OTSEGO COUNTY
PLANNING COMMISSION
June 17, 2019
6:00 PM

MEETING WILL BE IN THE PLANNING AND ZONING MEETING ROOM LOCATED AT 1322 HAYES ROAD

1. CALL TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE
4. APPROVAL OF MINUTES: From May 20, 2019 meeting
5. CONSENT AGENDA
6. PUBLIC PARTICIPATION FOR ITEMS NOT ON THE AGENDA:
   (Please identify yourself for the record. All comments will be limited to two (2) minutes)
7. OTHER
8. PUBLIC HEARINGS:

   1. *Wesley & Holly Atkinson, owners, being represented by an agent from Dollar General, applicant, request a Rezone for properties located in Charlton Township:*

021-020-100-020-01	023-170-018-004-00 - part of	023-170-019-003-00
M-32 East	M-32 East	M-32 East
Johannesburg, MI 49751	Johannesburg, MI 49751	Johannesburg, MI 49751

   a. *Open Public Hearing*
   b. *Applicant Summary*
   c. *Public Comment (3 minute limit)*
   d. *Close Public Hearing*
   e. *Planning Commission Discussion*

9. ADVERTISED CASES:

   1. *Wesley & Holly Atkinson, owners, being represented by an agent from Dollar General, applicant, request a Rezone for properties located in Charlton Township:*

021-020-100-020-01	023-170-018-004-00 - part of	023-170-019-003-00
M-32 East	M-32 East	M-32 East
Johannesburg, MI 49751	Johannesburg, MI 49751	Johannesburg, MI 49751

10. UNFINISHED COMMISSION BUSINESS:
    1. Text Amendments – Section 21.1, Section 21.26
11. NEW BUSINESS
12. REPORTS AND COMMISSION MEMBER'S COMMENTS:
    1. Otsego County Parks & Recreation report / Judy Jarecki
    2. Land Use Services
       Chris Churches:
       Jim Mouch:
13. ADJOURNMENT

Otsego County Planning Commission

Proposed Minutes for May 20, 2019

Call to Order: 6:00pm by Chairperson Hartmann

Pledge of Allegiance

Roll Call:

Present: Mr. Hartmann, Mrs. Jarecki, Mr. Arndt, Mr. Borton, Mr. Hilgendorf, Mr. Brown, Mrs. Norton, Mr. Caverson, Ms. Corfis

Absent: Mr. Bauman

Staff Present: Mr. Churches, Ms. Boyak-Wohlfeil

Public Present: Mike. Bienick, LCC Telecom Communications representative, Steve Reckker, Dave Drews, Northern Michigan Engineering Inc, Dave Chaffin, Hugo Noeske, Hugh A Noeske, Bill Mason, J&N LLC, A G Kleckner, Peter Maxwell, Randy Stults

Others Present: Rachel Frisch, Otsego County Administrator, Michelle Noirot, Bagley Township Supervisor, Steve Dipzinski, Livingston Township Planning Commission

Approval of minutes from: April 15, 2019

Chairperson Hartmann requested discussion on the minutes.

Motion made by Mr. Hilgendorf to approve minutes as presented; Seconded by Mr. Brown.

Motion approved unanimously.

Consent Agenda: None

Other: None

Public participation for items not on the agenda: None

Public Hearing:

Chairperson Hartmann stated he had received a request to amend the agenda to hear case PZSU19-004 first.

1. ***Stephen Reckker*** *owner, represented by LCC Telecom, Mike Bienick, requests a Special Use Permit/Site Plan Review for property located in Elmira Township:*
   4754 Waldrast Dr
   Gaylord, MI 49735
   060-026-200-015-05
   Property is located in a R3 / Residential Estates Zoning District
   PZSU19-004 – Proposed use of the property is to construct a 179' wireless communication tower
   a. *Open Public Hearing*
   b. *Applicant Summary*
   c. *Public Comment (3 minute limit)*
   d. *Close Public Hearing*
   e. *Planning Commission Discussion – Motion*

Chairperson Hartmann stated the case before them, opened the public hearing and requested comment from Mike Bienick, LCC Telecom Services, applicant.

Public hearing opened: 6:02pm

Mr. Bienick stated he was with LCC Telecom Services and represented Tillman Infrastructure. He has been before the Commission on multiple occasions working toward amending the Zoning Ordinance. He had been before Elmira Township about ten (10) months ago requesting approval for a cell tower on behalf of AT&T. The proposed tower will be a one hundred seventy foot (170') self-supporting lattice tower to include nine feet of antennae for a total of one hundred seventy-nine feet (179'). It will be located within a two hundred one foot by two hundred one foot (201'x201') leased parcel with an access easement off Huxtable Rd. It will be approximately two hundred feet (200') south of the existing AT&T wood pole and will have colocations for other carriers.

Chairperson Hartmann stated it was in Elmira Township across from Camp Sancta Maria.

Mr. Bienick stated it would be a significant distance off the M-32 Highway.

Chairperson Hartmann asked for further comments from the public; hearing none, closed the hearing.

Public hearing closed: 6:07pm

Advertised Case:

1. ***Stephen Reckker*** *owner, represented by LCC Telecom, Mike Bienick, requests a Special Use Permit/Site Plan Review for property located in Elmira Township:*
   4754 Waldrast Dr
   Gaylord, MI 49735
   060-026-200-015-05
   Property is located in a R3 / Residential Estates Zoning District
   PZSU19-004 – Proposed use of the property is to construct a 179' wireless communication tower

Haider Kazim, Otsego County Attorney, suggested reading the findings under Section 19 to determine all criteria had been met.

Chairperson Hartmann read aloud the standards of Section 19.7.1-19.7.8. *SEE ATTACHMENT I*

With all criteria met, he made the following motion:

Motion made by Mr. Hartmann to approve PZSU19-004 for the addition of a one hundred seventy-nine foot (179') self-supporting lattice tower located in a R3 Zoning District in Elmira Township; Seconded by Mr. Brown.

Motion approved unanimously.

Chairperson Hartmann thanked Mr. Bienick for his time.

Public Hearing:

2. ***Daystar Properties,*** *owner, represented by Northern Michigan Engineering Inc, David Drews, requests a Special Use Permit/Site Plan Review for property located in Elmira Township:*
   4422 M-32 W
   Gaylord, MI 49735
   060-035-400-005-01
   Property is located in a R3/Residential Estates Zoning District
   PZSU19-002– Proposed use of the property is to create a site condominium for the construction of sixteen (16) single family dwellings.
   a. *Open Public Hearing*
   b. *Applicant Summary*
   c. *Public Comment (3 minute limit)*
   d. *Close Public Hearing*
   e. *Planning Commission Discussion – Motion*

Chairperson Hartmann stated the case before them, opened the public hearing and requested comment from Dave Drews, Northern Michigan Engineering Inc, applicant representing Dave Chaffin, owner.

Public hearing opened: 6:12pm

Mr. Drews stated this was a proposal for a sixteen (16) unit site condominium for single family residential use; two (2) private roads were proposed. The site was heavily wooded with an existing gas well. Per Elmira Township's request, the pipelines were depicted on the site plan showing the width of the right of way. A driveway permit had been obtained from the Otsego County Road Commission and they were waiting for approval from the Health Department. Soil pits had been dug and conditions were good for on-site sanitary systems. The site plan shows isolation rings around the water wells to depict the areas for development and all the units met the minimum size for the R3 Zoning District. The deed restrictions will be finalized and typically exceed the County requirements for building.

Mr. Borton, on behalf of Mary Sanders, Hayes Township Supervisor, questioned if mobile homes would be allowed on any sites. The Hayes Township Hall is across from the proposed development on M-32.

Mr. Drews stated mobile homes are permitted as a single family residence in the zoning district but they were not proposing a mobile home park. Elmira Township had concerns as well but the intent of the property was for single family homes with garages.

Mr. Borton also questioned if the trees would be left along M-32 as a buffer or removed.

Mr. Drews stated a buffer strip would most likely remain since no driveways would be allowed off of M-32 but each unit owner would have the choice of clearing their site for building.

Chairperson Hartmann stated Elmira Township had requested two (2) conditions: 1) that the site plan depict the gas pipeline easement and 2) no more than three (3) mobile homes be allowed in the development. He continued saying the proposed homes were built from kits out of a company in Ohio.

Mr. Chaffin stated the homes would arrive fully built but not built on trailers. The home would be lifted and set on a foundation. The homes were built to the same standards as on-site building.

A neighboring property owner requested a buffer between his property and the development.

Mr. Drews stated it was a residential use; a buffer was not planned or required but the setbacks would be adhered to. The homes would most likely be placed near the center of the units but the owner would have the choice of what trees remained.

Chairperson Hartmann stated the entrance to the development would be off of Burdo Rd; nothing would be off of M-32.

Chairperson Hartmann asked for further comments from the public; hearing none, closed the hearing.

Public hearing closed: 6:17pm

Advertised Case:

2. ***Daystar Properties,*** *owner, represented by Northern Michigan Engineering Inc, David Drews, requests a Special Use Permit/Site Plan Review for property located in Elmira Township:*

   4422 M-32 W
   Gaylord, MI 49735
   060-035-400-005-01

   Property is located in a R3/Residential Estates Zoning District
   PZSU19-002– Proposed use of the property is to create a site condominium for the construction of sixteen (16) single family dwellings.

Chairperson Hartmann requested further discussion.

Mr. Caverson stated drainage was not indicated on the site plan, utilities as well and the plans were not signed.

Mr. Churches stated those items could all be made conditional upon approval.

Mr. Caverson requested they be emailed to the Commission members for confirmation.

Mr. Churches stated his understanding was that the development's design was not final; the approval was basically to divide the land for the site condominium.

Mr. Drews stated the special use was for land use. The utility companies will decide where the utilities will be placed and the storm water will be dealt with on each site; there was a county ditch and the soils were well drained but if that was a condition, it would be met. A signed, sealed plan had been submitted prior to the revision; that condition would also be met.

Mr. Caverson stated his concerns were drainage along the road and thought it should be identified on the site plan.

Mr. Kazim recommended the Commission accept Exhibit 13 General Findings of Fact by motion and Exhibit 14 Specific Findings of Fact, to include Section 21.6, Article 20, Section 21.18, Section 21.19, Section 21.27, Section 21.38, Section 21.42, Section 21.43, and Article 23 by motion with a separate motion accepting the findings under Article 19.

Chairperson Hartmann stated as representative of Elmira Township, he would make the motions:

Motion made by Mr. Hartmann to accept Exhibit 13 General Findings of Fact for case PZSU19-002; Seconded by Mr. Arndt. *SEE ATTACHMENT 2*

Motion approved unanimously.

Motion made by Mr. Hartmann to accept Exhibit 14 Specific Findings of Fact for case PZSU19-002; Seconded by Mrs. Norton. *SEE ATTACHMENT 2*

Motion approved unanimously.

Chairperson Hartmann requested comment on each criteria item in Article 19, Section 19.7.1-19.7.8.

Motion made by Mr. Hartmann to accept the findings under Section 19.7.1-19.7.8 as having been met; Seconded by Mr. Hilgendorf. *SEE ATTACHMENT 2*

Motion approved unanimously.

Motion made by Mr. Hartmann to approve PZSU19-002, Daystar Properties' site condominium in Elmira Township known as Burdo Pines with the following conditions: 1) Depict storm water drainage along roads on site plan 2) Submit a signed, sealed site plan; Seconded by Mr. Brown.

Motion approved unanimously.

Public Hearing:

3. ***Hugo A Noeske,*** *owner, requests a Special Use Permit/Site Plan Review for property located in Corwith Township:*

   7290 Old 27 North
   Vanderbilt, MI 49795
   042-027-300-005-04

   Property is located in a B2 / General Business Zoning District
   PZSU19-003 – Proposed use of the property is to construct a forty (40) unit mini storage building.

   a. *Open Public Hearing*
   b. *Applicant Summary*
   c. *Public Comment (3 minute limit)*
   d. *Close Public Hearing*
   e. *Planning Commission Discussion – Motion*

Chairperson Hartmann stated the case before them, opened the public hearing and requested comment from Mr. Noeske, owner.

Public hearing opened: 6:27pm

Hugo Noeske stated he proposed to build a 30x200 sq ft 40 unit storage building. The plan has been in the works for some time and he felt there was still a market for storage units even with the recent flood of them throughout the County. He was requesting a special use permit to move forward with his plan.

Chairperson Hartmann stated he had attended Corwith Township Planning Commission's review of the case. He asked Mr. Noeske to describe the property.

Mr. Noeske stated the property was about fourteen (14) acres just south of the Village of Vanderbilt, next to the Sunset Mobile Home Park. It was vacant land with some trees in front and along both sides of the property.

Chairperson Hartmann requested comment.

Mr. Caverson stated the site plan showed development in the front of the property only; he questioned if there were plans for future expansion.

Mr. Noeske stated if he could fill the first forty (40) units, he would definitely consider expanding but if not, there would be no point. He had no immediate plans.

Mr. Arndt questioned if the unit size was flexible after the basic construction was done.

Mr. Noeske stated yes, they were currently designed as 10x15 sq ft units.

Chairperson Hartmann asked for further comments; hearing none, closed the hearing.

Public hearing closed: 6:32pm

Advertised Case:

3. ***Hugo A Noeske,*** *owner, requests a Special Use Permit/Site Plan Review for property located in Corwith Township:*
   7290 Old 27 North
   Vanderbilt, MI 49795
   042-027-300-005-04
   Property is located in a B2 / General Business Zoning District
   PZSU19-003 – Proposed use of the property is to construct a forty (40) unit mini storage building.

Mr. Kazim recommended the Commission follow the same procedure of accepting the Findings of Fact and criteria under Section 19.7.

Mr. Caverson stated the site plan had many deficiencies.

Mr. Churches stated Mr. Noeske had submitted a revised site plan depicting the items requested. He had addressed the parking area delineated with the correct number of spaces; he addressed the fence height and verbally stated the building height would meet the thirty-five feet (35') maximum; existing trees buffered both sides of the property and the utilities would be addressed with the final development design. There had been three (3) different site plans received and the plan included in the packet was not the most updated one.

Mr. Caverson stated it should have been distributed for review. He questioned the building elevations.

Mr. Noeske stated the building was eight foot six (8'6") to the eave height with a half twelve pitch; the building would be steel construction.

Mr. Churches stated that would be detailed in his building application.

Mr. Kazim stated Article 23 Site Plan Review needed to be included in the Finding of Fact in order to approve the site plan.

The revised site plan was distributed to the Commission members.

Mr. Caverson stated items were still missing; drainage, sign views, building views and the lighting did not show area of illumination. He felt it should be included.

Mr. Noeske stated the drainage flowed naturally to the south and the building was four hundred feet (400') back from Old 27.

Mr. Churches stated there were proposed contours; he questioned if the Planning Commission would be willing to waive any of the items as the Planning Commission had that ability.

Mr. Caverson stated the area of illumination was important to ensure the mobile homes to the north were not affected.

Mr. Noeske stated there was a tree buffer line between his property and the mobile home park.

Mr. Churches stated conditional items would be emailed to Commission members.

Chairperson Hartmann made the following motion:

Motion made by Mr. Hartmann to accept Exhibit 13 General Findings of Fact for case PZSU19-003; Seconded by Mr. Hilgendorf. *SEE ATTACHMENT 3*

Motion approved unanimously.

Motion made by Mr. Hartmann to accept Exhibit 14 Specific Findings of Fact for case PZSU19-003 to include Article 23; Seconded by Mr. Brown. *SEE ATTACHMENT 3*

Motion approved unanimously.

Chairperson Hartmann requested comment on each criteria item in Article 19, Section 19.7.1-19.7.8.

Motion made by Mr. Hartmann to accept the findings under Section 19.7.1-19.7.8 as having been met; Seconded by Mr. Arndt. *SEE ATTACHMENT 3*

Motion made by Mr. Hartmann to approve PZSU19-003 for construction of storage units in Corwith Township with the following conditions: 1) Storm water discharged away from Old 27 N 2) Site lighting showing photo metrics 3) Building elevations; Seconded by Mrs. Norton.

Motion approved unanimously.

Chairperson Hartmann thanked Mr. Noeske for coming.

Unfinished Commission Business:

1. *Thomas & Cynthia Prusakiewicz, Alan & Sharon Wescoat, owners, being represented by J&N LLC, Bill Mason, applicant, has requested Special Use Permits/Site Plan Reviews for properties located in Livingston Township:*

Martindale Rd	*Martindale Rd*
Gaylord, MI 49735	*Gaylord, MI 49735*
080-006-300-010-01	*080-006-300-010-02*

Properties located in a AR / Agricultural Resource Zoning District
PZSU18-004 – proposed use of the property is for a new mining operation
PZSU18-005—proposed use of the property is for a new mining operation

Chairperson Hartmann stated the case before them had been postponed from April's meeting and requested an update from Mr. Churches.

Mr. Churches stated he had sent out a copy of the site plan review to Commission members requesting feedback and had received some responses. He reached out to J&N relaying members' concerns and Bill Mason was here to address those concerns. He spoke with Livingston Township and Steve Dipzinski was also here to present Livingston's view on the operation.

Steve Dipzinski, Livingston Townships' Planning Commission Chairperson stated they were not unanimously opposed to the mining operation. It had been discussed at both the Planning Commission and Township Board meetings and Livingston had come up with a list of conditions. They did receive some negative feedback from people in the area as well as others who were not opposed to it. He read through the conditions for discussion.

After further discussion and comments from Mr. Kazim, it was determined the following conditions to be placed on the special use permit:

1. Hours of operation to be 8am to 5pm; no loading shall occur outside that timeframe.
2. Restoration to occur at a ratio of 20:3; after mining 20 acres, 3 acers to be restored on a rolling basis as detailed in the restoration plan. Topsoil will be placed at a depth of 2" to 4" as detailed in the restoration plan.
3. Townline Rd to be primary access to M-32.
4. A performance bond to be filed before mining operation is begun.

Mr. Churches stated he would send out a written list of conditions for review and documentation.

J&N's representative, Bill Mason was asked to respond.

Mr. Mason stated he did not have any objections to the conditions.

Chairperson Hartmann requested an update on the restoration plan.

Mr. Churches stated one of the reasons for postponing the case was to obtain a better cost factor for setting the bond amount. He approached M&M Excavating for a quote to restore the site should it be abandoned for any reason and that amount came in at $1,000,000. This amount seemed high in comparison to the Rieth Riley bond of $40,000 a few years earlier.

Mr. Caverson stated maybe that amount could be reduced since J&N would be restoring three (3) acres for every twenty (20) acers mined.

Mr. Churches stated that could definitely be taken into consideration.

Mr. Stults stated he believed the Rieth Riley bond was based on their operation being done in phases; that would be a reason for the differing amounts.

It was requested that an updated written restoration plan be submitted similar to the Rieth Riley plan incorporating verbal statements from the meeting as part of the approval.

Mr. Churches stated he would get that together and send it out for review.

Mr. Kazim stated the response to the Restoration Plan questions received May 20th should be added as Exhibit 21for the record.

The Finding of Fact is also submitted as part of the record. *SEE ATTACHMENT 4*

Motion made by Mr. Brown to approve special use permits PZSU18-004 and PZSU18-005 to conduct a mining operation in Livingston Township based on the submittal of a written restoration plan in a comparable format to Rieth Riley's and the following conditions:

1. Hours of operation shall be 8am to 5pm; no loading shall occur outside that timeframe.
2. Restoration will occur at a ratio of 20:3; after 20 acres is depleted, 3 acers will be restored on a rolling basis as detailed in the restoration plan. Topsoil will be placed at a depth of 2" to 4" as detailed in the restoration plan.
3. Townline Rd will be the primary access to M-32.
4. A performance bond to be filed per Sections 21.25.9 and 25.6 of the Otsego County Zoning Ordinance before mining operation is begun; Seconded by Mr. Borton.

Motion approved unanimously.

Chairperson Hartmann thanked Mr. Mason for coming.

2. Site Plan Review – *Scott Property Management LLC, owner – Bagley Township*
   011-600-000-002-01
   011-600-000-003-00
   011-600-000-004-00
   011-600-000-006-00

   Maximum building height review for proposed apartment buildings in a R2 / General Residential Zoning District

Chairperson Hartmann stated the remaining case for unfinished business and requested comment from Mr. Drews.

Mr. Drews stated since the postponement of the case, they had received site plan approval for the maximum height of thirty-five feet (35') but according to the Zoning Ordinance the Planning Commission had the authority to exceed the maximum height up to fifty percent (50%) in residential districts stating if no good purpose would be served by compliance could be demonstrated. There is no issue with the Gaylord Regional Airport, fire code will be met and there are not any existing site lines for these properties. Scott Property was requesting an increase in height of fifty-two and a half feet (52½'). The site plan approved at thirty-five feet (35') consisted of five (5) three-story buildings; if approved the plan consisting of four (4) four-story buildings would be resubmitted. Approval from the Gaylord Regional Airport and the FAA was obtained along with approval from MDOT.

Chairperson Hartmann requested public comment.

Neighboring property owners stated they were opposed to having a four-story building next to their one-story home and there was a problem with site lines; the sunrise could not be viewed with a tall building in place. The deed restrictions stated only single family dwellings were allowed in the subdivision so approval for anything else should not be granted. Legal counsel had already been contacted by subdivision residents.

Chairperson Hartmann questioned if the County enforced deed restrictions.

Mr. Churches stated he did not believe the County could enforce deed restrictions.

Mr. Kazim stated the County did not enforce deed restrictions; those restrictions were the responsibility of the home owners to uphold. The County enforced the Zoning Ordinance and if the use was permitted in the zoning district, it would have to be approved.

Chairperson Hartmann stated buildings constructed at thirty-five feet (35') were permitted.

Mr. Churches concurred stating they already had approval for that.

Ms. Corfis questioned if there had been further discussion at Bagley Township.

Mr. Arndt stated there was discussion at the Township Board meeting with some of the residents. The same conclusion was reached; multiple family dwellings with a maximum height of thirty-five feet (35') were a permitted use according to the Zoning Ordinance. What the property owners decided was up to them.

Mr. Churches noted once the buildings were constructed, the properties were destined to be annexed into the City; the City's maximum height was ten-stories or one hundred feet (100').

Members questioned whether a decision mattered at all; a building of thirty-five feet (35') was already permitted and this case would more than likely end up in the courts.

Mr. Kazim concurred; a thirty-five foot (35') building was a use by right in the zoning district. The Planning Commission was deciding on the fifty percent (50%) increase.

Subdivision residents stated they would not have any privacy with a building of that height. It would overlook their backyards; they would be in a 'fish bowl' per se.

Mr. Drews stated the thirty-five foot (35') building was a use by right so in regards to the 'fish bowl' comment, that would still remain. As far as the view, he stated the Ordinance was up to interpretation but questioned what they currently had a view of.

Chairperson Hartmann requested a roll call vote and made the following motion:

Motion made by Mr. Hartmann to approve the fifty percent (50%) increase in building height from thirty-five feet (35') to fifty-two and a half feet (52½'); Seconded by Mr. Arndt.

Ayes: 2

Nays: 8

Motion failed.

New Business: None

Reports and Commission Member's Comments: None

Chairperson Hartmann adjourned the meeting.

Adjournment: 8:02 pm by Chairperson Hartmann

Ken Arndt; Secretary

Christine Boyak-Wohlfeil; Recording Secretary

Recording on file in Land Use Services office

ATTACHMENT 1:

OTSEGO COUNTY
PLANNING COMMISSION

PZSU19-004
Special Use Permit/Site Plan Review
060-026-200-015-05

GENERAL FINDING OF FACT

1. This is a proposal for a one hundred seventy-nine foot (179') wireless communication tower. *Exhibit #1, Exhibit #5*
2. The property is located in a R3/Residential Estates Zoning District. *Exhibit #2*
3. The proposed use is a permitted use subject to special conditions in a R3/Residential Estates Zoning District. *Exhibit #3*
4. The proposed property is 158.00 acres. *Exhibit #4*
5. The proposed project area is 0.93 acres. *Exhibit #5*
6. The proposed project area meets the requirements of the Article 17 Schedule of Dimensions. *Exhibit #3, Exhibit #5, Exhibit #6*
7. The property is currently under the ownership of Stephen Reckker. *Exhibit #4*
8. The owner is being represented by Mike Bienick, LCC Telecom Services per Letter of Authorization dated May 2, 2019 and Lease Agreement dated March 14, 2018. *Exhibit #7*
9. LCC Telecom Services is representing Tillman Infrastructure. *Exhibit #1,*
10. An address has been obtained from the Equalization Department. *Exhibit #*
11. The Public Hearing Notice will be published in the Herald Times on May 3, 2019. *Exhibit #8*
12. The requirements of Article 27 of the Otsego County Zoning Ordinance have been met. ~~*Exhibit #9*~~*, Exhibit #10*
13. All property owners within three hundred (300') feet were properly notified of the public hearing. *Exhibit #11*
14. The Planning Commission has the authority to approve a Special Land Use request after review and compliance with the Otsego County Zoning Ordinance. (Section 19.7) *Exhibit #3*
15. The required fees have been collected by Otsego County Land Use Services. *Exhibit #12*
16. Letters from the FAA (Federal Aviation Administration), MDOT (Michigan Department of Transportation, and Gaylord Regional Airport have been received. *Exhibit #15, Exhibit #16, Exhibit #17*
17. The site plan requirements of Article 23 have been reviewed by Otsego County Land Use and all requirements pertaining to the proposed development have been addressed by the Applicant/Representative. *Exhibit #4, Exhibit #5, Exhibit 8, Exhibit #11, Exhibit #13, Exhibit #14...*

Exhibit 13

Proposed Minutes for May 20, 2019

OTSEGO COUNTY
PLANNING COMMISSION

PZSU19-004
Special Use Permit/Site Plan Review
060-026-200-015-05

SPECIFIC FINDING OF FACT

FINDINGS UNDER ARTICLE 6:

ARTICLE 6 R3 RESIDENTIAL ESTATES DISTRICT

INTENT

The R3 Residential Estates District is established to provide for areas topographically and locationally well suited to meet an increasing market for ten (10) acre lots and larger, which can potentially be re-subdivided into smaller lots. This district is to encourage the orderly transition of land to low density residential use.

SECTION 6.1 PRINCIPAL USES PERMITTED

No building or land shall be used and no building shall be erected except for one or more of the following specified uses:

6.1.1 All principal uses permitted in the R1 District [See Article 4.1]

6.1.2 Fraternal lodges

6.1.3 Wildlife, plant and habitat preservation areas

6.1.4 Group care facilities meeting applicable state licensing requirements

6.1.5 Retail specialty store as permitted in Article 5.1.4

6.1.6 Roadside stands (agricultural-temporary) off the road right-of-way, provided that the stand be operated only seasonally, that hours not exceed dawn to dusk, that large equipment, including semi-tractor-trailers, not be parked at the site, and that the parking requirements of Article 21.27 be observed

6.1.7 Temporary Recreation Housing/Travel trailers. Permit criteria include Article 21.33

6.1.8 WTG Building-Mounted: Permitted as an accessory use to an allowed Principal Use

6.1.9 WTG Small: Permitted as an accessory use to an allowed Principal Use

SECTION 6.2 PERMITTED USES SUBJECT TO SPECIAL CONDITIONS

The following uses may be permitted, subject to the conditions herein imposed for each use, the review standards of Article 19 and only after the review and approval of the site plan by the Planning Commission. [See Article 21 for applicable Specific Requirements for Certain Uses, if any, and Article 23 Site Plan Requirements.]

6.2.1 All principal uses permitted in the R2 District, and all permitted uses subject to special conditions in the R1 District [See Article 4.2] and R2 District [See Article 5.2]

6.2.2 Gasoline stations with store

6.2.3 Driving range

6.2.4 Campgrounds (Commercial or Non-commercial)

6.2.5 Manufactured Housing Parks

6.2.6 Personal Wireless Services Telecommunications Towers and Facilities one hundred fifty (150) feet or less in height, self-supporting (lattice) or guyed [Permit criteria includes Article 21.46]

6.2.7 Unlisted property uses if authorized under Article 21.44

6.2.8 Wireless Telecommunications Towers and Facilities one hundred seventy-nine (179) feet or less in height, without lights [Permit criteria include Article 21.46]

*****Permitted Use Subject to Special Conditions**

Exhibit 14

FINDINGS UNDER ARTICLE 21/SECTION 21.46

SECTION 21.46 WIRELESS COMMUNICATIONS:

Reference the Telecommunication Act (Act 104 of 1996 as amended) and the Michigan Zoning and Enabling Act (Act 110 of 2006 as amended including Act 143 of 2012). These set forth provisions concerning placement, location and construction of towers and related facilities for wireless services, provide rules for changes to existing towers and set time frames for municipality action. The purpose of this Section is to establish general guidelines for the sighting of wireless communications towers and antennas. The goals of the section are to:

(1) Protect residential zoning districts from potential adverse impacts of towers and antennas;

(2) Encourage the location of towers in non-residential areas;

(3) Minimize the total number of towers throughout the county;

(4) Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;

(5) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on aesthetics in this tourism based county is minimal;

(6) Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, sighting, landscape;

(7) Enhance the ability of providers of telecommunication services to provide such services to the county quickly, effectively, and efficiently;

(8) Consider the public health and safety of communication towers; and

(9) Avoid potential damage to adjacent properties from tower failure through engineering and careful sighting of tower structures. In furtherance of these goals, due consideration shall be given to the Otsego County master plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

Wireless and cellular phone service are specially determined to not be essential services, nor to be public utilities as such terms are used in this Ordinance.

It is not the intent to create "antennae farms" with a number of monopoles and antennae in a small area. Also, it is not the intent to regulate ham radio antennae under this section, or to regulate towers installed at single family dwellings for personal television reception.

