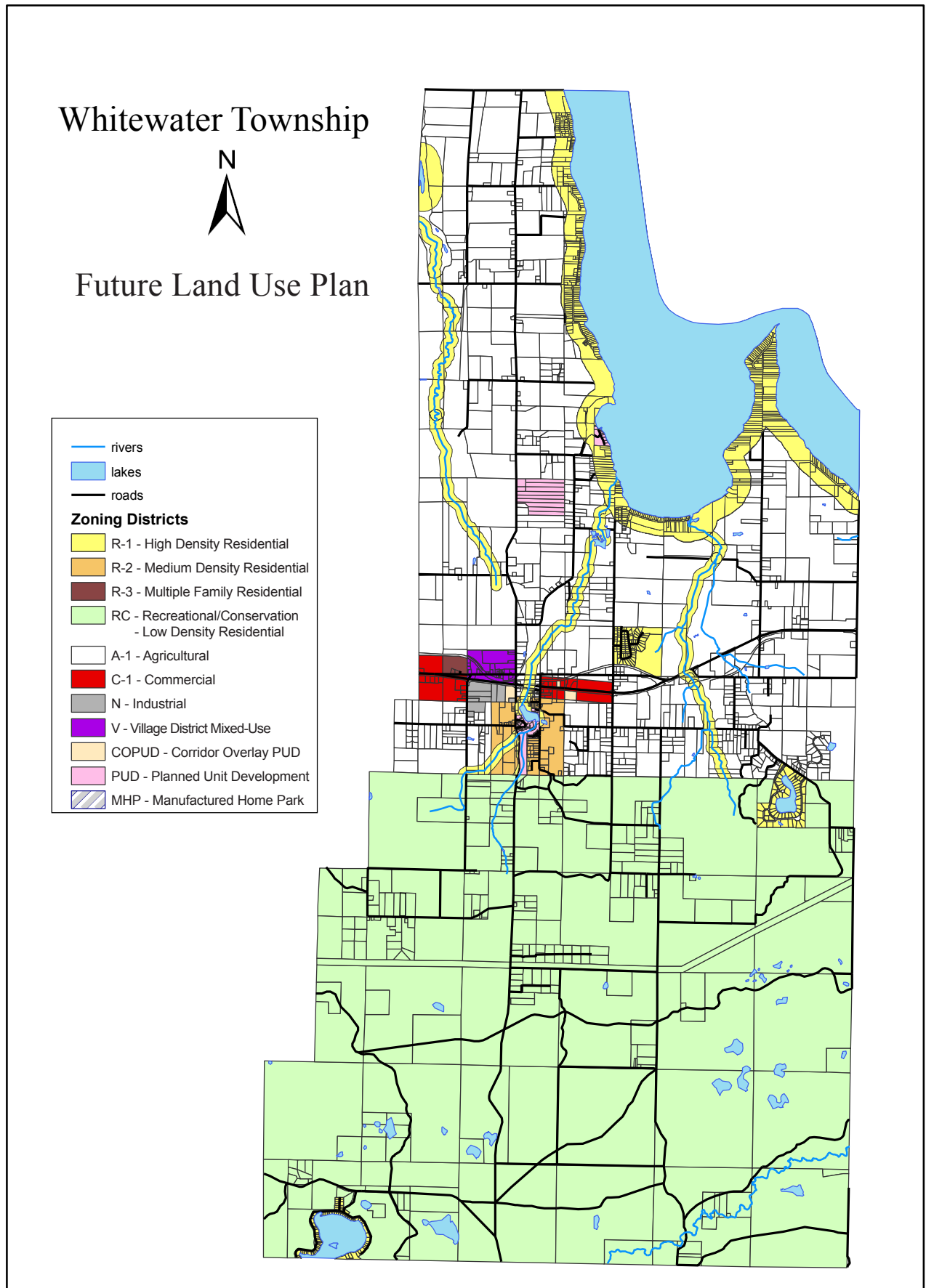


Figure 30. Whitewater Township Land Use Plan



commercial, office, service, apartment, townhouse and single family residential and may contain small lots, and shallow building setbacks.

C-1 – Commercial: Districts are intended to accommodate the sale of goods and services that may generate higher traffic volumes.

N – Industrial: Districts are intended to accommodate warehouse, research, laboratory, and light industrial uses. This land use is planned for areas with adequate roads and where environmental conditions are capable of supporting development.



