

WHITEWATER TOWNSHIP PLANNING COMMISSION AGENDA REGULAR MEETING,

April 3th, 2024, 7:00 p.m.

Whitewater Township Hall Via ZOOM and in person

5777 Vinton Road, Williamsburg, MI 49690

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

Whitewater Zoom is inviting you to a scheduled Zoom meeting.

Topic: Whitewater Township Planning Commission Regular Scheduled Meeting

Time: Apr 3, 2024 07:00 - 09:00 PM Eastern Time

Join Zoom Meeting

<https://us06web.zoom.us/j/89825867495?pwd=aHEzfpGJIJOf5XhzF3cH75UgonFCTx.1>

Meeting ID: 898 2586 7495 - Passcode: 668051

Dial by your location: 1 305 224 1968 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/u/kbDdisavBh>

1. Mic Check, Call to Order @-----, Pledge Allegiance
2. Roll Call of PC Members
3. Set/Adjust Meeting Agenda
4. Declaration of Conflict of Interest pertinent to agenda items
5. Public Comment – Any person shall be permitted to address a meeting of the PC. Public comments shall be carried out in accordance with the following rules and procedures:
 - a. Comments shall be directed to the PC, with questions directed to the Chair.
 - b. Any person wishing to address the PC shall speak from the lectern (or use raise hand feature if Zoom is being utilized) and state his/her name and address.
 - c. Persons may address the PC on matters that are relevant to Township planning and zoning issues.
 - d. No person shall be allowed to speak more than once on the same matter, excluding the time needed to answer a PC members' questions.
 - e. Public comment shall be limited to 3 minutes per person.
6. Public Hearing: None
7. Guest speaker/project presenter: none
8. Approval of March 6th, 2024 minutes
9. Correspondence: none

10. Reports/Presentations/Announcements/Comments

- a. Zoning Administrator
- b. Vice Chair – Al Keaton
- c. Township Board Representative – Vollmuth
- d. ZBA Representative – Wroubel

1939032424

11. Unfinished Business

- a. Zoning Map Update and Dialogue, surveyor PO (Mielnik). Zoning map disclaimer discussion, example attached for review.
- b. Zoning Amendment List and Organization of Zoning Ordinance. (Mielnik) Review Feb 23, 2024 Re: "Zoning Clarification Project Update" (updated 2/20/24). Review, discuss, adopt as amended if any additional changes are required.
- c. Special Meeting April 18th 7:00-9:00 Master Plan (MP) Update and Dialogue (reminder)
- d. Amend bylaws adding definition. Planning Commission Bylaws quotes "Rule of Necessity" (sec 6d) a legal term. Definition there-of; "Rule of necessity" is a common-law rule, under which a judge even though s/he has an interest in the case, has a duty to hear and decide the case if it cannot otherwise be heard. In short, this rule allows a judge or other official planning commission member to hear a case, despite bias or conflict of interest, when disqualification would result in the lack of any competent court or tribunal. This is necessary as otherwise some litigants may be denied their right to a forum or resolution of the crucial matter. Source: American Bar Association; Comment 2.11(3)
- e. Based on dialogue share during the Dec 13th joint meeting between the TWP Board and PC, reevaluate Traverse Transportation Coordinating Initiative Resolution (TTCI) and Metropolitan Planning Organization (MPO).

12. New Business

Preparation for forthcoming Special Use Permit Public Hearing

- a. Amendment No. 84, Article No. 25 Site Plan Review/Special Use Permit- (SUP) - Authorization and Procedures
- b. Fahey Schultz Burzych Rhodes - "Special and Conditional Use Permits - The Do's and the Don'ts". Provided by Randy Mielnik (Continuing education training)
- c. Define the term "rural" as applicable to Whitewater TWP. Glean opinions from our resident outreach programs finding commonality. Attached 1 of 2 /2of 2 LIAA Master Plan Open House Summery. Reviewing hand-out attached to April agenda with a definition. Asking each member to bring to the meeting their definition of "rural" for the May meeting.

d. election of officers

13. Public Comment, (item 5. rules applicable).
14. PC members Considerations?
Review Master Plan Adoption draft (2 page) for use at appropriate time.
15. a. Continuing Education "Rural definition".
b. 2024 Agritourism Summit May 8th at Hagerty Center registration
<https://www.michiganfarmnews.com/msu-extension-sets-2024-agritourism-summit-for-may-7-8>
16. Next meeting April 18th. @ 7:00 PM Next regular scheduled meeting May 1st, 2024
17. Meeting Adjournment @-----.

19022424

Whitewater Township will provide necessary reasonable auxiliary aids and services to individuals with disabilities who are planning to attend contact the township supervisor at 231-267-5141

RURAL

We're at some point going to be required to define "rural community" Asking each member to bring to the meeting their definition of **RURAL**;

Continuing education:-defining "rural": North Place Planning discuss TWP's definition there-of. Glean opinions from our resident outreach programs finding commonality, reviewing hand-out attached to the April agenda come up with a definition.

The Census Bureau defines rural as any population, housing, or territory **not** in an urban area. This definition is closely tied to its urban definition, of which there are two geographical types:

- "Urbanized Areas" have a population of 50,000 or more.
- "Urban Clusters" have a population between 2,500 and 50,000.
- Rural and small town refers to individuals in towns or municipalities outside the commuting zone of larger urban.

Disclaimer added to zoning map; below a conglomeration taken from different counties. We certainly can tweak the verbiage,

“Whitewater Township (TWP) and employees thereof makes no claims or warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this zoning map. All information available on this zoning map should be used for reference only and does not represent an on-the-ground survey. Further, Whitewater TWP advises an independent Michigan Registered Surveyor be used as verification determining exact and specific points. It shall be the responsibility of the intended user(s) to verify specific and exact boundaries.

DRAFT

WHITEWATER TOWNSHIP PLANNING COMMISSION
MINUTES FOR REGULAR MEETING
March 6, 2024

Call to Order at 7:00 p.m.

Roll Call: Jacobson, Keaton, Wroubel, Slopsema, Vollmuth

Absent: Steelman, DeYoung

Also in attendance: Recording Secretary MacLean and Zoning Administrator Hall

Five on Zoom at the start of the meeting.

Set / Adjust Agenda: Move Unfinished Business Final Site Plan Review after the first Public Comment

Declaration of Conflict of Interest: None

Public Comment:

7:05 p.m. begin

Matt Conrad, reminder of the Master Plan review for Elk Rapids. Requesting the Whitewater Township zoning map for the school map appendix in their Master Plan. matt.conrad@elkrapids.org

Connie Hymore

7:12 p.m. end

Final Site Plan Review – High Pointe Golf Course

Parcels: 28-13-005-014-00, 28-13-005-015-00, 28-13-005-019-01 and 28-13-005-019-02

Zoning Administrator Hall notes in addition to the staff report in the packet that the requested road study has been completed and is part of the presented packet. Another noted concern from the preliminary site plan review that was completed in November 2022, was the side yard setback which has been addressed by the applicant purchasing the property.

Scott Jozwiak of Jozwiak Consulting on behalf of High Pointe Holdings ran through a quick history.

Preliminary Site Plan Review was approved in November 2022.

With final approval Acme Township, they have been working in Acme Township already. The intent is that the main club house will be in Whitewater Township.

State land and Ag surround the property.

DNR has access to the state land for logging. It will be accessed only by the DNR.

All of the main irrigation is from the original pond in Acme Township.

The additional property purchase helps with the setback and with the drive/entrance. The drive will be gravel and blacktop. The drive will be named Doak Way even though it is considered a private drive not a private road.

The second lodge will be built later, likely next year.

Fire Department site review is approved and included. They have their own fire suppression, distribution and fire pumps.

When necessary, there will be grass parking available that will not impact emergency vehicle access.

Actively working on addressing the abandoned section of Arnold Road when the DNR is done with that entrance.

Planning Commission discussion:

Is there a plan for additional brining? Communication is planned with the County Road Commission for options as they do not want the neighbors or their own members to deal with bad roads. They do have plans to work with the county.

Lighting will be compliant with “dark sky”.

Traffic study indicates Draft. The final, verbatim study will be supplied.

Plan was put together well – thank you.

The commission is pleased with the offer of addressing possible road degradation with the accompanied cover letter to the road survey.

MOTION by Jacobson second by Slopsema to approve as presented and based upon the following conditions and/or stipulations:

*All lighting installed on site shall comply with the Whitewater Township Zoning Ordinance and shall be downward shielded to prevent light trespass as well as to prevent a luminaire from being visible beyond the property lines.

*All signage shall be installed in compliance with the Whitewater Township zoning Ordinance.

*All notes presented in the Whitewater Township Fire Department site plan review of February 7, 2024, shall be adhered to.

*A verbatim copy of the traffic report without the word Draft will be provided with the provided cover letter. The final approval will be presented upon adherence to the aforementioned items in the motion.

Roll call vote: DeYoung-N/A; Slopsema-yes, Wroubel-yes; Steelman-N/A; Keaton-yes; Vollmuth-yes; Jacobson-yes. Motion carried.

Public Hearing: None

Approval of Minutes:

MOTION by Jacobson second by Vollmuth to approve as amended the Regular Meeting Minutes of February 7, 2024. Roll call vote: Wroubel-yes; Steelman-N/A; DeYoung-N/A; Slopsema-yes, Keaton-yes; Vollmuth-yes; Jacobson-yes. Motion carried.

Correspondence: None

Reports and Presentations:

Zoning Administrator Report, Hall: Responded to a public comment regarding findings of fact.

Praised the PC regarding the work on the Master Plan with the help of Mielnik of North Place Planning.

The township board was presented with a contract for their November 2023 meeting. The contract, in which he agreed to stay on until March 31, 2024, if it was not addressed, has not been addressed by the board.

Working on a special use application for the April PC agenda. Bob will provide as much of his zoning administrator report as possible before the end of the month. If the proposal is complete it will be posted as a public hearing 15 days before the meeting and everyone will have the information available.

Keaton asked if there would be a month-to-month opportunity for Bob to continue until a new ZA is brought on board. Keaton will plan to communicate with the Supervisor.

Chair's Report, Steelman: Farewell but not goodbye.

Township Board Rep, Vollmuth: PC annual report and budget turned in on time. Included the PC agenda in the Board report. Looking for input from the board on the private road ordinance. Vollmuth believes the private road ordinance needs to be addressed for the Master Plan. The county has standards.

Discussion ensued regarding private road ordinances.