SECTION 21.46.1 DEFINITIONS:

As used in this section, the following terms shall have the meanings set forth below:

1. Antenna means any exterior transmitting or receiving device mounted on a tower, building structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.
2. Height means, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.
3. Tower means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting (lattice) towers, guyed towers, or monopole towers (including telephone poles). The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.
4. Co-location shall mean the location by two (2) or more communication providers of wireless communication facilities on a common structure, tower or building, with the view toward reducing the overall number of structures required to support wireless communication antennas within the County.

SECTION 21.46.2 WIRELESS COMMUNICATIONS TOWERS OF ONE HUNDRED SEVENTY-NINE (179) FEET OR LESS AND RELATED FACILITIES:

Construction of Wireless Telecommunication Antenna Towers of one hundred seventy-nine (179) feet or less and Equipment Shelter Buildings are allowed in Otsego County subject to the following provisions:

21.46.2.1 Prior to approval of any new tower to be located within one (1) mile of an existing tower or other structure of equal or greater height than the proposed tower, applicant shall contact owner(s) of all said towers or structures and request permission to locate or

co-locate in lieu of construction of a new tower. No new tower request shall be granted until proof of contact(s) has been provided to the zoning administrator.

21.46.2.1.1 As an alternative to contacting owners of all towers or structures, as described in the above paragraph, location or co-location on existing towers or structures shall be approved by the Zoning Administrator under applicable provisions, including 21.46.2.7.1.

An accessory equipment shelter building shall meet all normal requirements of accessory buildings. Any location or co-location shall not result in a height of more than twice the height of the existing structure.

21.46.2.2 Wireless Telecommunication Antenna Towers and Equipment Shelter Buildings shall not be placed in any road right-of-way or in any easement for road purposes.

21.46.2.3 Such towers and facilities shall be placed on parcels (whether the land is owned or leased by the tower owner) that have an area no less than the minimum parcel size for the district, as listed in Article 17. No variances shall be granted to reduce this size limit.

21.46.2.4 All setbacks for the zoning district shall be met and in addition, no tower shall be placed closer than two hundred percent (200%) of the tower's height from any property line or any residence.

21.46.2.5 A tower proposal of more than thirty-five (35) feet shall be submitted to the Otsego County Airport Manager and FAA for review and approval prior to issuance of a zoning permit.

21.46.2.6 The tower itself must be of monopole design. There shall be no guyed or self-supporting towers. Self-supporting towers may be considered with application to the Planning Commission.

21.46.2.7 All such tower location proposals shall be submitted with a site plan (Section 23.2).

21.46.2.7.1 The following conditions are required for approval of an application.

Antennas may or may not be mounted on existing structures. The tower and antenna are painted or screened as to blend into the background.

The service building shall be constructed of material such as wood, brick, or stucco, and shall be designed to blend into the natural setting and surrounding buildings. In no case will metal exteriors be allowed for service buildings.

Unless technically impossible, all connecting wires from towers to accessory buildings shall be underground

Unless technically impossible, all electrical and other service wires to the facility shall be underground.

The service building shall be no larger than necessary to house the equipment and shall meet all setback requirements of this Ordinance.

21.46.2.8 Lighting shall be designed in accordance with Section 21.19 in addition to the following:

Lights shall not be permitted on the tower or antennae unless FAA regulations require them.

Light poles and fixtures shall be located as low as practical; a greater number of low "area" lights are favored over higher lights. Incandescent lights are favored over sodium or mercury-type street lighting.

21.46.2.9 The tower and its accessory buildings shall be fenced with no less than a six-foot (6) safety fence with a locked gate.

21.46.2.10 The application shall include a description of security to be posted at the time of receiving a building permit for the tower to ensure removal of the facility when it has been abandoned or is no longer needed. In this regard, the security shall, at the selection of the applicant, be in the form of: cash or letter of credit to remove the tower in a timely manner as required under Section 21.46.4, with the further provision that the applicant and owner shall be responsible for the payment of any costs and attorneys' fees incurred by the county in securing removal.

SECTION 21.46.3 WIRELESS TELECOMMUNICATION ANTENNA TOWERS OVER ONE HUNDRED SEVENTY-NINE (179) FEET AND RELATED FACILITIES:

Construction of Wireless Communications Towers over one hundred seventy-nine (179) feet and Equipment Shelter Buildings are a Permitted Use Subject to Special Conditions under Article 19. Requirements include all those in Section 21.46.2, plus the following:

21.46.3.1 In order to maximize the efficiency of the provision of telecommunication services, while also minimizing the impact of such facilities on Otsego County, location, co-location, or the provision of more than one (1) antenna on a single tower may be allowed by the Zoning Administrator and/or required by the Planning Commission.

21.46.3.1.1 As an alternative to the provisions of 21.46.3.1.2 below, location or co-location on existing towers or structures shall be approved as a Principal Use Permitted by the Zoning Administrator under applicable provisions, including 21.46.2.7.1. An accessory equipment shelter building shall meet all normal requirements of accessory buildings.

If not locating or co-locating on existing towers or structures, the applicant shall be required to provide information regarding the feasibility of location or co-location as part of the Special Land Use application.

Factors to be considered in determining feasibility or co-sharing include available space on existing structures, towers, the tower owner's ability to lease space, the tower's structural capacity, radio frequency interference, geographic service area requirements, mechanical or electrical incompatibilities, the comparative costs of co-location and new construction, and any FCC limitations on tower sharing.

21.46.3.1.2 The applicant shall be required to send a certified mail announcement to all other tower owners in the area, stating their sighting needs and/or sharing capabilities in an effort to encourage tower sharing. The applicant shall not be denied space on a tower unless mechanical, structural, or regulatory factors prevent sharing.

21.46.3.1.3 Further the applicant may be required to provide a letter of intent to lease excess space on a facility and commit to: Responding to any requests for information from another potential shared use applicant. Negotiating in good faith and allow for leased shared use if an applicant demonstrates that it is technically practicable; and making no more than a reasonable charge for a share use lease.

21.46.3.2 Tower heights shall be no more than required according to engineering requirements for a specific site or the technical capabilities of the antennas being mounted. The applicant shall provide funds to the county determined by the Planning Commission to be sufficient to acquire an independent technical and engineering evaluation of the need for any tower in excess of one hundred seventy-nine (179) feet. Where the independent evaluation shows that service can be provided by a one hundred seventy-nine (179) foot or lower tower no tower in excess of one hundred seventy-nine (179) feet shall be allowed. The Zoning Board of Appeals shall not grant a variance from this requirement.

SECTION 21.46.4 REMOVAL OF WIRELESS COMMUNICATION TOWERS:

21.46.4.1 A condition of every approval of a wireless communication tower shall be adequate provision for removal of all or part of the facility by users and owners when the tower has not been used for a period of twelve (12) months. For purposes of this section, the removal of antennas or other equipment from the facility, or the cessation of operations shall be considered as the beginning of a period of non-use.

21.46.4.2 At such time that removal is required, the property owner or persons who had used the facility shall immediately apply or secure the application that require demolition or removal and immediately proceed with and complete the demolition/removal, restoring the premises to an acceptable condition as reasonably determined by the Zoning Administrator.

21.46.4.3 If the required removal of a facility or a portion thereof has not been lawfully completed within sixty (60) days of the applicable deadline, and after at least thirty (30) days written notice, the County may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be drawn or collected and /or enforced from or under the security posted at the time application was made for establishing the facility.

SECTION 21.46.5

All towers in Section 21.46 must comply with FCC and FAA regulations.

*****Wireless Communications requirements met**

FINDINGS UNDER ARTICLE 23

ARTICLE 23 SITE PLAN REVIEW

Site Plan Review and approval of all development proposals listed below is required by the provisions of this Article. The intent of this Article is to provide for consultation and cooperation between the land developer and the Zoning Administrator so that beneficial utilization of the land is achieved at the same time that adverse effects upon the surrounding land uses are minimized consistent with the requirements and purposes of this Ordinance. Through the application of the following provisions, the attainment of the Comprehensive Plan of Otsego County will be assured and its communities will develop in an orderly fashion.

SECTION 23.1 SITE PLAN REVIEW REQUIRED

Site plan review is required for the following uses:

23.1.1 Any use or development for which the submission of a site plan is required by any provision of this Ordinance.

23.1.2 Any development for which off-street parking areas in excess of five (5) spaces are provided as required in this Ordinance.

Any use in a B1, B2, B3 and Industrial zone.

Any Special Land Use (See Article 19).

(Note: An application for a zoning permit for a land use not requiring Site Plan Review shall contain a Plot Plan as outlined in Article 25.3.3.)

SECTION 23.2 APPLICATIONS FOR SITE PLAN REVIEW

An application for site plan review shall be obtained from the Zoning Administrator. The completed application and site plan shall be submitted to the Zoning Administrator along with fifteen (15) copies of each for distribution. The application, site plan and copies shall be submitted at least thirty (30) days prior to the next regularly scheduled meeting of the Planning Commission, in order to have the site plan review scheduled for that meeting. The applicant shall also meet requirements of Article 27 Township Participation in County Zoning. The application for site plan review and the site plan shall contain the following information:

23.2.1 The application shall, at a minimum, include the following information:

23.2.1.1 The applicant's name, address and phone number in full

23.2.1.2 Proof of property ownership and whether there are any options on the property or any liens against it

23.2.1.3 A signed statement that the applicant is the owner of the property or officially acting on the owner's behalf

23.2.1.4 The name and address of the owner(s) of record if the applicant is not the owner of record (or firm or corporation having a legal or equitable interest in the land), and the signature of the owner(s)

23.2.1.5 The address and or parcel number of the property

23.2.1.6 Name and address of the developer (if different from the applicant)

23.2.1.7 Name and address of the engineer, architect and/or land surveyor

23.2.1.8 Project title

23.2.1.9 Project description, including the total number of structures, units, bedrooms, offices, square feet, total and usable floor area, parking spaces, carports or garages, employees by shift, amount of recreation and open space, type of recreation facilities to be provided and related information as pertinent or otherwise required by the ordinance

23.2.1.10. A vicinity map drawn to with North point indicated

23.2.1.11. The gross and net acreage of all parcels in the project

23.2.1.12. Land uses, zoning classification and existing structures on the subject parcel and adjoining parcels

23.2.1.13. Project completion schedule/development phases

23.2.2 The site plan shall consist of an accurate, reproducible drawing at a scale of 1"= 50 or fewer feet or less for sites of less than three (3) acres and 1"= 100 or fewer feet or less if the site is larger than three (3) acres. The site plan shall show the site and all land within fifty (50) feet of the site. If multiple sheets are used, each shall be labeled and the preparer identified. All site plans shall be sealed by a professional engineer, surveyor, architect or landscape architect and each site plan shall depict the following:

23.2.2.1 Location of proposed and/or existing property lines, dimensions, legal descriptions, setback lines, monument locations and shoreland and natural river district, if any

23.2.2.2 Existing topographic elevations and proposed grades in sufficient detail to determine direction of drainage flows

23.2.2.3 The type of existing soils at proposed storm water detention and retention basins and/or other areas of concern - Boring logs may be required if necessary to determine site suitability.

23.2.2.4 Location and type of significant existing vegetation

23.2.2.5 Location and elevations of existing water courses and water bodies, including county drains and man-made surface drainage ways, flood plains and wetlands within fifty (50) feet of the parcel

23.2.2.6 Location of existing and proposed buildings and intended uses thereof as well as the length, width, and height of each building and typical elevation views of proposed structures

23.2.2.7 Proposed location of accessory structures, buildings and uses, including all flagpoles, light poles, bulkheads, docks, storage sheds, transformers, air conditioners, generators and similar equipment, and the method of screening where applicable

23.2.2.8 Location of existing public roads, rights-of-way and private easements of record and abutting streets - Notation of existing traffic counts and trip generation estimates may be required if deemed appropriate by the Zoning Administrator or Planning Commission.

23.2.2.9 Location of and dimensions of proposed streets, drives, curb cuts and access easements, as well as acceleration, deceleration and passing lanes (if any) serving the development -
Details of entryway and sign locations shall be separately depicted with an elevation view.

23.2.2.10 Location, design, and dimensions of existing and/or proposed curbing, barrier free access, carports, parking areas (including indication of all spaces and method of surfacing) and fire lanes

23.2.2.11 Location, size and characteristics of all loading and unloading areas

23.2.2.12 Location and design of all sidewalks, walkways, bicycle paths and areas for public use

23.2.2.13 Location of water supply lines and/or wells, including fire hydrants and shut off valves and the location and design of storm sewers, retention or detention ponds, waste water lines, clean-out locations, connection points and treatment systems, including septic systems if applicable

23.2.2.14 Location of all other utilities on the site including natural gas, electric, cable TV, telephone and steam

23.2.2.15 Proposed location, dimensions and details of common open spaces and common facilities such as community buildings or swimming pools if applicable

23.2.2.16 Location, size and specifications of all signs and advertising features with elevation views from front and side

23.2.2.17 Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be used

23.2.2.18 Location and specifications for all fences, walls and other screening features with elevation views from front and side

23.2.2.19 Location and specifications for all proposed perimeter and internal landscaping and other buffering features - For each new landscape material, the proposed size at the time of planting must be indicated. All vegetation to be retained on the site must also be indicated, as well as its typical size by general location or range of sizes as appropriate.

23.2.2.20 Location, size of all trash receptacles and other solid waste disposal facilities

23.2.2.21 Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials or hazardous materials as well as any containment structures or clear zones required by government authorities.

23.2.2.22 Identification of any significant site amenities or unique natural features

23.2.2.23 Identification of any significant views onto or from the site to or from adjoining areas

23.2.2.24 North arrow, scale and date of original submittal and last revision

23.2.2.25 Seal of the registered engineer, architect, landscape architect, surveyor or planner who prepared the site plan

All site plans shall be sealed by a professional engineer, surveyor, architect or landscape architect. In the immediate area of the seal there shall also be the following statement, signed by the professional sealing the plans:

I do hereby certify that these plans have been prepared under my sustained review and, to the best of my professional knowledge, understanding and information; the design of this project is in compliance with the Otsego County Zoning Ordinance dated _____.

Or

I do hereby certify that these plans have been prepared under my sustained review and, to the best of my professional knowledge, understanding and information, the design of this project is in compliance with the Otsego County Zoning Ordinance dated _____, except for the following items: (list known variations from the ordinance)

23.2.3 All projects requiring a site plan shall also require that the professional in charge of the project inspect and certify that the project has been constructed in accordance with the approved plans. The following format shall be used:

FORM FOR CONSULTANT'S CERTIFICATE

Date_____

Project name_____

Section _____, T ___ N, R ___ W, _____Township,

Otsego County, Michigan.

I hereby certify that construction of

_____

is complete and that:

1. I have personally directed the supervision or inspection of the construction.

2. To the best of my professional knowledge, understanding and information, all improvements to date have been installed in accordance with the special use permit.

3. The project meets all requirements of the Otsego County Zoning Ordinance.

Signed_____

Registered Professional Engineer (or Surveyor, Architect or Landscape Architect)

(seal)

23.2.4 The Planning Commission or Zoning Administrator may waive any site plan submittal requirement when any of the following circumstances are found to be in existence:

23.2.4.1 The data will serve no useful purpose. Circumstances have not significantly changed on the property since the last time detailed information on the site was submitted. Another reasonable circumstance or condition exists (not including the cost of complying).

23.2.5 Application fees must be paid when the application is submitted and sufficient escrow accounts may be established to cover the projected review costs.

SECTION 23.3 PRE-APPLICATION CONFERENCE

A pre-application conference is not mandatory, but it is strongly advised. During this conceptual review phase, a generalized site plan is presented by a prospective applicant for consideration of the overall idea of the development. Basic questions of use, density, integration with existing development in the area and impacts on and the availability of public infrastructure are discussed. This conference is scheduled by a prospective applicant with the Zoning Administrator and such other representatives as described in the Planning Commission bylaws. At this meeting the applicant or his/her representative is

also presented with the applicable procedures required by the Ordinance for approval of the proposed development and with any special problems or steps that might have to be followed, such as requests to the Board of Appeals for a variance. There is no charge or fee to the applicant for this meeting.

SECTION 23.4 AGENCY REVIEW

The applicant shall submit a copy of required site plans and a blank comment form supplied by the Otsego County Zoning Administrator to designated Federal, State and Local agencies and departments for review as determined and requested by the Planning Commission or Zoning Administrator.

The applicant may be requested to submit site plans to one or more of the following agencies: the Otsego County Road Commission; the Michigan Department of Transportation; the Michigan State Police, the Otsego County Sheriff; the Otsego County Conservation District; the District Health Department; the Fire Department having jurisdiction; the Michigan Department of Natural Resources; the Michigan Department of Environmental Quality; the Otsego County Airport; or any other agency or department deemed necessary. After delivery of the application, site plans and comment forms the applicant should submit proof of delivery to the Otsego County Zoning Administrator. Comments not received from reviewing agencies by the Zoning Administrator within fifteen (15) of days of delivery shall be considered approved without comment.

SECTION 23.5 APPROVAL AUTHORITY

The Zoning Administrator shall review the application and information submitted to determine if all required information was supplied. If he/she determines that all required information has not been supplied, a written notification to the applicant will be sent, citing the deficiencies. The application for site plan review cannot proceed until all requirements have been satisfied.

The Zoning Administrator shall review and act upon site plans except where a Special Use Permit is required. Site plans for Special Use Permit shall be forwarded by the Zoning Administrator to the Planning Commission for review and action. In addition, at the request of the Zoning Administrator or Planning Commission, a site plan for a Principal Permitted Use may be submitted for Planning Commission review before final action by the Zoning Administrator. The Zoning Administrator and Planning Commission have the authority to approve, deny or grant conditional approval for any site plan submitted under the provisions of this ordinance. The Zoning Administrator may hold or the Planning Commission may table a site plan, pending further information or addition, reasonably needed to complete a site plan or comply with requirements of this Ordinance.

SECTION 23.6 CONDITIONAL APPROVALS

23.6.1 The Planning Commission or Zoning Administrator may condition approval of a site plan on conformance with the standards of this ordinance.

23.6.2 The Planning Commission or Zoning Administrator may condition approval of a site plan on conformance with the standards of another local, county or state agency, including a Water and Sewer Department, County Drain Commission, County Road Commission, State Highway Commission or Natural Resources Department. They may do so when such conditions:

23.6.2.1 Would insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity;

23.6.2.2 Would protect the natural environment and conserve natural resources and energy;

23.6.2.3 Would insure compatibility with adjacent uses of land, and would promote the use of land in a socially and economically desirable manner.

23.6.3 The Planning Commission and/or Zoning Administrator may conditionally approve a site plan on conformance with fencing, screening, buffering or landscaping requirements of Article 21.10 and 21.18of this Ordinance and may collect a performance guarantee consistent with the requirements of Article 23.8, to insure conformance. When so doing, the following finding shall be made and documented as part of the review process:

23.6.3.1 That such fencing, screening, buffering or landscaping would mitigate negative effects of noise, dust, lighting, vehicular or pedestrian traffic, loading or unloading, parking or other similar impact on adjoining parcels;

23.6.3.2 that absent such conditions, the development would adversely affect the reasonable use, enjoyment and value of adjoining lands in light of similar benefits enjoyed by other properties in the area.

SECTION 23.7 DISTRIBUTION OF APPROVED SITE PLAN

When a site plan is reviewed and approved or disapproved by the Planning Commission or Zoning Administrator, and all steps completed, two (2) copies of the site plan will be marked by the Planning Commission for the following distribution.

23.7.1.1 One (1) copy returned to the applicant signed by the Chairperson of the Planning Commission or by the Zoning Administrator including any conditions of approval.

23.7.1.2 One (1) copy forwarded to the Zoning Administrator including any conditions of approval.

SECTION 23.8 CONFORMITY TO APPROVED SITE PLAN REQUIRED

Following final approval of a site plan by the Zoning Administrator or the Planning Commission, the applicant shall construct the site plan improvements in complete conformity with the approved plan.

Failure to do so is a violation of this ordinance and subject to the sanctions provided herein.

SECTION 23.9 SITE PLAN EXPIRATION AND REVOCATION

23.9.1 Failure to initiate construction of an approved site plan within three hundred sixty-five (365) days of approval shall require the applicant to appear before the Planning Commission and demonstrate why the approval should not be revoked. After this appearance the Planning Commission may revoke a previously approved site plan for property on which no physical development activity has occurred upon making written findings that one or more of the following circumstances exist:

23.9.1.1 An error in the original approval is discovered either because of inaccurate information supplied by the applicant or administrative error by a staff member or other agency;

23.9.1.2 Zoning regulations applicable to the project have been changed and the previously approved site plan does not comply with them;

23.9.1.3 A change in state law, local charter, or other local ordinance affecting the previous approval has occurred;

23.9.1.4 Pollution, impairment or destruction of the environment or to another legally protected public interest would occur if the project were to be constructed as previously approved.

23.9.2 Thirty (30) days prior to expiration of an approved site plan, an applicant may make application for a one year extension of the site plan at no fee. The applicant shall explain in writing why the development has not proceeded, what the current time frame is and why an extension should be granted. If the original approval of the site plan was by the Planning Commission, the applicant shall present his/her case in person or by representative at the next meeting of the Planning Commission.

23.9.3 Revocation of an approved site plan shall be communicated in writing by certified mail to the property owner. The Building Inspector shall also be notified to withhold any building permit until a new site plan is approved.

23.9.4 Any subsequent re-submittal shall be processed as a new request with new fees, except for minor amendments pursuant to Subsection 23.11 below.

SECTION 23.10 PERFORMANCE GUARANTEE REQUIRED

In the interest of insuring compliance with the Zoning Ordinance provisions, protecting the natural resources and the health, safety and welfare of the residents of Otsego County and future users or inhabitants of an area for which a site plan for a proposed use has been submitted, the Planning Commission or Zoning Administrator may require the applicant to deposit a performance guarantee as regulated by Article 25.6. The purpose of the performance guarantee is to insure completion of improvements connected with the proposed use as required by this Ordinance, including, roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls, landscaping and any other required improvements.

SECTION 23.11 MINOR AMENDMENTS TO APPROVED SITE PLANS

Minor Amendments to a site plan may be approved by the Zoning Administrator provided that such changes conform to the Zoning Ordinance and the applicant agrees. No additional fees will be charged for minor amendments. Minor changes to an approved site plan may be approved by the Zoning Administrator before or after construction has begun provided no such change results in any of the following:

23.11.1.1 A change in the use or character of the development

23.11.1.2 An increase in overall coverage of structures

23.11.1.3 An increase in the intensity of use

23.11.1.4 A reduction in required open space

23.11.1.5 A reduction in required off-street parking and loading

23.11.1.6 A reduction in required pavement widths or utility pipe sizes

23.11.1.7 An increase in traffic on public streets or an increase in the burden on public utilities or services

23.11.2 The following are minor amendments:

23.11.2.1 Moving building walls within the confines of the smallest rectangle that would have enclosed each original approved building(s) - Relocation of building entrances or exits, or shortening of building canopies

23.11.2.2 The changing to a more restricted use provided there is no reduction in the amount of off-street parking as originally provided

23.11.2.3 Changing the angle of parking or aisle width provided there is no reduction in the amount of required off-street parking or a reduction of aisle width below ordinance requirements

23.11.2.4 Moving of ingress and egress drives a distance of not more than one hundred (100) feet if required by the appropriate state, county or other local road authority with jurisdiction

23.11.2.5 Substituting landscape plan species provided a nurseryman, landscape architect, engineer or architect certifies the substituted species is similar in nature and screening effects

23.11.2.6 Change type and design of lighting fixtures provided an engineer or architect certifies there will be no change in the intensity of light at the property boundary

23.11.2.7 Increase peripheral yards

23.11.2.8 Changing the location of an exterior building wall or location not more than ten (10) feet because of a natural impediment or hazard such as bedrock or muck soils, provided that in so doing no setback requirement of the Ordinance is violated and no significant reduction in safety or in the amount of open space is thereby affected

23.11.3 If a proposed amendment to an approved site plan does not qualify as a minor change, a new site plan and application and fees in accordance with the provisions of Article 23 must be submitted. This provision is not to be construed to prohibit phased development of a project, provided that each phase is developed in accordance with an approved site plan.

FINDINGS UNDER ARTICLE 19 / PERMITTED USES SUBJECT TO SPECIAL CONDITIONS:

19.7.1 The property subject to the application is located in a zoning district in which the proposed special land use is allowed.
HAS – HAS NOT BEEN MET

19.7.2 The proposed special land use will not involve uses, activities, processes, materials or equipment that will create a substantially negative impact on the natural resources of the county or the natural environment as a whole.
HAS – HAS NOT BEEN MET

19.7.3 The proposed special land use will not involve uses, activities, processes, materials or equipment that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors or the accumulation of scrap material that can be seen from any public highway or seen from any adjoining land owned by another person.
HAS – HAS NOT BEEN MET

19.7.4 The proposed special land used will be designed, constructed, operated and maintained so as not to diminish the opportunity for the surrounding properties to be used and developed as zoned.
HAS – HAS NOT BEEN MET

19.7.5 The proposed special land use will not place demands on fire, police or other public resources in excess of current capacity.
HAS – HAS NOT BEEN MET

19.7.6 The proposed special land use will be adequately served by public or private streets, water and sewer facilities and refuse collection and disposal services.
HAS – HAS NOT BEEN MET

19.7.7 If the proposed special land use includes more than fifteen thousand (15,000) square feet of impervious surface, then the storm water management system employed by the use shall (i) preserve the natural drainage characteristics of the site and enhance the aesthetics of the site to the extent possible, (ii) employ storm water disposal through evaporation and infiltration when reasonably possible, (iii) shall not discharge storm water directly to wetlands or surface waters
unless there is no other prudent or reasonably feasible means of discharge, (iv) shall not serve to increase the quantity no rate of discharge leaving the property based on 25-year storm criteria, (v) shall be designed using Best Management Practices identified by the DNR or its successor agency, and (vi) shall identify the party responsible for maintenance of the storm water management system.
HAS – HAS NOT BEEN MET

19.7.8 The proposed special land use complies with all specific standards required under this Ordinance applicable to it.
HAS – HAS NOT BEEN MET

SECTION 19.8 - CONDITIONS

The Planning Commission may attach reasonable conditions to the approval of a special use permit. These conditions may include those necessary to insure that public services and facilities affected by a proposed special land use will be capable of accommodating increased service and facility loads caused by the special land use, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all the following requirements.

19.8.1 Be designed to protect natural resources, the health, safety and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed special land use and the community as a whole.

19.8.2 Be related to the valid exercise of the police power and purposes which are affected by the proposed special land use.

19.8.3 Be necessary to meet the intent and purpose of the zoning ordinance, be rated to the standards established in the ordinance for the special land use under consideration and be necessary to insure compliance with those standards.

***Motion made by Mr. Hartmann to approve PZSU19-004 for the addition of a one hundred seventy-nine foot (179') self-supporting lattice tower located in a R3 Zoning District in Elmira Township; Seconded by Mr. Brown.

Motion approved unanimously.

ATTACHMENT 2:

OTSEGO COUNTY
PLANNING COMMISSION

PZSU19-002
Special Use Permit/Site Plan Review
060-035-400-005-01

GENERAL FINDING OF FACT

1. This is a proposal for a residential site condominium to construct sixteen (16) single family dwellings. *Exhibit #1, Exhibit #5, Exhibit #6*

2. The property is located in a R3/Residential Estates Zoning District. *Exhibit #2*

3. The proposed use is a permitted use in a R3/Residential Estates Zoning District with the approval of a special use permit for the development. *Exhibit #3, Exhibit #14*

4. The proposed property is 24.15 acres. *Exhibit #4*

5. The proposed project area is 18.1 acres. *Exhibit #5*

6. All remaining 6.0 acres are reserved as common area – open space. *Exhibit #5*

7. The sixteen (16) proposed units meet the 0.92 acre requirements of the R3 Zoning District. *Exhibit #3, Exhibit #5*

8. The property is currently under the ownership of Daystar Properties. *Exhibit #4*

9. The owner is being represented by David Drews, Northern Michigan Engineering Inc per letter dated March 1, 2019. *Exhibit #7*

10. Individual Unit addresses will be obtained from the Equalization Department with Special Use Permit approval. *Exhibit #5*

11. Site Condominium Use and Occupancy Restrictions for the residential development have been provided. *Exhibit #15*

12. The Public Hearing Notice will be published in the Herald Times on May 3, 2019. *Exhibit #8*

13. The requirements of Article 27 of the Otsego County Zoning Ordinance have been met. *Exhibit #9, Exhibit #10*

14. All property owners within three hundred (300') feet were properly notified of the public hearing. *Exhibit #11*

15. The Planning Commission has the authority to approve a Special Land Use request after review and compliance with the Otsego County Zoning Ordinance. (Section 19.7) *Exhibit #3*

16. The required fees have been collected by Otsego County Land Use Services. *Exhibit #12*

17. A sign permit was submitted and approved for the installation of a sign on the property. *Exhibit #16*

18. Letters from the Otsego County Health Department, Otsego County EMS and Otsego County Soil Conservation District have been received with a letter pending from the Otsego County Road Commission. *Exhibit #17, Exhibit #18, Exhibit #19, Exhibit #20*

19. The site plan requirements of Article 23 have been reviewed by Otsego County Land Use and all requirements pertaining to the proposed development have been addressed by the Applicant/Representative. *Exhibit #4, Exhibit #5, Exhibit 8, Exhibit #11, Exhibit #13, Exhibit #14...*

Otsego County Planning Commission

Proposed Minutes for May 20, 2019

OTSEGO COUNTY

PLANNING COMMISSION

PZSU19-002

Special Use Permit/Site Plan Review

060-035-400-005-01

SPECIFIC FINDING OF FACT

FINDINGS UNDER ARTICLE 21/SECTION 21.6

SECTION 21.6 DEVELOPMENT REGULATIONS

21.6.1 Definition

For purposes of this section and as used in the Otsego County Zoning Ordinance a Development shall be defined as Platted Subdivisions, Condominium Developments or any division of land that creates more lots or parcels on a parent parcel than is permitted under the Land Division Act.