Figure 31. Elk Lake Inn, “The Charm of The Wilds with the Comforts of The City.”

Overlay Zones (General)

Overlay zones superimpose additional regulatory standards on existing zoning districts. An overlay zone can establish additional regulation, or reduce or extend existing uses to address issues that are unique to a particular area.

PUD – Planned Unit Development: Residential setbacks and lot size restrictions are relaxed when offset by a required area of land set aside in a restricted manner. Commercial use is intended to allow higher density mixed use that is compatible with the existing features and development. Both forms are subject to state and township regulations. This land use is planned for areas with adequate roads and where environmental conditions are capable of supporting development.

COPUD – Corridor Overlay Planned Unit Development: These are intended to provide additional zoning tools and guidelines to create consistency and shared access along the major transportation corridors that run through our Township.

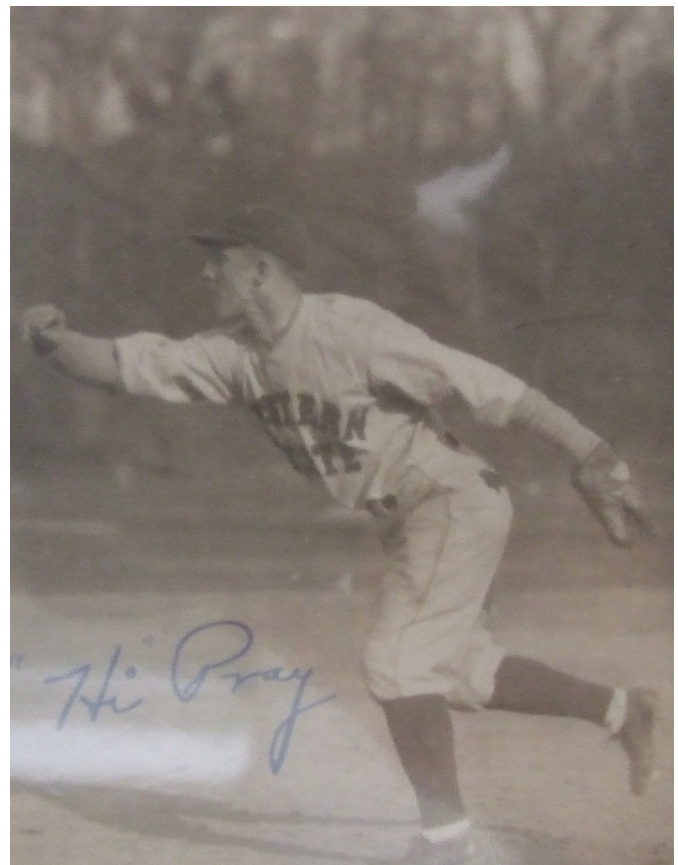


Figure 32. Hi Pray pitching for Western State, (Western Michigan University)

PART 6

Transportation Plan

The purpose of the Township road system is to provide safe and efficient movement of people and goods within and through the Township. The Michigan Department of Transportation (MDOT) and the Grand Traverse County Road Commission share the responsibility for upgrades and maintenance of all the public roads within Whitewater Township.

Transportation Plan Designations

Regional Arterials

Regional arterials are designed to carry heavy volumes of traffic. Some examples are freeways, multi-lane highways and other heavily traveled roadways that supplement the interstate system. M-72 is the main roadway that connects Traverse City to I-75 and is the only Regional Arterial Road in the township.

Major Arterials

Major arterials include roads that accommodate moderate to heavy traffic volumes. Whitewater Township's major arterials are Elk Lake Road, Williamsburg Road, and Supply Road.

Principal Collectors

Principal collectors provide access to residential, commercial, industrial and/or farm uses; these connect local roads to arterials. These carry lower volumes of traffic than major arterials. Only Angell Road is classified as a principal collector.

Secondary Collectors

Secondary collectors deliver access to land uses, but traffic volumes are significantly lower than Regional/Major Arterial and Principal Collectors. Deal, Skegemog Point, Cook, Broomhead, Ayers, Cram, Palaestrum and Hawley Roads are classified as secondary collector roads.



Figure 33. P.M. Wreck, Mable [sic], Mich., July 19, 1910



Figure 34. P.M. Wreck, Mable [sic], Mich., July 19, 1910

Local Roads

Local roads support access to individual properties and typically have moderate to low speeds and traffic. Gay Road, Hursh Road, and Vinton are considered local roads.