ZBA Representative, Wroubel: Three cases in February. Approved two and did not approve one. Briefly, explained the three cases. Repeated concerns at the ZBA should be addressed by the planning commission.

Committee Reports: None

Unfinished Business:

1. Final Site Plan Review – High Pointe Golf Course, handled previously, see above.
2. Annual Report reviewed. Include verbiage that the zoning map being created is for the Master Plan and for the Zoning Ordinance. Remove the word “been” in ZA section. Consensus to approve with corrections and present to the board.
3. Zoning Ordinance Project
 - a. Map, surveyor, updates – Mielnik. The map work is coming along very well. Present next month.
 - b. Zoning Amendment List and organization tabled to April.
 - c. Schedule special meeting for sole purpose of reviewing the Draft zoning project. No special meeting for zoning at this time. The priority is the Master Plan.
 - d. Anything else related to the ZO Project, nothing added.
4. Master Plan
 - a. Schedule a special meeting for the sole purpose of reviewing the Draft master plan. April 18, 2024, 7-9 p.m.
 - b. Anything else related to the MP project: nothing added.

New Business:

1. Preparation of forthcoming Special Use Permit Public Hearing, materials provided for PC review -
 - a. Amendment 84, Article 25, Site Plan Review (SPR) / Special Use Permit (SUP) – authorization and procedures. Materials provided for reference in preparation for the upcoming meeting.

b. Fahey Schultz Burzych Rhodes – “Special and Conditional Use Permits – the Do’s and Don’ts. Materials provided for reference in preparation for the upcoming meeting.

Next meeting: Regular meeting: April 3, 2024; special meeting scheduled for April 18, 2024.

Public Comment:

9:17 p.m. begin

Connie Hymore

9:19 p.m. end

Commission Discussion/Comments:

Keynotes to share with TB and Action items reviewed: approval of the High Pointe Golf Course site plan; request of zoning map for Elk Rapids Master Plan for appendix; PC request to keep Hall on a month-to-month basis until a new ZA is hired; present annual report with noted changes.

Continuing Education:

In the packet:

Leelanau Ticker article and discussion provided by Linda Slopsema, be aware of what is happening in our region.

Regional issues discussed.

MOTION by Jacobson second by Vollmuth to adjourn.

Roll call: Jacobson-yes; Keaton-yes; Slopsema-yes; Wroubel-yes; Vollmuth-yes; Steelman-N/A; DeYoung-N/A.

Adjournment: 9:35 p.m.

Tabled items: Article 5 Districts; Article 25, Special Use Permits: Campgrounds

Respectfully Submitted

Lois MacLean,

Recording Secretary

11A

ZONING MAP DISCLAIMER
ZONING MAP UPDATE (MIELNIK)

RURAL

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Whitewater Township
Planning Commission

Resolution PC-2024-0xx **DRAFT**
Adoption of the Whitewater Township 2024 Master Plan

At a meeting held xxnd day of July 2024 of the Whitewater Township Planning Commission, Grand Traverse County, Michigan, held in the Township Hall located at 5777 Vinton Road, Williamsburg, Michigan. Upon a roll call vote:

YES: Keaton, DeYoung, Jacobson, Wroubel, Slopsema, Vollimuth

NO: none

The following resolution was offered by XXXXXXXX and supported by XXXXXXXX passed 7-0.

Whereas in 2022?, Whitewater Township Board authorized the preparation of a Comprehensive Master Plan to establish goals and guidelines to facilitate the direction, redevelopment and growth of the Whitewater Township into the future; and;

Whereas the Planning Commission, in concert with Planning & Zoning staff, the Whitewater Township Board, and with input from a cross section of local agencies, and the resident public, coupled with the November 28, 2023 LIAA public engagement events Goals and Strategies Input Summery Report, has undertaken an extensive evaluation of demographic data, land use patterns, economic development trends, natural features, and municipal interests essential to the development of a comprehensive master plan; and;

Whereas the aforesaid information has been compiled into a Master Plan document that, in addition to other purposes, will serve to establish a pattern for land use to guide development and redevelopment, provide a legal basis for zoning and other regulations, and a basis for Zoning Ordinance amendments, and Zoning Map updates, preserve or enhance natural resources, identify and recommend various infrastructure improvements and options, and address the desires and needs of the residents, businesses and property owners; and

Whereas on July 44, 2024, pursuant to the requirements of Section 43, Preparation and Adoption of Master Plan of Article 3, of Michigan Public Act 33 of 2008, Michigan Planning Enabling Act, the Whitewater Township Planning Commission approved the Master Plan and forwarded it to the Whitewater Township Board for public release; and

Whereas on July 44, 2024, the Board of Trustees unanimously agreed to send the draft Master Plan out for Public Review; and

Whereas on August 44, 2024 pursuant to the requirements of Section 43 sub section (3), Preparation and Adoption of Master Plan of Article 3, of Michigan Public Act 33 of 2008, Michigan Planning Enabling Act, the Whitewater Township Planning Commission conducted a final public hearing on the proposed Comprehensive Master Plan; and Whitewater Township Resolution PC-2024-0xx

Whereas, in fulfillment of the requirements of Michigan Public Act 33 of 2008 Michigan Planning Enabling Act, the Whitewater Township Planning Commission has on this date, August 44, 2024, made the determination that the Master Plan document will facilitate the overall future planning and redevelopment objectives of Whitewater Township; therefore, be it Resolved by the Planning Commission of Whitewater Township that:

1. The proposed Comprehensive Master Plan for Whitewater Township is hereby adopted and that preparation of the final Comprehensive Master Plan document is hereby directed and scheduled for final distribution; and
2. That in accordance with Michigan Public Act 33 of 2008, Whitewater Township shall, no later than five years from this date, review the Master Plan and determine whether to commence the procedure to amend the Plan or adopt a new Plan.

Upon roll call vote:

YES: _____ All voted

NO: None

THIS WHITEWATER TOWNSHIP PLANNING COMMISSION RESOLUTION PC-2024-04Z?, APPROVED ON THE AUGUST 44, 2023, IS DECLARED ADOPTED BY THE PLANNING COMMISSION CHAIRMAN AND CERTIFIED BY THE SECRETARY.



XXXXXXXX XXXXXX, Chair

Date

I, the undersigned, Secretary of the Whitewater Township Planning Commission, Grand Traverse County, Michigan, do hereby certify that the foregoing is a true and complete copy of certain proceedings taken by said municipality of Whitewater Township at its Planning Commission meeting, relative to the adoption of the resolution therein set forth, that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267 of 1976, Public Acts of Michigan, and that the minutes of said meeting were kept and will be or been made available as requested by said Act.

Exxxxx dddddd, Secreary

Date

11B

Zoning Clarification Project Update

Feb 23, 2024



9304 Wheeler Oaks Drive, Williamsburg, Michigan 49690 734-770-2698 Email: randy@northplaceplanning.com

MEMO

To: Whitewater Township Planning Commission
From: Randy Mielnik, AICP
CC:
Date: February 23, 2024
Re: Zoning Clarification Project Update

Work is progressing on the Zoning Ordinance Clarification Project. Specifically, the following updates can be shared:

1. Scott McLain (Michigan Geomatics) is under contract to review the legal descriptions in the Zoning Ordinance. A purchase order was sent to him on 2-13-2024, and he acknowledged receipt on 2-15-2024. This work will be completed in 60 days. His work scope includes attending one PC meeting in the future to explain the results.
2. Work has progressed on the text of the Zoning Ordinance. A chart showing how the ZO should be reorganized was shared late last year. As mentioned, there are far too many short Articles, and the ZO sections are not grouped as expected (making it harder to find related provisions). As work has progressed, the ZO organization has updated slightly, and a new chart is attached.
3. As you recall, PC members received one binder with the ZO and one with the ZO amendments last year. Several ZO amendments were missing. Some missing amendments have been located, and it should also be clear that some amendments were given a number but were not subsequently approved by the township board. ~~Therefore, they were not adopted.~~ Attached is a chart of amendments that describes each. This updates a similar chart provided to the PC late last year. You may wish to add this to your ZO amendment binder.

11B

ZONING PROJECT - MAP/SURVEY UPDATES:

From: "scott michigangeomatics.com" <scott@michigangeomatics.com>
Date: February 15, 2024 at 3:30:31 PM EST
To: Randy Mielnik <randy@northplaceplanning.com>
Cc: Ron Popp <supervisorwhitewater@gmail.com>, Rachel Steelman <rsteelmanpc@yahoo.com>
Subject: Re: PO for Survey Work

Hi,
 Received.
 Thank You,

Scott D. McLain
 Professional Surveyor
 Michigan Geomatics
 5422 Goodrick Road
 Traverse City, MI 49684
 231-325-2655
 Visit us on the Web: www.MichiganGeomatics.com

From: Randy Mielnik <randy@northplaceplanning.com>
Sent: Tuesday, February 13, 2024 12:56 PM
To: scott michigangeomatics.com <scott@michigangeomatics.com>
Cc: Ron Popp <supervisorwhitewater@gmail.com>; Rachel Steelman <rsteelmanpc@yahoo.com>
Subject: PO for Survey Work

Hello Scott -
 I've attached the signed PO for the survey work related to the Whitewater Township Zoning Ordinance.
 I look forward to working with you on this.
 Randy

Randy A. Mielnik, AICP
 North Place Planning, LLC

PURCHASE ORDER		No. 5978	
BILL TO: WHITEWATER TOWNSHIP P.O. Box 159 WILLIAMSBURG, MI 49690 Tax ID# 38-0403038 Telephone 231-297-6141 X24 Fax 231-297-6020	SHIP TO:	<input type="checkbox"/>	WHITEWATER TOWNSHIP HALL 5777 WENTON ROAD WILLIAMSBURG, MI 49690
TO: <i>Michigan Geomatics</i>		<input type="checkbox"/>	EMERGENCY SERVICES BLDG 8350 OLD M72 WILLIAMSBURG, MI 49690
		<input type="checkbox"/>	WHITEWATER TOWNSHIP PARK 5500 PARK ROAD WILLIAMSBURG, MI 49690
		<input type="checkbox"/>	18 PRAY PARK 9076 ELK LAKE ROAD WILLIAMSBURG, MI 49690

Planing Commission
Popple's Method
2/15/24

DATE ORDERED	DATE SHIPPED	ITEM NO.	DESCRIPTION	QUANTITY	UNIT PRICE	AMOUNT
2-8-24			Convert all legal descriptions in WTRB to a zoning map (except N Industrial previously done)			

Not to exceed \$5,000

Cheryl...