21.6.2 Regulations

A development shall be reviewed pursuant to the Special Land Use regulations of Article 19 and shall conform to the following provisions in addition to all other applicable district provisions, except that the Planning Commission may waive the requirements of this Section for developments with fewer than ten (10) lots, parcels or units provided the Planning Commission makes a finding that doing so will not cause any significant public harm or harm to adjacent properties.

21.6.3 A development, shall comply with the applicable site development standards contained in Article 17 SCHEDULE OF DIMENSIONS, unless developed as a Planned Unit Development (PUD) subject to all regulations of Article 24.

21.6.4 Developments shall comply with all federal, state and county regulations regarding the provision of a potable water supply and waste disposal facilities.

21.6.5 Developments shall provide for dedication of easements to the appropriate public agencies for the purposes of construction, operation, maintenance, inspection, repair, alteration, replacement and/or removal of pipelines, conduits, mains and other installations of a similar character for the purpose of providing public utility services, including Conveyance of sewage, potable water and Storm water runoff across, through and under the property subject to said easement, and excavation and refilling of ditches and trenches necessary for the location of such installations.

21.6.6 In addition to the materials required by Article 19 and Article 23 or Article 24 for PUDs if applicable, an application for a development shall include a development plan containing the following information:

21.8.6.1 Proposed use and occupancy restrictions as will be contained in the Deed Restrictions or the Master Deed.

21.8.6.2 All proposed deed restrictions which are conditions of the special use permit.

21.6.7 All provisions of the approved development plan shall be incorporated in the Deed Restrictions or in the Master Deed for the development, unless exceptions are permitted by the Planning Commission. Any proposed changes to the approved development plan shall be subject to review and approval by the County Planning Commission as a major amendment to a permit, subject to the procedures of Article 19 and Article 23 or Article 24 for PUDs if applicable.

21.6.8 All lots, parcels or units within a development project shall be marked with monuments as provided by State and County regulations.

21.6.8.1 The County Board of Commissioners may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one year, on condition that the proprietor deposits with the County Clerk cash or a certified check, or irrevocable bank letter of credit naming to the municipality, whichever the proprietor selects, in an amount not less than one hundred dollars ($100.00) per monument and not less than five hundred dollars ($500.00) in total, except that lot corner markers shall be at the rate of not less than fifty dollars ($50.00) per marker. The performance guarantee shall be returned to the proprietor pursuant to the provisions of Section 25.6 upon receipt of a certificate by a licensed professional surveyor that the monuments and markers have been placed as required within the time specified.

***Permitted Use Subject to Special Conditions in R3 Zoning District**

Otsego County Planning Commission

Proposed Minutes for May 20, 2019

FINDINGS UNDER ARTICLE 20

ARTICLE 20 ACCESS MANAGEMENT REQUIREMENTS

SECTION 20.1 PURPOSE

The purpose of this section is to provide reasonable access to the property owner to all roads within Otsego County while protecting the public health, welfare, safety and aesthetics of the County. All Land in a parcel having a single tax code number or contiguous parcels owned by a person as of the effective date of this Ordinance shall meet the requirements of this Ordinance. The intent of this ordinance is to provide standards, which will preserve the traffic capacity and enhance the safety of the highway by regulating safe and reasonable access, though not always direct access, between public roadways and adjacent land. Access controls provide for orderly growth and development. This in turn will protect the long term viability of existing and new businesses in addition to protecting property values of commercial and residential development along the corridor. It is recognized that existing development may not be able to meet all of the standards contained in this ordinance; Upon expansion or redevelopment, the standards' contained herein shall be applied to the maximum extent possible in conformance with the Otsego County Access Management Map.

The standards of this section are further intended to:

• Minimize traffic conflicts, in order to reduce the frequency of fatal injury and property damage crashes;

• Separate traffic conflict areas by reducing the number of direct access points,

• Provide efficient spacing and size standards between access points and between access points and intersections;

• Establish uniform access standards to ensure fair and equal application;

• Protect the substantial public investment in the roadway system by preserving capacity and avoiding the need for unnecessary and costly reconstruction which disrupts business;

• Require coordinated access among several landowners;

• Ensure reasonable access to properties, though the access may not always be direct access;

• Coordinate local management decisions on development proposals with access permit decisions by the Michigan Department of Transportation (MDOT) and the Otsego County Road Commission, (OCRC).

SECTION 20.2 DEFINITIONS

Road ways are defined according to the following categories:
20.2.1 Local Roads -- Provide direct property access, do not serve through traffic.

20.2.2 Major Collectors -- Serve traffic traveling from Local Roads or Minor Collectors to Arterials; are public thoroughfares with a lesser degree of traffic than Arterials.

20.2.3 Minor Arterials -- Serve as primary routes for travel within and between community sub-areas and augment the Major Arterial system; accessed primarily from the Collector system.

20.2.4 Major Arterials -- Serve as primary routes for travel between areas of principal traffic generation and major urban activity centers, and for trips between non-adjacent areas.

20.2.5 Regional Arterials -- Freeways and principal routes that move traffic and do not provide direct access to land use activities.

20.2.6 Service Roads -- Local roads that parallel an expressway or through street and that provide access to property near the expressway or through street.

SECTION 20.3 LOCATION AND SPACING

20.3.1 All State and County public roads shall be subject to and regulated by the standards of this ordinance.

20.3.2 In order to minimize left turn conflicts, new access points shall be aligned with those across the roadway where possible. If alignment is not possible, access points shall be offset a minimum of two hundred fifty-five (255) feet from those on the opposite side of the roadway, measured centerline of access point to centerline of access point. Longer offsets may be required by the Michigan Department of Transportation (MDOT) in accordance with the MDOT Access Management Guidebook.

20.3.3 Where spacing requirements cannot be met for parcels, lots, or building sites having frontage or access on more than one roadway, access shall be provided from the lesser traveled roadway.

20.3.4 In the case of expansion, alteration, change of use or redesign of an existing development where existing access points do not comply with the guidelines set forth herein, the closing, relocation, or redesign of the access point may he required.

20.3.5 Driveway profile shall be designed and constructed according to Michigan Department of Transportation (MDOT) and Otsego County Road Commission (OCRC) standards.

20.3.6 Land access is permitted based on driveway spacing, stopping distance, and land use type.

Driveway Spacing and corner clearance requirements shall be PER MDOT MANUAL

SECTION 20.4 SIGHT DISTANCE

Minimum intersection sight distance shall be ten (10) times the vehicular speed of the road PERMDOT MANUAL

SECTION 20.5 ACCESS

All developments shall have reasonable access to a county or public roadway. Access onto any roadway shall be permitted only upon issuance of an access permit by the MDOT or OCRC in compliance with the site review planning process.

20.5.1 Interconnections of Parking Areas

20.5.1.1 Parking areas shall be designed to facilitate interconnection of parking lots

20.5.1.2 Shared parking is encouraged. Shared parking shall he permitted a reduction in required parking spaces if peak parking demand periods at interconnected developments do not occur at the same time.

20.5.1.3 Shared driveways, cross access driveways, interconnected parking, and private roads constructed to provide access to properties internal to a subdivision shall be recorded as an easement and shall constitute a covenant running with the land; Operating and maintenance agreements for these facilities shall be recorded with the deed.

SECTION 20.6 ROAD STANDARDS

20.6.1 All roads proposed to be of public ownership shall conform to the county road standards

20.6.2 All proposed curve radii shall be designed to county road standards for truck turning requirements

***SEE SITE PLAN**

FINDINGS UNDER SECTION 21.18

SECTION 21.18 LANDSCAPING
21.18.1 PURPOSE

The purpose of this section is: to protect and enhance property values, economic welfare and community attractiveness; to provide beneficial climatic impacts by cleaning the air and providing shade; to protect health, safety and welfare by reducing air and water borne pollutants, flooding and noise; to mitigate adverse effects of sighting different uses near one another through buffering; to facilitate preservation of existing valuable trees and other vegetative cover; to provide wildlife habitat and environmental standards within developed areas; to protect privacy.

21.18.2 General Performance Standards:

This, Section 21.18 Landscaping, requirements shall not apply to single family residences located on individual lots. The Section shall apply to residential plats and site condominiums.

All areas not covered by buildings, parking or other structures shall be treated with landscape materials including street trees, shrubs and groundcovers consistent with these provisions. The selected combination of plant materials shall be a harmonious combination of deciduous and evergreen trees, shrubs, vines and/or ground covers so arranged to present an aesthetically pleasing whole.

21.18.2.1 Landscape Materials:

All landscape materials planted pursuant to the provisions of this section shall be healthy and compatible with the local climate, site soil characteristics, drainage and available water supply.

Trees and shrubs should be at least, at the time of planting, the sizes as outlined in this section and shall be consistent with the current American Standard for Nursery Stock as set forth from time to time by the American Association of Nurserymen.

Deciduous trees shall be not less than one and one-half (1 ½) inches in diameter for single family residential uses and two and one-half (2 ½) inches in diameter for other uses.

Coniferous trees should be at least six (6) feet in height. Shrubs shall be of a size generally known in the nursery industry as requiring at least a five (5) gallon container.

All planting beds constructed pursuant to Sections 21.18.2, 21.18.5 and 21.18.6 shall be mulched with mulch cover at least three (3) inches deep to retain moisture around roots.

Trees shall be planted on the project sites so as to allow for their desired mature growth.

Access to or view of fire hydrants shall not be obstructed from any side.

Plantings shall be designed so as to not conflict with power lines or impede fire safety services.

21.18.2.2 Irrigation & Maintenance Performance Standards:

All uses with the exception of single family residential, which are landscaped with live plants, pursuant to this Section shall be equipped with a watering system which will provide sufficient water to maintain plants in a healthy condition.

21.18.2.2.1 Whenever the landscaped area required by Sections 21.18.3, 21.18.5 and 21.18.6 is two thousand (2,000) square feet or more of living plants whether or not the plants are contiguous, the site shall have a permanent irrigation system capable of meeting the typical watering requirements of all the plant materials on site.

21.18.2.2.2 Whenever there is less than two thousand (2,000) square feet of landscaped area required by Sections 21.18.3, 21.18.5 and 21.18.6 on a site, there should be at least one reliable water source available during the growing season. The hose bib or other water source shall be within fifty (50) feet from a border of the plants.

21.18.2.2.3 All irrigation systems shall be maintained in good working condition.

21.18.2.2.4 Irrigation requirements may be adjusted in part or in whole by the Zoning Administrator for landscape areas having established healthy plant material, or where irrigation is deemed unnecessary for plant health and survival.

All plants required by this Section shall be maintained in a live and healthy state. Dead or unsalvageable unhealthy plants shall be replaced with the size and type of plants required on the site development plan and by this Section. Plant materials including grasses and herbaceous plants uses on berms, along road sides, etc. shall be routinely maintained during growing seasons. When growing in close proximity to residential land uses, grasses and common weeds shall be maintained at a height of ten (10) inches or less.

All fences, walls and similar structures shall be maintained in good condition. Chipped paint, missing fence pieces, leaning or fallen portions of a fence or other forms of deterioration shall immediately be replaced or repaired.

Replacement of plants may be delayed whenever the Zoning Administrator determines that extenuating circumstances beyond the owner's control prevent the immediate replacement of the dead or unhealthy plants within a time established by the Zoning Administrator. In any event, the dead or salvageable plants shall be replaced within nine (9) months of the time the plants are clearly dead.

21.18.2.3 Existing Vegetation:

If there is no practical alternative in terms of sighting buildings and other development, trees and other plants may be removed.

Significant shrubs, grasses and trees are to be preserved within areas not required for development.

Healthy, younger mature plants shall be preserved which would normally succeed older plants.

Natural vegetation shall be preserved within areas below an ordinary high water mark of a lake, stream or other water body.

Existing vegetation to be preserved shall be protected during construction with barriers as required and approved by the Zoning Administrator.

The application of landscape standards within this Ordinance may be adjusted in part or in whole by the Zoning Administrator to allow credit for established healthy plant material to be retained on or adjacent to the site if such an adjustment is consistent with the intent of this Ordinance.

21.18.2.4 Berms constructed pursuant to Section 21.18.3 shall be constructed with slopes not to exceed one to three (1:3) gradient with side slopes designed and planted to prevent erosion, and with a rounded surface a minimum of two (2) feet in width at the highest point of the berm, extending the length of the berm. Berm slopes shall be protected with sod, seed, shrubs or other form of natural ground cover.

21.18.3 Buffer Yards:

Buffer yards shall be constructed to mitigate problems associated with traffic, noise, vibration, odor, glare, dust, smoke, pollution, water vapor, conflicting land uses and density, height, mass, layout of adjacent uses, loss of privacy, unsightly views and other potentially negative effects of development. Buffering may be achieved using landscape, building fences and berm or a combination of the above techniques.

Buffer yards shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line. Buffer yards shall not be located on any portion of an existing or dedicated public or Private Street or right-of-way.

Tables I and II shall be used to determine buffer yard dimensions and plant materials specifications. Table I is used to determine the type of Buffer yard (A, B, C, D, E, EX, or NA) which will be required between districts or users. Once the type of Buffer yard is obtained, Table II outlines the plant material specifications for alternative widths and specifications and treatments (walls, berms, etc.) of buffer yard. Each property line should be analyzed independently to determine the appropriate buffer yard required.

The buffer yard tables are to be considered minimum standards. Increased landscaping requirements may be imposed by the Zoning Administrator or the Planning Commission if it is determined any of the following conditions exist.

The type of required buffer yard will not sufficiently mitigate noise, glare, fumes, smoke, dust or unsightly views within the

site.

The scale of the project in regard to mass and height indicates the need for a buffer yard developed specifically for the project.

The proposed use is next to an existing sensitive use such as a school, church or residential area.

21.18.4 Roadside Greenbelt Buffers:

Unless as otherwise required by Section 21.18.3, required front yards shall be landscaped with a minimum of one (1) tree, not less than one and one-half (1½) inches in diameter for single family residential uses and two and one half (2½) inches in diameter of other use, for each one thousand (1000) square feet, or major portion thereof, of front yard abutting a road right-of-way. The remainder of the greenbelt shall be landscaped provided however, rock or other inorganic ground cover shall not exceed twenty (20) percent of the yard area.

Access ways from public rights-of-way through required landscaped strips shall be permitted but such access ways shall not be subtracted from the square foot dimension used to determine the minimum number of trees required.

21.18.5 Screening of Unsightly Areas:

Unsightly areas, including but not limited to outside storage areas, utility boxes and open areas where machinery or vehicles are stored or repaired, shall be screened from public sidewalks, streets and other areas from which the property is visible. Such screening shall not be located as to interfere with required maintenance activities of utility boxes.

Whenever plants are used as a screen, they should provide an effective opaque screen within three (3) years of the time they are planted.

The materials and colors of the screen should blend with the site and the surroundings.

21.18.6 Parking Lot Screening:

Unless otherwise required by Section 21.18.3 or 21.18.4, a no-building buffer strip not less than ten (10) feet wide shall be required on the perimeter of all parking lots containing twenty-seven hundred (2,700) square feet or more of parking area where not adjacent to buildings. Said buffer strip shall be used for landscaping, screening or drainage as required herein.

Landscaping design standards:

21.18.6.1 Any required planting strip shall be a minimum of ten (10) feet in width.

21.18.6.2 One (1) street tree shall be planted adjacent to the public right-of-way for each twenty-four (24) lineal feet of frontage. (This requirement shall not duplicate the requirements of Sections 21.18.4 or 21.18.3.)

21.18.6.3 Where screens of non-living material are used, at least one (1) shrub or vine shall be planted on the right-of-way or property line side for each ten (10) lineal feet of screen or fraction thereof.

21.18.6.4 Parking lots with more than two (2) parking aisles shall require landscaped areas of at least ten (10) square feet of interior landscaping for each parking space, interior being defined as the area within the perimeter of the paved surface.

21.18.6.4.1 Landscaped areas shall be a minimum of seventy-five (75) square feet with a minimum dimension of ten (10) feet. Interior landscape areas shall be designed so as to cause minimum interference with snow removal. Each interior landscape area shall include one (1) or more canopy trees based on the provision of one (1) tree per each one hundred (100) square feet of interior landscape area.

***No Buffer Yard Required/See Table I**
***Existing Tree Cover/Wetlands**
***No landscaping planned for project. See Condominium By-Laws Article VII C. Building and Use Restrictions (viii)**

21.18 TABLE I : Planting Buffer Yard

Boundary Zoning District →		R-1	R-2	R-3		RR	FR	AR		B-1	B-2	B-3		MUZ MAIN STREET	MUZ TOWN CENTER		HIGHWAY INTERCHANGE	I INDUSTRIAL
Proposed Development Zoning District																		
R-1		N																
R-2		B	N															
R-3		C	B	N														
RR		C	C	B		N												
FR		C	C	B		B	N											
AR		C	C	C		C	C	N										
B-1		B	B	B		B	B	B		N								
B-2		C	C	B		C	C	C		B	N							
B-3		C	C	C		C	C	C		B	B	N						
MUZ – MAIN STREET		A	A	A		B	C	C		A	A	B		N				
MUZ – TOWN CENTER		A	A	A		B	C	C		A	A	C		A	N			
HIGHWAY INTERCHANGE		C	C	C		C	C	C		B	B	B		B	C		N	
I - INDUSTRIAL		E	E	E		E	D	D		D	C	C		E	E		C	N

Key: N= No buffer yard required /See TABLE II

Otsego County Planning Commission

Proposed Minutes for May 20, 2019

FINDINGS UNDER ARTICLE 21 /SECTION 21.19

SECTION 21.19 LIGHTING, OUTDOOR

Outdoor light fixtures are electrically powered illuminating devices, outdoor lighting or reflective surfaces, lamps and similar devices, permanently installed or portable, used for illumination or advertisement. Such devices shall include search, spot and flood lights for buildings and structures, recreation areas, parking lot lighting, landscape lighting, billboards and other signs (advertising or other), street lighting, product display area lighting, building overhangs and open canopies.

All outdoor lighting fixtures including pole mounted or building mounted yard lights, dock lights, and shoreline lights other than decorative residential lighting such as low level lawn lights, shall be subject to the following regulations:

21.19.1 Lighting shall be designed and constructed in such a manner:

21.19.1.1 To insure that direct or directly reflected light is confined to the area needing it and that it is not directed off the property,

21.19.1.2 That all light sources and light lenses are shielded,

21.19.1.3 That any light sources or light lenses are not directly visible from beyond the boundary of the site,

21.19.1.4 That light from any illuminated source shall be so shaded, shielded, or directed that the light intensity or brightness will not be objectionable to surrounding areas.

21.19.2 Lighting fixtures shall be a down-type having one hundred (100) percent cut off. The light rays may not be emitted by the installed fixture at angles above the horizontal plane, as may be certified by photometric test. A United States flag, Michigan flag or a flag of a veteran's organization chartered by the United States Government shall be allowed to have light illuminating them from below

21.19.3 There shall be no blinking, flashing, or fluttering lighting, including changes in light intensity, brightness or color, except that lights may be controlled by a dimmer which can be periodically adjusted for conditions and signs as allowed in 21.38.2.1. Beacon lights are not permitted except where required by law.

21.19.4 No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.

21.19.5 Decorative lights during holiday seasons shall be allowed.

21.19.6 Modification of these outdoor lighting standards may be permitted by the Zoning Board of Appeals for temporary uses of not more than ten (10) days per year, following these provisions as closely as possible.

***Lighting: No lighting planned for project itself. See Condominium Use and Occupancy Restrictions page 6 - letter (p)**

FINDINGS UNDER SECTION 21.27

SECTION 21.27 PARKING

There shall be provided in all districts at the time of erection or enlargement of any main building or structure or use, automobile off-street parking space with adequate access to all spaces.

21.27.1 Off-street parking for other than residential uses shall be either on the same lot or within four hundred (400) feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot.

21.27.2 Any area once designated as required off-street parking shall not be changed to any other use unless and until equal facilities are provided elsewhere.

21.27.3 In the instance of dual function of off-street parking spaces where operating hours of uses do not overlap, the Zoning Board of Appeals may grant an exception by reducing the total number of spaces required.

21.27.4 The storage of merchandise, motor vehicles for sale, trucks, or the repair of vehicles is prohibited on required off-street parking lots.

21.27.5 Residential off-street parking spaces shall consist of a driveway, parking strip, parking bay, garage, carport, or combination thereof.

21.27.6 The parking or storage of any commercial motor vehicle shall be prohibited in any R1, R2 or RR District, or in any residential area with lots of twenty thousand (20,000) square feet or less. (See definition of COMMERCIAL MOTOR VEHICLE.)

21.27.7 For the purpose of computing the number of parking spaces required, the definition of FLOOR AREA, USABLE shall govern.

21.27.8 For those uses not specifically mentioned in the Off-street Parking Schedule, requirements for off-street parking facilities shall be in accord with a use which the Board of Appeals considers as being similar in type.

21.27.9 Entrance drives to the property and off-street parking area shall be no less than twenty-five (25) feet from a street intersection (measured from the road right-of-way) or from the boundary of a different Zoning District. A greater distance may be required by the Planning Commission if the lesser would cause a traffic issue.

21.27.10 Off-street Parking Schedule

The minimum number of off-street parking spaces required by use shall be in accordance with the following schedule:

MINIMUM PARKING SPACES REQUIRED LAND USE	PER UNIT OF MEASURE
Residential	
Dwellings	2 per dwelling
Multiple-Family Dwelling	2 per dwelling
Elderly Housing	1 per 4
Rooming House, Fraternity, or Sorority	1 per 2 occupants at maximum capacity
Trailer Court	2 per unit

***Parking: See Condominium By-Laws Article VII C. Building and Use Restrictions (xi)**

FINDINGS UNDER SECTION 21.38

Section 21.38
Signs and Billboards
Amended 3.29.2018

Intent:

The sign standards contained in this Ordinance are declared to be necessary to protect the general health, safety, and welfare of the citizens of Otsego County.

It is the intent of this regulation to insure a degree of standardization in signage throughout the county, to insure the safety of pedestrians and motorists who must drive or otherwise negotiate installed signage and motorists who depend on the visibility of a sign's message to safely arrive at an intended destination. Standardization will preserve the aesthetics, appearance and functionality of all installed signage.

Any publicly displayed sign, symbol or notice on premises to indicate the name of the occupant, to advertise the business there transacted, or directing to some other locale, shall be regulated as follows, and shall require permits in accordance with the terms of the County Building Code:

Sign plans shall be reviewed for approval, conditional approval or rejection by the Zoning Administrator. For disagreements with the rulings of the Zoning Administrator, the applicant may appeal to the Zoning Board of Appeals, who in such instances has final authority on the sign plan.

The standards in this Article are determined to be the minimum necessary to achieve the above stated purposes. Compliance with this Section does not relieve the applicant from the responsibility of compliance with other local, state or federal sign regulations, nor does the issuance of a Sign Permit grant permission to the applicant to place signs on any property, including road rights-of-way, other than property owned or otherwise legally under the control of the applicant. The issuance of a Sign Permit only assures the applicant that the sign meets the requirements of the County Zoning Ordinance.

Section 21.38.01
Signs Authorized and Requiring a Permit

All applications for a Sign Permit shall first be submitted to the Zoning Administrator. Before any permit is granted for the erection of a sign or sign structure requiring such permit, construction documents shall be filed with the Zoning Administrator showing the dimensions, materials and required details of construction, including loads, stresses, anchorage and any other pertinent data. The permit application shall be accompanied by the written consent of the owner or lessee of the premises upon which the sign is to be erected and by engineering calculations signed by a registered design professional. The Zoning Administrator may issue such permits when all applicable provisions of this Ordinance have been met.

Section 21.38.01.01
Accessory Signs

Section 21.38.01.01.01
Districts: R1, R2, R3, RR

Number Allowed:	1
Maximum Height:	8 ft.
Measured:	From the average grade at the base of the sign to the top of the sign support.
Maximum Size:	15 sq. ft.

Section 21.38.01.01.02
Districts: AR, FR

Number Allowed:	1
Maximum Height:	8 ft.
Measured:	From the average grade at the base of the sign to the top of the sign support.

Maximum Size: 32 sq. ft.

Section 21.38.01.01.03
Districts: B1, B2, B3, HX, I

Number Allowed: Two (2) with the following **four (4) regulations**:

Regulation 01: One (1) sign shall be affixed to or be within 2 feet of and be parallel with the wall of the main building.

Maximum Size: Signs mounted on and parallel with the wall of the main building shall not exceed a total surface area of 15% of the mounting wall. If a premise contains walls facing more than one property line or encompasses property frontage bounded by more than one street or other property usages, the sign area(s) for each building wall or property frontage will be computed separately for each building wall or property line facing a different frontage. The sign area(s) thus calculated shall be permitted to then be applied to permitted signs placed on each separate wall or property line frontage.

Regulation 02: One (1) Sign may be a freestanding sign.

Maximum Height: 12 ft.

Maximum Size: 56 sq. ft. and length shall not be longer than three (3) times its width.

Regulation 03: One (1) Sign may be a pylon sign.

Maximum Height: 35 ft.

Maximum Size: Sign Specifications must be prepared by a design professional and must comply with any Airport Zoning Ordinance and the Tall Structures Act. Pylon Signs approved and installed before the date of this ordinance change shall be allowed provided they exhibit structural integrity, are safe and well maintained.

Regulation 04: All businesses may display window signs in ground level windows in addition to any wall signs. Window signs shall not cover more than 20% of the total window area. Where multiple windows are installed, signage may not be aggregated to cover any window 100% restricting all visibility from the interior and exterior. Signage may cover no more than 50% of the window on the horizontal and vertical dimension. Total coverage for multiple window panels will not change.

Section 21.38.01.01.04

Signs for shopping centers or other commercial developments with Two (2) or more units developed as offices, office service units, research facilities, manufacturing facilities, retail spaces with multiple stores, commercial PUD's, large retail stores with a building area over 100,000 sq. ft. or other commercial developments requiring Special Use Approval and which have a common off street parking and a common entrance or entrances may install accessory signs in accordance with the following **six (6) regulations:**

Regulation 01: Signs which direct traffic movement within a property and which do not exceed 4 sq. ft. in area for each sign are permitted.

Regulation 02: One (1) free-standing identification sign for each street that the development faces.

a. The freestanding sign shall state only the name of the shopping center or multiple use development and tenants located therein.
b. No freestanding sign face shall exceed an area of 100 sq. ft.
c. Freestanding signs shall not exceed a height of 30 feet measured from the average grade at the base of the sign to the top of the horizontal sign frame supporting the sign face.
d. Tenants of the shopping center or the owner of outlets included with the development plan or PUD shall not be permitted individual freestanding signs, except gas stations as noted below:

Regulation 03: Businesses within the development or PUD shall be permitted exterior wall signs; the total area of the exterior wall signs shall not exceed 20% of the area of the signage wall.

Regulation 04: All businesses may display window signs in ground level windows in addition to any wall signs. Window signs shall not cover more than 20% of the total window area. Where multiple windows are installed, signage may not be aggregated to cover any window 100% restricting all visibility from the interior and exterior. Signage may cover no more than 50% of the window on the horizontal or vertical dimension.

Regulation 05: An automobile service station located on an outlet or an individual lot within the development or PUD may have 1 freestanding sign in addition to the freestanding sign utilized for the development. The freestanding sign shall be for the purpose of advertising gasoline prices and other services provided on the premises. The service station sign shall comply with the regulations for a single business on its own lot as noted in Section 21.38.01.01.03 above.

Regulation 06: Signs proposed for installation along MDOT regulated highways designed to advertise a specific business location must be permitted in accordance with current MDOT Regulation 225. A specific time requirement for the developed site is required and is usually 2 years. A business sign is a sign designed to advertise a particular business location rather than being used for general outdoor advertising not necessarily specific to a particular business.

Billboards or signage also referred to as outdoor advertising or outdoor highway advertising are permitted and controlled by MDOT under sections of MDOT Regulation 225. A valid permit and sign approval is required prior to construction of a billboard designed for general outdoor advertising

Section 21.38.02
Non-Accessory Signs and Billboards

Section 21.38.02.01

Billboards, poster boards and non-accessory signs may be permitted in B2, B3 and I Districts provided the area of the sign does not exceed an area of 200 sq. ft. in B2 and B3 Districts and 300 sq. ft. in I Districts. A non-accessory sign or billboard shall not measure longer than 3 times its width.

Signs that come under the jurisdiction of P.A. 106 of 1972 are under the jurisdiction of the Township, if the Township has adopted a sign ordinance.

Section 21.38.03
Sign Lighting (also see Section 21.19 Lighting Outdoor)

Section 21.38.03.01

Signs internally illuminated or with a light emanating surface are allowed only in the RR, FR, AR, B1, B2, B3, I, HX, MUZ-Main Street and MUZ-Town Center Districts provided they meet the other requirements of this ordinance and are set back a minimum of 10 feet from all road right-of-ways and 75 feet from any other property line.

Signs internally illuminated or if sign has a light emanating surface. All light sources and reflecting surfaces immediately adjacent to the light source shall be shielded from view. Sign luminance level, beginning 1 hour after sunrise and continuing until 1 hour before sunset, shall not exceed (10278 Lumens) (685W Incandescent light bulb) (114W Florescent/LED) per square meter, or does not exceed (342 Lumens) (25W Incandescent light bulb)(6.23W Florescent/LED) per square meter at all other times.