Tourist Roads

Tourist roads are the backbone of our area's tourism industry. Providing access to all that Whitewater Township has to offer, these roads need to be in the best possible condition to provide safe and efficient flow of traffic. These roads include:

- Baggs Road, an access to Skegemog (Round) Lake. It also provides access to the south side of the lake and a public access.
- Park Road, providing access to Whitewater Township Park (it is the only boat launch ramp on the west side of the lake).
- Broomhead Road, allowing access to the Sand Lakes Quiet Area and parts of the Boardman River.

Seasonal Roads

Seasonal roads receive no winter maintenance and limited maintenance throughout the year. All seasonal roads are posted as such. These include: Roots Lake, Samels, Guernsey Lake, Sand Lakes, and numerous others.

Private Roads

Private roads are privately owned and maintained for access to private property.

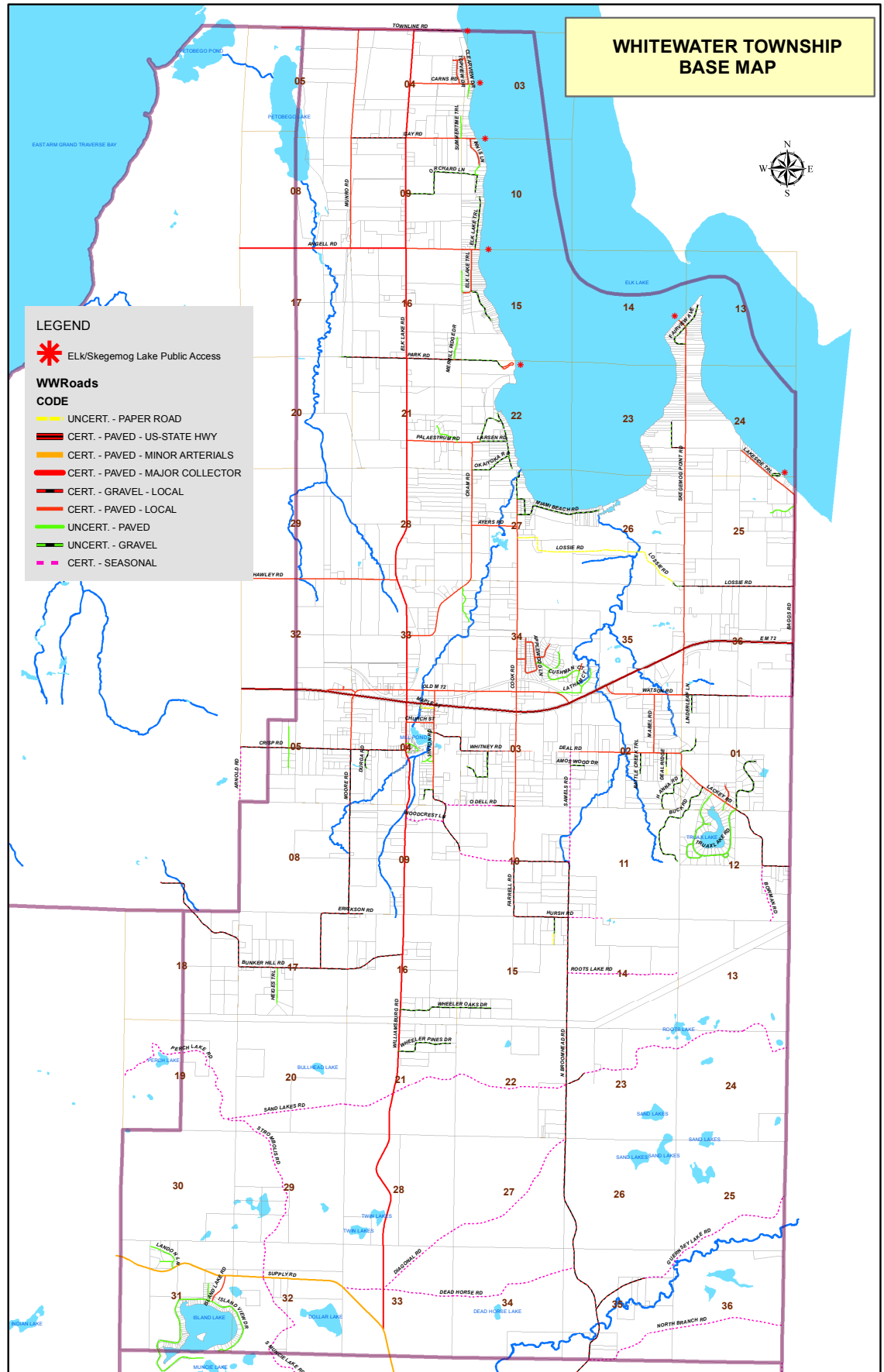
Pedestrian and Bike Path

Non-motorized transportation and recreation is gaining popularity. With support from landowners and residents, the Whitewater Township Planning Commission will monitor and assist the various collaborative groups of the area in developing a non-roadway focused network of trails throughout Northwest Michigan.