Proposed New Organization to the Whitewater Township Zoning Ordinance.

UPDATED 2/20/24

OLD	New
ARTICLE 1 SHORT TITLE	ARTICLE I TITLE, PURPOSE, AND SCOPE (COMBINE ART. I, II, XX, XXII, XXIII (SHORT TITLE, PURPOSE, SCOPE, INTERPRETATION, SEPARABILITY, REPEAL, EFFECTIVE DATE)
ARTICLE II INTERPRETATION	ARTICLE II DEFINITIONS (ARTICLE III DEFINITIONS)
ARTICLE III DEFINITIONS	ARTICLE III ZONING MAP AND DISTRICTS (NEW SECTION THAT REPLACES ART. V AND ESTABLISHES THE ZONING MAP AS PART OF THE ZO, IDENTIFIES ZONING DISTRICTS, ETC.)
ARTICLE IV ACCESSORY AND NONCONFORMING USES AND BUILDINGS	ARTICLE IV ZONING DISTRICTS, USE REGULATIONS AND PRIMARY DIMENSIONAL REQUIREMENTS (ARTICLE VI, VII, VIII, IX, X, XI, XII) DESCRIBES ALL ZONING DISTRICTS, PERMITTED SPECIAL USES AND PRIMARY DEVELOPMENT REGULATIONS
ARTICLE V DISTRICTS	ARTICLE V SUPPLEMENTAL DEVELOPMENT STANDARDS AND PROVISIONS (IV. XIII, XIV, XV, XVI, XXIX, XXXIII, XXXIX-XXXVII)
ARTICLE VI RESIDENTIAL R-1	ARTICLE VI OFF-STREET PARKING, LOADING, LIGHTING AND LANDSCAPE STANDARDS (XXXIX, XXXII, XXIV)

OLD	New
ARTICLE VII MULTIPLE RESIDENTIAL R-2 and R-3	ARTICLE VII OPTIONAL PLANNED DEVELOPMENTS (ARTICLE XXXI and XXXII) PLANNED UNIT DEVELOPMENT AND CORRIDOR OVERLAY PLANNED UNIT DEVELOPMENT
ARTICLE VIII COMMERCIAL C and VILLAGE V	ARTICLE VIII CONDOMINIUM DEVELOPMENT REGULATIONS (XXXVIII)
ARTICLE IX INDUSTRIAL	ARTICLE IX SITE PLAN REVIEW (XXIV)
ARTICLE X AGRICULTURAL A-1	ARTICLE X SPECIAL LAND USES (XXV)
ARTICLE XI RECREATIONAL RC-1	ARTICLE XI NON-CONFORMING USES AND BUILDINGS (IV)
ARTICLE XII BUILDING LOT SIZES AND YARD REQUIREMENTS	ARTICLE XII SIGN REGULATIONS (XXX)
ARTICLE XIII ESSENTIAL PUBLIC SERVICES	ARTICLE XIII TELECOMMUNICATION TOWERS (XXXV)
ARTICLE XIV WATERFRONT PROPERTY	ARTICLE XIV MOBILE HOME STANDARDS (XXXVI)
ARTICLE XV SANITATION REQUIREMENTS	ARTICLE XV SANITARY LANDFILL AND WASTE DISPOSALS (XVI)
ARTICLE XVI OUTDOOR STORAGE	ARTICLE XV ADMINISTRATION (XVII, XVIII, XIX, XXI) ADMINISTRATION, ZONING BOARD OF APPEALS, AMENDMENTS, VIOLATIONS
ARTICLE XVII ADMINISTRATION	

OLD	New
ARTICLE XVIII ZONING BOARD OF APPEALS	
ARTICLE XIX REQUEST FOR AMENDMENT	
ARTICLE XX SEPARABILITY	
ARTICLE XXI VIOLATIONS	
ARTICLE XXII EFFECTIVE DATE	
ARTICLE XXIII REPEAL	
ARTICLE XXIV SANITARY LANDFILL AND WASTE DISPOSAL	
ARTICLE XXV SITE PLAN REVIEW AND SPECIAL LAND USES	
ARTICLE XXVI RESERVED	
ARTICLE XXVII RESERVED	
ARTICLE XXVIII CONDOMINIUM DEVELOPMENT REGULATIONS	
ARTICLE XXIX EXTERIOR LIGHTING REGULATIONS	
ARTICLE XXX SIGN REGULATIONS	
ARTICLE XXXI PLANNED UNIT DEVELOPMENT	
ARTICLE XXXII CORRIDOR OVERLAY PLANNED UNIT DEVELOPMENT	
ARTICLE XXXIII LANDSCAPE STANDARDS	
ARTICLE XXXIV OFF-STREET PARKING AND LOADING	

OLD	New
ARTICLE XXXV TELECOMMUNICATION TOWERS	
ARTICLE XXXVI MOBILE HOME STANDARDS	
ARTICLE XXXVII SUPPLEMENTARY PROVISIONS	

DRAFT

WHITEWATER TOWNSHIP ZONING ORDINANCE AMENDMENT CHART
DRAFT & Updated 2/22/2024

AMENDMENT #	EFFECTIVE DATE	SECTIONS AMENDED	DESCRIPTION
Original Adoption			
1	10/23/1973	5.10, 5.11, 5.13	Corrected 3 Legal Descriptions for Zoning Districts (R-1, A-1, N)
2	11/20/1973	6.11, 7.11, 10.10	Single Family Lot Size Requirements
3	3/18/1975	3.27, 5.12, 6.10, 12.10, 18.12	Domestic pets, ZBA, Mobile Homes, Legal Description
4	10/30/1978	5.00, 5.13, 5.16, 19.10, 19.11, 24.10, 24.11	Amendment Process, Create R-3, Rezone N to R-3.
5	6/11/1979	25.10, 25.11	Add Special Admin Review Process, Amend ZBA Standards for Decisions
6	6/11/1979	18.10	ZBA Creation
7	10/21/1980	3.14	Mobile Home Def.
8	10/21/1980	3.23	Travel Trailers/ Rec Units
9	7/7/1981	Preamble, 2.10, 3.27, 5.10(23), 5.10(24), 6.11, 6.13, 12.11, 15.11	Preamble, vegetative strip, legal descriptions, boardman river, lot area, yard requirements
10	4/20/1982	3.12, 3.13, 3.14, 6.10, 17.14	Mobile Home Park & Dwelling Related Definitions, Land Use Permits
11	8/31/1985	2.10, 2.12, 6.10, 6.12, 8.10, 9.11, 10.10, 11.10, 12.10, 12.12, 24.10, 25.10	Purposes, Interpretation, Lot Splits, Permitted Uses, artificial bodies of water, Morals, retail uses, special uses, setbacks, migrant workers, junk yards, dwelling sizes, building sizes, variances, hardship, administrative review process
12	5/19/1987	3.29, 3.30, 3.31, 6.14, 19.10, 25.12, 25.13	Definitions, R-1 Special Uses, Amendments, Special Use Requirements, Bed and Breakfasts
13	1/24/1987	12.11	Building Sizes and Yard Requirements
14	5/31/1988	25.13	Sanitary Landfills
15	12/20/1988	2.12, 3.30, 3.31, 8.12, 9.13, 11.10, 17.14, 19.10, 25.00, 25.10, 25.11, 25.12, 25.13, 25.14, 25.20	Site Plan, Special Uses, Off Street Parking, Uses Permitted, Land Use Permits, Amendments, Site Plan Review, Standards for Decisions, Site Plan Review Requirements and Procedures, Site Plan Amendments.
16	3/21/1989	8.10, 9.10, 25.15	Commercial C Permitted Uses, Landscaping
17	8/15/1989	26.00	Sound Regulations
18	2/20/1990	5.12, 5.13	Zoning District Boundaries, RC and N
19	9/28/1990	2.10, 3.19, 3.32, 3.33, 17.14(A), 25.11, 25.12, 25.13, 25.14(1), 25.14(4)(a), 25.14(5)(f)(3)	Standards for Decisions, Interpretation, Site Plan, Condos, Site Plan Review Requirements, Plot Plan
20	9/28/1990	3.34, 9.10, 25.20(2), 27.00, 28.00	Condos Regulations, Sign Definitions, Billboards, Environmentally Sensitive Areas, Steep Slopes, Ground Water Recharge, Natural Hazards, Historical Resources
20	10/1/1990	3.34, 9.10 (these two articles have different effective dates)	****

AMENDMENT #	EFFECTIVE DATE	SECTIONS AMENDED	DESCRIPTION
21	4/12/1991	3.34,25.11,25.14,25.20	Ground Water Protection, Underground Storage Tanks, Site Plan Review Standards,
22	7/5/1991	30.00	Sign Regulations
23	1/1/1992	Recodify Zoning Ordinance	Recodify Zoning Ordinance / Readopted
24	5/7/1992 (Readopted 12/24/1992)	3.19, 10.10(f), 25.11, 25.14, 29.00	Exterior Lighting, Site Plan Review, Standards for Decisions, Agricultural Dumps
25	6/5/1992	5.13, 5.16	Rezoning N District
26	12/24/1992	31.00	PUD
27	5/28/1993	5.17	Rezone Property to PUD
28	6/23/1993	6.11, 7.11, 7.13, 8.11, 9.12, 11.10, 12.00, 12.11, rezoning of a parcel in Section 33	Chart with lot sizes, setbacks, etc. Rezoned Land from RC-1 to C-1
29	7/6/1993	5.17	PUD Rezoning
30	6/1/1994	5.17	PUD Rezoning
31	6/1/1994	17.14, 27.12	Land Use Permits, Wetland Regulation/Definition
32	9/13/1996	3.36,3.37,3.38,8.10,8.12, 8.13, 9.11,9.13,12.11, 25.13 (A), 31.13(G)(a), 32.00, 33.00, 34.00	Housekeeping Amendments, N District Updates, Definitions, M-72, C-1 R-3 and N Zones Building Sizes and Setbacks, C-1 updates, Hotel/Motel sizes, COPUD, Landscape Standards, Off Street Parking Requirements
33	9/13/1996	6.11	Special Use in R-1 - Schools
34	10/1/1997	3.10	Accessory Buildings
35	10/16/1997	35.00	Telecommunication Towers, Wireless Antennas
36	10/5/1998	8.10,8.14,8.15	Village District Created
37	10/5/1998	5.12,5.13,5.16	Village District and C-1 Legal
38	10/5/1998	5.12,5.13	Several Rezonings- C-1 and N Legals
39	3/6/1999	5.18	Rezoning - COPUD
40	6/9/1999	8.13, 25.20(B)	Sexually-Oriented Businesses
41	10/8/1999	5.13(2)	Rezoning N District
42	7/31/2000	5.18(2)	Rezoning - COPUD
43	6/1/2001	5.18(3)	Rezoning - COPUD
44	2/16/2002	5.17(4)	Rezoning R-3 to PUD Rezoning Whitewater Inn Legal
45	3/4/2003	3.39,5.15,5.19, 11.10(G), 12.11,36.00	Mobile Home Park Definitions, Mobile Home Park District, Remove MHP from R-3, Create Mobile/manufactured Home Park District