Signs that are externally illuminated shall have the light mounted on top of the sign, shall be directed downward onto the sign and shall be shielded so as to prevent rays of light from being directed such that reflected luminance does not exceed (342 Lumens) (25W Incandescent light bulb)(6.23W Florescent/LED) per square meter.

Section 21.38.04
Signs Prohibited

Section 21.38.04.01 No signs or sign structure shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision, nor at any location where by its position, shape or color it may interfere with or obstruct the view of or be confused with any authorized traffic sign, signal or device.

Section 21.38.04.02 No signs shall be attached to any utility pole, light standard, street tree or any other public facility located within the public right-of-way.

Section 21.38.04.03 No signs which blink, flash or are animated by lighting in any fashion that would cause such signs to have the appearance of traffic safety signs and lights, or municipal vehicle warnings from a distance.

Section 21.38.04.04 No signs containing flashing, intermittent or moving lights.(A sign with messages or images accomplished by instantaneous re-pixilation not more often than 1 time in 60 seconds shall not be considered flashing, intermittent or moving and shall be allowed.)

Section 21.38.04.05 No signs with moving or revolving parts.

Section 21.38.04.06 No signs attached to, or placed on, a vehicle or trailer parked on public or private property, except for signs meeting the following **3 Regulations**:

Regulation 01: The primary purpose of such a vehicle or trailer is not the display of signs.

Regulation 02: The signs are magnetic, decals or painted upon an integral part of the vehicle or equipment as originally designed by the manufacturer, and does not break the silhouette of the vehicle.

Regulation 03: The vehicle or trailer is in operating condition, currently registered and licensed to operate on public streets where applicable, and actively used or available for use in the daily function of the business to which such signs relate.

Section 21.38.04.07 Vehicles and trailers are not to be used primarily as static displays, advertising a product or service, nor utilized as storage, shelter or distribution points for commercial products or services for the general public.

Section 21.38.04.08 A sign that no longer advertises or identifies a use conducted on the property on which said sign is erected must have the sign covered or removed within 14 days after written notification from the Zoning Administrator.

Section 21.38.05
Signs Authorized and Not Requiring a Permit

Section 21.38.05.01 Official notices, authorized by a court, public body or public safety official

Section 21.38.05.02 Directional, warning or information signs authorized by federal, state or municipal governments

Section 21.38.05.03 Memorial plaques, building identification signs and building cornerstones where cut or carved into a masonry surface or where made of noncombustible material and made an integral part of the building or structure.

Section 21.38.05.04 The flag of a government or noncommercial institution, such as a school

Section 21.38.05.05 Religious symbols and seasonal decorations within the appropriate public holiday season

Section 21.38.05.06 Works of fine art displayed in conjunction with a commercial enterprise where the enterprise does not receive direct commercial gain

Section 21.38.05.07 Street address signs and combination nameplate and street address signs that contain no advertising copy and which do not exceed 6 sq. ft. in area

Section 21.38.05.08 The changing or maintenance or components of an approved existing sign that is designed for such changes, or the changing of copy, business names, lettering, sign faces, colors, display and/or graphic matter, or the content of any sign shall not be deemed a structural alteration.

Section 21.38.05.09 Bulletin Boards that do not exceed 15 sq. ft. for churches, public and semi-public institutions and/or school

Section 21.38.05.10 Temporary signs not exceeding 10 sq. ft. advertising a premises being for rent, for lease and/or for sale in any district All such signs shall be removed within 14 days of the consummated lease or sale of the premises.

Section 21.38.05.11 Accessory directional signs affixed to the building and not exceeding 2 sq. ft., such as but not necessarily limited to: Boiler Room, Entrance, Exit, Garage, Loading Dock, Low Clearance, Office, Service, Warehouse and the like.

Section 21.38.05.12 Maximum of 2 accessory properties directional signs each not to exceed 2 sq. ft. identifying or directing to the following: Entrance, Exit, No Parking, Visitors Parking, Other Traffic Flow Directions, and similar Functional Signs

Section 21.38.05.13 Temporary advertising banners that are flexible (made of canvas, plastic composite etc.) meant to be attached to a fixed commercial building structure which is currently occupied. All banners may not exceed 32 sq. ft. and must be maintained in good condition while displayed.

Section 21.38.05.14 Political signs shall be permitted in all zoning districts with the following **3 Regulations**:

Regulation 01: Such signs shall follow the Accessory Signs restrictions as it relates each individual Zoning District.

Regulation 02: Such signs for election candidate or ballot propositions shall be displayed only for a period of 60 days preceding the election and shall be removed within 10 days after the election, provided that signs promoting successful candidates or ballot propositions in a primary election may remain displayed until not more than 10 days after the general election.

Regulation 03: Such signs shall not be placed in any public right-of-way or obstruct traffic visibility.

Section 21.38.06
Placement of Signs and Setbacks

Section 21.38.06.01
Signs in rights-of-way
No sign other than an official traffic sign shall be erected within any public right-of-way unless specifically authorized by other ordinances or regulations of this jurisdiction or by specific authorization of the code official.

Section 21.38.06.02

Sign and Setbacks
Signs in any zoning district must be placed at least 2 feet back from any right of way and any lot line.

Section 21.38.07
Off-Premises Directory Sign – Private

Section 21.38.07.01
Where a business use or tourist service facility is not located directly on a major tourist route but is dependent upon passerby traffic for support, one (1) off-premises directory sign located on a county maintained road may be permitted
in business or non-business districts, on each road or link or segment of road that affords access to the use but entails a major change in the direction of travel.

Off-premises Directory signs shall not exceed an area of 15 sq. ft. Community directional signs serving more than one (1) use may be permitted to a maximum size of 32 sq. ft.

Section 21.38.08
Approval Authority

Section 21.38.08.01
The Zoning Administrator shall review and act upon site plans except where a Special Use Permit is required. Site Plans for a Special Use Permit shall be forwarded by the Zoning Administrator to the Planning Commission for review and action. In addition, at the request of the Zoning Administrator or Planning Commission, a site plan for a Principal Permitted Use may be submitted for Planning Commission review before final action by the Zoning Administrator. The Zoning Administrator and Planning Commission have the authority to approve, deny or grant conditional approval for any site plan submitted under the provisions of this ordinance. The Zoning Administrator may hold or the Planning Commission may table a site plan, pending further information or addition, reasonably needed to complete a site plan or comply with requirements of this Ordinance.

***Signage: SEE Sign permit - No other signage planned for project**

FINDINGS UNDER SECTION 21.42

SECTION 21.42 TRASH RECEPTACLES/DUMPSTERS

21.42.1 Residential Trash Receptacles shall be placed at curbside no earlier than twenty-four (24) hours from the scheduled pick-up day. Any trash receptacle placed at curb side shall be removed from curb side no later than twenty-four (24) hours after the scheduled pick-up day.

21.42.2 Commercial Trash Receptacles / Dumpsters may be placed upon a parcel of land in such a manner to facilitate loading and unloading. They may be placed no closer than ten (10) feet to any adjoining property. All Trash Receptacles shall be properly maintained with working lids and the lids shall be maintained in a closed position.

21.42.2.1 During the site plan review process the Planning Commission or Zoning Administrator may require Commercial Businesses abutting land zoned Residential (R1, R2, R3, RR) or existing residential development in other zoning districts (HX) to maintain a greater setback than ten (10) feet but in no case shall the required setback be greater than twenty five (25) feet.

21.42.3 Temporary Commercial Construction Dumpsters are exempt from these regulations.

21.42.4 Trash Receptacles / Dumpsters meeting the requirements of Sections 21.42.1. 21.42.2 & 21.42.3 shall not be considered unsightly areas as covered in Section 21.18.5.

***Trash Receptacles: No trash receptacle planned for project itself. See Condominium Use and Occupancy Restrictions page 6 - letter (o)**

FINDINGS UNDER SECTION 21.43

SECTION 21.43 UNDERGROUND UTILITY WIRES

Within the area of a plat or site plan, all distribution lines for electric, communications or similar associated services shall be placed underground. Those electric and communication facilities placed in dedicated public ways shall be installed so as not to conflict with other underground utilities. All communication and electric facilities shall be constructed in accordance with standards of construction approved by the Michigan Public Service Commission. All underground utility installations which traverse privately-owned property shall be protected by easements granted by the owner of such property.

The Planning Commission may, by resolution, waive or modify any of the above requirements for underground line installations with respect to a particular plat or site plan when the strict application of the above requirements would result in unnecessary hardship. Prior to any such waiver or modification, a public hearing regarding the proposal shall be held by the Planning Commission.

***Underground Utilities: Planning Commission input**

Otsego County Planning Commission

Proposed Minutes for May 20, 2019

FINDINGS UNDER ARTICLE 23

ARTICLE 23 SITE PLAN REVIEW

Site Plan Review and approval of all development proposals listed below is required by the provisions of this Article. The intent of this Article is to provide for consultation and cooperation between the land developer and the Zoning Administrator so that beneficial utilization of the land is achieved at the same time that adverse effects upon the surrounding land uses are minimized consistent with the requirements and purposes of this Ordinance. Through the application of the following provisions, the attainment of the Comprehensive Plan of Otsego County will be assured and its communities will develop in an orderly fashion.

SECTION 23.1 SITE PLAN REVIEW REQUIRED

Site plan review is required for the following uses:

23.1.1 Any use or development for which the submission of a site plan is required by any provision of this Ordinance.

23.1.2 Any development for which off-street parking areas in excess of five (5) spaces are provided as required in this Ordinance.

Any use in a B1, B2, B3 and Industrial zone.

Any Special Land Use (See Article 19).

(Note: An application for a zoning permit for a land use not requiring Site Plan Review shall contain a Plot Plan as outlined in Article 25.3.3.)

SECTION 23.2 APPLICATIONS FOR SITE PLAN REVIEW

An application for site plan review shall be obtained from the Zoning Administrator. The completed application and site plan shall be submitted to the Zoning Administrator along with fifteen (15) copies of each for distribution. The application, site plan and copies shall be submitted at least thirty (30) days prior to the next regularly scheduled meeting of the Planning Commission, in order to have the site plan review scheduled for that meeting. The applicant shall also meet requirements of Article 27 Township Participation in County Zoning. The application for site plan review and the site plan shall contain the following information:

23.2.1 The application shall, at a minimum, include the following information:

23.2.1.1 The applicant's name, address and phone number in full

23.2.1.2 Proof of property ownership and whether there are any options on the property or any liens against it

23.2.1.3 A signed statement that the applicant is the owner of the property or officially acting on the owner's behalf

23.2.1.4 The name and address of the owner(s) of record if the applicant is not the owner of record (or firm or corporation having a legal or equitable interest in the land), and the signature of the owner(s)

23.2.1.5 The address and or parcel number of the property

23.2.1.6 Name and address of the developer (if different from the applicant)

23.2.1.7 Name and address of the engineer, architect and/or land surveyor

23.2.1.8 Project title

23.2.1.9 Project description, including the total number of structures, units, bedrooms, offices, square feet, total and usable floor area, parking spaces, carports or garages, employees by shift, amount of recreation and open space, type of recreation facilities to be provided and related information as pertinent or otherwise required by the ordinance

23.2.1.10. A vicinity map drawn to with North point indicated

23.2.1.11. The gross and net acreage of all parcels in the project

23.2.1.12. Land uses, zoning classification and existing structures on the subject parcel and adjoining parcels

23.2.1.13. Project completion schedule/development phases

23.2.2 The site plan shall consist of an accurate, reproducible drawing at a scale of 1"= 50 or fewer feet or less for sites of less than three (3) acres and 1"= 100 or fewer feet or less if the site is larger than three (3) acres. The site plan shall show the site and all land within fifty (50) feet of the site. If multiple sheets are used, each shall be labeled and the preparer identified. All site plans shall be sealed by a professional engineer, surveyor, architect or landscape architect and each site plan shall depict the following:

23.2.2.1 Location of proposed and/or existing property lines, dimensions, legal descriptions, setback lines, monument locations and shoreland and natural river district, if any

23.2.2.2 Existing topographic elevations and proposed grades in sufficient detail to determine direction of drainage flows

23.2.2.3 The type of existing soils at proposed storm water detention and retention basins and/or other areas of concern - Boring logs may be required if necessary to determine site suitability.

23.2.2.4 Location and type of significant existing vegetation

23.2.2.5 Location and elevations of existing water courses and water bodies, including county drains and man-made surface drainage ways, flood plains and wetlands within fifty (50) feet of the parcel

23.2.2.6 Location of existing and proposed buildings and intended uses thereof as well as the length, width, and height of each building and typical elevation views of proposed structures

23.2.2.7 Proposed location of accessory structures, buildings and uses, including all flagpoles, light poles, bulkheads, docks, storage sheds, transformers, air conditioners, generators and similar equipment, and the method of screening where applicable

23.2.2.8 Location of existing public roads, rights-of-way and private easements of record and abutting streets - Notation of existing traffic counts and trip generation estimates may be required if deemed appropriate by the Zoning Administrator or Planning Commission.

23.2.2.9 Location of and dimensions of proposed streets, drives, curb cuts and access easements, as well as acceleration, deceleration and passing lanes (if any) serving the development -
Details of entryway and sign locations shall be separately depicted with an elevation view.

23.2.2.10 Location, design, and dimensions of existing and/or proposed curbing, barrier free access, carports, parking areas (including indication of all spaces and method of surfacing) and fire lanes

23.2.2.11 Location, size and characteristics of all loading and unloading areas

23.2.2.12 Location and design of all sidewalks, walkways, bicycle paths and areas for public use

23.2.2.13 Location of water supply lines and/or wells, including fire hydrants and shut off valves and the location and design of storm sewers, retention or detention ponds, waste water lines, clean-out locations, connection points and treatment systems, including septic systems if applicable

23.2.2.14 Location of all other utilities on the site including natural gas, electric, cable TV, telephone and steam

23.2.2.15 Proposed location, dimensions and details of common open spaces and common facilities such as community buildings or swimming pools if applicable

23.2.2.16 Location, size and specifications of all signs and advertising features with elevation views from front and side

23.2.2.17 Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be used

23.2.2.18 Location and specifications for all fences, walls and other screening features with elevation views from front and side

23.2.2.19 Location and specifications for all proposed perimeter and internal landscaping and other buffering features - For each new landscape material, the proposed size at the time of planting must be indicated. All vegetation to be retained on the site must also be indicated, as well as its typical size by general location or range of sizes as appropriate.

23.2.2.20 Location, size of all trash receptacles and other solid waste disposal facilities

23.2.2.21 Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials or hazardous materials as well as any containment structures or clear zones required by government authorities.

23.2.2.22 Identification of any significant site amenities or unique natural features

23.2.2.23 Identification of any significant views onto or from the site to or from adjoining areas

23.2.2.24 North arrow, scale and date of original submittal and last revision

23.2.2.25 Seal of the registered engineer, architect, landscape architect, surveyor or planner who prepared the site plan

All site plans shall be sealed by a professional engineer, surveyor, architect or landscape architect. In the immediate area of the seal there shall also be the following statement, signed by the professional sealing the plans:

I do hereby certify that these plans have been prepared under my sustained review and, to the best of my professional knowledge, understanding and information; the design of this project is in compliance with the Otsego County Zoning Ordinance dated _____.

Or

I do hereby certify that these plans have been prepared under my sustained review and, to the best of my professional knowledge, understanding and information, the design of this project is in compliance with the Otsego County Zoning Ordinance dated _____, except for the following items: (list known variations from the ordinance)

23.2.3 All projects requiring a site plan shall also require that the professional in charge of the project inspect and certify that the project has been constructed in accordance with the approved plans. The following format shall be used:

FORM FOR CONSULTANT'S CERTIFICATE

Date_____

Project name_____

Section _____, T____N, R____W, _____Township,

Otsego County, Michigan.

I hereby certify that construction of

_____

is complete and that:

1. I have personally directed the supervision or inspection of the construction.

2. To the best of my professional knowledge, understanding and information, all improvements to date have been installed in accordance with the special use permit.

3. The project meets all requirements of the Otsego County Zoning Ordinance.

Signed_____

Registered Professional Engineer (or Surveyor, Architect or Landscape Architect)

(seal)

23.2.4 The Planning Commission or Zoning Administrator may waive any site plan submittal requirement when any of the following circumstances are found to be in existence:

23.2.4.1 The data will serve no useful purpose. Circumstances have not significantly changed on the property since the last time detailed information on the site was submitted. Another reasonable circumstance or condition exists (not including the cost of complying).

23.2.5 Application fees must be paid when the application is submitted and sufficient escrow accounts may be established to cover the projected review costs.

SECTION 23.3 PRE-APPLICATION CONFERENCE

A pre-application conference is not mandatory, but it is strongly advised. During this conceptual review phase, a generalized site plan is presented by a prospective applicant for consideration of the overall idea of the development. Basic questions of use, density, integration with existing development in the area and impacts on and the availability of public infrastructure are discussed. This conference is scheduled by a prospective applicant with the Zoning Administrator and such other representatives as described in the Planning Commission bylaws. At this meeting the applicant or his/her representative is also presented with the applicable procedures required by the Ordinance for approval of the proposed development and with any special problems or steps that might have to be followed, such as requests to the Board of Appeals for a variance. There is no charge or fee to the applicant for this meeting.

SECTION 23.4 AGENCY REVIEW

The applicant shall submit a copy of required site plans and a blank comment form supplied by the Otsego County Zoning Administrator to designated Federal, State and Local agencies and departments for review as determined and requested by the Planning Commission or Zoning Administrator.

The applicant may be requested to submit site plans to one or more of the following agencies: the Otsego County Road Commission; the Michigan Department of Transportation; the Michigan State Police, the Otsego County Sheriff; the Otsego County Conservation District; the District Health Department; the Fire Department having jurisdiction; the Michigan Department of Natural Resources; the Michigan Department of Environmental Quality; the Otsego County Airport; or any other agency or department deemed necessary. After delivery of the application, site plans and comment forms the applicant should submit proof of delivery to the Otsego County Zoning Administrator. Comments not received from reviewing agencies by the Zoning Administrator within fifteen (15) of days of delivery shall be considered approved without comment.

SECTION 23.5 APPROVAL AUTHORITY

The Zoning Administrator shall review the application and information submitted to determine if all required information was supplied. If he/she determines that all required information has not been supplied, a written notification to the applicant will be sent, citing the deficiencies. The application for site plan review cannot proceed until all requirements have been satisfied.

The Zoning Administrator shall review and act upon site plans except where a Special Use Permit is required. Site plans for Special Use Permit shall be forwarded by the Zoning Administrator to the Planning Commission for review and action. In addition, at the request of the Zoning Administrator or Planning Commission, a site plan for a Principal Permitted Use may be submitted for Planning Commission review before final action by the Zoning Administrator. The Zoning Administrator and Planning Commission have the authority to approve, deny or grant conditional approval for any site plan submitted under the provisions of this ordinance. The Zoning Administrator may hold or the Planning Commission may table a site plan, pending further information or addition, reasonably needed to complete a site plan or comply with requirements of this Ordinance.

SECTION 23.6 CONDITIONAL APPROVALS

23.6.1 The Planning Commission or Zoning Administrator may condition approval of a site plan on conformance with the standards of this ordinance.

23.6.2 The Planning Commission or Zoning Administrator may condition approval of a site plan on conformance with the standards of another local, county or state agency, including a Water and Sewer Department, County Drain Commission, County Road Commission, State Highway Commission or Natural Resources Department. They may do so when such conditions:

23.6.2.1 Would insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity;

23.6.2.2 Would protect the natural environment and conserve natural resources and energy;

23.6.2.3 Would insure compatibility with adjacent uses of land, and would promote the use of land in a socially and economically desirable manner.

23.6.3 The Planning Commission and/or Zoning Administrator may conditionally approve a site plan on conformance with fencing, screening, buffering or landscaping requirements of Article 21.10 and 21.18of this Ordinance and may collect a performance guarantee consistent with the requirements of Article 23.8, to insure conformance. When so doing, the following finding shall be made and documented as part of the review process:

23.6.3.1 That such fencing, screening, buffering or landscaping would mitigate negative effects of noise, dust, lighting, vehicular or pedestrian traffic, loading or unloading, parking or other similar impact on adjoining parcels;

23.6.3.2 that absent such conditions, the development would adversely affect the reasonable use, enjoyment and value of adjoining lands in light of similar benefits enjoyed by other properties in the area.

SECTION 23.7 DISTRIBUTION OF APPROVED SITE PLAN

When a site plan is reviewed and approved or disapproved by the Planning Commission or Zoning Administrator, and all steps completed, two (2) copies of the site plan will be marked by the Planning Commission for the following distribution.

23.7.1.1 One (1) copy returned to the applicant signed by the Chairperson of the Planning Commission or by the Zoning Administrator including any conditions of approval.

23.7.1.2 One (1) copy forwarded to the Zoning Administrator including any conditions of approval.

SECTION 23.8 CONFORMITY TO APPROVED SITE PLAN REQUIRED

Following final approval of a site plan by the Zoning Administrator or the Planning Commission, the applicant shall construct the site plan improvements in complete conformity with the approved plan.

Failure to do so is a violation of this ordinance and subject to the sanctions provided herein.

SECTION 23.9 SITE PLAN EXPIRATION AND REVOCATION

23.9.1 Failure to initiate construction of an approved site plan within three hundred sixty-five (365) days of approval shall require the applicant to appear before the Planning Commission and demonstrate why the approval should not be revoked. After this appearance the Planning Commission may revoke a previously approved site plan for property on which no physical development activity has occurred upon making written findings that one or more of the following circumstances exist:

23.9.1.1 An error in the original approval is discovered either because of inaccurate information supplied by the applicant or administrative error by a staff member or other agency;

23.9.1.2 Zoning regulations applicable to the project have been changed and the previously approved site plan does not comply with them;

23.9.1.3 A change in state law, local charter, or other local ordinance affecting the previous approval has occurred;

23.9.1.4 Pollution, impairment or destruction of the environment or to another legally protected public interest would occur if the project were to be constructed as previously approved.

23.9.2 Thirty (30) days prior to expiration of an approved site plan, an applicant may make application for a one year extension of the site plan at no fee. The applicant shall explain in writing why the development has not proceeded, what the current time frame is and why an extension should be granted. If the original approval of the site plan was by the Planning Commission, the applicant shall present his/her case in person or by representative at the next meeting of the Planning Commission.

23.9.3 Revocation of an approved site plan shall be communicated in writing by certified mail to the property owner. The Building Inspector shall also be notified to withhold any building permit until a new site plan is approved.

23.9.4 Any subsequent re-submittal shall be processed as a new request with new fees, except for minor amendments pursuant to Subsection 23.11 below.

SECTION 23.10 PERFORMANCE GUARANTEE REQUIRED

In the interest of insuring compliance with the Zoning Ordinance provisions, protecting the natural resources and the health, safety and welfare of the residents of Otsego County and future users or inhabitants of an area for which a site plan for a proposed use has been submitted, the Planning Commission or Zoning Administrator may require the applicant to deposit a performance guarantee as regulated by Article 25.6. The purpose of the performance guarantee is to insure completion of improvements connected with the proposed use as required by this Ordinance, including, roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls, landscaping and any other required improvements.

SECTION 23.11 MINOR AMENDMENTS TO APPROVED SITE PLANS

Minor Amendments to a site plan may be approved by the Zoning Administrator provided that such changes conform to the Zoning Ordinance and the applicant agrees. No additional fees will be charged for minor amendments. Minor changes to an approved site plan may be approved by the Zoning Administrator before or after construction has begun provided no such change results in any of the following:

23.11.1.1 A change in the use or character of the development

23.11.1.2 An increase in overall coverage of structures

23.11.1.3 An increase in the intensity of use

23.11.1.4 A reduction in required open space

23.11.1.5 A reduction in required off-street parking and loading

23.11.1.6 A reduction in required pavement widths or utility pipe sizes

23.11.1.7 An increase in traffic on public streets or an increase in the burden on public utilities or services

23.11.2 The following are minor amendments:

23.11.2.1 Moving building walls within the confines of the smallest rectangle that would have enclosed each original approved building(s) - Relocation of building entrances or exits, or shortening of building canopies

23.11.2.2 The changing to a more restricted use provided there is no reduction in the amount of off-street parking as originally provided

23.11.2.3 Changing the angle of parking or aisle width provided there is no reduction in the amount of required off-street parking or a reduction of aisle width below ordinance requirements

23.11.2.4 Moving of ingress and egress drives a distance of not more than one hundred (100) feet if required by the appropriate state, county or other local road authority with jurisdiction

23.11.2.5 Substituting landscape plan species provided a nurseryman, landscape architect, engineer or architect certifies the substituted species is similar in nature and screening effects

23.11.2.6 Change type and design of lighting fixtures provided an engineer or architect certifies there will be no change in the intensity of light at the property boundary

23.11.2.7 Increase peripheral yards

23.11.2.8 Changing the location of an exterior building wall or location not more than ten (10) feet because of a natural impediment or hazard such as bedrock or muck soils, provided that in so doing no setback requirement of the Ordinance is violated and no significant reduction in safety or in the amount of open space is thereby affected

23.11.3 If a proposed amendment to an approved site plan does not qualify as a minor change, a new site plan and application and fees in accordance with the provisions of Article 23 must be submitted. This provision is not to be construed to prohibit phased development of a project, provided that each phase is developed in accordance with an approved site plan.

Otsego County Planning Commission

Proposed Minutes for May 20, 2019

FINDINGS UNDER ARTICLE 19 / PERMITTED USES SUBJECT TO SPECIAL CONDITIONS:

19.7.1 The property subject to the application is located in a zoning district in which the proposed special land use is allowed.
HAS – HAS NOT BEEN MET

19.7.2 The proposed special land use will not involve uses, activities, processes, materials or equipment that will create a substantially negative impact on the natural resources of the county or the natural environment as a whole.
HAS – HAS NOT BEEN MET

19.7.3 The proposed special land use will not involve uses, activities, processes, materials or equipment that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors or the accumulation of scrap material that can be seen from any public highway or seen from any adjoining land owned by another person.
HAS – HAS NOT BEEN MET

19.7.4 The proposed special land used will be designed, constructed, operated and maintained so as not to diminish the opportunity for the surrounding properties to be used and developed as zoned.
HAS – HAS NOT BEEN MET

19.7.5 The proposed special land use will not place demands on fire, police or other public resources in excess of current capacity.
HAS – HAS NOT BEEN MET

19.7.6 The proposed special land use will be adequately served by public or private streets, water and sewer facilities and refuse collection and disposal services.
HAS – HAS NOT BEEN MET

19.7.7 If the proposed special land use includes more than fifteen thousand (15,000) square feet of impervious surface, then the storm water management system employed by the use shall (i) preserve the natural drainage characteristics of the site and enhance the aesthetics of the site to the extent possible, (ii) employ storm water disposal through evaporation and infiltration when reasonably possible, (iii) shall not discharge storm water directly to wetlands or surface waters
unless there is no other prudent or reasonably feasible means of discharge, (iv) shall not serve to increase the quantity no rate of discharge leaving the property based on 25-year storm criteria, (v) shall be designed using Best Management Practices identified by the DNR or its successor agency, and (vi) shall identify the party responsible for maintenance of the storm water management system.
HAS – HAS NOT BEEN MET

19.7.8 The proposed special land use complies with all specific standards required under this Ordinance applicable to it.
HAS – HAS NOT BEEN MET

SECTION 19.8 - CONDITIONS

The Planning Commission may attach reasonable conditions to the approval of a special use permit. These conditions may include those necessary to insure that public services and facilities affected by a proposed special land use will be capable of accommodating increased service and facility loads caused by the special land use, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all the following requirements.

19.8.1 Be designed to protect natural resources, the health, safety and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed special land use and the community as a whole.
19.8.2 Be related to the valid exercise of the police power and purposes which are affected by the proposed special land use.
19.8.3 Be necessary to meet the intent and purpose of the zoning ordinance, be rated to the standards established in the ordinance for the special land use under consideration and be necessary to insure compliance with those standards.

***Motion made by Mr. Hartmann to approve PZSU19-002, Daystar Properties' site condominium in Elmira Township known as Burdo Pines with the following conditions: 1) Depict storm water drainage along roads on site plan 2) Submit a signed, sealed site plan; Seconded by Mr. Brown.

Motion approved unanimously

ATTACHMENT 3:

OTSEGO COUNTY
PLANNING COMMISSION

PZSU19-003
Special Use Permit/Site Plan Review
042-027-300-005-04

GENERAL FINDINGS OF FACT

1. This is a proposed project for a forty (40) unit mini storage building. *Exhibit #1, Exhibit #5*
2. The property is located in a B2/General Business Zoning District in Corwith Township. *Exhibit #2*
3. The proposed use is a permitted use subject to special conditions in a B2/General Business Zoning District. *Exhibit #3*
4. A street address of 7290 Old 27 North has been issued for the proposed project. *Exhibit #7*
5. The property consists of 13.79 acres. *Exhibit #4, Exhibit #6*
6. The property is currently under the ownership of Hugo & Barbara Noeske. *Exhibit #4*
7. The Public Hearing Notice was published in the Herald Times on..., 2019. *Exhibit #8*
8. The requirements of Article 27 of the Otsego County Zoning Ordinance have been met. *Exhibit #9, Exhibit #10*
9. All property owners within three hundred (300') feet were properly notified of the public hearing. *Exhibit #11*
10. The Planning Commission has the authority to approve a Special Land Use request after review and compliance with the Otsego County Zoning Ordinance. (Section 19.7) *Exhibit #3*
11. The required fees have been collected by Otsego County Land Use Services. *Exhibit #12*
12. The site plan requirements of Article 23 have been reviewed by Otsego County Land Use and all requirements pertaining to the proposed development have been addressed by the Applicant. *Exhibit #5, Exhibit #6, Exhibit #13, Exhibit #14*
13. An application for a Driveway Permit from the Otsego County Road Commission has been submitted. *Exhibit #15*
14. An Inter-Agency Letter has been received from the Health Department of Northwestern Michigan Agency dated..., 2019. *Exhibit #16*
15. An Inter-Agency Letter has been received from the Otsego County EMS dated April 16, 2019. *Exhibit #17*
16. An Inter-Agency Letter has been received from the Otsego County Soil Conservation District dated April 18, 2019. *Exhibit #18*

Otsego County Planning Commission

Proposed Minutes for May 20, 2019

Revised:

OTSEGO COUNTY
PLANNING COMMISSION

PZSU19-003
Special Use Permit/Site Plan Review
042-027-300-005-04

SPECIFIC FINDING OF FACT

FINDINGS UNDER ARTICLE 11/SECTION 11.2

ARTICLE 11 B2 GENERAL BUSINESS DISTRICT

INTENT

The B2 General Business District is designed to provide sites for more diversified business types than the B1 Local Business District and often located so as to serve passer-by-traffic. Tourist services are included as being in character with the District.