Figure 35. Railroad hand cars at the Williamsburg depot

Figure 36. Whitewater Township Base Map



PART 7

Natural Areas Plan

The citizens of Whitewater Township have always held a special appreciation for the tremendous wealth of our wild natural areas. This township contains numerous lakes and streams, as well as substantial state forest and local township park lands. It is our intent to work towards protecting these valuable public resources by encouraging preservation of the publicly held land, improving perimeter and parking signage where needed, to reduce or prevent conflict with neighboring properties, and to improve and maintain public access ensuring that these areas will be enjoyed for generations.



Figure 37. Twin Lake shoreline (along Williamsburg Road)

APPENDIX

IMAGE CREDITS

All historical photographs courtesy of Whitewater Township Historical Society.

Ink Rendering: Figure 11, page 7 drawn by Jennifer Oakley, and used with permission.

Cover photo and figures 9, 18, 20, 21, 24 and 37 courtesy of Tom Johnson.

CHART DATA CREDITS

NWMCOG Population Projections and U.S. Census Population Record

Chart 1: Data compiled by Northwest Michigan Council of Governments using Bureau of the Census, Decennial Census.

Chart 2: Age Distribution Data Driven Detroit analysis of Census 2000 and Census 2010, data from the U.S. Census Bureau, further compiled by Northwest Michigan Council of Governments.

Table 1: Household Trends Source Data Driven Detroit analysis of Census 2000 and Census 2010 data from the U.S. Census Bureau and further compiled by Northwest Michigan Council of Governments.

Chart 3: State Equalized Value for Real Property by percentage. Data provided by Whitewater Township Assessor, Dawn Plude-Kuhns.

Chart 4: Existing Land Use: data provided by Grand Traverse County GIS Department.

Chart 5: Data from Whitewater Township Treasurer for the 2013/2014 Fiscal year ending 3-31-2014.

MAP CREDITS

Location map of Whitewater Township: Generated using Grand Traverse County GIS information.

WWT Property Ownership: Generated using Grand Traverse County GIS information.

Existing Land Use in Whitewater Township: Generated using Grand Traverse County GIS information.

WWT Wetlands Map: Generated using Grand Traverse County GIS information.

WWT Major Watersheds Map: Generated using Grand Traverse County GIS information.

WWT Current Zoning Map: Generated using Grand Traverse County GIS information.

WWT Future Land Use Plan: Generated using Grand Traverse County GIS information.

WWT Base Map: Supplied by Grand Traverse County GIS Department.

OTHER SOURCES OF INFORMATION

Historical Information: Provided by Luann Snider, and compiled by the Whitewater Township Planning Commission.

Michigan Planning Act: [http://www.legislature.mi.gov/\(S\(xj3g1jall1er4tq45ve4x5vuz\)\)/documents/mcl/pdf/mcl-act-33-of-2008.pdf](http://www.legislature.mi.gov/(S(xj3g1jall1er4tq45ve4x5vuz))/documents/mcl/pdf/mcl-act-33-of-2008.pdf)

Michigan Zoning Act: [http://www.legislature.mi.gov/\(x3eqqx2ix0ez34nsk1zysl45\)/documents/mcl/pdf/mcl-Act-110-of-2006.pdf](http://www.legislature.mi.gov/(x3eqqx2ix0ez34nsk1zysl45)/documents/mcl/pdf/mcl-Act-110-of-2006.pdf)

WWT 2009 Community Input Survey: Conducted by McKenna Associates, Inc.