AMENDMENT #	EFFECTIVE DATE	SECTIONS AMENDED	DESCRIPTION
46	6/28/2004	10.10(EJ) 10.10(G)	A-1 Permitted Uses,
47	12/7/2004	3.40,3.41	Residential Fences, Outdoor Display Area, Outdoor Inventory Area
48	12/30/2004	5.10	R-1 Zoning District Boundaries - Rezoning
49	4/2/2005	5.10(13)	R-1 Zoning District Boundaries - Rezoning
50	5/20/2005	5.13,5.18	Rezoning N District and COPUD District
51	5/30/2005	14.10	Minimum Area and Frontage Water Frontage
52	8/12/2005	31.00	Planned Unit Development -Rewrite/Update
53	9/10/2005	7.10,7.14,10.11,11.10,11.11 (Article 31 attached)	A1 Permitted Uses, R-2 Special Use, R-3 Special Uses RC-1 Uses Permitted RC-1 Special uses, PUD
54	7/7/2006	4.15	Extension of Non-conforming uses
55	7/7/2006	25.12(B)	Site Plan Public Hearing Notice
56	1/3/2009	12.11	4:1 width to depth ratio and variance provision reference
57	7/7/2009	30.14,30.20 through 30.27	temp signs, off premises signs
58	12/17/2009	18.00	New Article 18 - ZBA
59	12/17/2009	3	New Article 3 Definitions
60	2/13/2010	25.10,25.11,25.12,25.13,25.14,25.15,25.16,25.17,25.18,25.19,25.20	New Site Plan Review and Special Use
61	7/17/2010	30.14,30.15,30.17,30.18,30.19,30.21,30.24,30.25,30.26, 30.27	Sign Regulations
62	11/25/2010	17.10,17.12,17.14,17.15,17.1	Amends Administration Section, Zoning Admin.,
63	2/21/2011	3.00,6.10,6.14,25.19,37.20,37.30	Temp Buildings, Uses,
64	7/22/2011	3.00, 25.21(C), 37.40	Outdoor Wood Furnace, R-1 Uses Permitted and Special Uses, Plot Plan, Raising and Keeping of Animals, Dog Kennels
65	11/26/2012	30.19(c)	Home Occupations
66	10/4/2011	3.00,6.14, 10.10, 10.11, 11.10, 11.11,12.10,25.20,25.21,37.50	Temporary Signs and Approval
67	5/25/2012	8.13, 12.11	Cabin/campground definitions, R-1Special Use, A-1 Permitted Uses, RC-1 Permitted Uses, building sizes, Site plan, commercial campgrounds, private family campgrounds
68	4/9/2017	8.11, 12.10, 12.10A, 12.10D, Article 15, Article 26 (elimination of Sound Regulations; article number reserved for future use), Article 36	C-1 side Yard, and remove 25 feet from special circumstances
69	7/28/2017	2.10,2.11,2.12,2.13	C-1 and V building sizes and yards, building sizes and yards applicable to all districts, min dwelling size, setbacks, Sanitation Requirements, Repeal sound regs., Mobile Home park standards,
70	7/28/2017		Purpose, Scope, Interpretation

AMENDMENT #	EFFECTIVE DATE	SECTIONS AMENDED	DESCRIPTION
71	9/15/2017	Article 8, Article 9	Updated Article 8 and 9
72	1/26/2018	Article 3, 17, 10, 17, 11, 17, 12, 17, 13, 17, 14, 17, 15, 17, 16, 17, 17, 19, 10, 19, 11, 19, 12, 19, 13	Updated Definitions, Update Administration Provisions, Amendment Procedures, Costs
73	6/28/2019	6.10, 6.11, 6.12, 6.13, 7.01, 7.10, 7.11, 7.12, 7.13, 7.14 (deleted), 7.50, 7.51, 7.61, 7.62, 7.63, Article 14 heading, 14, 10, 14, 11	R-1 Intent, Permitted Uses in R-1, R-2 Permitted Uses and Special Uses, Lot Sizes, Water Front Property, Boardman River Valley,
74	6/28/2019	6.01, 6.10, 6.11, 6.12, 6.13, 6.14 (deleted)	R-1 Permitted Uses, Special Uses, Building Sizes, Supplementary Standards
75	Not Adopted	Accessory Dwelling Units-	Ne Evidence of Adoption
76	Not Adopted	Event Banns-	Ne Evidence of Adoption
77	11/27/2019	Article 3, Article 27.	3.00 (add definition of Accessory Building), 27.00 (elimination of Environmentally Sensitive Areas regulations; article number reserved for future use)
78	3/28/2021	Article 3, Article 28	Definitions of Condo Conversion and Revised Article 28.
79	Not Adopted	Marhuana-	Marhuana-
80	Not Adopted	Marhuana-	Marhuana-
81	1/11/2021	Section 25.22C.	Home Occupations Have Board Minutes indicating adoption
82	Not Adopted	Article 26 Site Plan Review / Special Use-	Article 26 Site Plan Review / Special Use Permit
83	Not Adopted	Preamble, Article 12, Article 14	Preamble, Article 12, Article 14
84	10/6/2022	25.10, 25.11 (A), 25.21	Site Plan Review, Special Use Requirements and Standards
85	Not Adopted	NA	Medical Marhuana - Articles 3, 6, 9, 10, 25.22E, 37
86	4/2/2023	Article 3 and 28	Article 3 revisions (new/revised definitions), Article 28 (revised in its entirety)

TTCI / MPO

11E

Discussion; based on dialog shared during the Dec 13th joint meeting
PC/TB there is not support from the board at this time. Four of five TB
Board Members voiced, they do not support.

Meeting video = Whitewater Twp website – meeting videos – click PC
meetings 12-13-23

12A

PROPOSED ZO AMENDMENT
NO. 84 (CLEAN) 9-21-22 TWP BOARD

MICHIGAN ZONING ENABLING ACT (EXCERPT)

Act 110 of 2006

125.3502 Special land uses; review and approval; application; notice of request; public hearing; incorporation of decision in statement of findings and conclusions.

Sec. 502. (1) The legislative body may provide in a zoning ordinance for special land uses in a zoning district. A special land use shall be subject to the review and approval of the zoning commission, the planning commission, an official charged with administering the zoning ordinance, or the legislative body as required by the zoning ordinance. The zoning ordinance shall specify all of the following:

(a) The special land uses and activities eligible for approval and the body or official responsible for reviewing and granting approval.

(b) The requirements and standards for approving a request for a special land use.

(c) The procedures and supporting materials required for the application, review, and approval of a special land use.

(2) Upon receipt of an application for a special land use which requires a discretionary decision, the local unit of government shall provide notice of the request as required under section 103. The notice shall indicate that a public hearing on the special land use request may be requested by any property owner or the occupant of any structure located within 300 feet of the property being considered for a special land use regardless of whether the property or occupant is located in the zoning jurisdiction.

(3) At the initiative of the body or official responsible for approving the special land use or upon the request of the applicant, a real property owner whose real property is assessed within 300 feet of the property, or the occupant of a structure located within 300 feet of the property, a public hearing shall be held before a discretionary decision is made on the special land use request.

(4) The body or official designated to review and approve special land uses may deny, approve, or approve with conditions a request for special land use approval. The decision on a special land use shall be incorporated in a statement of findings and conclusions relative to the special land use which specifies the basis for the decision and any conditions imposed.

History: 2006, Act 110, Eff. July 1, 2006.



Zoning Ordinance Must List Uses Eligible for Special Use Permit Specifically – Listing Merely Categories of Uses Such as “Commercial” Uses Is Not Sufficient

Ronald D. Richards Jr.

Foster Swift Municipal Law News

July 2010

A zoning ordinance that merely lists uses eligible for a special use permit (SUP) generally does not comply with Michigan zoning laws. Rather, the ordinance must list those eligible uses very specifically. *Whitman v Galien Twp*, unpublished *per curiam* opinion of the Michigan Court of Appeals (2010). In *Whitman*, the township's SUP provisions in its zoning ordinance provided that the following uses were eligible for a SUP: "establishments for the conducting of commercial or industrial activities." Under this ordinance, the township granted a SUP that allowed some permit applicants to construct and operate a snowmobile, dirt bike, and racetrack. The plaintiffs, neighbors, appealed the township board's decision. The trial court upheld the SUP, opining that the township may authorize SUP even if the proposed use is not specifically enumerated in the applicable zoning ordinance.

The Court of Appeals reversed, and held that the ordinance violated zoning law by being too general. The ordinance did not specify the special land uses and activities as required. The Court first noted the controlling provision of the Michigan Zoning Enabling Act (MZEA): "zoning ordinance shall specify ... the special land uses and activities eligible for approval ..." MCL 125.3502 (1). The Court stated that the ordinance's general statement that "commercial or industrial activities" are eligible for a SUP was not specific enough to satisfy the MZEA. The township's ordinance did not specify the special land uses and activities eligible for approval, but rather identified general categories of uses or activities. Since the zoning ordinance violated the MZEA, the Court found that the township board's decision to grant the SUP was invalid. The Court therefore vacated the SUP.

Municipalities should take special note of *Whitman* and review their SUP provisions to ensure that those provisions do not suffer from the flaws the Court identified in *Whitman*.