SECTION 11.1 PRINCIPAL USES PERMITTED

No building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses:

11.1.1 All principal uses permitted in the B1 Local Business District

11.1.2 Theaters, halls, and similar places of assembly

11.1.3 Laundromats and dry cleaners

11.1.4 Bowling alleys, pool or billiard parlors or clubs

11.1.5 Equipment rental shops with outside storage

11.1.6 Indoor archery range

11.1.7 Lumber yards and building material suppliers-within enclosed building

11.1.8 Tavern/night clubs

11.1.9 Restaurants serving alcoholic beverages

11.1.10 Public parking garages

11.1.11 Bus stations and passenger terminals

11.1.12 Businesses and restaurants with drive-through service

11.1.13 Wireless Telecommunications Towers and Facilities one hundred ninety (190) feet or less in height without lights [Permit criteria includes Article 21.46]

11.1.14 Transient Merchants-Tent and open air merchants, for periods of up to ninety (90) days per year, housing retail uses otherwise allowed by the Zoning Ordinance in this district. A single thirty (30) day extension may be applied for. Three (3) or more merchants on a parcel simultaneously must be permitted as a "Flea market".

11.1.15 WTG Building-Mounted: Permitted as an accessory use to an allowed Principal Use [See Article 21.46]

SECTION 11.2 PERMITTED USES SUBJECT TO SPECIAL CONDITIONS

The following uses may be permitted, subject to the conditions herein imposed for each use, the review standards of Article 19 and only after the review and approval of the site plan by the Planning Commission. [See Article 21 for applicable Specific Requirements for Certain Uses, if any and Article 23 for Site Plan Requirements.]

11.2.1 All uses subject to special conditions in the B1 Local Business District

11.2.2 Lumber yards, building material suppliers, and home improvement centers, with outdoor storage

Exhibit 14

11.2.3 Rifle or pistol ranges when within a completely enclosed building

11.2.4 Auto repair garages or auto body shop, including wrecker service, provided that outdoor storage of vehicles under repair be confined to the rear yard and screened from view

11.2.5 Car wash

11.2.6 Sales, rental, and service centers for vehicles, watercraft, and/or mobile homes, including new or used automobiles, motor bikes, bicycles, boats, ATV's, campers, snowmobiles, trailers, and motor, mobile, modular, manufactured homes, or farm equipment, provided:

11.2.6.1 Ingress and egress to the use shall be at least sixty (60) feet from the intersection of any two (2) streets

11.2.6.2 The arrangement of vehicles stored in the open shall be uniform, following the patterns established for off-street parking lots

11.2.6.3 No sales or display shall occupy any public street or road right-of-way; and further, must be set back at least twenty (20) feet from the front property line

11.2.6.4 The use of a display model for a business office is permissible provided it is connected to sanitary and water facilities and approved by the County Health Department

11.2.7 Hospitals

11.2.8 Commercial outdoor sport and recreational facilities

11.2.9 Flea markets

11.2.10 Mini-storage buildings consisting of separate storage rooms rented or leased by the month

11.2.11 Wireless Telecommunication Towers and Facilities one hundred ninety (190) feet or more in height [Permit criteria includes Article 21.46]

11.2.12 Solid Waste Hauler

11.2.13 WTG Small: Permitted as an accessory use to an allowed Principal Use

11.2.14 Unlisted property uses if authorized under Article 21.44.

11.2.15 Personal Wireless Services Telecommunications Towers and Facilities one hundred fifty (150) feet or less in height, self-supporting (lattice) or guyed [Permit criteria includes Article 21.46]

***Permitted Use Subject to Special Conditions**

FINDINGS UNDER ARTICLE 21 /SECTION 21.10

Section 21.10
Fences
Amended 7.10.2018

Section 21.10.01
Permit Required
A Fence Permit shall not be required when all applicable sections and regulations of this ordinance have been met.

Section 21.10.02
Fence Regulations:

Section 21.10.02.01	A fence in the Front Yard shall not exceed a height of 3.5 feet and be of a see through design and material that does not obscure the vision of drivers of vehicles at any driveway entrance or exit, street intersection or other pedestrian property access point.
Section 21.10.02.02	A fence along any side lot line may extend to the front property line except that it shall not exceed a height of 3.5 feet from the front property line back 25 feet and shall be of a see through design and material that does not obscure the vision of drivers of vehicles at any driveway entrance or exit, street intersection or other pedestrian or vehicle property access point.
Section 21.10.02.03	A fence in the Side and Rear Yards cannot exceed a height of 7.0 feet except as noted in Section 21.10.02.01.
Section 21.10.02.04	A fence may be located at or along an adjoining property line. Adequate space shall be allotted to permit access for maintenance without trespass.
Section 21.10.02.05	A fence in any platted subdivision, residential development or residential zoning district shall not contain barbed wire or be electrified.
Section 21.10.02.06	A fence must be structurally sound and kept in good repair. There should be no evidence of deterioration, damaged or collapsing pieces.

Section 21.10.02.07 Comply with Section 21.10.03 and Section 21.10.04.

Section 21.10.03
Fences-Maximum Heights
Fences designed to enclose property in any district shall be subject to the following table of regulations:

Yards	Height
Front of site, parallel with the principal roadway	3.5 ft.
Rear	7.0 ft.
Side Side with front yard setbacks of 25 ft.	7.0 ft. 3.5 ft.
Game Preserves	Special Use Permit Required
Junk Yard	8.0 ft.
Recycling Facility	8.0 ft.

***Existing Tree Buffer – Wire Fencing with Gated Entrance – Height-3.5'**

FINDINGS UNDER SECTION 21.18

SECTION 21.18 LANDSCAPING
21.18.1 PURPOSE

The purpose of this section is: to protect and enhance property values, economic welfare and community attractiveness; to provide beneficial climatic impacts by cleaning the air and providing shade; to protect health, safety and welfare by reducing air and water borne pollutants, flooding and noise; to mitigate adverse effects of sighting different uses near one another through buffering; to facilitate preservation of existing valuable trees and other vegetative cover; to provide wildlife habitat and environmental standards within developed areas; to protect privacy.

21.18.2 General Performance Standards:

This, Section 21.18 Landscaping, requirements shall not apply to single family residences located on individual lots. The Section shall apply to residential plats and site condominiums.

All areas not covered by buildings, parking or other structures shall be treated with landscape materials including street trees, shrubs and groundcovers consistent with these provisions. The selected combination of plant materials shall be a harmonious combination of deciduous and evergreen trees, shrubs, vines and/or ground covers so arranged to present an aesthetically pleasing whole.

21.18.2.1 Landscape Materials:

All landscape materials planted pursuant to the provisions of this section shall be healthy and compatible with the local climate, site soil characteristics, drainage and available water supply.

Trees and shrubs should be at least, at the time of planting, the sizes as outlined in this section and shall be consistent with the current American Standard for Nursery Stock as set forth from time to time by the American Association of Nurserymen.

Deciduous trees shall be not less than one and one-half (1 ½) inches in diameter for single family residential uses and two and one-half (2 ½) inches in diameter for other uses.

Coniferous trees should be at least six (6) feet in height. Shrubs shall be of a size generally known in the nursery industry as requiring at least a five (5) gallon container.

All planting beds constructed pursuant to Sections 21.18.2, 21.18.5 and 21.18.6 shall be mulched with mulch cover at least three (3) inches deep to retain moisture around roots.

Trees shall be planted on the project sites so as to allow for their desired mature growth.

Access to or view of fire hydrants shall not be obstructed from any side.

Plantings shall be designed so as to not conflict with power lines or impede fire safety services.

21.18.2.2 Irrigation & Maintenance Performance Standards:

All uses with the exception of single family residential, which are landscaped with live plants, pursuant to this Section shall be equipped with a watering system which will provide sufficient water to maintain plants in a healthy condition.

21.18.2.2.1 Whenever the landscaped area required by Sections 21.18.3, 21.18.5 and 21.18.6 is two thousand (2,000) square feet or more of living plants whether or not the plants are contiguous, the site shall have a

permanent irrigation system capable of meeting the typical watering requirements of all the plant materials on site.

21.18.2.2.2 Whenever there is less than two thousand (2,000) square feet of landscaped area required by Sections 21.18.3, 21.18.5 and 21.18.6 on a site, there should be at least one reliable water source available during the growing season. The hose bib or other water source shall be within fifty (50) feet from a border of the plants.

21.18.2.2.3 All irrigation systems shall be maintained in good working condition.

21.18.2.2.4 Irrigation requirements may be adjusted in part or in whole by the Zoning Administrator for landscape areas having established healthy plant material, or where irrigation is deemed unnecessary for plant health and survival.

All plants required by this Section shall be maintained in a live and healthy state. Dead or unsalvageable unhealthy plants shall be replaced with the size and type of plants required on the site development plan and by this Section. Plant materials including grasses and herbaceous plants uses on berms, along road sides, etc. shall be routinely maintained during growing seasons. When growing in close proximity to residential land uses, grasses and common weeds shall be maintained at a height of ten (10) inches or less.

All fences, walls and similar structures shall be maintained in good condition. Chipped paint, missing fence pieces, leaning or fallen portions of a fence or other forms of deterioration shall immediately be replaced or repaired.

Replacement of plants may be delayed whenever the Zoning Administrator determines that extenuating circumstances beyond the owner's control prevent the immediate replacement of the dead or unhealthy plants within a time established by the Zoning Administrator. In any event, the dead or salvageable plants shall be replaced within nine (9) months of the time the plants are clearly dead.

21.18.2.3 Existing Vegetation:

If there is no practical alternative in terms of sighting buildings and other development, trees and other plants may be removed.

Significant shrubs, grasses and trees are to be preserved within areas not required for development.

Healthy, younger mature plants shall be preserved which would normally succeed older plants.

Natural vegetation shall be preserved within areas below an ordinary high water mark of a lake, stream or other water body.

Existing vegetation to be preserved shall be protected during construction with barriers as required and approved by the Zoning Administrator.

The application of landscape standards within this Ordinance may be adjusted in part or in whole by the Zoning Administrator to allow credit for established healthy plant material to be retained on or adjacent to the site if such an adjustment is consistent with the intent of this Ordinance.

21.18.2.4 Berms constructed pursuant to Section 21.18.3 shall be constructed with slopes not to exceed one to three (1:3) gradient with side slopes designed and planted to prevent erosion, and with a rounded surface a minimum of two (2) feet in width at the highest point of the berm, extending the length of the berm. Berm slopes shall be protected with sod, seed, shrubs or other form of natural ground cover.

21.18.3 Buffer Yards:

Buffer yards shall be constructed to mitigate problems associated with traffic, noise, vibration, odor, glare, dust, smoke, pollution, water vapor, conflicting land uses and density, height, mass, layout of adjacent uses, loss of privacy, unsightly views and other potentially negative effects of development. Buffering may be achieved using landscape, building fences and berm or a combination of the above techniques.

Buffer yards shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line. Buffer yards shall not be located on any portion of an existing or dedicated public or Private Street or right-of-way.

Tables I and II shall be used to determine buffer yard dimensions and plant materials specifications. Table I is used to determine the type of Buffer yard (A, B, C, D, E, EX, or NA) which will be required between districts or users. Once the type of Buffer yard is obtained, Table II outlines the plant material specifications for alternative widths and specifications and treatments (walls, berms, etc.) of buffer yard. Each property line should be analyzed independently to determine the appropriate buffer yard required.

The buffer yard tables are to be considered minimum standards. Increased landscaping requirements may be imposed by the Zoning Administrator or the Planning Commission if it is determined any of the following conditions exist.

The type of required buffer yard will not sufficiently mitigate noise, glare, fumes, smoke, dust or unsightly views within

the site.

The scale of the project in regard to mass and height indicates the need for a buffer yard developed specifically for the project.

The proposed use is next to an existing sensitive use such as a school, church or residential area.

21.18.4 Roadside Greenbelt Buffers:

Unless as otherwise required by Section 21.18.3, required front yards shall be landscaped with a minimum of one (1) tree, not less than one and one-half (1½) inches in diameter for single family residential uses and two and one half (2½) inches in diameter of other use, for each one thousand (1000) square feet, or major portion thereof, of front yard abutting a road right-of-way. The remainder of the greenbelt shall be landscaped provided however, rock or other inorganic ground cover shall not exceed twenty (20) percent of the yard area.

Access ways from public rights-of-way through required landscaped strips shall be permitted but such access ways shall not be subtracted from the square foot dimension used to determine the minimum number of trees required.

21.18.5 Screening of Unsightly Areas:

Unsightly areas, including but not limited to outside storage areas, utility boxes and open areas where machinery or vehicles are stored or repaired, shall be screened from public sidewalks, streets and other areas from which the property is visible. Such screening shall not be located as to interfere with required maintenance activities of utility boxes.

Whenever plants are used as a screen, they should provide an effective opaque screen within three (3) years of the time they are planted.

The materials and colors of the screen should blend with the site and the surroundings.

21.18.6 Parking Lot Screening:

Unless otherwise required by Section 21.18.3 or 21.18.4, a no-building buffer strip not less than ten (10) feet wide shall be required on the perimeter of all parking lots containing twenty-seven hundred (2,700) square feet or more of parking area where not adjacent to buildings. Said buffer strip shall be used for landscaping, screening or drainage as required herein.

Landscaping design standards:

21.18.6.1 Any required planting strip shall be a minimum of ten (10) feet in width.

21.18.6.2 One (1) street tree shall be planted adjacent to the public right-of-way for each twenty-four (24) lineal feet of frontage. (This requirement shall not duplicate the requirements of Sections 21.18.4 or 21.18.3.)

21.18.6.3 Where screens of non-living material are used, at least one (1) shrub or vine shall be planted on the right-of-way or property line side for each ten (10) lineal feet of screen or fraction thereof.

21.18.6.4 Parking lots with more than two (2) parking aisles shall require landscaped areas of at least ten (10) square feet of interior landscaping for each parking space, interior being defined as the area within the perimeter of the paved surface.

21.18.6.4.1 Landscaped areas shall be a minimum of seventy-five (75) square feet with a minimum dimension of ten (10) feet. Interior landscape areas shall be designed so as to cause minimum interference with snow removal. Each interior landscape area shall include one (1) or more canopy trees based on the provision of one (1) tree per each one hundred (100) square feet of interior landscape area.

***No Buffer Yard Required/See Table I – Existing Tree Buffer – Landscaping Required Along Road Side**

21.18 TABLE I : Planting Buffer Yard

Boundary Zoning District →		R-1	R-2	R-3		RR	FR	AR		B-1	B-2	B-3		MUZ MAIN STREET	MUZ TOWN CENTER		HIGHWAY INTERCHANGE	I INDUSTRIAL
Proposed Development Zoning District																		
R-1		N																
R-2		B	N															
R-3		C	B	N														
RR		C	C	B		N												
FR		C	C	B		B	N											
AR		C	C	C		C	C	N										
B-1		B	B	B		B	B	B		N								
B-2		C	C	B		C	C	C		B	N							
B-3		C	C	C		C	C	C		B	B	N						
MUZ – MAIN STREET		A	A	A		B	C	C		A	A	B		N				
MUZ – TOWN CENTER		A	A	A		B	C	C		A	A	C		A	N			
HIGHWAY INTERCHANGE		C	C	C		C	C	C		B	B	B		B	C		N	
I - INDUSTRIAL		E	E	E		E	D	D		D	C	C		E	E		C	N

Key: N= No buffer yard required /See TABLE II

TABLE II STANDARD PLANT MATERIAL REQUIREMENTS							
Plant Material Requirements				Vegetation Types			
Type	Plant Material Reductions with: 6' Wall	3' Berm	Buffer Width	Canopy Trees	Flowering Trees or Large Shrubs	Shrubs	Evergreens & Conifers
A	.50	.75					
			10'	1	1	4	
			15' or more	1	1	3	
B	.50	.75					
			10'	3	3	6	2
			15' or more	2	2	5	1
C	.65	.80					
			10'	4	3	19	4
			15'	3	2	15	3
			20'	2	2	15	1
			25'	3	2	15	1
			30'	3	2	15	2
			35'	3	2	15	2
			40'	3	2	15	3
D	.75	.85					
			15'	1	4	32	1
			20'	2	4	30	1
			25'	3	4	30	1
			30'	3	5	30	2
			35'	3	5	30	2
			40'	3	5	30	3
			45'	4	6	30	4
E	NA	NA					
			20'	2	4	38	1
			25'	3	4	38	1
			30'	3	5	38	2
			35'	3	5	38	2
			40'	3	5	38	3
			45' or more	5	6	30	4

Minimum width of buffer with masonry wall = ten (10') feet

ALL PLANT QUANTITIES ARE PER ONE HUNDRED (100) LINEAR FEET, less the distance required for vehicle access to the property.

Otsego County Planning Commission

Proposed Minutes for May 20, 2019

FINDINGS UNDER ARTICLE 21 /SECTION 21.19

SECTION 21.19 LIGHTING, OUTDOOR

Outdoor light fixtures are electrically powered illuminating devices, outdoor lighting or reflective surfaces, lamps and similar devices, permanently installed or portable, used for illumination or advertisement. Such devices shall include search, spot and flood lights for buildings and structures, recreation areas, parking lot lighting, landscape lighting, billboards and other signs (advertising or other), street lighting, product display area lighting, building overhangs and open canopies.

All outdoor lighting fixtures including pole mounted or building mounted yard lights, dock lights, and shoreline lights other than decorative residential lighting such as low level lawn lights, shall be subject to the following regulations:

21.19.1 Lighting shall be designed and constructed in such a manner:

21.19.1.1 To insure that direct or directly reflected light is confined to the area needing it and that it is not directed off the property,

21.19.1.2 That all light sources and light lenses are shielded,

21.19.1.3 That any light sources or light lenses are not directly visible from beyond the boundary of the site,

21.19.1.4 That light from any illuminated source shall be so shaded, shielded, or directed that the light intensity or brightness will not be objectionable to surrounding areas.

21.19.2 Lighting fixtures shall be a down-type having one hundred (100) percent cut off. The light rays may not be emitted by the installed fixture at angles above the horizontal plane, as may be certified by photometric test. A United States flag, Michigan flag or a flag of a veteran's organization chartered by the United States Government shall be allowed to have light illuminating them from below

21.19.3 There shall be no blinking, flashing, or fluttering lighting, including changes in light intensity, brightness or color, except that lights may be controlled by a dimmer which can be periodically adjusted for conditions and signs as allowed in 21.38.2.1. Beacon lights are not permitted except where required by law.

21.19.4 No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.

21.19.5 Decorative lights during holiday seasons shall be allowed.

21.19.6 Modification of these outdoor lighting standards may be permitted by the Zoning Board of Appeals for temporary uses of not more than ten (10) days per year, following these provisions as closely as possible.

***Lighting: Security lights – 40W, 4700 Lumen Downward Facing LED Lights on 12' Pole -- SEE Site Plan**

FINDINGS UNDER SECTION 21.37

SECTION 21.27 PARKING

There shall be provided in all districts at the time of erection or enlargement of any main building or structure or use, automobile off-street parking space with adequate access to all spaces.

21.27.1 Off-street parking for other than residential uses shall be either on the same lot or within four hundred (400) feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot.

21.27.2 Any area once designated as required off-street parking shall not be changed to any other use unless and until equal facilities are provided elsewhere.

21.27.3 In the instance of dual function of off-street parking spaces where operating hours of uses do not overlap, the Zoning Board of Appeals may grant an exception by reducing the total number of spaces required.

21.27.4 The storage of merchandise, motor vehicles for sale, trucks, or the repair of vehicles is prohibited on required off-street parking lots.

21.27.5 Residential off-street parking spaces shall consist of a driveway, parking strip, parking bay, garage, carport, or combination thereof.

21.27.6 The parking or storage of any commercial motor vehicle shall be prohibited in any R1, R2 or RR District, or in any residential area with lots of twenty thousand (20,000) square feet or less. (See definition of COMMERCIAL MOTOR VEHICLE.)

21.27.7 For the purpose of computing the number of parking spaces required, the definition of FLOOR AREA, USABLE shall govern.

21.27.8 For those uses not specifically mentioned in the Off-street Parking Schedule, requirements for off-street parking facilities shall be in accord with a use which the Board of Appeals considers as being similar in type.

21.27.9 Entrance drives to the property and off-street parking area shall be no less than twenty-five (25) feet from a street intersection (measured from the road right-of-way) or from the boundary of a different Zoning District. A greater distance may be required by the Planning Commission if the lesser would cause a traffic issue.

21.27.10 Off-street Parking Schedule

The minimum number of off-street parking spaces required by use shall be in accordance with the following schedule:

MINIMUM PARKING SPACES REQUIRED

LAND USE	PER UNIT OF MEASURE
...	
Commercial	
Planned Shopping Center	1 per 200 sq. ft. of usable floor area
Auto Wash-Automatic	5 per wash stall plus 1 per employee
Auto Wash-Automatic-Drive-in	1 for each 2 employees
Auto Wash-Self Service	1 per employee
Barber or Beauty Shop	1 per employee plus 1 per service chair
Dance Hall, Rinks or Assembly Building (no fixed seats)	1 per 3 persons at maximum capacity
Drive-in Business	1 per employee plus drive-in stalls and/or lanes to serve patrons
Banks	1 per 200 sq. ft. of usable floor area
Doctor or Dentist Office	1 per 50 sq. ft. of waiting room plus 1 per service chair
Business Office	1 per 200 sq. ft.
Billiard Hall	2 per game table
Bowling Alley	5 per lane
Taverns	1 per 100 sq. ft. of usable floor area
Restaurants	1 per 3 persons at maximum seating capacity
Drive-up or Drive-through Uses-Restaurant, Banks, Drug Pick-up, Laundries, Payment Windows or other Drive-up Service Windows	In addition to the required parking for the principal use, the Drive-through facilities requirement in Article 18 shall be followed
Furniture, Appliances, Plumbers, Electricians Minor Repair Services	1 per 800 sq. ft. of usable floor area
Vehicle Service Station	2 per service stall, plus 1 per employee
Gasoline Convenience Store	1 per 300 sq. ft. of usable floor area
Laundromat	1 per 3 machines for washing
Funeral Home/Mortuary	1 per 200 sq. ft. of usable floor area

Motels, Hotels, Motor Inns, Cabin Courts, Bed & Breakfast Facilities and Tourist Lodging Facilities	1 per 150 sq. ft. of usable floor area, the Planning Commission may reduce up to half if they reserve land for open space
Vehicle Sales	1 per 200 sq. ft. of showroom usable floor area
Retail Groceries	1 per 150 sq. ft. of usable floor area
Other Retail Stores	1 per 150 sq. ft. of usable floor area
Self-Storage Rental Units	1 per 10 units
Personal Service Establishments	1 per 100 sq. ft. usable floor area not otherwise specified
Museums	1 per 150 sq. ft. of usable floor area
Rental Shops	1 per 200 sq. ft. of usable floor area in addition to a loading and unloading area; and a vehicle turnaround drop-off area
Rifle or Pistol Range	2 per range plus 1 per employee

...

NOTES

a. Sq. ft. refers to square feet of usable floor area unless otherwise noted.

b. 1 unit per measure shall be interpreted to mean 1 per each unit, as 1 per "each" three (3) persons.

c. Space requirements are cumulative; hence, a country club may require parking for the golf use as well as restaurant or bar use.

d. Employees, refers to all permanent staff and part time equivalents in the largest working shift. Maximum capacity is the maximum occupancy permitted by applicable building, fire, or health codes.

21.27.11 Parking Area Design Standards

The layout of off street parking facilities shall be in accord with the following minimum requirements

Parking Pattern	Maneuvering Lane width	Parking Space width	Parking Space length
Parallel	12ft	8ft	23ft
30-53°	12ft	9ft	20ft
54-74°	15ft	9ft	20ft
75-90°	20ft	9ft	20ft

All spaces shall be provided access by maneuvering lanes. Backing directly onto a street shall be prohibited. Adequate ingress and egress to a parking lot by means of clearly defined drives shall be provided for all vehicles. Ingress and egress to a parking lot lying in an area zoned for other than residential use shall not be across land zoned for residential use.

Each entrance and exit to and from any off street parking lot located in an area zoned for other than residential use shall be at least twenty-five (25) feet from adjacent property located in any residential district.

Buffer yards shall be required per standards set by Section 21.18. A buffer yard without buildings shall be required not less than ten (10) feet wide on the perimeter of all parking lots. Said buffer yard shall be uses for landscaping, screening and/or drainage as required by this ordinance.

All parking areas containing twenty-seven hundred (2700) square feet or more shall provide snow storage area. Snow storage shall be provided on the ratio of ten (10) square feet per one hundred (100) square feet of parking area.
Parking area is calculated at two hundred seventy (270) square feet per parking space. Snow storage areas shall be located in such a manner that they do not interfere with the clear visibility of traffic on adjacent streets and driveways.

One (1) street tree shall be planted adjacent to the public right-of-way for each twenty-four (24) lineal feet of frontage.

Parking lots with more than two (2) parking aisles shall require landscaped areas of at least ten (10) square feet of interior landscaping for each parking space, interior being defined as the area within the perimeter of the paved surface.

Landscaped areas shall be a minimum of seventy-five (75) square feet with a minimum dimension of ten (10) feet. Interior landscape areas shall be designed so as to cause minimum interference with snow removal. Each interior landscape area shall

include one (1) or more canopy trees based on the provision of one (1) tree per each one hundred (100) square feet of interior landscape area.

21.27.12 Federal and State requirements regarding handicapped parking and access shall apply.

21.27.13 Where the property owner can demonstrate that the required amount of parking is excessive, the Planning Commission may approve a smaller parking area, provided that the area of sufficient size to meet parking space requirements of this article is retained as open space and the owner agrees to construct the additional parking at the direction of the Planning Commission.

21.27.14 Parking lot cross-connections shall be used in addition to frontage roads or shared driveways, when in the opinion of the Planning Commission, cross-connections do not hinder traffic.

21.27.15 All parking in the Highway Interchange Commercial District shall be in the rear or side yard.

***Parking: Minimum of four (4) Parking Spaces Required**

FINDINGS UNDER SECTION 21.38

Section 21.38
Signs and Billboards
Amended 3.29.2018

Intent:

The sign standards contained in this Ordinance are declared to be necessary to protect the general health, safety, and welfare of the citizens of Otsego County.

It is the intent of this regulation to insure a degree of standardization in signage throughout the county, to insure the safety of pedestrians and motorists who must drive or otherwise negotiate installed signage and motorists who depend on the visibility of a sign's message to safely arrive at an intended destination. Standardization will preserve the aesthetics, appearance and functionality of all installed signage.

Any publicly displayed sign, symbol or notice on premises to indicate the name of the occupant, to advertise the business there transacted, or directing to some other locale, shall be regulated as follows, and shall require permits in accordance with the terms of the County Building Code:

Sign plans shall be reviewed for approval, conditional approval or rejection by the Zoning Administrator. For disagreements with the rulings of the Zoning Administrator, the applicant may appeal to the Zoning Board of Appeals, who in such instances has final authority on the sign plan.

The standards in this Article are determined to be the minimum necessary to achieve the above stated purposes. Compliance with this Section does not relieve the applicant from the responsibility of compliance with other local, state or federal sign regulations, nor does the issuance of a Sign Permit grant permission to the applicant to place signs on any property, including road rights-of-way, other than property owned or otherwise legally under the control of the applicant. The issuance of a Sign Permit only assures the applicant that the sign meets the requirements of the County Zoning Ordinance.

Section 21.38.01
Signs Authorized and Requiring a Permit

All applications for a Sign Permit shall first be submitted to the Zoning Administrator. Before any permit is granted for the erection of a sign or sign structure requiring such permit, construction documents shall be filed with the Zoning Administrator showing the dimensions, materials and required details of construction, including loads, stresses, anchorage and any other pertinent data. The permit application shall be accompanied by the written consent of the owner or lessee of the premises upon which the sign is to be erected and by engineering calculations signed by a registered design professional. The Zoning Administrator may issue such permits when all applicable provisions of this Ordinance have been met.

Section 21.38.01.01
Accessory Signs

Section 21.38.01.01.01
Districts: R1, R2, R3, RR

Number Allowed:	1
Maximum Height:	8 ft.
Measured:	From the average grade at the base of the sign to the top of the sign support.
Maximum Size:	15 sq. ft.

Section 21.38.01.01.02
Districts: AR, FR

Number Allowed:	1
Maximum Height:	8 ft.
Measured:	From the average grade at the base of the sign to the top of the sign support.
Maximum Size:	32 sq. ft.