Ron Popp <supervisorwhitewater@gmail.com>

Packet 7

1 message

Heidi Vollmuth <heidivourtrustee@gmail.com>
To: supervisorwhitewater@gmail.com

Thu, Sep 14, 2023 at 6:36 PM

Land Division MSU

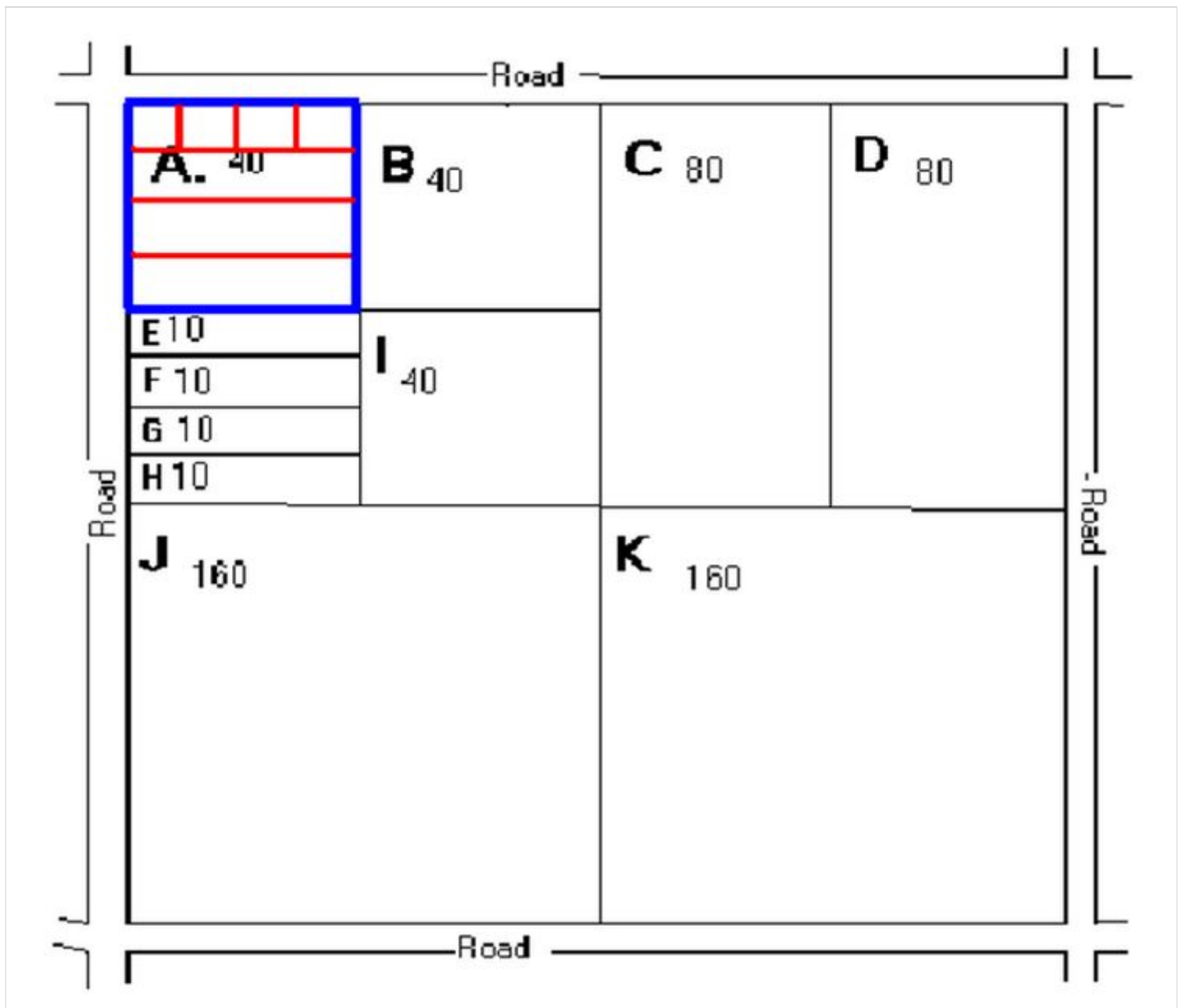


Land Division Act basics for landowners - MSU Extension.pdf
250K

Land Division Act basics for landowners

Brad Neumann, Michigan State University Extension - March 24, 2020

Current and prospective owners of land in Michigan will benefit from understanding some basics of the Land Division Act.



A 640 acre section of land showing proposed divisions of the northwest quarter of the northwest quarter (parent parcel A).