- [Read Full August 2010 Municipal Law News](#)

Practice Areas

Zoning & Land Use

ARTICLE 25 AS WE
HAVE IT

PROPOSED ZONING AMEND
NO 84 (CLEAN) 9-21-22

**WHITEWATER TOWNSHIP
GRAND TRAVERSE COUNTY, MICHIGAN
ZONING ORDINANCE AMENDMENT
ORDINANCE NO. [INSERT NUMBER]**

At a meeting of the Township Board of Whitewater Township, Grand Traverse County, Michigan, held at the Whitewater Township Hall on _____, 2022, at ___:___ p.m., Township Board Member _____ moved to adopt the following Ordinance, which motion was seconded by Township Board Member _____:

An Ordinance to amend the Whitewater Township Zoning Ordinance, as amended to revise the process for reviewing site plans and special use permit applications, alter the circumstances where an applicant is required to submit a site plan, and amend the process for accepting and reviewing special use permit applications for property located in the Township; in order to maintain the public health, safety, and welfare of the residents of and visitors to Whitewater Township.

THE TOWNSHIP OF WHITEWATER, GRAND TRAVERSE COUNTY, MICHIGAN, ORDAINS:

SECTION 1: AMENDMENT TO ARTICLE XXV SECTION 25.10. The Whitewater Township Zoning Ordinance, Article XXV shall be amended by amending Section 25.10 SITE PLAN REVIEW AUTHORIZATION to read as follows:

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

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

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

SECTION 2: AMENDMENT TO ARTICLE XXV SECTION 25.11(A). The Whitewater Township Zoning Ordinance, Article XXV shall be amended by amending Section 25.11(A). SITE PLAN REVIEW: WHERE REQUIRED to remove the requirement that all proposed uses or

developments in environmentally sensitive areas as required under Article 27.00, Environmentally Sensitive Areas, submit a site plan for review. Section 25.11(A) shall now read as follows:

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.

SECTION 3: AMENDMENT TO ARTICLE XXV SECTION 25.21. The Whitewater Township Zoning Ordinance, Article XXV shall be amended by amending Article 25.21: SPECIAL USE PERMIT APPLICATION REQUIREMENTS to read as follows:

25.21 SPECIAL USES

25.21.A. Purpose

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

25.21.B. Authority to Grant Permits

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

25.21.C. Application and Fee

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

If an application of a complex nature is received, the Zoning Administrator may determine that the application requires the assistance of expert(s) resulting in additional costs. Upon the Zoning

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

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

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

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

The deposit required by this section is in addition to any security required elsewhere in this Ordinance.

25.21.D. Pre-Application Conference

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

25.21.E. Information Required in Application

An application for special use permit shall include:

1. The Applicant(s) name(s) and address(s).
2. A signed affidavit identifying whether the Applicant(s) are the owner of the property, have an ownership interest in the property, or are acting on the behalf of owners of the property. If the Applicant(s) do not own the property, then the signed affidavit must also be approved and signed by the property's owner(s).
3. The address and a legal description of the property.
4. A project schedule and development plan.
5. Land uses and existing structures on the subject parcel and adjoining parcels within 300 feet.
6. A written statement regarding the project's anticipated effects on existing infrastructure, including but not limited to traffic, capacity of roads, schools, existing utilities, the natural environment, and water aquifer.
7. A detailed site plan as specified in Article 25.10 et seq. of this Ordinance, unless waived or otherwise determined to be unnecessary by the Planning Commission.

25.21.F. Review for Completeness

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

25.21.G. Notice of Public Hearing

1. If the application is administratively complete, the Zoning Administrator shall notify the following persons of the application being considered. This notice must be sent not less than fifteen (15) days before the date of the public hearing. These notices shall be sent to:
 - a. The Applicant(s).
 - b. The owner of the property, if different.
 - c. To all persons to whom real property is assessed within 300 feet of the property that is the subject of the request.
 - d. To the occupants of all structures within 300 feet of the subject property regardless of whether the property or structure is located in the Township.
 - e. The public by notification in a newspaper of general circulation in Whitewater Township.
 - f. The members of the Planning Commission.
 - g. Utility providers, when requested by a utility or otherwise deemed necessary.
 - h. Michigan Department of Transportation, if within 300 feet of a state highway.
 - i. Michigan Department of Environment Great Lakes and Energy (EGLE) if the proposed Special Use is on property with surface water, wetlands, groundwater, or otherwise requires a permit from EGLE.

2. Failure of the Zoning Administrator to notify those persons and entities listed in Subsection 25.21.G of this Ordinance shall not be grounds to challenge the validity of the proposed special use permit, provided notice has been given in accordance with the Michigan Zoning Enabling Act. The notice shall include:
 - a. A description of the nature of the special use permit being requested.
 - b. The property(-ies) for which the request has been made. A listing of all existing street addresses within the property(-ies) subject of the Special Use (i.e., street addresses do not need to be created and listed if no such addresses currently exist and another means of identification may be used.)
 - c. Where the application documents can be viewed prior to the date of its consideration.
 - d. When and where written comments will be received concerning the request.
 - e. The date, time and location of the public hearing where the request will be considered.
 - f. The address at which written comments may be directed prior to Township consideration.
 - g. For members of the Planning Commission only, a complete copy of the special use permit application and supporting documents in the record.
3. Any person or entity that receives notice pursuant to this section of this Ordinance may choose to submit material to the Planning Commission. Such submissions shall be delivered to the Township at or before the hearing on the issue. Such submissions shall be considered advice to the Planning Commission. The applicant may wish to review an application with Grand Traverse County, Grand Traverse Band, public utilities, EGLE, road agencies, and other governing authorities having jurisdiction over the proposed special use prior to the hearing, or prior to submitting the application to the Commission.

25.21.H. Hearing and Decision

The Planning Commission shall hold a public hearing on the special use permit application to receive input from the general public. Anyone who receives notice pursuant to Section 25.21.G may choose to submit material to the Planning Commission. Such submissions shall be delivered to the Township at or before the public hearing. Such submissions shall be considered advice to the Planning Commission.

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

1. A summary of public comments made at the hearing;
2. Formal finding of facts;
3. The conclusions derived from the facts (reasons for the decision);
4. The decision; and
5. A listing of any conditions upon which issuing a permit is issued.

25.21.I. Special Use Permit Standards

1. In addition to the standards established for specific uses herein, an application for a special use permit shall be reviewed for compliance with site plan review standards in Article 25.10 through 25.20 of this Ordinance. The Planning Commission may impose reasonable conditions upon a special use permit.
2. No special use permit shall be approved unless all of the following standards are met. Each application shall be reviewed for the purpose of determining that the proposed Special Use shall:
 - a. Be designed, constructed, operated and maintained so as to be harmonious and compatible with the existing or intended character of the general vicinity, and that the use will not change the essential character of the area in which it is proposed.
 - b. Be adequately served by essential public facilities and services such as highways, streets, fire and safety, drainage, refuse disposal, water and sewage treatment, etc.
 - c. Not create excessive additional public costs for essential public services or facilities.
 - d. Not involve activities, processes, materials, equipment or conditions that will be detrimental to any persons, property, or the public from the traffic, noise, smoke, vibration, fumes, glare, odors, etc.
 - e. Be sufficiently designed to maintain adequate provision for the protection of the health, safety, and welfare of those proposing the special use, residents and adjoining landowners and the community as a whole.
 - f. Be consistent with the intent of this Zoning Ordinance and the Master Plan.
 - g. Not create or substantially add to traffic hazards.
 - h. Not have significant adverse impacts to environmental, ecological, or natural resources.
 - i. Be in compliance with the requirements of the applicable local, county, state, and federal laws or regulations.
 - j. Not have significant adverse impacts on adjoining properties, or to allowed or established uses.

25.21.J. Special Land Use Permit Conditions

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

1. Reasonable and designed to protect natural resources, the health, safety and welfare of the public;
2. Relevant to the social and economic well-being of the owners and occupants of the lot in question, of the area adjacent thereto and of the community as a whole;
3. Related to the purposes which are affected by the proposed use or activity;

4. Consistent with the intent and purpose of this Ordinance, generally and specifically, for the respective zoning district;
5. Designed to ensure compatibility with adjacent uses of land and the natural environment; and the proposed special use or activity will be designed to ensure compatibility with public services and facilities.

25.21.K. Record of Special Land Use Permit

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

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

25.21.L. Security Requirement

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

25.21.M. Amendment of Special Use Permits

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

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

according to the procedures authorized by this Article for approval of a condominium development.

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

25.21.N. Transfer of Special Use Permit

A special use permit, with any and all associated benefits, conditions and required security shall run with the land and shall be binding on the landowner, and his or her successors, heirs and assigns. The responsibility for effecting the transfer of required security shall be the original landowner (or their heir(s) if the original landowner is deceased), who shall request a return of their required security, if any, from the Township Zoning Administrator. The Zoning Administrator shall contact the new property owner to see if they wish to continue the authorized special use permit by providing the security requirement. Upon the new property owner providing the Township the required security or an affirmative statement they wish to rescind the special use permit, the Zoning Administrator shall return the required security provided by the original property owner to the original property owner.

25.21.O. Construction Code Permits

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

25.21.P. Expiration of Special Use Permits

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

1. If replaced or superseded by a subsequent special use permit.
2. If replaced or superseded by a permitted use.
3. If the applicant requests the rescinding of the special use permit.
4. If the use is discontinued, relocated, or vacated for a period of one (1) year. Notice of the expiration shall be given to the property owner in writing.
5. If the construction or use has not commenced and proceeded meaningfully toward completion within one (1) year of issuance, the special use permit shall be null and void, unless an extension is granted by the Planning Commission.

25.21.Q. Violation of Special Use Permit

Any violation of the terms, conditions or limitations of a special use permit shall be cause for revocation or suspension of the special use permit. The Planning Commission may either revoke

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

SECTION 4: CONFLICT AND INTERPRETATION.

The standards and provisions of this Zoning Amendment shall be interpreted as being the minimum requirements necessary to uphold the purposes of this Ordinance. Whenever this Zoning Amendment imposes a higher standard than that required by other regulations, ordinances, or rules, or by easements, covenants or agreements, the provisions of this Zoning Amendment shall govern. When the provisions of any other statute impose higher standards the provisions of such statutes shall govern. When it is alleged by a petitioner that there is an error in interpretation of this Zoning Amendment by the Zoning Administrator or designee, the Whitewater Township Zoning Board of Appeals pursuant to Article 18 of the Zoning Ordinance shall review such an appeal, provided that a written appeal is filed within thirty (30) days of the decision of the Zoning Administrator or designee. The concurring vote of a majority of the Zoning Board of Appeals shall be necessary to reverse any interpretation of this Zoning Amendment by the Zoning Administrator or designee.

SECTION 5: SAVINGS CLAUSE.