Section 21.38.01.01.03
Districts: B1, B2, B3, HX, I

Number Allowed:	Two (2) with the following **four (4) regulations**:
Regulation 01:	One (1) sign shall be affixed to or be within 2 feet of and be parallel with the wall of the main building.
Maximum Size:	Signs mounted on and parallel with the wall of the main building shall not exceed a total surface area of 15% of the mounting wall. If a premise contains walls facing more than one property line or encompasses property frontage bounded by more than one street or other property usages, the sign area(s) for each building wall or property frontage will be computed separately for each building wall or property line facing a different frontage. The sign area(s) thus calculated shall be permitted to then be applied to permitted signs placed on each separate wall or property line frontage.
Regulation 02:	One (1) Sign may be a freestanding sign.
Maximum Height:	12 ft.
Maximum Size:	56 sq. ft. and length shall not be longer than three (3) times its width.
Regulation 03:	One (1) Sign may be a pylon sign.
Maximum Height:	35 ft.
Maximum Size:	Sign Specifications must be prepared by a design professional and must comply with any Airport Zoning Ordinance and the Tall Structures Act. Pylon Signs approved and installed before the date of this ordinance change shall be allowed provided they exhibit structural integrity, are safe and well maintained.
Regulation 04:	All businesses may display window signs in ground level windows in addition to any wall signs. Window signs shall not cover more than 20% of the total window area. Where multiple windows are installed, signage may not be aggregated to cover any window 100% restricting all visibility from the interior and exterior. Signage may cover no more than 50% of the window on the horizontal and vertical dimension. Total coverage for multiple window panels will not change.

Section 21.38.01.01.04
Signs for shopping centers or other commercial developments with Two (2) or more units developed as offices, office service units, research facilities, manufacturing facilities, retail spaces with multiple stores, commercial PUD's, large retail stores with a building area over 100,000 sq. ft. or other commercial developments requiring Special Use Approval and which have a common off street parking and a common entrance or entrances may install accessory signs in accordance with the following **six (6) regulations:**

Regulation 01: Signs which direct traffic movement within a property and which do not exceed 4 sq. ft. in area for each sign are permitted.

Regulation 02: One (1) free-standing identification sign for each street that the development faces.

a. The freestanding sign shall state only the name of the shopping center or multiple use development and tenants located therein.
b. No freestanding sign face shall exceed an area of 100 sq. ft.
c. Freestanding signs shall not exceed a height of 30 feet measured from the average grade at the base of the sign to the top of the horizontal sign frame supporting the sign face.
d. Tenants of the shopping center or the owner of outlets included with the development plan or PUD shall not be permitted individual freestanding signs, except gas stations as noted below:

Regulation 03: Businesses within the development or PUD shall be permitted exterior wall signs; the total area of the exterior wall signs shall not exceed 20% of the area of the signage wall.

Regulation 04: All businesses may display window signs in ground level windows in addition to any wall signs. Window signs shall not cover more than 20% of the total window area. Where multiple windows are installed, signage may not be aggregated to cover any window 100% restricting all visibility from the interior and exterior. Signage may cover no more than 50% of the window on the horizontal or vertical dimension.

Regulation 05: An automobile service station located on an outlet or an individual lot within the development or PUD may have 1 freestanding sign in addition to the freestanding sign utilized for the development. The freestanding sign shall be for the purpose of advertising gasoline prices and other services provided on the

premises. The service station sign shall comply with the regulations for a single business on its own lot as noted in Section 21.38.01.01.03 above.

Regulation 06: Signs proposed for installation along MDOT regulated highways designed to advertise a specific business location must be permitted in accordance with current MDOT Regulation 225. A specific time requirement for the developed site is required and is usually 2 years. A business sign is a sign designed to advertise a particular business location rather than being used for general outdoor advertising not necessarily specific to a particular business.

Billboards or signage also referred to as outdoor advertising or outdoor highway advertising are permitted and controlled by MDOT under sections of MDOT Regulation 225. A valid permit and sign approval is required prior to construction of a billboard designed for general outdoor advertising

Section 21.38.02
Non-Accessory Signs and Billboards

Section 21.38.02.01
Billboards, poster boards and non-accessory signs may be permitted in B2, B3 and I Districts provided the area of the sign does not exceed an area of 200 sq. ft. in B2 and B3 Districts and 300 sq. ft. in I Districts. A non-accessory sign or billboard shall not measure longer than 3 times its width.

Signs that come under the jurisdiction of P.A. 106 of 1972 are under the jurisdiction of the Township, if the Township has adopted a sign ordinance.

Section 21.38.03
Sign Lighting (also see Section 21.19 Lighting Outdoor)

Section 21.38.03.01
Signs internally illuminated or with a light emanating surface are allowed only in the RR, FR, AR, B1, B2, B3, I, HX, MUZ-Main Street and MUZ-Town Center Districts provided they meet the other requirements of this ordinance and are set back a minimum of 10 feet from all road right-of-ways and 75 feet from any other property line.

Signs internally illuminated or if sign has a light emanating surface. All light sources and reflecting surfaces immediately adjacent to the light source shall be shielded from view. Sign luminance level, beginning 1 hour after sunrise and continuing until 1 hour before sunset, shall not exceed (10278 Lumens) (685W Incandescent light bulb) (114W Florescent/LED) per square meter, or does not exceed (342 Lumens) (25W Incandescent light bulb)(6.23W Florescent/LED) per square meter at all other times.

Signs that are externally illuminated shall have the light mounted on top of the sign, shall be directed downward onto the sign and shall be shielded so as to prevent rays of light from being directed such that reflected luminance does not exceed (342 Lumens) (25W Incandescent light bulb)(6.23W Florescent/LED) per square meter.

Section 21.38.04
Signs Prohibited

Section 21.38.04.01 No signs or sign structure shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision, nor at any location where by its position, shape or color it may interfere with or obstruct the view of or be confused with any authorized traffic sign, signal or device.

Section 21.38.04.02 No signs shall be attached to any utility pole, light standard, street tree or any other public facility located within the public right-of-way.

Section 21.38.04.03 No signs which blink, flash or are animated by lighting in any fashion that would cause such signs to have the appearance of traffic safety signs and lights, or municipal vehicle warnings from a distance.

Section 21.38.04.04 No signs containing flashing, intermittent or moving lights.(A sign with messages or images accomplished by instantaneous re-pixilation not more often than 1 time in 60 seconds shall not be considered flashing, intermittent or moving and shall be allowed.)

Section 21.38.04.05 No signs with moving or revolving parts.

Section 21.38.04.06 No signs attached to, or placed on, a vehicle or trailer parked on public or private property, except for signs meeting the following **three (3) Regulations**:

Regulation 01: The primary purpose of such a vehicle or trailer is not the display of signs.

Regulation 02: The signs are magnetic, decals or painted upon an integral part of the vehicle or equipment as originally designed by the manufacturer, and does not break the silhouette of the vehicle.

Regulation 03: The vehicle or trailer is in operating condition, currently registered and licensed to operate on public streets where applicable, and actively used or available for use in the daily function of the business to which such signs relate.

Section 21.38.04.07 Vehicles and trailers are not to be used primarily as static displays, advertising a product or service, nor utilized as storage, shelter or distribution points for commercial products or services for the general public.

Section 21.38.04.08 A sign that no longer advertises or identifies a use conducted on the property on which said sign is erected must have the sign covered or removed within 14 days after written notification from the Zoning Administrator.

Section 21.38.05
Signs Authorized and Not Requiring a Permit

Section 21.38.05.01 Official notices, authorized by a court, public body or public safety official
Section 21.38.05.02 Directional, warning or information signs authorized by federal, state or municipal governments
Section 21.38.05.03 Memorial plaques, building identification signs and building cornerstones where cut or carved into a masonry surface or where made of noncombustible material and made an integral part of the building or structure.
Section 21.38.05.04 The flag of a government or noncommercial institution, such as a school.
Section 21.38.05.05 Religious symbols and seasonal decorations within the appropriate public holiday season
Section 21.38.05.06 Works of fine art displayed in conjunction with a commercial enterprise where the enterprise does not receive direct commercial gain
Section 21.38.05.07 Street address signs and combination nameplate and street address signs that contain no advertising copy and which do not exceed 6 sq. ft. in area
Section 21.38.05.08 The changing or maintenance or components of an approved existing sign that is designed for such changes, or the changing of copy, business names, lettering, sign faces, colors, display and/or graphic matter, or the content of any sign shall not be deemed a structural alteration.
Section 21.38.05.09 Bulletin Boards that do not exceed 15 sq. ft. for churches, public and semi-public institutions and/or school
Section 21.38.05.10 Temporary signs not exceeding 10 sq. ft. advertising a premises being for rent, for lease and/or for sale in any district All such signs shall be removed within 14 days of the consummated lease or sale of the premises.
Section 21.38.05.11 Accessory directional signs affixed to the building and not exceeding 2 sq. ft., such as but not necessarily limited to: Boiler Room, Entrance, Exit, Garage, Loading Dock, Low Clearance, Office, Service, Warehouse and the like.
Section 21.38.05.12 Maximum of 2 accessory properties directional signs each not to exceed 2 sq. ft .identifying or directing to the following: Entrance, Exit, No Parking, Visitors Parking, Other Traffic Flow Directions, and similar Functional Signs
Section 21.38.05.13 Temporary advertising banners that are flexible (made of canvas, plastic composite etc.) meant to be attached to a fixed commercial building structure which is currently occupied. All banners may not exceed 32 sq. ft. and must be maintained in good condition while displayed.
Section 21.38.05.14 Political signs shall be permitted in all zoning districts with the following **three (3) Regulations**:

Regulation 01: Such signs shall follow the Accessory Signs restrictions as it relates to each individual Zoning District.
Regulation 02: Such signs for election candidate or ballot propositions shall be displayed only for a period of 60 days preceding the election and shall be removed within 10 days after the election, provided that signs promoting successful candidates or ballot propositions in a primary election may remain displayed until not more than 10 days after the general election.
Regulation 03: Such signs shall not be placed in any public right-of-way or obstruct traffic visibility.

Section 21.38.06
Placement of Signs and Setbacks

Section 21.38.06.01
Signs in rights-of-way
No sign other than an official traffic sign shall be erected within any public right-of-way unless specifically authorized by other ordinances or regulations of this jurisdiction or by specific authorization of the code official.
Section 21.38.06.02
Sign and Setbacks
Signs in any zoning district must be placed at least 2 feet back from any right of way and any lot line.

Section 21.38.07
Off-Premises Directory Sign – Private

Section 21.38.07.01
Where a business use or tourist service facility is not located directly on a major tourist route but is dependent upon passerby traffic for support, one (1) off-premises directory sign located on a county maintained road may be permit in business or non-business districts, on each road or link or segment of road that affords access to the use but entails a major change in the direction of travel.

Off-premises Directory signs shall not exceed an area of 15 sq. ft. Community directional signs serving more than one (1) use may be permitted to a maximum size of 32 sq. ft.

Section 21.38.08
Approval Authority

Section 21.38.08.01
The Zoning Administrator shall review and act upon site plans except where a Special Use Permit is required. Site Plans for a Special Use Permit shall be forwarded by the Zoning Administrator to the Planning Commission for review and action. In addition, at the request of the Zoning Administrator or Planning Commission, a site plan for a Principal Permitted Use may be submitted for Planning Commission review before final action by the Zoning Administrator. The Zoning Administrator and Planning Commission have the authority to approve, deny or grant conditional approval for any site plan submitted under the provisions of this ordinance. The Zoning Administrator may hold or the Planning Commission may table a site plan, pending further information or addition, reasonably needed to complete a site plan or comply with requirements of this Ordinance

***Signage: 2 - 2'x4' Signs at Entrance**

FINDINGS UNDER SECTION 21.42

SECTION 21.42 TRASH RECEPTACLES/DUMPSTERS

21.42.1 Residential Trash Receptacles shall be placed at curbside no earlier than twenty-four (24) hours from the scheduled pick-up day. Any trash receptacle placed at curb side shall be removed from curb side no later than twenty-four (24) hours after the scheduled pick-up day.

21.42.2 Commercial Trash Receptacles / Dumpsters may be placed upon a parcel of land in such a manner to facilitate loading and unloading. They may be placed no closer than ten (10) feet to any adjoining property. All Trash Receptacles shall be properly maintained with working lids and the lids shall be maintained in a closed position.

21.42.2.1 During the site plan review process the Planning Commission or Zoning Administrator may require Commercial Businesses abutting land zoned Residential (R1, R2, R3, RR) or existing residential development in other zoning districts (HX) to maintain a greater setback than ten (10) feet but in no case shall the required setback be greater than twenty five (25) feet.

21.42.3 Temporary Commercial Construction Dumpsters are exempt from these regulations.

21.42.4 Trash Receptacles / Dumpsters meeting the requirements of Sections 21.42.1, 21.42.2 & 21.42.3 shall not be considered unsightly areas as covered in Section 21.18.5.

***Trash Receptacle: No Trash Receptacle on Site**

FINDINGS UNDER SECTION 21.43

SECTION 21.43 UNDERGROUND UTILITY WIRES

Within the area of a plat or site plan, all distribution lines for electric, communications or similar associated services shall be placed underground. Those electric and communication facilities placed in dedicated public ways shall be installed so as not to conflict with other underground utilities. All communication and electric facilities shall be constructed in accordance with standards of construction approved by the Michigan Public Service Commission. All underground utility installations which traverse privately-owned property shall be protected by easements granted by the owner of such property.

The Planning Commission may, by resolution, waive or modify any of the above requirements for underground line installations with respect to a particular plat or site plan when the strict application of the above requirements would result in unnecessary hardship. Prior to any such waiver or modification, a public hearing regarding the proposal shall be held by the Planning Commission.

***Underground Utilities: Electrical for Lighting Only**

FINDINGS UNDER ARTICLE 23

ARTICLE 23 SITE PLAN REVIEW

Site Plan Review and approval of all development proposals listed below is required by the provisions of this Article. The intent of this Article is to provide for consultation and cooperation between the land developer and the Zoning Administrator so that beneficial utilization of the land is achieved at the same time that adverse effects upon the surrounding land uses are minimized consistent with the requirements and purposes of this Ordinance. Through the application of the following provisions, the attainment of the Comprehensive Plan of Otsego County will be assured and its communities will develop in an orderly fashion.

SECTION 23.1 SITE PLAN REVIEW REQUIRED

Site plan review is required for the following uses:

23.1.1 Any use or development for which the submission of a site plan is required by any provision of this Ordinance.

23.1.2 Any development for which off-street parking areas in excess of five (5) spaces are provided as required in this Ordinance.

Any use in a B1, B2, B3 and Industrial zone.

Any Special Land Use (See Article 19).

(Note: An application for a zoning permit for a land use not requiring Site Plan Review shall contain a Plot Plan as outlined in Article 25.3.3.)

SECTION 23.2 APPLICATIONS FOR SITE PLAN REVIEW

An application for site plan review shall be obtained from the Zoning Administrator. The completed application and site plan shall be submitted to the Zoning Administrator along with fifteen (15) copies of each for distribution. The application, site plan and copies shall be submitted at least thirty (30) days prior to the next regularly scheduled meeting of the Planning Commission, in order to have the site plan review scheduled for that meeting. The applicant shall also meet requirements of Article 27 Township Participation in County Zoning. The application for site plan review and the site plan shall contain the following information:

23.2.1 The application shall, at a minimum, include the following information:

23.2.1.1 The applicant's name, address and phone number in full

23.2.1.2 Proof of property ownership and whether there are any options on the property or any liens against it

23.2.1.3 A signed statement that the applicant is the owner of the property or officially acting on the owner's behalf

23.2.1.4 The name and address of the owner(s) of record if the applicant is not the owner of record (or firm or corporation having a legal or equitable interest in the land), and the signature of the owner(s)

23.2.1.5 The address and or parcel number of the property

23.2.1.6 Name and address of the developer (if different from the applicant)

23.2.1.7 Name and address of the engineer, architect and/or land surveyor

23.2.1.8 Project title

23.2.1.9 Project description, including the total number of structures, units, bedrooms, offices, square feet, total and usable floor area, parking spaces, carports or garages, employees by shift, amount of recreation and open space, type of recreation facilities to be provided and related information as pertinent or otherwise required by the ordinance

23.2.1.10. A vicinity map drawn to with North point indicated

23.2.1.11. The gross and net acreage of all parcels in the project

23.2.1.12. Land uses, zoning classification and existing structures on the subject parcel and adjoining parcels

23.2.1.13. Project completion schedule/development phases

23.2.2 The site plan shall consist of an accurate, reproducible drawing at a scale of 1"= 50 or fewer feet or less for sites of less than three (3) acres and 1"= 100 or fewer feet or less if the site is larger than three (3) acres. The site plan shall show the site and all land within fifty (50) feet of the site. If multiple sheets are used, each shall be labeled and the preparer identified. All site plans shall be sealed by a professional engineer, surveyor, architect or landscape architect and each site plan shall depict the following:

23.2.2.1 Location of proposed and/or existing property lines, dimensions, legal descriptions, setback lines, monument locations and shoreland and natural river district, if any

23.2.2.2 Existing topographic elevations and proposed grades in sufficient detail to determine direction of drainage flows

23.2.2.3 The type of existing soils at proposed storm water detention and retention basins and/or other areas of concern - Boring logs may be required if necessary to determine site suitability.

23.2.2.4 Location and type of significant existing vegetation

23.2.2.5 Location and elevations of existing water courses and water bodies, including county drains and man-made surface drainage ways, flood plains and wetlands within fifty (50) feet of the parcel

23.2.2.6 Location of existing and proposed buildings and intended uses thereof as well as the length, width, and height of each building and typical elevation views of proposed structures

23.2.2.7 Proposed location of accessory structures, buildings and uses, including all flagpoles, light poles, bulkheads, docks, storage sheds, transformers, air conditioners, generators and similar equipment, and the method of screening where applicable

23.2.2.8 Location of existing public roads, rights-of-way and private easements of record and abutting streets - Notation of existing traffic counts and trip generation estimates may be required if deemed appropriate by the Zoning Administrator or Planning Commission.

23.2.2.9 Location of and dimensions of proposed streets, drives, curb cuts and access easements, as well as acceleration, deceleration and passing lanes (if any) serving the development -
Details of entryway and sign locations shall be separately depicted with an elevation view.

23.2.2.10 Location, design, and dimensions of existing and/or proposed curbing, barrier free access, carports, parking areas (including indication of all spaces and method of surfacing) and fire lanes

23.2.2.11 Location, size and characteristics of all loading and unloading areas

23.2.2.12 Location and design of all sidewalks, walkways, bicycle paths and areas for public use

23.2.2.13 Location of water supply lines and/or wells, including fire hydrants and shut off valves and the location and design of storm sewers, retention or detention ponds, waste water lines, clean-out locations, connection points and treatment systems, including septic systems if applicable

23.2.2.14 Location of all other utilities on the site including natural gas, electric, cable TV, telephone and steam

23.2.2.15 Proposed location, dimensions and details of common open spaces and common facilities such as community buildings or swimming pools if applicable

23.2.2.16 Location, size and specifications of all signs and advertising features with elevation views from front and side

23.2.2.17 Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be used

23.2.2.18 Location and specifications for all fences, walls and other screening features with elevation views from front and side

23.2.2.19 Location and specifications for all proposed perimeter and internal landscaping and other buffering features - For each new landscape material, the proposed size at the time of planting must be indicated. All vegetation to be retained on the site must also be indicated, as well as its typical size by general location or range of sizes as appropriate.

23.2.2.20 Location, size of all trash receptacles and other solid waste disposal facilities

23.2.2.21 Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials or hazardous materials as well as any containment structures or clear zones required by government authorities.

23.2.2.22 Identification of any significant site amenities or unique natural features

23.2.2.23 Identification of any significant views onto or from the site to or from adjoining areas

23.2.2.24 North arrow, scale and date of original submittal and last revision

23.2.2.25 Seal of the registered engineer, architect, landscape architect, surveyor or planner who prepared the site plan

All site plans shall be sealed by a professional engineer, surveyor, architect or landscape architect. In the immediate area of the seal there shall also be the following statement, signed by the professional sealing the plans:

I do hereby certify that these plans have been prepared under my sustained review and, to the best of my professional knowledge, understanding and information; the design of this project is in compliance with the Otsego County Zoning Ordinance dated _____.

Or

I do hereby certify that these plans have been prepared under my sustained review and, to the best of my professional knowledge, understanding and information, the design of this project is in compliance with the Otsego County Zoning Ordinance dated _____, except for the following items: (list known variations from the ordinance)

23.2.3 All projects requiring a site plan shall also require that the professional in charge of the project inspect and certify that the project has been constructed in accordance with the approved plans. The following format shall be used:

FORM FOR CONSULTANT'S CERTIFICATE

Date_____

Project name_____

Section _____, T____N, R____W, _____Township,

Otsego County, Michigan.

I hereby certify that construction of

_____

is complete and that:

1. I have personally directed the supervision or inspection of the construction.

2. To the best of my professional knowledge, understanding and information, all improvements to date have been installed in accordance with the special use permit.

3. The project meets all requirements of the Otsego County Zoning Ordinance.

Signed_____

Registered Professional Engineer (or Surveyor, Architect or Landscape Architect)

(seal)

23.2.4 The Planning Commission or Zoning Administrator may waive any site plan submittal requirement when any of the following circumstances are found to be in existence:

23.2.4.1 The data will serve no useful purpose. Circumstances have not significantly changed on the property since the last time detailed information on the site was submitted. Another reasonable circumstance or condition exists (not including the cost of complying).

23.2.5 Application fees must be paid when the application is submitted and sufficient escrow accounts may be established to cover the projected review costs.

SECTION 23.3 PRE-APPLICATION CONFERENCE

A pre-application conference is not mandatory, but it is strongly advised. During this conceptual review phase, a generalized site plan is presented by a prospective applicant for consideration of the overall idea of the development. Basic questions of use, density, integration with existing development in the area and impacts on and the availability of public infrastructure are discussed. This conference is scheduled by a prospective applicant with the Zoning Administrator and such other representatives as described in the Planning Commission bylaws. At this meeting the applicant or his/her representative is also presented with the applicable procedures required by the Ordinance for approval of the proposed development and with any special problems or steps that might have to be followed, such as requests to the Board of Appeals for a variance. There is no charge or fee to the applicant for this meeting.

SECTION 23.4 AGENCY REVIEW

The applicant shall submit a copy of required site plans and a blank comment form supplied by the Otsego County Zoning Administrator to designated Federal, State and Local agencies and departments for review as determined and requested by the Planning Commission or Zoning Administrator.

The applicant may be requested to submit site plans to one or more of the following agencies: the Otsego County Road Commission; the Michigan Department of Transportation; the Michigan State Police, the Otsego County Sheriff; the Otsego County Conservation District; the District Health Department; the Fire Department having jurisdiction; the Michigan Department of Natural Resources; the Michigan Department of Environmental Quality; the Otsego County Airport; or any other agency or department deemed necessary. After delivery of the application, site plans and comment forms the applicant should submit proof of delivery to the Otsego County Zoning Administrator. Comments not received from reviewing agencies by the Zoning Administrator within fifteen (15) of days of delivery shall be considered approved without comment.

SECTION 23.5 APPROVAL AUTHORITY

The Zoning Administrator shall review the application and information submitted to determine if all required information was supplied. If he/she determines that all required information has not been supplied, a written notification to the applicant will be sent, citing the deficiencies. The application for site plan review cannot proceed until all requirements have been satisfied.

The Zoning Administrator shall review and act upon site plans except where a Special Use Permit is required. Site plans for Special Use Permit shall be forwarded by the Zoning Administrator to the Planning Commission for review and action. In addition, at the request of the Zoning Administrator or Planning Commission, a site plan for a Principal Permitted Use may be submitted for Planning Commission review before final action by the Zoning Administrator. The Zoning Administrator and Planning Commission have the authority to approve, deny or grant conditional approval for any site plan submitted under the provisions of this ordinance. The Zoning Administrator may hold or the Planning Commission may table a site plan, pending further information or addition, reasonably needed to complete a site plan or comply with requirements of this Ordinance.

SECTION 23.6 CONDITIONAL APPROVALS

23.6.1 The Planning Commission or Zoning Administrator may condition approval of a site plan on conformance with the standards of this ordinance.

23.6.2 The Planning Commission or Zoning Administrator may condition approval of a site plan on conformance with the standards of another local, county or state agency, including a Water and Sewer Department, County Drain Commission, County Road Commission, State Highway Commission or Natural Resources Department. They may do so when such conditions:

23.6.2.1 Would insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity;

23.6.2.2 Would protect the natural environment and conserve natural resources and energy;

23.6.2.3 Would insure compatibility with adjacent uses of land, and would promote the use of land in a socially and economically desirable manner.

23.6.3 The Planning Commission and/or Zoning Administrator may conditionally approve a site plan on conformance with fencing, screening, buffering or landscaping requirements of Article 21.10 and 21.18of this Ordinance and may collect a performance guarantee consistent with the requirements of Article 23.8, to insure conformance. When so doing, the following finding shall be made and documented as part of the review process:

23.6.3.1 That such fencing, screening, buffering or landscaping would mitigate negative effects of noise, dust, lighting, vehicular or pedestrian traffic, loading or unloading, parking or other similar impact on adjoining parcels;

23.6.3.2 that absent such conditions, the development would adversely affect the reasonable use, enjoyment and value of adjoining lands in light of similar benefits enjoyed by other properties in the area.

SECTION 23.7 DISTRIBUTION OF APPROVED SITE PLAN

When a site plan is reviewed and approved or disapproved by the Planning Commission or Zoning Administrator, and all steps completed, two (2) copies of the site plan will be marked by the Planning Commission for the following distribution.

23.7.1.1 One (1) copy returned to the applicant signed by the Chairperson of the Planning Commission or by the Zoning Administrator including any conditions of approval.

23.7.1.2 One (1) copy forwarded to the Zoning Administrator including any conditions of approval.

SECTION 23.8 CONFORMITY TO APPROVED SITE PLAN REQUIRED

Following final approval of a site plan by the Zoning Administrator or the Planning Commission, the applicant shall construct the site plan improvements in complete conformity with the approved plan.

Failure to do so is a violation of this ordinance and subject to the sanctions provided herein.

SECTION 23.9 SITE PLAN EXPIRATION AND REVOCATION

23.9.1 Failure to initiate construction of an approved site plan within three hundred sixty-five (365) days of approval shall require the applicant to appear before the Planning Commission and demonstrate why the approval should not be revoked. After this appearance the Planning Commission may revoke a previously approved site plan for property on which no physical development activity has occurred upon making written findings that one or more of the following circumstances exist:

23.9.1.1 An error in the original approval is discovered either because of inaccurate information supplied by the applicant or administrative error by a staff member or other agency;

23.9.1.2 Zoning regulations applicable to the project have been changed and the previously approved site plan does not comply with them;

23.9.1.3 A change in state law, local charter, or other local ordinance affecting the previous approval has occurred;

23.9.1.4 Pollution, impairment or destruction of the environment or to another legally protected public interest would occur if the project were to be constructed as previously approved.

23.9.2 Thirty (30) days prior to expiration of an approved site plan, an applicant may make application for a one year extension of the site plan at no fee. The applicant shall explain in writing why the development has not proceeded, what the current time frame is and why an extension should be granted. If the original approval of the site plan was by the Planning Commission, the applicant shall present his/her case in person or by representative at the next meeting of the Planning Commission.

23.9.3 Revocation of an approved site plan shall be communicated in writing by certified mail to the property owner. The Building Inspector shall also be notified to withhold any building permit until a new site plan is approved.

23.9.4 Any subsequent re-submittal shall be processed as a new request with new fees, except for minor amendments pursuant to Subsection 23.11 below.

SECTION 23.10 PERFORMANCE GUARANTEE REQUIRED

In the interest of insuring compliance with the Zoning Ordinance provisions, protecting the natural resources and the health, safety and welfare of the residents of Otsego County and future users or inhabitants of an area for which a site plan for a proposed use has been submitted, the Planning Commission or Zoning Administrator may require the applicant to deposit a performance guarantee as regulated by Article 25.6. The purpose of the performance guarantee is to insure completion of improvements connected with the proposed use as required by this Ordinance, including, roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls, landscaping and any other required improvements.

SECTION 23.11 MINOR AMENDMENTS TO APPROVED SITE PLANS

Minor Amendments to a site plan may be approved by the Zoning Administrator provided that such changes conform to the Zoning Ordinance and the applicant agrees. No additional fees will be charged for minor amendments. Minor changes to an approved site plan may be approved by the Zoning Administrator before or after construction has begun provided no such change results in any of the following:

23.11.1.1 A change in the use or character of the development

23.11.1.2 An increase in overall coverage of structures

23.11.1.3 An increase in the intensity of use

23.11.1.4 A reduction in required open space

23.11.1.5 A reduction in required off-street parking and loading

23.11.1.6 A reduction in required pavement widths or utility pipe sizes

23.11.1.7 An increase in traffic on public streets or an increase in the burden on public utilities or services

23.11.2 The following are minor amendments:

23.11.2.1 Moving building walls within the confines of the smallest rectangle that would have enclosed each original approved building(s) - Relocation of building entrances or exits, or shortening of building canopies

23.11.2.2 The changing to a more restricted use provided there is no reduction in the amount of off-street parking as originally provided

23.11.2.3 Changing the angle of parking or aisle width provided there is no reduction in the amount of required off-street parking or a reduction of aisle width below ordinance requirements

23.11.2.4 Moving of ingress and egress drives a distance of not more than one hundred (100) feet if required by the appropriate state, county or other local road authority with jurisdiction

23.11.2.5 Substituting landscape plan species provided a nurseryman, landscape architect, engineer or architect certifies the substituted species is similar in nature and screening effects

23.11.2.6 Change type and design of lighting fixtures provided an engineer or architect certifies there will be no change in the intensity of light at the property boundary

23.11.2.7 Increase peripheral yards

23.11.2.8 Changing the location of an exterior building wall or location not more than ten (10) feet because of a natural impediment or hazard such as bedrock or muck soils, provided that in so doing no setback requirement of the Ordinance is violated and no significant reduction in safety or in the amount of open space is thereby affected

23.11.3 If a proposed amendment to an approved site plan does not qualify as a minor change, a new site plan and application and fees in accordance with the provisions of Article 23 must be submitted. This provision is not to be construed to prohibit phased development of a project, provided that each phase is developed in accordance with an approved site plan.