As the name suggests, the Land Division Act, MCL 560.101 *et seq.* (formerly known as the Subdivision Control Act), regulates the separation of land into two or more small parcels as well as sets standards for creating subdivision lots. The statute includes numerous details – the most significant of which will be highlighted here. This article is not a substitute for reading and understanding the entirety of the statute, but rather to inform landowners of the basics.

Michigan State University Extension states that the first thing a landowner should know about the Land Division Act is that any division of land that will result in one or more of the parcels being less than 40 acres (or the equivalent) is subject to local government review. Only after that review can the owner market, sell or record the property with the county Register of Deeds. The review is at the township, village or city (and sometimes county) level. A local official, not a committee or board, is assigned the responsibility to approve or deny proposed land divisions. Most often, it is the local government tax assessor or the zoning administrator.

The second thing landowners should know is that the number of allowable divisions depends on the size of the ‘parent parcel.’ The ‘parent parcel’ is whatever the shape and size of the parcel was as of March 31, 1997. If, on that date, there were two or more adjacent parcels under identical ownership, then the entire land area under common ownership is considered the parent tract. In addition, land held under land contract, or land professionally surveyed and actively marketed for sale, but not recorded with the Register of Deeds as of March 31, 1997, would be considered the parent parcel. Again, the Land Division Act prescribes the number of allowable divisions based on the size of the parent parcel. For example, a 40-49.9 acre parent parcel is allowed 7 divisions; a 30-39.9 acre parent parcel is allowed 6 divisions; and a 20-29.9 acre parent parcel is allowed 5 divisions.

If the parent parcel has already been divided, a landowner might wish to determine if additional divisions can be made. One would need to determine:

- The total number of divisions allowed for the parent parcel
- Minus the number of divisions that have already been approved by the local government (even if not yet sold)

- Minus the number of divisions transferred to a resulting parcel (i.e. the number of divisions the original owner transferred to buyers of any already sold divisions)

The resulting sum is the number of divisions allowed for the remainder of the parent parcel. A landowner should explore his/her property's deed or chain of title and consult with the local assessor to confirm the number of divisions that are available, if any. If divisions are available, has sufficient time passed in order to begin exercising the division rights (i.e. 10 years since being recorded)? If no divisions are available, because all have already been made, or because no divisions were assigned from the parent parcel, or insufficient time has passed (i.e. at least 10 years since being recorded), the parcel cannot be further divided unless 10 years have elapsed since the parcel was recorded with the county Register of Deeds. After that time, the division can be split further (referred to as re-divisions). The total number of re-divisions allowed within a division (parcel) is based on another sliding scale related to the size of the division.

The local unit of government where the parcel is located should have a detailed application form for reviewing land division requests. An application form is needed to determine the number of divisions and re-divisions allowed. This also helps maintain detailed property records. The form requires property information and history so that the land division official conducting the review can ensure that the resulting divisions or re-divisions will (from MCL 560.109):

- Have an adequate and accurate legal description;
- Not be narrower than 4:1 (parcel depth to width ratio for parcels less than 10 acres);
- Meet the minimum parcel width required in the zoning ordinance, if applicable;
- Meet the minimum parcel size required in the zoning ordinance, if applicable;
- Be accessible by a public road, private road, easement or other similar means (as required by the local land division or zoning ordinance);
- Not exceed the maximum number of divisions for the parent parcel, or the number of re-divisions for the division;
- Have adequate easements for public utilities from the parcel to existing public utility facilities;
- Not result in land-locking a cemetery; and
- Not have any unpaid property taxes and/or special assessments due for the last five years.

Based solely on the Land Division Act, the local government review of divisions and re-divisions is for the above nine things. In a local government jurisdiction with zoning and/or a separate local land division ordinance, proposed land divisions must also satisfy the standards of those local ordinances. Again, any division can be re-divided after the passage of 10 years.

From many years of experience responding to Land Division Act questions, Michigan State University Extension land use educators have found that not all local units of government follow a thorough procedure and do the necessary research to verify whether divisions or re-divisions are allowed. It is in a landowner's best interest to complete a detailed application to facilitate having clear title to one's land and avoid legal battles after the fact. If interested in dividing your land, contact your local unit of government at the number provided on your tax bill or local government website.

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AUGUST 2023 ZOING REPORT

Baggs Road / Site Condo Development

Upon the direction of the Whitewater Township Board, the Zoning Board of Appeals did conduct a public hearing at their regularly scheduled August 24th, 2023 meeting to consider the application for a variance from the terms and provisions of ordinance No. 26 – being the Whitewater Township Land Division Ordinance. After considerable public comment, deliberations, findings, and conclusions, the ZBA granted a variance to the subject parcel from the 4:1 (four to one) depth to width ratio requirement.