All proceedings pending and rights and liabilities existing, acquired or incurred at the time this Zoning Amendment takes effect are saved and may be consummated according to the law in force when they were commenced.

SECTION 6: SEVERABILITY. The provisions of this Ordinance are declared severable. If any part of this Ordinance is declared invalid for any reason by a court of competent jurisdiction, that declaration does not affect or impair the validity of all other provisions that are not subject to that declaration.

SECTION 7: EFFECTIVE DATE. This Ordinance shall become effective seven (7) days after publication of a notice of adoption of this Ordinance, unless referendum procedures are initiated under MCL 125.3402. If referendum procedures are initiated, this Ordinance will take effect in accordance with MCL 125.3402.

SECTION 8: REPEAL. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

YEAS: _____

NAYS: _____

ABSENT/ABSTAIN: _____

ORDINANCE DECLARED ADOPTED.

Ron Popp, Whitewater Township Supervisor

CERTIFICATION

I hereby certify that:

1. The above is a true copy of an Ordinance adopted by the Whitewater Township Board at a duly scheduled and noticed meeting of that Township Board held on _____, 2022, pursuant to the required statutory procedures.
2. A summary of the above Ordinance was duly published in the _____ newspaper, a newspaper that circulates within Whitewater Township, on _____, 2022.
3. Within 1 week after such publication, I recorded the above Ordinance in a book of ordinances kept by me for that purpose, including the date of passage of the ordinance, the names of the members of the township board voting, and how each member voted.
4. I filed an attested copy of the above Ordinance with the Grand Traverse County Clerk on _____, 2022.

ATTESTED:

Cheryl Goss, Whitewater Township Clerk

PROPOSED
ORDINANCE
Amendment by Clean

9-21-22
Twp Board Meeting

WHITEWATER TOWNSHIP
GRAND TRAVERSE COUNTY, MICHIGAN
ZONING ORDINANCE AMENDMENT
ORDINANCE NO. [INSERT NUMBER]

At a meeting of the Township Board of Whitewater Township, Grand Traverse County, Michigan, held at the Whitewater Township Hall on _____, 2022, at ____:____ p.m., Township Board Member _____ moved to adopt the following Ordinance, which motion was seconded by Township Board Member _____:

An Ordinance to amend the Whitewater Township Zoning Ordinance, as amended to revise the process for reviewing site plans and special use permit applications, alter the circumstances where an applicant is required to submit a site plan, and amend the process for accepting and reviewing special use permit applications for property located in the Township; in order to maintain the public health, safety, and welfare of the residents of and visitors to Whitewater Township.

THE TOWNSHIP OF WHITEWATER, GRAND TRAVERSE COUNTY, MICHIGAN, ORDAINS:

SECTION 1: AMENDMENT TO ARTICLE XXV SECTION 25.10. The Whitewater Township Zoning Ordinance, Article XXV shall be amended by amending Section 25.10 SITE PLAN REVIEW AUTHORIZATION to read as follows:

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

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

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

SECTION 2: AMENDMENT TO ARTICLE XXV SECTION 25.11(A). The Whitewater Township Zoning Ordinance, Article XXV shall be amended by amending Section 25.11(A). SITE

PLAN REVIEW: WHERE REQUIRED to remove the requirement that all proposed uses or developments in environmentally sensitive areas as required under Article 27.00, Environmentally Sensitive Areas, submit a site plan for review. Section 25.11(A) shall now read as follows:

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 singlefamily 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.

SECTION 3: AMENDMENT TO ARTICLE XXV SECTION 25.21. The Whitewater Township Zoning Ordinance, Article XXV shall be amended by amending Article 25.21: SPECIAL USE PERMIT APPLICATION REQUIREMENTS to read as follows:

25.21 SPECIAL USES

25.21.A. Purpose

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

25.21.B. Authority to Grant Permits

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

25.21.C. Application and Fee

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

If an application of a complex nature is received, the Zoning Administrator may determine that the application requires the assistance of expert(s) resulting in additional costs. Upon the Zoning

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

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

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

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

The deposit required by this section is in addition to any security required elsewhere in this Ordinance.

25.21.D. Pre-Application Conference

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

25.21.E. Information Required in Application

An application for special use permit shall include:

1. The Applicant(s) name(s) and address(s).
2. A signed affidavit identifying whether the Applicant(s) are the owner of the property, have an ownership interest in the property, or are acting on the behalf of owners of the property. If the Applicant(s) do not own the property, then the signed affidavit must also be approved and signed by the property's owner(s).
3. The address and a legal description of the property.
4. A project schedule and development plan.
5. Land uses and existing structures on the subject parcel and adjoining parcels within 300 feet.
6. A written statement regarding the project's anticipated effects on existing infrastructure, including but not limited to traffic, capacity of roads, schools, existing utilities, the natural environment, and water aquifer.
7. A detailed site plan as specified in Article 25.10 et seq. of this Ordinance, unless waived or otherwise determined to be unnecessary by the Planning Commission.

25.21.F. Review for Completeness

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

25.21.G. Notice of Public Hearing

1. If the application is administratively complete, the Zoning Administrator shall notify the following persons of the application being considered. This notice must be sent not less than fifteen (15) days before the date of the public hearing. These notices shall be sent to:
 - a. The Applicant(s).
 - b. The owner of the property, if different.
 - c. To all persons to whom real property is assessed within 300 feet of the property that is the subject of the request.
 - d. To the occupants of all structures within 300 feet of the subject property regardless of whether the property or structure is located in the Township.
 - e. The public by notification in a newspaper of general circulation in Whitewater Township.
 - f. The members of the Planning Commission.
 - g. Utility providers, when requested by a utility or otherwise deemed necessary.
 - h. Michigan Department of Transportation, if within 300 feet of a state highway.
 - i. Michigan Department of Environment Great Lakes and Energy (EGLE) if the proposed Special Use is on property with surface water, wetlands, groundwater, or otherwise requires a permit from EGLE.
2. Failure of the Zoning Administrator to notify those persons and entities listed in Subsection 25.21.G of this Ordinance shall not be grounds to challenge the validity of the proposed

special use permit, provided notice has been given in accordance with the Michigan Zoning Enabling Act. The notice shall include:

- a. A description of the nature of the special use permit being requested.
 - b. The property(-ies) for which the request has been made. A listing of all existing street addresses within the property(-ies) subject of the Special Use (i.e., street addresses do not need to be created and listed if no such addresses currently exist and another means of identification may be used.)
 - c. Where the application documents can be viewed prior to the date of its consideration.
 - d. When and where written comments will be received concerning the request.
 - e. The date, time and location of the public hearing where the request will be considered.
 - f. The address at which written comments may be directed prior to Township consideration.
 - g. For members of the Planning Commission only, a complete copy of the special use permit application and supporting documents in the record.
3. Any person or entity that receives notice pursuant to this section of this Ordinance may choose to submit material to the Planning Commission. Such submissions shall be delivered to the Township at or before the hearing on the issue. Such submissions shall be considered advice to the Planning Commission. The applicant may wish to review an application with Grand Traverse County, Grand Traverse Band, public utilities, EGLE, road agencies, and other governing authorities having jurisdiction over the proposed special use prior to the hearing, or prior to submitting the application to the Commission.

25.21.H. Hearing and Decision

The Planning Commission shall hold a public hearing on the special use permit application to receive input from the general public. Anyone who receives notice pursuant to Section 25.21.G may choose to submit material to the Planning Commission. Such submissions shall be delivered to the Township at or before the public hearing. Such submissions shall be considered advice to the Planning Commission.

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

1. A summary of public comments made at the hearing;
2. Formal finding of facts;
3. The conclusions derived from the facts (reasons for the decision);
4. The decision; and
5. A listing of any conditions upon which issuing a permit is issued.

25.21.I. Special Use Permit Standards

1. In addition to the standards established for specific uses herein, an application for a special use permit shall be reviewed for compliance with site plan review standards in Article 25.10 through 25.20 of this Ordinance. The Planning Commission may impose reasonable conditions upon a special use permit.
2. No special use permit shall be approved unless all of the following standards are met. Each application shall be reviewed for the purpose of determining that the proposed Special Use shall:
 - a. Be designed, constructed, operated and maintained so as to be harmonious and compatible with the existing or intended character of the general vicinity, and that the use will not change the essential character of the area in which it is proposed.
 - b. Be adequately served by essential public facilities and services such as highways, streets, fire and safety, drainage, refuse disposal, water and sewage treatment, etc.
 - c. Not create excessive additional public costs for essential public services or facilities.
 - d. Not involve activities, processes, materials, equipment or conditions that will be detrimental to any persons, property, or the public from the traffic, noise, smoke, vibration, fumes, glare, odors, etc.
 - e. Be sufficiently designed to maintain adequate provision for the protection of the health, safety, and welfare of those proposing the special use, residents and adjoining landowners and the community as a whole.
 - f. Be consistent with the intent of this Zoning Ordinance and the Master Plan.
 - g. Not create or substantially add to traffic hazards.
 - h. Not have significant adverse impacts to environmental, ecological, or natural resources.
 - i. Be in compliance with the requirements of the applicable local, county, state, and federal laws or regulations.
 - j. Not have significant adverse impacts on adjoining properties, or to allowed or established uses.

25.21.J. Special Land Use Permit Conditions

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

1. Reasonable and designed to protect natural resources, the health, safety and welfare of the public;
2. Relevant to the social and economic well-being of the owners and occupants of the lot in question, of the area adjacent thereto and of the community as a whole;
3. Related to the purposes which are affected by the proposed use or activity;
4. Consistent with the intent and purpose of this Ordinance, generally and specifically, for the respective zoning district;

5. Designed to ensure compatibility with adjacent uses of land and the natural environment; and the proposed special use or activity will be designed to ensure compatibility with public services and facilities.

25.21.K. Record of Special Land Use Permit

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

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

25.21.L. Security Requirement

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

25.21.M. Amendment of Special Use Permits

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

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

Major amendments to special use permits shall be handled in the same manner as the initial special use permit application. Minor special use permit amendments shall be reviewed by the Zoning

Administrator. Major special use permit amendments, requests falling outside the scope of the Zoning Administrator's authority, or any item the Zoning Administrator deems necessary shall be presented to the Planning Commission for their consideration.