FINDINGS UNDER ARTICLE 19/PERMITTED USES SUBJECT TO SPECIAL CONDITIONS:

19.7.1 The property subject to the application is located in a zoning district in which the proposed special land use is allowed.
HAS – HAS NOT BEEN MET

19.7.2 The proposed special land use will not involve uses, activities, processes, materials or equipment that will create a substantially negative impact on the natural resources of the county or the natural environment as a whole.
HAS – HAS NOT BEEN MET

19.7.3 The proposed special land use will not involve uses, activities, processes, materials or equipment that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors or the accumulation of scrap material that can be seen from any public highway or seen from any adjoining land owned by another person.
HAS – HAS NOT BEEN MET

19.7.4 The proposed special land used will be designed, constructed, operated and maintained so as not to diminish the opportunity for the surrounding properties to be used and developed as zoned.
HAS – HAS NOT BEEN MET

19.7.5 The proposed special land use will not place demands on fire, police or other public resources in excess of current capacity.
HAS – HAS NOT BEEN MET

19.7.6 The proposed special land use will be adequately served by public or private streets, water and sewer facilities and refuse collection and disposal services.
HAS – HAS NOT BEEN MET

19.7.7 If the proposed special land use includes more than fifteen thousand (15,000) square feet of impervious surface, then the storm water management system employed by the use shall (i) preserve the natural drainage characteristics of the site and enhance the aesthetics of the site to the extent possible, (ii) employ storm water disposal through evaporation and infiltration when reasonably possible, (iii) shall not discharge storm water directly to wetlands or surface waters unless there is no other prudent or reasonably feasible means of discharge, (iv) shall not serve to increase the quantity no rate of discharge leaving the property based on 25-year storm criteria, (v) shall be designed using Best Management Practices identified by the DNR or its successor agency, and (vi) shall identify the party responsible for maintenance of the storm water management system.
HAS – HAS NOT BEEN MET

19.7.8 The proposed special land use complies with all specific standards required under this Ordinance applicable to it.
HAS – HAS NOT BEEN MET

SECTION 19.8 - CONDITIONS

The Planning Commission may attach reasonable conditions to the approval of a special use permit. These conditions may include those necessary to insure that public services and facilities affected by a proposed special land use will be capable of accommodating increased service and facility loads caused by the special land use, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all the following requirements.

19.8.1 Be designed to protect natural resources, the health, safety and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed special land use and the community as a whole.

19.8.2 Be related to the valid exercise of the police power and purposes which are affected by the proposed special land use.

19.8.3 Be necessary to meet the intent and purpose of the zoning ordinance, be rated to the standards established in the ordinance for the special land use under consideration and be necessary to insure compliance with those standards.

*** Motion made by Mr. Hartmann to approve PZSU19-003 for construction of storage units in Corwith Township with the following conditions: 1) Storm water discharged away from Old 27 N 2) Site lighting photo metrics 3) Building elevation; Seconded by Mrs. Norton.

Motion approved unanimously.

ATTACHMENT 4:

OTSEGO COUNTY
PLANNING COMMISSION

PZSU18-004
Special Use Permit/Site Plan Review
080-006-300-010-01

GENERAL FINDINGS OF FACT

1. This is a proposal for a new mining operation. *Exhibit #1, Exhibit #5, Exhibit #6*

2. The property is located in an AR/Agricultural Resource Zoning District. *Exhibit #2*

3. The proposed use is a permitted use subject to special conditions in an AR/Agricultural Resource Zoning District. *Exhibit #3*

4. The property is currently under the ownership of Thomas and Cynthia Prusakiewicz *Exhibit #4*

5. A Purchase Agreement between Prusakiewicz, owners and J&N LLC, applicant is in place to purchase product removed from the land. *Exhibit #7*

6. A Restoration Plan is in place to restore the property to its original condition. *Exhibit #6*

7. The Public Hearing Notice was published in the Herald Times on March 29, 2019. *Exhibit #8*

8. The requirements of Article 27 of the Otsego County Zoning Ordinance have been met. *Exhibit #9, Exhibit #10*

9. All property owners within three hundred (300') feet were properly notified of the public hearing. *Exhibit #11*

10. The Planning Commission has the authority to approve a Special Land Use request after review and compliance with the Otsego County Zoning Ordinance. (Section 19.7) *Exhibit #3*

11. The required fees have been collected by Otsego County Land Use Services. *Exhibit #12*

12. The site plan requirements of Article 23 have been reviewed by Otsego County Land Use and all requirements pertaining to the proposed development have been addressed by the Applicant. *Exhibit #5, Exhibit #6,* Exhibit #7, *Exhibit #13, Exhibit #14...*

13. A signed statement dated April 3, 2019 from the property owner approving the Restoration Plan has been received. *Exhibit #19*

14. Section 125.3205 of the Michigan Zoning Enabling Act (PA 110 of 2006) restricts local zoning authority to specific aspects of the extraction (mining) of natural resources (e.g., gravel, sand and similar pits). Zoning regulations cannot prevent the extraction of natural resources unless "very serious consequences" would occur. *Exhibit #20*

OTSEGO COUNTY
PLANNING COMMISSION

PZSU18-004

Special Use Permit/Site Plan Review

080-006-300-010-01

SPECIFIC FINDINGS OF FACT

FINDINGS UNDER ARTICLE 9/SECTION 9.2

ARTICLE 9 AR AGRICULTURAL RESOURCE DISTRICT

SECTION 9.2 PERMITTED USES SUBJECT TO SPECIAL CONDITIONS
The following uses may be permitted, subject to the conditions herein imposed for each use, the review standards of Article 19 and only after the review and approval of the site plan by the Planning Commission. [See Article 21 for applicable Specific Requirements for Certain Uses, if any and Article 23 for Site Plan Requirements.]

9.2.1 Public and private parks, recreational facilities and public or private non-profit schools offering courses in general education when the use is not, to the extent practical, placed on soils predominantly rated as having high agricultural productivity in comparison with other farm land in Otsego County

9.2.2 Recreation farms, dude ranches (so called) and sportsmen's clubs provided the farm land base remains essentially intact, that the number of new and/or expanded buildings be limited in scale, in so far as is practical, to that typical of a farm, and further, no activities shall cause the depletion or erosion of agricultural soils (dust, vehicle tracks, stream bank breakdown, etc.)

9.2.3 Permanent forest industries, including permanent sawmills, planing mills, veneer mills and related operations, provided:

9.2.3.1 There is a complete clean-up of discarded wastes following the cessation of activity

9.2.3.2 There are no nuisances imposed upon tourist service facilities or outdoor recreation uses in the immediate vicinity

9.2.3.3 The site of the proposed use encompasses an area of at least five (5) acres

9.2.4 Auction yards for livestock and/or agricultural equipment with accessory buildings on a minimum forty (40) acres site with a minimum width of six hundred (600) feet, provided that there is no nuisance imposed upon the surrounding farms or dwellings

9.2.5 Commercial outdoor sport and recreational facilities, outdoor musical entertainment

9.2.6 Driving ranges

9.2.7 Game preserves

9.2.8 Gasoline stations with or without store

9.2.9 Detention facilities

9.2.10 Shooting ranges (outdoor)

9.2.11 Recreation camps, resorts or housekeeping units

9.2.12 Restaurants and/or taverns (without drive-through service)

9.2.13 Dog grooming and kennel facilities [Permit criteria include Article 21.45]

9.2.14 Golf courses and country clubs [Refer to Articles 4.2.5 and 21.11]

9.2.15 Hunt clubs (commercial)

9.2.16 Airport with appurtenant facilities, when approved by the Planning Commission after a hearing, provided the operating characteristics are deemed not to conflict with wildlife habitat areas, wilderness areas, housing areas, and facilities or uses having high concentrations of people (schools, hospitals, etc.)

9.2.17 Surface mining of gravel, sand, clay, topsoil or marl [See Article 21.25 for criteria]

...

Otsego County Planning Commission

Proposed Minutes for May 20, 2019

FINDINGS UNDER ARTICLE 21 /SECTION 21.25

SECTION 21.25 MINING, GRAVEL, SAND, CLAY, TOP SOIL, and MARL

Allowed as a use Subject to Special Conditions in the (AR), (FR) and (I) zoning districts:
The Michigan Zoning Enabling Act, Act 110 of 2006, may allow this Use in other Zoning Districts:

21.25.1 Site Development Requirements/Restrictions:
The following Site Development Requirements shall be followed:

21.25.1.1 The site size shall be a minimum of ten (10) acres.

Setback Area: Setbacks in which no part of the mining operation may take place excepting ingress and egress shall be as follows:

Excavation below the existing grade of adjacent roads or property lines shall not take place within fifty (50) feet from any adjacent property line or road right-of-way line. This shall include any sloping during the reclamation of the site.

No machinery shall be erected or maintained within one hundred (100) feet of any property or road right-of-way line.

On any site that is adjacent to lakes, rivers, streams or flowages of water that appear on most Geological Survey Quadrangle maps, the Otsego County Planning Commission reserves the right to increase the minimum set-back from the ordinary high water mark, to a distance greater than fifty (50) feet to ensure the maintenance of safe healthy conditions on the shorelands within Otsego County.

21.25.1.2 The area permitted for mining shall be marked with stakes or other markers as approved by the zoning administrator at all corners before the operation commences, and shall be maintained until the reclamation is approved in writing by the zoning administrator.

21.25.1.3 Sufficient native topsoil shall be left on the site as a ready resource to be used in reclamation work following excavation/extraction activity, unless an alternative or replacement plan is approved by the Planning Commission.

τ21.25.1.4 Physical isolation from residential properties shall be considered in locating development facilities. Topography, vegetation, screening devices and earth stockpiles may be used to accomplish this.

21.25.1.5 If necessary to protect the welfare of surrounding properties the access routes serving the site may be specified by the Planning Commission with input from the Otsego County Road Commission.

21.25.1.6 All structures, equipment and machinery shall be considered temporary and shall be removed upon completion of the mining, excavation, extraction or filling. Items not related to the operation shall not be stored at the site.

21.25.1.7 Interior access roads, parking lots, haul road loading and unloading areas shall be maintained so as to limit the nuisance caused by windblown dust.

21.25.1.8 The operation of mechanical equipment of any kind may be limited by the day(s) and/or hours by the Planning Commission.

21.25.1.9 Processing may be limited to only the materials extracted from the site. If the Operator intends to bring in off-site materials, Planning Commission approval is required.

21.25.1.10 Air pollution, noise and vibration factors shall be controlled within the limits governed by State and/or Federal regulations applicable to the facility.

21.25.1.11 All required Soil Erosion permit(s) shall be secured prior to the commencement of any operation. The Soil Erosion permit shall be issued for the same period of time as the permit for the operation and reclamation.

21.25.2 Reclamation:

Intent: To prevent negative impacts to soil, water and air resources in and near mined areas. To restore the quality of the soils to their pre-mining level and to maintain or improve landscape visual and functional quality. All reclamation plans shall comply with all applicable Federal, State, Local and Tribal laws related to mining and mined land reclamation.

21.25.2.1 Develop a reclamation plan that is consistent with the site capability, the planned land use and the landowner's conservation objectives. Include the practices necessary to reclaim and stabilize the mined areas to prevent further degradation of soil, water, air, plant and animal resources.

21.25.2.2 Dust control. Control the generation of particulate matter and fugitive dust during removal and replacement of soil and other materials. Detail the practices and activities necessary for dust control in the plans and specifications.

21.25.2.3 Properly identify areas for preservation including those containing trees, vegetation, historic structures, stream corridors, natural springs or other important features.

21.25.2.4 Remove trees, logs, brush, rubbish and other debris from disturbed areas that will interfere with reconstruction and reclamation operations. Dispose of these undesirable materials so they will not create a resource problem or interfere with reclamation activities and the planned land use.

21.25.2.5 Shape the land surface to provide adequate surface drainage and to blend into the surrounding topography. Use erosion control practices to reduce slope lengths where sheet and rill erosion will exceed acceptable levels.

21.25.2.6 Use sediment trapping practices such as filter strips, riparian forest buffers, contour buffer strips, sediment basins or similar practices to trap sediment before it leaves the project site.
Establish drainage ways with sufficient capacity and stability to carry concentrated runoff from the reclaimed area into receiving streams without causing erosion.

21.25.2.7 Do site preparation, planting and seeding at a time and in a manner to ensure survival and growth of the selected species. In the plans and specifications, identify the criteria for successful establishment of vegetation such as minimum percent ground/canopy cover, percent survival and irrigation for initial establishment or stand density. Apply soil amendments and or plant nutrients as appropriate, according to the requirements of NRCS Conservation Practice Standard Nutrient Management (590). If the recommended fertilizer rate exceeds the criteria in NRCS Conservation Practice Standard Nutrient Management (590), use appropriate mitigating practices to reduce the risk of nutrient losses from the site. Use vegetation adapted to the site that will accomplish the desired purpose. Preference shall be given to native species in order to reduce the introduction of invasive plant species; provide management of existing invasive species; and minimize the economic, ecological, and human health impacts that invasive species may cause. If native plant materials are not adaptable or proven effective for the plant use, then non-native species may be used. Refer to the Field Office Technical Guide, Section II, Invasive Plant Species, for plant materials identified as invasive species.

21.25.2.8 Identify in the plans and specifications the species, rates of seeding or planting, minimum quality of planting stock, such as PLS or stem caliper, and method of establishment. Use only viable, high quality seed or planting stock. Use local NRCS criteria for seedbed preparation, seeding rates, planting dates, depths and methods.

21.25.3 Restore the Quality of Soils to Their Pre-mining Level

21.25.3.1 Complete a detailed soil survey of the proposed mine area if suitable soils information is not available. Use the soil survey information to determine the extent and location of prime farmland soils.

21.25.3.2 Remove all upper soil horizons from the project area that are suitable for reconstruction before operations commence.

21.25.3.3 Separate soils identified with high electrical conductivity, calcium carbonate, sodium or other restrictive properties, and treat if practicable.

21.25.3.4 Removal of overburden material for use as topsoil. Selected overburden materials can be substituted for or added to the A and B horizons if field observations and/or chemical and physical laboratory analyses demonstrate that the material, or a mixture of overburden and original topsoil, is suited to restoring the capability and productivity of the original A and B horizon material. Analyze overburden materials for pH, sulfide content, organic matter, nitrogen, phosphorus, potassium, sodium absorption ratio, electrical conductivity, texture and available water holding capacity. If the overburden material is determined to be suitable for topsoil, remove and separate from other materials and replace according to the requirements for topsoil placement.

21.25.3.5 Storage of soil materials. Stockpile soil materials to be used as topsoil until they are needed for reclamation. Locate stockpiles to protect against wind and water erosion, dust generation, unnecessary compaction and contamination by noxious weeds, invasive species or other undesirable materials.

21.25.3.6 Replacement of soil material. When placing cover materials, treat graded areas to eliminate slippage surfaces and promote root penetration before spreading topsoil. Spread topsoil so the position and thickness of each horizon is equivalent to the undisturbed soil without causing excess compaction the moist bulk density and soil strength of the reconstructed soil must support plant growth at a level equivalent to that of a similar layer in undisturbed soil.

21.25.3.7 Reclaim the site to maintain or improve visual quality based on the scenic quality of the reclaimed site as well as the function of the site for the end land use. Plan the reclamation to be compatible with the topography and land cover of the adjacent landscape. Focus on areas of high public visibility, and those offering direct or indirect human and wildlife benefits.

21.25.3.8 Grade and shape spoil piles and borrow areas to blend with the adjacent landscape topography to the extent practicable.

21.25.3.9 Develop a planting plan that mimics the species, arrangement, spacing and density of plants growing on adjacent landscapes. Choose native species of erosion control vegetation and other plant materials where practical. Arrange plantings to screen views, delineate open space, act as windbreaks, serve as parkland, wildlife habitat or protect stream corridors.

21.25.4 Plans and Specifications:

21.25.4.1 Plans and specification for Land Reclamation-Currently Mined Land shall be in keeping with this standard and shall describe the requirements for applying the practice to achieve its intended purpose.

21.25.5 Application Procedure:

An application for Mining- Gravel, Sand, Clay, Top Soil or Marl, shall contain all of the following:

21.25.5.1 Name and address of owner(s) of land where mining, excavation, extraction or filling are proposed to take place.

21.25.5.2 Name, address and telephone number of person, firm or corporation who will be conducting the actual operation. This person, firm or corporation shall be referred to as operator.

21.25.5.3 A current Survey and legal description of the site where the proposed operation is to take place.

21.25.5.4 A site plan complying with all requirements of Article 20 of the Otsego County Zoning Ordinance in addition to showing all of the following:

a. The proposed mining area:

Setbacks in which no part of the mining operation may take place excepting ingress and egress shall be as follows:

Excavation below the existing grade of adjacent roads or property lines shall not take place within fifty (50) feet minimum from any adjacent property line or road right-of-way line. This shall include any sloping during the reclamation of the site.

On any site that is adjacent to lakes, rivers, streams or flowages of water that appear on most Geological Survey Quadrangle maps, the Otsego County Planning Commission reserves the right to increase the minimum set-back from the ordinary high water mark, to a distance greater than fifty (50) feet to ensure the maintenance of safe healthy conditions on the shorelands within Otsego County.

b. The placement of all equipment to be used during the operation.

No machinery shall be erected or maintained within one hundred (100) feet of any property or road right-of-way line.

c. Required screening of the site shall be in compliance with standards of Section 21.18 of the Otsego County Zoning Ordinance.

If the operator chooses to use a berm to achieve the required screening, the berms shall be placed no closer than twenty (20) feet to any property line.

d. The proposed ingress and egress at the site and route(s) to be used to access the site when not located on a primary road. The route(s) for ingress and egress when not located on a primary road shall have written approval from the Otsego County Road Commission.

The operator shall be responsible for all road damage to public roads caused as a result of the operation.

e. The type and location of any proposed accessory uses. The Planning Commission may approve vehicle maintenance, sorting, crushing, concrete mixing, asphalt batching and other uses as accessory uses subject to conditions placed upon the accessory uses.

21.25.6 Operational Plan including the following:

21.25.6.1 The Operational plan shall be in written form.

21.25.6.2 The written plan shall indicate the proposed size, depths, methods of operation, and type of material(s) to be mined, excavated, extracted or filled.

21.25.6.3 The written plan shall indicate the phases of operation and ending date for each phase.

21.25.6.4 The written plan shall indicate the method by which the operation shall be secured from entry during hours of non-operation.

21.25.6.5 The written plan shall indicate the proposed hours and days of operation.

21.25.7 Reclamation Plan:

21.25.7.1 A written detailed reclamation plan meeting all of the requirements of 21.25.2, 21.25.3 shall be submitted with the application and operational plan. The submitted reclamation plan shall include photographs of the site prior to commencement of the proposed operation.

21.25.7.2 The written reclamation plan shall be approved by Planning Commission and may have additional conditions placed upon it prior to final approval.

21.25.7.3 The approved site plan and/or reclamation plan may be revised at any time by mutual consent of the operator and the Planning Commission to adjust to changed conditions, technology or to correct an oversight. Any costs to amend the plan(s) are to be borne by the initiating party. The Planning Commission may require the modification of the approved Site plan and/or reclamation plan when:

a. Modification of the plan is necessary so that it will conform to existing laws.

b. It is found that the previously approved plan is clearly impractical to implement and maintain.

c. The approved plan is obviously not accomplishing the intent of the Ordinance.

d. Any modification shall be subject to all provisions of Article 19 and Article 23.

21.25.8 Approval Process:

21.25.8.1 All approvals shall be made in accordance with the process prescribed in Article 19 Permitted Uses Subject to Special Conditions.

21.25.9 Performance Guarantees:

After a special use permit application has been approved, but before the permit is issued, the applicant shall file with the Otsego County Clerk, a performance guarantee in the form of a cash deposit, certified check, irrevocable letter of credit, or surety bond acceptable to the Planning Commission and conditioned on faithful performance of all requirements under Section 21.25 and the permit.

The performance guarantee shall cover that area of land within the permit area on which file applicant will initiate and conduct the mining and rehabilitation operations. The amount of the performance guarantee shall be determined by the Planning Commission and shall reflect the rehabilitation requirements of the permit and the probable difficulty of the rehabilitation, giving consideration to such factors as topography, geology of the site, hydrology, and revegetation potential. The amount of the performance guarantee shall be sufficient to assure the completion of the rehabilitation plan if the rehabilitation had to be performed by the County in the event of non-performance by the applicant. Any cash deposit of certified funds shall be refunded to the applicant in the following manner:

a. One-third (⅓) of the cash deposit after completion of one-third (⅓) of the rehabilitation plan;

b. Two-thirds (⅔) of the cash deposit after completion of two-thirds (⅔) of the rehabilitation plan;

c. The balance at the completion of the rehabilitation plan. Any irrevocable letter of credit or surety bond shall be returned to the applicant upon completion of the rehabilitation plan.

In order to receive a refund of the performance guarantee as provided for in subsections (a) through (c) above, the applicant shall file a written request with the Zoning Administrator. The written request shall include the type and dates of rehabilitation work performed, and a description of the results achieved as they relate to the applicant's rehabilitation plan. Within thirty (30) days after receiving the written request for a refund of the performance guarantee, the Zoning Administrator shall conduct an inspection and evaluation of the rehabilitation work performed. The evaluation shall consider, among other things, the degree of difficulty to complete any remaining rehabilitation, whether pollution of surface and subsurface water is occurring, the probability of continuance of future occurrence of the pollution, and the estimated cost of abating the pollution. Within thirty (30) days after the inspection, the Zoning Administrator shall send written recommendations to the Planning Commission indicating approval, partial approval, rejection, or approval with conditions, of the rehabilitation work performed by the applicant, along with a statement of the reasons for any rejections.

The Planning Commission shall approve, partially approve, or reject the rehabilitation work performed by the applicant with the recommendation of the Zoning Administrator's written statement, and shall notify the applicant in writing of the action of the Planning Commission. Where partial approval is granted the applicant shall be refunded a portion of the performance guarantee that is proportionate to the cost of the rehabilitation work approved. Upon approval or partial approval by the Planning Commission, the County Clerk shall refund the performance guarantee or a portion thereof as specified by the Planning Commission to the applicant.

21.25.10 Inspection:

21.25.10.1 Mining, excavation, extraction or filling permits granted for a period exceeding one (1) year shall be inspected a minimum of once a year during the operation period and a minimum of each one hundred (100) days during restoration, by the Zoning Administrator to insure compliance with the permit and Ordinance. The operator shall pay an inspection fee, as determined by the Otsego County Board of Commissioners, for each inspection to cover the costs of extraction and reclamation inspections required by this section within thirty (30) days of the invoice being sent to them or they will be in violation of the Special Use Permit.

21.25.11 Certificate of Completion:

21.25.11.1 A certificate of completion shall be issued to the operator when the Zoning Administrator makes the following determination.

21.25.11.2 All evidence of the operation has been removed from the site.

21.25.11.3 All required grading of the site has been completed.

21.25.11.4 All required re-vegetation of the site has been completed and initial growth has begun and there is no erosion present.

21.25.11.5 Completion and approval of the soil erosion permit has been given.

21.25.12 Evidence of Continuing Use:

21.25.12.1When activities on or the use of the mining area, or any portion thereof, have ceased for more than one (1) year or when, by examination of the premises or other means, the Zoning Administrator determines a manifestation of intent to abandon the mining area, the Zoning Administrator shall give the operator written notice of their intention to declare the mining area or portion thereof abandoned. Within thirty (30) days following receipt of said notice, the operator shall have the opportunity to rebut the Zoning Administrator's evidence and submit other relevant evidence to the contrary. If the Zoning Administrator finds the operator's evidence of continued use satisfactory, he/she shall not declare abandonment.

21.25.13 Transference of a Special Use Permit:

21.25.13.1 Permits for surface mining shall be issued to the operator. If an operator disposes of his interest in an extraction area prior to final reclamation by sale, lease, assignment, termination of lease, or otherwise, the Planning Commission may release the operator from the duties imposed upon him by this Ordinance, as to the operation, but only if the successor, operator, or property owner assumes the obligations of the former operator with reference to the reclamation activities. At that time the Special Use Permit may be transferred.

21.25.14 Permit Extension:

21.25.14.1 All requests for an extension/renewal of a Special Use Permit shall for mining, excavation, extraction or filling follow the same process as a request for a new permit.

21.25.15 Permit Expiration:

21.25.15.1 If approval for a Special Use Permit for mining, excavation, extraction or filling is granted by the Otsego County Planning Commission, it shall be for a specific period of time not to exceed five (5) years and shall specify the period of restoration which cannot extend more than eighteen (18) months beyond the permitted time for operation.

ATTACHMENT 4:

OTSEGO COUNTY
PLANNING COMMISSION

PZSU18-005
Special Use Permit/Site Plan Review
080-006-300-010-02

GENERAL FINDINGS OF FACT

1. This is a proposal for a new mining operation. *Exhibit #1, Exhibit #5, Exhibit #6*
2. The property is located in an AR/Agricultural Resource Zoning District. *Exhibit #2*
3. The proposed use is a permitted use subject to special conditions in an AR/Agricultural Resource Zoning District. *Exhibit #3*
4. The property is currently under the ownership of Sharon M Wescoat and Alan J Wescoat. *Exhibit #4*
5. A Purchase Agreement between Wescoat, owners and J&N LLC, applicant is in place to purchase product removed from the land. *Exhibit #7*
6. A Restoration Plan is in place to restore the property to its original condition. *Exhibit #6*
7. The Public Hearing Notice was published in the Herald Times on March 29, 2019. *Exhibit #8*
8. The requirements of Article 27 of the Otsego County Zoning Ordinance have been met. *Exhibit #9, Exhibit #10*
9. All property owners within three hundred (300') feet were properly notified of the public hearing. *Exhibit #11*
10. The Planning Commission has the authority to approve a Special Land Use request after review and compliance with the Otsego County Zoning Ordinance. (Section 19.7) *Exhibit #3*
11. The required fees have been collected by Otsego County Land Use Services. *Exhibit #12*
12. The site plan requirements of Article 23 have been reviewed by Otsego County Land Use and all requirements pertaining to the proposed development have been addressed by the Applicant. *Exhibit #5, Exhibit #6, Exhibit #13, Exhibit #14*
13. A signed statement dated April 1, 2019 from the property owner approving the Restoration Plan has been received. *Exhibit #19*
14. Section 125.3205 of the Michigan Zoning Enabling Act (PA 110 of 2006) restricts local zoning authority to specific aspects of the extraction (mining) of natural resources (e.g., gravel, sand and similar pits). Zoning regulations cannot prevent the extraction of natural resources unless "very serious consequences" would occur. *Exhibit #20*

OTSEGO COUNTY
PLANNING COMMISSION

PZSU18-005

Special Use Permit/Site Plan Review

080-006-300-010-02

SPECIFIC FINDINGS OF FACT

FINDINGS UNDER ARTICLE 9/SECTION 9.2

ARTICLE 9 AR AGRICULTURAL RESOURCE DISTRICT

SECTION 9.2 PERMITTED USES SUBJECT TO SPECIAL CONDITIONS
The following uses may be permitted, subject to the conditions herein imposed for each use, the review standards of Article 19 and only after the review and approval of the site plan by the Planning Commission. [See Article 21 for applicable Specific Requirements for Certain Uses, if any and Article 23 for Site Plan Requirements.]

9.2.1 Public and private parks, recreational facilities and public or private non-profit schools offering courses in general education when the use is not, to the extent practical, placed on soils predominantly rated as having high agricultural productivity in comparison with other farm land in Otsego County

9.2.2 Recreation farms, dude ranches (so called) and sportsmen's clubs provided the farm land base remains essentially intact, that the number of new and/or expanded buildings be limited in scale, in so far as is practical, to that typical of a farm, and further, no activities shall cause the depletion or erosion of agricultural soils (dust, vehicle tracks, stream bank breakdown, etc.)

9.2.3 Permanent forest industries, including permanent sawmills, planing mills, veneer mills and related operations, provided:

9.2.3.1 There is a complete clean-up of discarded wastes following the cessation of activity

9.2.3.2 There are no nuisances imposed upon tourist service facilities or outdoor recreation uses in the immediate vicinity

9.2.3.3 The site of the proposed use encompasses an area of at least five (5) acres

9.2.4 Auction yards for livestock and/or agricultural equipment with accessory buildings on a minimum forty (40) acres site with a minimum width of six hundred (600) feet, provided that there is no nuisance imposed upon the surrounding farms or dwellings

9.2.5 Commercial outdoor sport and recreational facilities, outdoor musical entertainment

9.2.6 Driving ranges

9.2.7 Game preserves

9.2.8 Gasoline stations with or without store

9.2.9 Detention facilities

9.2.10 Shooting ranges (outdoor)

9.2.11 Recreation camps, resorts or housekeeping units

9.2.12 Restaurants and/or taverns (without drive-through service)

9.2.13 Dog grooming and kennel facilities [Permit criteria include Article 21.45]

9.2.14 Golf courses and country clubs [Refer to Articles 4.2.5 and 21.11]

9.2.15 Hunt clubs (commercial)

9.2.16 Airport with appurtenant facilities, when approved by the Planning Commission after a hearing, provided the operating characteristics are deemed not to conflict with wildlife habitat areas, wilderness areas, housing areas, and facilities or uses having high concentrations of people (schools, hospitals, etc.)