Considering the above variance being granted, the Zoning Administrator has submitted a request for action to be considered by the Township Board, attached and made a part of this report.

SHORT-TERM RENTALS

Multiple staff reports in the past years have mentioned the fact that the ZA was receiving an inordinate amount of calls inquiring about various aspects related to the short-term rental of dwellings in Whitewater Township. Shortly after the winter tax newsletter and a posting on the website made it clear that short-term rentals were indeed ‘not’ a permitted use, the calls, personal inquiries, and emails increased exponentially related to short-term rentals. The short-term rental property owners are concerned about the return on their investment, and the neighbors are concerned about the effects on their quality of life.

Briefly, it has become a compliance / enforcement nightmare that the Township should consider dealing with. It absorbs an unusual amount of administrative time that was not previously accounted for. Many communities have ordinances in place that respect everyone’s individual property rights.

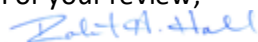
TRAINING OPPORTUNITY

The [Michigan Townships Association](#) is back with their professional development retreats. As a previous attendee, I can highly recommend the quality of this unique training and networking opportunity. Training this year is October 3rd and 4th in Harbor Springs.

PLANNING COMMISSION | MASTER PLAN | ZONING ORDINANCE

Please – make time to look at the progress being made both on the Master Plan and the reorganization of the Zoning Ordinance. It is very apparent that the resident outreach committee has been a tremendous benefit on behalf of Whitewater Township. [*The ‘draft’ master plan to date, can be found here. Pages 12 and 13 of the September 2023 PC Packet will give a brief overview of the work being done on the Zoning Ordinance.*](#)

For your review,



August 31, 2023

REQUEST FOR ACTION BY THE WHITEWATER TOWNSHIP BOARD

Re: Parcel #28-13-136-001-02 | a/k/a: 6631 Baggs Road – Williamsburg, Michigan 49690

- At a special meeting on May 3, 2023, the Whitewater Township Board by way of a motion declared that the above-referenced parcel is not eligible for any building permits or zoning approvals such as special land use approval or site plan approval.
- At a June 20, 2023 meeting, the Whitewater Township Board directed the ZBA to hear an application for a variance related to the above referenced parcel, requesting a deviation from the 4:1 (four to one) lot depth to width ratio requirements.
- At an August 24, 2023, meeting, the Whitewater Township Zoning Board of Appeals did grant a variance from the 4:1 (four to one) lot depth to width ratio requirements for parcel #28-13-136-001-02.

Based upon the above occurrences, the findings relied upon at the May 3, 2023 meeting wherein the above-referenced parcel was declared ‘*not eligible for any building permits or zoning approvals such as special land use approval or site plan approval*’ by the Whitewater Township Board, appear to have been negated.

The Zoning Board of Appeals was ‘not’ authorized to consider an appeal of the May 3, 2023 decision of the Whitewater Township Board.

Possible motion language:

Motion to rescind the motion of the Whitewater Township Board made on May 3, 2023, declaring that parcel #28-13-136-001-02 is not eligible for any building permits or zoning approvals such as special land use approval or site plan approval; further, finding that based upon the variance granted from the 4:1 (four to one) lot depth to width ratio requirements by the Zoning Board of Appeals on August 24, 2023, that the subject property is now in compliance with all applicable Whitewater Township ordinances.

Detailed information on properly rescinding a motion can be found on [this MSUE \[Michigan State University Extension\] web page](https://www.canr.msu.edu/news/parliamentary_procedure_what_is_a_motion_to_rescind).

(https://www.canr.msu.edu/news/parliamentary_procedure_what_is_a_motion_to_rescind)

Thank you for your prompt attention to this matter,



Robert (Bob) Hall
Whitewater Township | Zoning Administrator

Memo

To: Whitewater Township Board of Trustees
CC: None
Date: 9.19.2023
Re: Campground & Park Improvement Project Needs

Board Members –

This business item is presented to allow Trustee Don Glenn and/or Ron Popp a forum to the Board to discuss any relevant matters regarding the camping park or the Park Improvement Project.

No motion pending further Board input.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Ron Popp", is written over a light gray circular stamp.

Whitewater Township FOIA Coordinator
Supervisor, Whitewater Township