25.21.N. Transfer of Special Use Permit

A special use permit, with any and all associated benefits, conditions and required security shall run with the land and shall be binding on the landowner, and his or her successors, heirs and assigns. The responsibility for effecting the transfer of required security shall be the original landowner (or their heir(s) if the original landowner is deceased), who shall request a return of their required security, if any, from the Township Zoning Administrator. The Zoning Administrator shall contact the new property owner to see if they wish to continue the authorized special use permit by providing the security requirement. Upon the new property owner providing the Township the required security or an affirmative statement they wish to rescind the special use permit, the Zoning Administrator shall return the required security provided by the original property owner to the original property owner.

25.21.O. Construction Code Permits

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

25.21.P. Expiration of Special Use Permits

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

1. If replaced or superseded by a subsequent special use permit.
2. If replaced or superseded by a permitted use.
3. If the applicant requests the rescinding of the special use permit.
4. If the use is discontinued, relocated, or vacated for a period of one (1) year. Notice of the expiration shall be given to the property owner in writing.
5. If the construction or use has not commenced and proceeded meaningfully toward completion within one (1) year of issuance, the special use permit shall be null and void, unless an extension is granted by the Planning Commission.

25.21.Q. Violation of Special Use Permit

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

finding that a material violation of the special use permit exists and shall provide written notice to the applicant and the landowner of record, if different parties. The permit holder shall be given a reasonable opportunity to correct the violation(s).

SECTION 4: CONFLICT AND INTERPRETATION.

The standards and provisions of this Zoning Amendment shall be interpreted as being the minimum requirements necessary to uphold the purposes of this Ordinance. Whenever this Zoning Amendment imposes a higher standard than that required by other regulations, ordinances, or rules, or by easements, covenants or agreements, the provisions of this Zoning Amendment shall govern. When the provisions of any other statute impose higher standards the provisions of such statutes shall govern. When it is alleged by a petitioner that there is an error in interpretation of this Zoning Amendment by the Zoning Administrator or designee, the Whitewater Township Zoning Board of Appeals pursuant to Article 18 of the Zoning Ordinance shall review such an appeal, provided that a written appeal is filed within thirty (30) days of the decision of the Zoning Administrator or designee. The concurring vote of a majority of the Zoning Board of Appeals shall be necessary to reverse any interpretation of this Zoning Amendment by the Zoning Administrator or designee.

SECTION 5: SAVINGS CLAUSE.

All proceedings pending and rights and liabilities existing, acquired or incurred at the time this Zoning Amendment takes effect are saved and may be consummated according to the law in force when they were commenced.

SECTION 6: SEVERABILITY. The provisions of this Ordinance are declared severable. If any part of this Ordinance is declared invalid for any reason by a court of competent jurisdiction, that declaration does not affect or impair the validity of all other provisions that are not subject to that declaration.

SECTION 7: EFFECTIVE DATE. This Ordinance shall become effective seven (7) days after publication of a notice of adoption of this Ordinance, unless referendum procedures are initiated under MCL 125.3402. If referendum procedures are initiated, this Ordinance will take effect in accordance with MCL 125.3402.

SECTION 8: REPEAL. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

YEAS: _____

NAYS: _____

ABSENT/ABSTAIN: _____

ORDINANCE DECLARED ADOPTED.

Ron Popp, Whitewater Township Supervisor

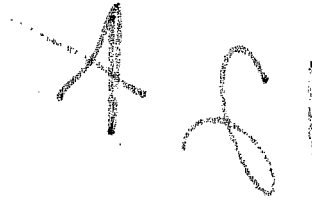
CERTIFICATION

I hereby certify that:

1. The above is a true copy of an Ordinance adopted by the Whitewater Township Board at a duly scheduled and noticed meeting of that Township Board held on _____, 2022, pursuant to the required statutory procedures.
2. A summary of the above Ordinance was duly published in the _____ newspaper, a newspaper that circulates within Whitewater Township, on _____, 2022.
3. Within 1 week after such publication, I recorded the above Ordinance in a book of ordinances kept by me for that purpose, including the date of passage of the ordinance, the names of the members of the township board voting, and how each member voted.
4. I filed an attested copy of the above Ordinance with the Grand Traverse County Clerk on _____, 2022.

ATTESTED:

Cheryl Goss, Whitewater Township Clerk

A handwritten signature in dark ink, appearing to read 'Cheryl Goss', is written over the printed name of the township clerk.

12 B

EDUCATION:

https://fsbriaw.com/2023/06/29/special-and-conditional-use-permits-the-dos-and-the-donts/?utm_source=Township+Law+E-Letters&utm_campaign=fdfaa4c679-EMAIL_CAMPAIGN_2019_08_29_07_28_COPY_01&utm_medium=email&utm_term=0_f8ff3e4ef8-fdfaa4c679-81650249&mc_cid=fdfaa4c679&mc_eid=b1c2ea8183

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Burzych Rhodes

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Special and Conditional Use Permits – The “Do’s” and the “Don’ts”

In this month’s E-Letter we will consider conditional use permits, also known as special use permits, and how your township can create clear decisions in which you can place confidence. First, we will quickly discuss what a conditional use permit is. Then we will cover several best practices to “Do” while also highlighting common pitfalls to avoid. Whether your township is facing growth and development with multiple permit requests or your planning commission might see only one permit request a year (if that!) these tips will help position local leaders for success. Read on to learn about notice requirements, establishing a fair process, why your township should issue written decisions, and the various resources available to the community to help make the right decision for your citizens.

WHAT IS A CONDITIONAL USE PERMIT?

These permits go by several names: a “SUP” is a “Special Use Permit;” a “CUP” is a “Conditional Use Permit;” a “SLUP” is a “Special Land Use Permit.” There is no explicit definition or requirement to use a particular term in the local zoning ordinance. Whatever the nomenclature in the township zoning ordinance for these “extra” land uses does not impact their nature or the procedures that should be used.

Typically uses are permitted by right only if specifically listed as principal permitted uses in the various zoning districts or are similar to such listed uses. Accessory uses are permitted as listed in the various zoning districts or if similar to such listed uses, and if such uses are customary and clearly incidental to the permitted principal uses. Special or conditional uses are permitted only as listed and if the required conditions are met.

Conditional uses are uses that are conditionally allowed in a district if approved under a particular article or section of your township's Zoning Ordinance and which are subject to conditional approval by (typically) the planning commission and township board. The Michigan Zoning Enabling Act ("MZEA") allows an "official" to grant approval but almost always the review and approval is by a commission or board. This procedure of allowing special exception uses enables a local planning commission, together with the legislative body, to anticipate the uses needed in particularly zoned districts and to regulate them in advance by setting criteria for permitting them. Zoning enabling acts specifically permit a zoning body to include special land uses in a zoning ordinance. See MCL 125.3502.

DO: PLAN FOR AND PROVIDE NOTICE

Notice of Conditional Use Permit applications must be given to the neighborhood and community. MCL 125.3103. All property owners and occupants within 300 feet of the proposed use must be mailed written notice at least 15 days before the Conditional Use Permit is considered. Online maps and the GIS overlay can help measure distances. We recommend measuring the 300 feet from parcel boundary line to parcel boundary line to ensure sufficient notice.

Additionally, if the township also holds a public hearing, then notice must be printed in the local newspaper 15 days before the meeting. This often requires several more days of advance notice. For example, a weekly paper may only publish on a Friday or Saturday. They may require notices to be submitted by the Tuesday before the publication date. If the Township will consider the request on a Tuesday, then notice will need to be given to the newspaper 21 days before the hearing.

Consider a meeting to be held at the end of the month on Tuesday, June 27. Notice would need to be sent to the newspaper on the first Tuesday, June 6 and published that Saturday, June 10. At the second Tuesday (June 13), it will be published for four days (Saturday, Sunday, Monday, Tuesday). At the third Tuesday (June 20), it will be published for 11 days. Then by the fourth Tuesday (June 27) it will have been published for 18 days; the extra publication days account for it running on a Saturday.

In that scenario, notice would be mailed no later than Monday, June 12 which is 15 days before the hearing on June 27.

DO NOT SIMPLY FOLLOW "HOW IT HAS ALWAYS BEEN DONE"

Your Zoning Ordinance must specify: 1) the special land uses and activities eligible for approval; 2) the body or official charged with reviewing special land uses and granting approval; 3) the requirements and standards upon which decisions on requests for special land use approval are based; and, 4) the procedures and supporting materials required for applications, review, and approval. Follow these statutory and ordinance procedures.

Consult your particular Zoning Ordinance to determine your specific conditional use permit process. Does the Planning Commission approve the Conditional Use or only make a recommendation to the Township Board? Perhaps there are special uses. For example, the Planning Commission might typically approve the conditional uses but in the case of projects over 25,000 square feet or for marihuana land uses (if authorized!), it may be a recommendation with the Township Board having the final say.

What items are required to be submitted with a Conditional Use Permit Application? Is everything provided? Is a site plan required? (The answer is often, but not always, yes.) If so, are all the required elements of the site plan shown? Are there specific concerns? Should the permit be subject to renewal? If so, when? Does location or 24-hour security lighting require a detailed lighting plan? Will there be significant deliveries from semi-trucks that require a close examination of traffic flows, parking, and unloading zones?

When applications are submitted, either for a new permit or renewal, ask for additional information or explanations any time it is needed to truly evaluate the issuance of a particular CUP. It's better to deny an applicant than to revoke a CUP after the fact. Additional information may be requested after discussing the project at a meeting when concerns come to light. Such due diligence will help minimize unnecessary disputes and litigation over misunderstandings or miscommunications. There is no such thing as being too "fussy" about an application when issuing a CUP.

DO: TREAT ALL APPLICANTS EQUALLY

It can be tempting to require less information or be less rigorous when township staff or officials are familiar with an applicant. Often this is not from any overt

partiality but rather from simple familiarity and trust. "I know John, so I'm sure everything is here. I don't need to review this as closely." Such an attitude can lead to mistakes, unintentional oversights, and accusations of favoritism.

Another example might be not requiring a site plan for additions to an existing use or for projects which seem less intensive. Admittedly, site plan requirements can be specific and time consuming. All the details may not be required for every property or use. In other circumstances, a recent site plan may still be on file. Follow the township procedures and ordinance consistently and if a certain criteria is often waived or not valuable, make amendments and adjustments based on the evidence and experience.

Ensure the Township ordinance and procedures match how the Conditional Use Permit process is administered on the ground. Consider providing for different levels of site plan review with different details. Establish a clear procedure for waiving or modifying conditions and reasonable standards for a waiver. Ensure such modifications are reflected in the file.

DO: UTILIZE A WRITTEN DECISION

Common factors a Zoning Ordinance will require to be met by a project or development for CUP approval are:

- Be designed to protect natural resources, as well as the health, safety, welfare, and social and economic well-being of those residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole;
- Be related to the valid exercise of the police power in relation to the purposes of the proposed use or activity;
- Be necessary to meet the intent and purpose of the Ordinance for that zoning district;
- Be related to the standards established in the ordinance for the land use or activity under consideration and be necessary to ensure compliance with those standards; and,
- Ensure that public services and facilities affected by the proposed land use or activity will be capable of accommodating increased facility loads caused by the land use or activity.

These and other land use requirements can seem overwhelming. Using a written decision will help guide the board or commission to ensure they consider each aspect and make clear findings. If the township sees a lot of conditional use requests, then it may want to develop a form that can be filled out as part of the official record. If they are less frequent or a particularly sensitive use, then drafting a formal resolution may be appropriate. The Planning Commission may make

findings on the record at one meeting, commission a member or staff to draft a resolution, and then consider and adopt the resolution consistent with their decision at a meeting the following month. Whether approving or denying the Conditional Use Permit, a written record will aid all involved.

DO NOT ISSUE A STANDARD CONDITIONAL USE PERMIT; RATHER USE CONDITIONS

Your Planning Commission may recommend conditions on a Conditional Use Permit necessary to protect the Township. Any approval of a Conditional Use Permit must outline the basis for the decision and any conditions imposed. If your Zoning Ordinance identifies the factors that your municipality will use to approve or disapprove a CUP application (the vast majority of Zoning Ordinances do – if they do not you better call us fast!) then consider only the factors your Zoning Ordinance outlines. An example of a recommended condition: screening must be used so the use “will not be hazardous or disturbing to existing or planned neighboring uses.”

Consider general zoning conditions applicable to an entire district or township-wide. Before getting to the specific or special uses of the applicant’s request, do not forget to include the general conditions of your municipality’s Zoning Ordinance in any SUP or CUP that is issued. As a general rule, any regulations established by a Zoning Ordinance within each zoning district should be the minimum regulations for promoting and protecting the public health, safety, and general welfare and must be uniform for each permitted or approved use of land or building, dwelling and structure throughout each district. A municipality’s public health, safety, and general welfare provisions can come in many varieties depending on the zoning district or may span more than a single district. We recommend a frequent review of such provisions to make sure your general conditions are accounted for in each SUP issued. As an added precaution, there is no real downside to providing a catchall provision similar to the one used above.

Many municipalities address general conditions, and their zoning purposes, in their application forms by asking questions of the applicant, i.e., how will you Mr./Ms. Applicant ensure that your development or project will be consistent and compliant with all applicable provisions in our Zoning Ordinance?

Conditions are not limited to the initial application. For example, an original site plan may call for a phased plan of construction and development. Upon renewal of

this particular SUP, an issue of what phase the applicant was in and whether they were still compliant with the site plan as approved arose. Here the SUP could be renewed with the condition that there would be an inspection performed within a set timeframe to determine whether the compliance issues were resolved. It was a creative way to not abruptly revoke the permit but at the same time establish a process for compliance in a relatively short period of time. It's always better to gain compliance than let a dispute fester and turn into a lawsuit!

Working through the general and specific requirements of the Zoning Ordinance will help establish and articulate the factual findings supporting a given decision. Objective and reasonable criteria connected with and supported by the Zoning Ordinance will greatly enhance and protect the final decision. Whether the township is denying a development or approving a polarizing land use, making clear findings will help each side know they were heard by the township and reduce future conflicts surrounding the decision.

DO REMAIN AWARE OF PREVIOUS CONDITIONS, ZONING AND OTHERWISE

Are there land division ordinance conditions that apply to the particular property in question? Did a prior land division require a public road rather than a private road? Has the County Road Commission accepted the road? The applicant must be compliant with not only the zoning ordinance but all other township ordinances. Other governmental units may have conditions. Are their concerns about water? Has the county drain commissioner issued any conditions? Make sure these additional conditions affecting the issuance or renewal of a conditional use permit are addressed early on in the process. A condition is only as good as it is enforced. Diligence will minimize worry and reduce the prospect of costly litigation.

DO NOT GO IT ALONE

Professionals are here to help and the Applicant can help carry the financial load. Your township attorney, engineers, planners, and other subject matter experts can help the township navigate a conditional use permit. An engineer may be required to evaluate structural components or physical property characteristics. An attorney can assist with process, procedure, and drafting documents to implement township policies and decisions. A wetland or wildlife expert may be needed to evaluate impacts from a specific project. Escrow fees can be required from applicants that will cover the cost of engaging appropriate experts.

These ensure that the township has the expertise and insight needed at each level to consider and independently evaluate an application or proposed land use. At the same time, the general public need not carry the burden of ensuring that the private development for private gain does not harm the public interest.

Also, consider requiring a performance guarantee deposit to ensure the applicant will be in compliance with your Zoning Ordinance and any condition imposed via a CUP. This helps to ensure the project is finished consistent with the final plans and not at 90% complete. Similar mechanisms can be used for obligations long in the future such as decommissioning or reclamation.

By: Steven Baker and Matt Kuschel

This publication is intended for educational purposes only. This communication highlights specific areas of law and is not legal advice. The reader should consult an attorney to determine how the information applies to any specific situation.

A handwritten signature in black ink, appearing to be 'S. Baker' or similar, written diagonally across the page.

12C

Rural

The township should have more R-1, low density zoning, however, this district should not be located along the streams. Streams should be protected, but may need a new zoning district or overlay district that may make more sense.

3. Effectively address blight in Whitewater Township.

Enforcement is key, which includes the ability to enforce. Township should consider different degrees of infractions such as fines for minor offenses and municipal civil infractions for more severe offenses that are enforceable in court.

4. Reduce future land use conflicts in Whitewater Township

Do away with cumulative zoning; some districts, such as industrial, should not have single-family homes in them. Minimize the conflicts between such uses. Provide clear definitions of each use in each zone.

5. Provide effective landscaping and buffering requirements in the Zoning Ordinance

6. Have and maintain effective regulations regarding higher-density residential development

Goals that were not ranked or addressed by the group:

- Have and maintain practical regulations concerning alternative energy facilities in Whitewater Township opportunities to develop a corridor plan for M-72 with the newly created Metropolitan Planning Organization (MPO) and associated potential funding.

Planning Principle: Preserve Whitewater Township's Rural Character

1. Have regulatory tools necessary to help maintain rural character

There should be a lot size minimum in low-density districts. This may require additional study by the Planning Commission to determine an appropriate size. The group discussion generally favored a 1 acre lot minimum so that the cost would not be prohibitive to new families or people moving in, but there was some concern about the density of the homes being too great at that level. The group felt the depth to width ration of 4:1 in the zoning ordinance was decent. It was noted that lot size was crucial and the most important goal in maintaining a rural character.

2. Maintain the rural qualities of M-72 east of Cook Road
3. Eliminate the R-1 Zoning District along the creeks and tributaries
4. Re-evaluate the repeal of Article 27: Regulations for Environmentally Sensitive Areas
5. Create an improved PUD Zoning District that developers are inclined to use
6. Review and update zoning requirements to further support agricultural tourism
7. Develop consensus about the desirability of voluntary or mandatory architectural design guidelines
8. Update the existing "Road Plan" for Whitewater Township

1 of 2



DATE: November 28, 2023
TO: Whitewater Township Planning Commission
Whitewater Township Resident Outreach Subcommittee (ROS)
FROM: Barry Hicks, AICP, LIAA
RE: **Master Plan Goals and Strategies Input Summary**

Whitewater Township residents participated in a number of public engagement events. Opportunities included a survey and two public workshops. The survey was conducted in coordination with Networks Northwest and the results are available on the township's website. The following report provides a summary of the results from the public workshops.

Public engagement activities were kicked off in June of 2023 with the launch of a public survey that was mailed to residents. Copies of the survey were mailed to residents and the township received over 600 responses. Survey questions included a mix of multiple-choice questions and open-ended comment questions. Question topics focused on the current and future growth of the township including eliciting opinions about the Town's character and future development. After responses were received, the township worked with their consultants, North Place Planning, LLC, and the Land Information Access Association (LIAA), to develop a series of two public input sessions:

- **Session 1 – Public Open House**

Date: Thursday, September 28, 2023
Location: Mill Creek Elementary School
Participants: Approximately 80-100

This session was a walk-through style open house where participants could attend at their convenience anytime between the hours of 4-7pm. Five stations were setup throughout the room each station focused on a specific topic area. Each station was comprised of multiple poster-boards that contained information specific to the topic. They also each had activities that were designed to allow participants to vote on certain questions and leave open-ended feedback.

- **Session 2 – Goals and Strategies**

Date: Tuesday, November 7, 2023
Location: Mill Creek Elementary School
Participants: Approximately 60+

Participants viewed a presentation that recapped the results of the survey and the open house. They then received recommended Goals and Strategies that were developed by the consultants that were based on the results of the input received through the public survey as well as the open house. Participants then reviewed the recommended goals and strategies and were asked to agree, disagree, suggest edits, or suggest new goals and strategies. They were also asked to consider which goals they would like to see prioritized highest and to rank each one.

2 of 2

RURAL

We're at some point going to be required to define "rural community" Asking each member to bring to the meeting their definition of **RURAL**;

Continuing education:-defining "rural": North Place Planning discuss TWP's definition there-of. Glean opinions from our resident outreach programs finding commonality, reviewing hand-out attached to the April agenda come up with a definition.

The Census Bureau defines rural as any population, housing, or territory **not** in an urban area. This definition is closely tied to its urban definition, of which there are two geographical types:

- "Urbanized Areas" have a population of 50,000 or more.
- "Urban Clusters" have a population between 2,500 and 50,000.
- Rural and small town refers to individuals in towns or municipalities outside the commuting zone of larger urban.

Disclaimer added to zoning map; below a conglomeration taken from different counties. We certainly can tweak the verbiage,

~~"Whitewater Township (TWP) and employees thereof makes no claims or warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this zoning map. All information available on this zoning map should be used for reference only and should not be considered a legal document and does not represent an on-the-ground survey. Further, Whitewater TWP advises an independent Michigan Registered Surveyor be used as verification determining exact and specific points. It shall be the responsibility of the intended user(s) to verify specific and exact boundaries." Zoning map is not to scale?~~