9.2.17 Surface mining of gravel, sand, clay, topsoil or marl [See Article 21.25 for criteria]

...

Otsego County Planning Commission

Proposed Minutes for May 20, 2019

FINDINGS UNDER ARTICLE 21 /SECTION 21.25

SECTION 21.25 MINING, GRAVEL, SAND, CLAY, TOP SOIL, and MARL

Allowed as a use Subject to Special Conditions in the (AR), (FR) and (I) zoning districts:
The Michigan Zoning Enabling Act, Act 110 of 2006, may allow this Use in other Zoning Districts:

21.25.1 Site Development Requirements/Restrictions:
The following Site Development Requirements shall be followed:

21.25.1.1 The site size shall be a minimum of ten (10) acres.

Setback Area: Setbacks in which no part of the mining operation may take place excepting ingress and egress shall be as follows:

Excavation below the existing grade of adjacent roads or property lines shall not take place within fifty (50) feet from any adjacent property line or road right-of-way line. This shall include any sloping during the reclamation of the site.

No machinery shall be erected or maintained within one hundred (100) feet of any property or road right-of-way line.

On any site that is adjacent to lakes, rivers, streams or flowages of water that appear on most Geological Survey Quadrangle maps, the Otsego County Planning Commission reserves the right to increase the minimum set-back from the ordinary high water mark, to a distance greater than fifty (50) feet to ensure the maintenance of safe healthy conditions on the shorelands within Otsego County.

21.25.1.2 The area permitted for mining shall be marked with stakes or other markers as approved by the zoning administrator at all corners before the operation commences, and shall be maintained until the reclamation is approved in writing by the zoning administrator.

21.25.1.3 Sufficient native topsoil shall be left on the site as a ready resource to be used in reclamation work following excavation/extraction activity, unless an alternative or replacement plan is approved by the Planning Commission.

T21.25.1.4 Physical isolation from residential properties shall be considered in locating development facilities. Topography, vegetation, screening devices and earth stockpiles may be used to accomplish this.

21.25.1.5 If necessary to protect the welfare of surrounding properties the access routes serving the site may be specified by the Planning Commission with input from the Otsego County Road Commission.

21.25.1.6 All structures, equipment and machinery shall be considered temporary and shall be removed upon completion of the mining, excavation, extraction or filling. Items not related to the operation shall not be stored at the site.

21.25.1.7 Interior access roads, parking lots, haul road loading and unloading areas shall be maintained so as to limit the nuisance caused by windblown dust.

21.25.1.8 The operation of mechanical equipment of any kind may be limited by the day(s) and/or hours by the Planning Commission.

21.25.1.9 Processing may be limited to only the materials extracted from the site. If the Operator intends to bring in off-site materials, Planning Commission approval is required.

21.25.1.10 Air pollution, noise and vibration factors shall be controlled within the limits governed by State and/or Federal regulations applicable to the facility.

21.25.1.11 All required Soil Erosion permit(s) shall be secured prior to the commencement of any operation. The Soil Erosion permit shall be issued for the same period of time as the permit for the operation and reclamation.

21.25.2 Reclamation:

Intent: To prevent negative impacts to soil, water and air resources in and near mined areas. To restore the quality of the soils to their pre-mining level and to maintain or improve landscape visual and functional quality. All reclamation plans shall comply with all applicable Federal, State, Local and Tribal laws related to mining and mined land reclamation.

21.25.2.1 Develop a reclamation plan that is consistent with the site capability, the planned land use and the landowner's conservation objectives. Include the practices necessary to reclaim and stabilize the mined areas to prevent further degradation of soil, water, air, plant and animal resources.

21.25.2.2 Dust control. Control the generation of particulate matter and fugitive dust during removal and replacement of soil and other materials. Detail the practices and activities necessary for dust control in the plans and specifications.

21.25.2.3 Properly identify areas for preservation including those containing trees, vegetation, historic structures, stream corridors, natural springs or other important features.

21.25.2.4 Remove trees, logs, brush, rubbish and other debris from disturbed areas that will interfere with reconstruction and reclamation operations. Dispose of these undesirable materials so they will not create a resource problem or interfere with reclamation activities and the planned land use.

21.25.2.5 Shape the land surface to provide adequate surface drainage and to blend into the surrounding topography. Use erosion control practices to reduce slope lengths where sheet and rill erosion will exceed acceptable levels.

21.25.2.6 Use sediment trapping practices such as filter strips, riparian forest buffers, contour buffer strips, sediment basins or similar practices to trap sediment before it leaves the project site.
Establish drainage ways with sufficient capacity and stability to carry concentrated runoff from the reclaimed area into receiving streams without causing erosion.

21.25.2.7 Do site preparation, planting and seeding at a time and in a manner to ensure survival and growth of the selected species. In the plans and specifications, identify the criteria for successful establishment of vegetation such as minimum percent ground/canopy cover, percent survival and irrigation for initial establishment or stand density. Apply soil amendments and or plant nutrients as appropriate, according to the requirements of NRCS Conservation Practice Standard Nutrient Management (590). If the recommended fertilizer rate exceeds the criteria in NRCS Conservation Practice Standard Nutrient Management (590), use appropriate mitigating practices to reduce the risk of nutrient losses from the site. Use vegetation adapted to the site that will accomplish the desired purpose. Preference shall be given to native species in order to reduce the introduction of invasive plant species; provide management of existing invasive species; and minimize the economic, ecological, and human health impacts that invasive species may cause. If native plant materials are not adaptable or proven effective for the plant use, then non-native species may be used. Refer to the Field Office Technical Guide, Section II, Invasive Plant Species, for plant materials identified as invasive species.

21.25.2.8 Identify in the plans and specifications the species, rates of seeding or planting, minimum quality of planting stock, such as PLS or stem caliper, and method of establishment. Use only viable, high quality seed or planting stock. Use local NRCS criteria for seedbed preparation, seeding rates, planting dates, depths and methods.

21.25.3 Restore the Quality of Soils to Their Pre-mining Level

21.25.3.1 Complete a detailed soil survey of the proposed mine area if suitable soils information is not available. Use the soil survey information to determine the extent and location of prime farmland soils.

21.25.3.2 Remove all upper soil horizons from the project area that are suitable for reconstruction before operations commence.

21.25.3.3 Separate soils identified with high electrical conductivity, calcium carbonate, sodium or other restrictive properties, and treat if practicable.

21.25.3.4 Removal of overburden material for use as topsoil. Selected overburden materials can be substituted for or added to the A and B horizons if field observations and/or chemical and physical laboratory analyses demonstrate that the material, or a mixture of overburden and original topsoil, is suited to restoring the capability and productivity of the original A and B horizon material. Analyze overburden materials for pH, sulfide content, organic matter, nitrogen, phosphorus, potassium, sodium absorption ratio, electrical conductivity, texture and available water holding capacity. If the overburden material is determined to be suitable for topsoil, remove and separate from other materials and replace according to the requirements for topsoil placement.

21.25.3.5 Storage of soil materials. Stockpile soil materials to be used as topsoil until they are needed for reclamation. Locate stockpiles to protect against wind and water erosion, dust generation, unnecessary compaction and contamination by noxious weeds, invasive species or other undesirable materials.

21.25.3.6 Replacement of soil material. When placing cover materials, treat graded areas to eliminate slippage surfaces and promote root penetration before spreading topsoil. Spread topsoil so the position and thickness of each horizon is equivalent to the undisturbed soil without causing excess compaction the moist bulk density and soil strength of the reconstructed soil must support plant growth at a level equivalent to that of a similar layer in undisturbed soil.

21.25.3.7 Reclaim the site to maintain or improve visual quality based on the scenic quality of the reclaimed site as well as the function of the site for the end land use. Plan the reclamation to be compatible with the topography and land cover of the adjacent landscape. Focus on areas of high public visibility, and those offering direct or indirect human and wildlife benefits.

21.25.3.8 Grade and shape spoil piles and borrow areas to blend with the adjacent landscape topography to the extent practicable.

21.25.3.9 Develop a planting plan that mimics the species, arrangement, spacing and density of plants growing on adjacent landscapes. Choose native species of erosion control vegetation and other plant materials where practical. Arrange plantings to screen views, delineate open space, act as windbreaks, serve as parkland, wildlife habitat or protect stream corridors.

21.25.4 Plans and Specifications:

21.25.4.1 Plans and specification for Land Reclamation-Currently Mined Land shall be in keeping with this standard and shall describe the requirements for applying the practice to achieve its intended purpose.

21.25.5 Application Procedure:

An application for Mining- Gravel, Sand, Clay, Top Soil or Marl, shall contain all of the following:

21.25.5.1 Name and address of owner(s) of land where mining, excavation, extraction or filling are proposed to take place.

21.25.5.2 Name, address and telephone number of person, firm or corporation who will be conducting the actual operation. This person, firm or corporation shall be referred to as operator.

21.25.5.3 A current Survey and legal description of the site where the proposed operation is to take place.

21.25.5.4 A site plan complying with all requirements of Article 20 of the Otsego County Zoning Ordinance in addition to showing all of the following:

a. The proposed mining area:

Setbacks in which no part of the mining operation may take place excepting ingress and egress shall be as follows:

Excavation below the existing grade of adjacent roads or property lines shall not take place within fifty (50) feet minimum from any adjacent property line or road right-of-way line. This shall include any sloping during the reclamation of the site.

On any site that is adjacent to lakes, rivers, streams or flowages of water that appear on most Geological Survey Quadrangle maps, the Otsego County Planning Commission reserves the right to increase the minimum set-back from the ordinary high water mark, to a distance greater than fifty (50) feet to ensure the maintenance of safe healthy conditions on the shorelands within Otsego County.

b. The placement of all equipment to be used during the operation.

No machinery shall be erected or maintained within one hundred (100) feet of any property or road right-of-way line.

c. Required screening of the site shall be in compliance with standards of Section 21.18 of the Otsego County Zoning Ordinance.

If the operator chooses to use a berm to achieve the required screening, the berms shall be placed no closer than twenty (20) feet to any property line.

d. The proposed ingress and egress at the site and route(s) to be used to access the site when not located on a primary road. The route(s) for ingress and egress when not located on a primary road shall have written approval from the Otsego County Road Commission.

The operator shall be responsible for all road damage to public roads caused as a result of the operation.

e. The type and location of any proposed accessory uses. The Planning Commission may approve vehicle maintenance, sorting, crushing, concrete mixing, asphalt batching and other uses as accessory uses subject to conditions placed upon the accessory uses.

21.25.6 Operational Plan including the following:

21.25.6.1 The Operational plan shall be in written form.

21.25.6.2 The written plan shall indicate the proposed size, depths, methods of operation, and type of material(s) to be mined, excavated, extracted or filled.

21.25.6.3 The written plan shall indicate the phases of operation and ending date for each phase.

21.25.6.4 The written plan shall indicate the method by which the operation shall be secured from entry during hours of non-operation.

21.25.6.5 The written plan shall indicate the proposed hours and days of operation.

21.25.7 Reclamation Plan:

21.25.7.1 A written detailed reclamation plan meeting all of the requirements of 21.25.2, 21.25.3 shall be submitted with the application and operational plan. The submitted reclamation plan shall include photographs of the site prior to commencement of the proposed operation.

21.25.7.2 The written reclamation plan shall be approved by Planning Commission and may have additional conditions placed upon it prior to final approval.

21.25.7.3 The approved site plan and/or reclamation plan may be revised at any time by mutual consent of the operator and the Planning Commission to adjust to changed conditions, technology or to correct an oversight. Any costs to amend the plan(s) are to be borne by the initiating party. The Planning Commission may require the modification of the approved Site plan and/or reclamation plan when:

a. Modification of the plan is necessary so that it will conform to existing laws.

b. It is found that the previously approved plan is clearly impractical to implement and maintain.

c. The approved plan is obviously not accomplishing the intent of the Ordinance.

d. Any modification shall be subject to all provisions of Article 19 and Article 23.

21.25.8 Approval Process:

21.25.8.1 All approvals shall be made in accordance with the process prescribed in Article 19 Permitted Uses Subject to Special Conditions.

21.25.9 Performance Guarantees:

After a special use permit application has been approved, but before the permit is issued, the applicant shall file with the Otsego County Clerk, a performance guarantee in the form of a cash deposit, certified check, irrevocable letter of credit, or surety bond acceptable to the Planning Commission and conditioned on faithful performance of all requirements under Section 21.25 and the permit.

The performance guarantee shall cover that area of land within the permit area on which file applicant will initiate and conduct the mining and rehabilitation operations. The amount of the performance guarantee shall be determined by the Planning Commission and shall reflect the rehabilitation requirements of the permit and the probable difficulty of the rehabilitation, giving consideration to such factors as topography, geology of the site, hydrology, and revegetation potential. The amount of the performance guarantee shall be sufficient to assure the completion of the rehabilitation plan if the rehabilitation had to be performed by the County in the event of non-performance by the applicant. Any cash deposit of certified funds shall be refunded to the applicant in the following manner:

a. One-third (⅓) of the cash deposit after completion of one-third (⅓) of the rehabilitation plan;

b. Two-thirds (⅔) of the cash deposit after completion of two-thirds (⅔) of the rehabilitation plan;

c. The balance at the completion of the rehabilitation plan. Any irrevocable letter of credit or surety bond shall be returned to the applicant upon completion of the rehabilitation plan.

In order to receive a refund of the performance guarantee as provided for in subsections (a) through (c) above, the applicant shall file a written request with the Zoning Administrator. The written request shall include the type and dates of rehabilitation work performed, and a description of the results achieved as they relate to the applicant's rehabilitation plan. Within thirty (30) days after receiving the written request for a refund of the performance guarantee, the Zoning Administrator shall conduct an inspection and evaluation of the rehabilitation work performed. The evaluation shall consider, among other things, the degree of difficulty to complete any remaining rehabilitation, whether pollution of surface and subsurface water is occurring, the probability of continuance of future occurrence of the pollution, and the estimated cost of abating the pollution. Within thirty (30) days after the inspection, the Zoning Administrator shall send written recommendations to the Planning Commission indicating approval, partial approval, rejection, or approval with conditions, of the rehabilitation work performed by the applicant, along with a statement of the reasons for any rejections.

The Planning Commission shall approve, partially approve, or reject the rehabilitation work performed by the applicant with the recommendation of the Zoning Administrator's written statement, and shall notify the applicant in writing of the action of the Planning Commission. Where partial approval is granted the applicant shall be refunded a portion of the performance guarantee that is proportionate to the cost of the rehabilitation work approved. Upon approval or partial approval by the Planning Commission, the County Clerk shall refund the performance guarantee or a portion thereof as specified by the Planning Commission to the applicant.

21.25.10 Inspection:

21.25.10.1 Mining, excavation, extraction or filling permits granted for a period exceeding one (1) year shall be inspected a minimum of once a year during the operation period and a minimum of each one hundred (100) days during restoration, by the Zoning Administrator to insure compliance with the permit and Ordinance. The operator shall pay an inspection fee, as determined by the Otsego County Board of Commissioners, for each inspection to cover the costs of extraction and reclamation inspections required by this section within thirty (30) days of the invoice being sent to them or they will be in violation of the Special Use Permit.

21.25.11 Certificate of Completion:

21.25.11.1 A certificate of completion shall be issued to the operator when the Zoning Administrator makes the following determination.

21.25.11.2 All evidence of the operation has been removed from the site.

21.25.11.3 All required grading of the site has been completed.

21.25.11.4 All required re-vegetation of the site has been completed and initial growth has begun and there is no erosion present.

21.25.11.5 Completion and approval of the soil erosion permit has been given.

21.25.12 Evidence of Continuing Use:

21.25.12.1When activities on or the use of the mining area, or any portion thereof, have ceased for more than one (1) year or when, by examination of the premises or other means, the Zoning Administrator determines a manifestation of intent to abandon the mining area, the Zoning Administrator shall give the operator written notice of their intention to declare the mining area or portion thereof abandoned. Within thirty (30) days following receipt of said notice, the operator shall have the opportunity to rebut the Zoning Administrator's evidence and submit other relevant evidence to the contrary. If the Zoning Administrator finds the operator's evidence of continued use satisfactory, he/she shall not declare abandonment.

21.25.13 Transference of a Special Use Permit:

21.25.13.1 Permits for surface mining shall be issued to the operator. If an operator disposes of his interest in an extraction area prior to final reclamation by sale, lease, assignment, termination of lease, or otherwise, the Planning Commission may release the operator from the duties imposed upon him by this Ordinance, as to the operation, but only if the successor, operator, or property owner assumes the obligations of the former operator with reference to the reclamation activities. At that time the Special Use Permit may be transferred.

21.25.14 Permit Extension:

21.25.14.1 All requests for an extension/renewal of a Special Use Permit shall for mining, excavation, extraction or filling follow the same process as a request for a new permit.

21.25.15 Permit Expiration:

21.25.15.1 If approval for a Special Use Permit for mining, excavation, extraction or filling is granted by the Otsego County Planning Commission, it shall be for a specific period of time not to exceed five (5) years and shall specify the period of restoration which cannot extend more than eighteen (18) months beyond the permitted time for operation.

FINDINGS UNDER ARTICLE 19:

19.7.1 The property subject to the application is located in a zoning district in which the proposed special land use is allowed.

HAS – HAS NOT BEEN MET

19.7.2 The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the county or the natural environment as a whole.

HAS – HAS NOT BEEN MET

19.7.3 The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap material that can be seen from any public highway or seen from any adjoining land owned by another person.

HAS – HAS NOT BEEN MET

19.7.4 The proposed special land used will be designed, constructed, operated, and maintained so as not to diminish the opportunity for the surrounding properties to be used and developed as zoned.

HAS – HAS NOT BEEN MET

19.7.5 The proposed special land use will not place demands on fire, police, or other public resources in excess of current capacity.

HAS – HAS NOT BEEN MET

19.7.6 The proposed special land use will be adequately served by public or private streets, water and sewer facilities, and refuse collection and disposal services.

HAS – HAS NOT BEEN MET

19.7.7 If the proposed special land use includes more than fifteen thousand (15,000) square feet of impervious surface, then the storm water management system employed by the use shall (i) preserve the natural drainage characteristics of the site and enhance the aesthetics of the site to the extent possible, (ii) employ storm water disposal through evaporation and infiltration when reasonably possible, (iii) shall not discharge storm water directly to wetlands or surface waters unless there is no other prudent or reasonably feasible means of discharge, (iv) shall not serve to increase the quantity no rate of discharge leaving the property based on 25-year storm criteria, (v) shall be designed using Best Management Practices identified by the DNR or its successor agency, and (vi) shall identify the party responsible for maintenance of the storm water management system.

HAS – HAS NOT BEEN MET

19.7.8 The proposed special land use complies with all specific standards required under this Ordinance applicable to it.

HAS – HAS NOT BEEN MET

SECTION 19.8 - CONDITIONS

The Planning Commission may attach reasonable conditions to the approval of a special use permit. These conditions may include those necessary to insure that public services and facilities affected by a proposed special land use will be capable of accommodating increased service and facility loads caused by the special land use, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all the following requirements.

19.8.1 Be designed to protect natural resources, the health, safety, and welfare and the social and economic

well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed special land use, and the community as a whole.

19.8.2 Be related to the valid exercise of the police power, and purposes which are affected by the proposed special land use.

19.8.3 Be necessary to meet the intent and purpose of the zoning ordinance, be rated to the standards established in the ordinance for the special land use under consideration, and be necessary to insure compliance with those standards.

***Motion made by Mr. Brown to approve special use permits PZSU18-004 and PZSU18-005 to conduct a mining operation in Livingston Township based on the submittal of a written restoration plan in a comparable format to Rieth Riley's and the following conditions:

1. Hours of operation shall be 8am to 5pm; no loading shall occur outside that timeframe.
2. Restoration will occur at a ratio of 20:3; after 20 acres is depleted, 3 acers will be restored on a rolling basis as detailed in the restoration plan. Topsoil will be placed at a depth of 2" to 4" as detailed in the restoration plan.
3. Townline Rd will be the primary access to M-32.
4. A performance bond to be filed per Sections 21.25.9 and 25.6 of the Otsego County Zoning Ordinance before mining operation is begun; Seconded by Mr. Borton.

Motion approved unanimously.

OTSEGO COUNTY
Planning Commission

Otsego COUNTY
ESTABLISHED 1875 MICHIGAN

ADVERTISED CASE EXECUTIVE SUMMARY

AGENDA ITEM: 9	AGENDA DATE: 6/17/2019
AGENDA PLACEMENT:	ACTION REQUESTED:
Advertised Cases, Item 1	Motion to Approve
STAFF CONTACT(S):	ATTORNEY REVIEW:
Chris Churches, Planning & Zoning, Capital Projects Director Christine Boyak-Wohlfeil, Zoning Officer	No

BACKGROUND/DISCUSSION:

This case involves the re-zone of three parcels in Charlton Township from Residential Zoning Districts (R-1 / R-2) to the B-2 General Business District. The applicants are requesting a re-zone to allow for the future development of a Dollar General.

RECOMMENDED MOTION:

1. Motion to approve the findings of fact as presented in Exhibit 13.

2. Motion to re-zone parcel numbers 021-020-100-020-01, 023-170-019-003-00 from the R-1 Residential Zoning District to the B2 General Business Zoning District.

3. Motion to re-zone the part of parcel number 023-170-018-004-00 depicted in Exhibit 2 from the R-2 General Residential Zoning District to the B2 General Business Zoning District conditioned upon an approved parcel division.

OTSEGO COUNTY
PLANNING COMMISSION

PZRZ19-001
REZONE
021-020-100-020-01, 023-170-018-004-00 – part of, 023-170-019-003-00

Exhibit List

Exhibit #1:	Application for case PZRZ19-001 submitted by Applicant/Statement of Consistency
Exhibit #2:	Otsego County Zoning Map Effective Date March 20, 2010/Amended November 27, 2018
Exhibit #3:	Otsego County Zoning Ordinance Effective March 20, 2010/Amended April 23, 2019
Exhibit #4:	Copy of Otsego County Equalization Department record cards/Warranty Deed 1357/564
Exhibit #5:	Site Plan
Exhibit #6:	Survey
Exhibit #7:	Purchase Contract dated February 11, 2019
Exhibit #8:	Public Hearing Notice
Exhibit #9:	Letter to Charlton Township Planning Commission dated April 30, 2019
Exhibit #10:	Response from Charlton Township Planning Commission - *Pending*
Exhibit #11:	Map and list of parties notified
Exhibit #12:	Receipt #01317550
Exhibit #13:	Finding of Fact/PZRZ19-001
Exhibit #14:	Future Land Use Map

OTSEGO COUNTY LAND USE SERVICES

1322 HAYES ROAD
GAYLORD MI 49735
PHONE: 989.731.7400 * FAX: 989.731.7419

REQUEST TO REZONE APPLICATION

APPLICANT INFORMATION:

Name: DGOGJohannesburgmi030619 LLC	Owner/Agent/Other (Circle one)
Address: 1598 Imperial Center, Suite 2001, West Plains, MO 65775	
Phone: 417-256-4790	Fax: 417-256-8152

PROPERTY OWNER INFORMATION: *(If Different from Applicant)*

Name: Wesely and Holly Atkinson	
Address: P.O. Box 45, Johannesburg, MI 49751	
Phone: 989-619-1676	Fax:

PROPERTY INFORMATION:

Address: Highway 32, Johannesburg, MI 49751 023-170-018-004-00 - Part of		
Parcel Number: 021 - 020 - 100 - 020 - 01 023-170-019-003-00		
Acres: .33 acres 2.10 acres	Current Zoning District: R1, R2	Current Use: vacant
Requested Zoning: B2	Future Land Use Designation: retail	

ATTACHMENTS: *Please submit the following items with the application*

- A Site Plan drawn to scale showing the following:
  - the entire parcel to be rezoned
  - adjacent roads and/or easements
  - existing and proposed curb cuts
  - existing improvements
  - existing and proposed utilities
  - adjacent uses and zoning districts
  - any unique natural features such as lakes, rivers, streams, wetlands, steep slopes…
- A copy of the deed(s) and an accurate legal description(s) of the parcel(s) to be rezoned.
- A statement of the consistency of the proposed rezone with the existing and future surrounding land uses and the anticipated impacts to the surrounding area with specific regard to traffic, infrastructure, environment, noise, public safety and visual considerations.

Signature of Applicant:	Date: 4/24/19
Signature of Owner: *(If Different from Applicant)* Wesley Atkinson Holly A Atkinson	Date: 4/23/19

****Optional* I hereby grant permission for members of the Township Planning Commission, Township Board, Otsego County Planning Commission and Zoning Administrator to enter the above described property for the purposes of gathering information related to the application.

****Note to Applicant.* This permission is optional and failure to grant permission will not affect any decision on the applicant.

Signature of Property Owner: Wesley Atkinson Holly A Atkinson	Date: 4/23/19

*****OFFICE USE ONLY*****

Date Application Received: April 29, 2019	Permit No: PZRZ19.001	Fee: $700	Receipt Number: 01317550

Exhibit 1

Statement of Consistency
Dollar General
Johannesburg, MI

The proposed rezoning would designate the Dollar General site as B2 zoning. This district matches the post office next door and properties further east and to the north across Highway 32.

Based upon conversations with MDOT, the Highway 32 turn lane that ends at the post office will be extended approximately 155' to better serve the Dollar General store and to minimize traffic impacts.

MDOT also indicates that the 5' sidewalk to the post office will need to be extended to the Dollar General driveway.

A well and septic system is proposed for the Dollar General development. Similar stores typically use between 100-150 gallons per day which is less than a typical residence. A septic system can easily provide the necessary treatment to prevent negative environmental impact.

Because the property is adjacent to R1 zoned property on the west and south boundary, a Type C buffer with 6' privacy fence will be constructed. This will effectively screen the property from existing and future residential development.

PZRZ19-001 REZONE R1, R2 - B2 DOLLAR GENERAL
021-020-100-020-01, 023-170-018-004-00, 023-170-019-003-00

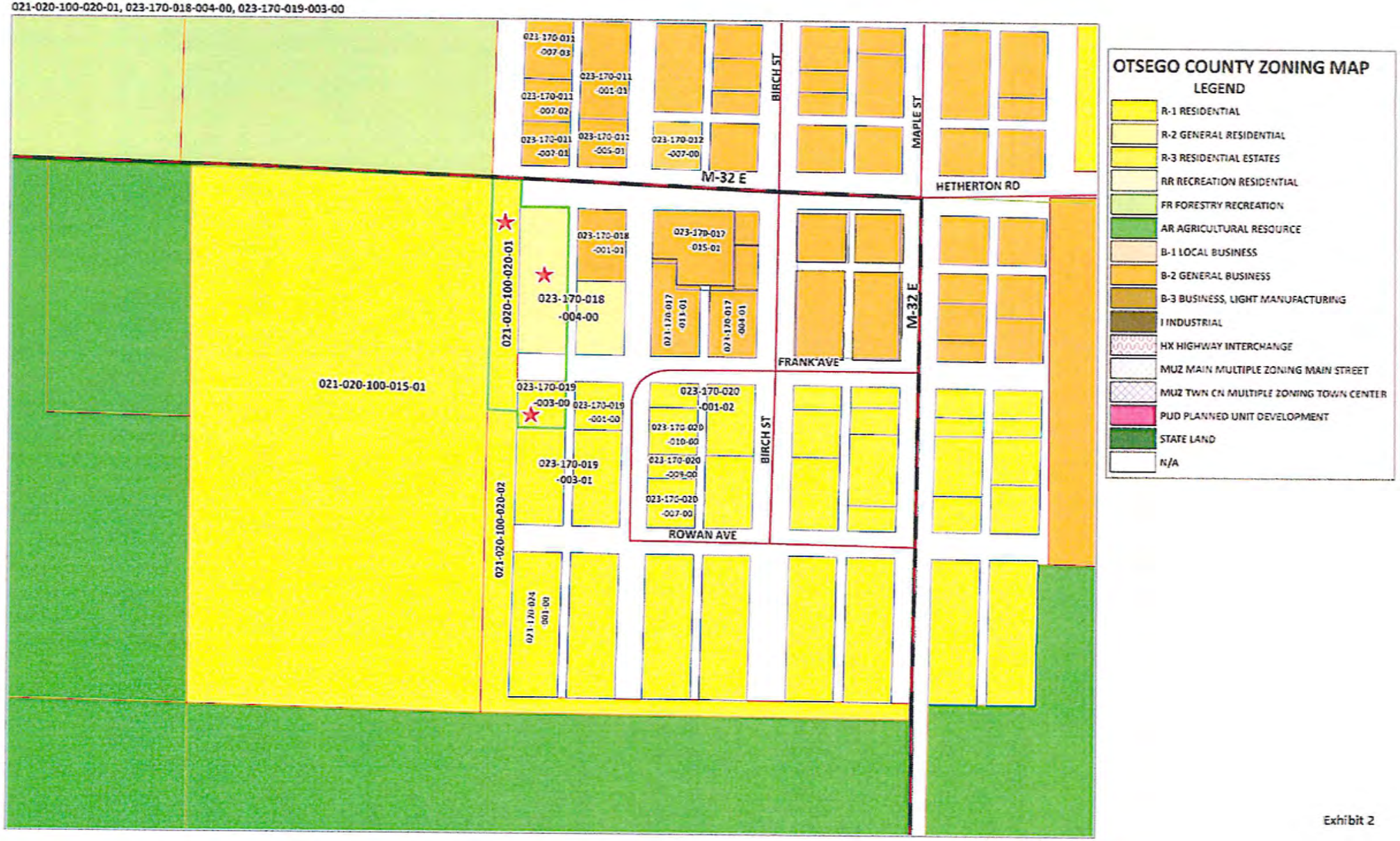


Exhibit 2

OTSEGO COUNTY
TREASURER'S OFFICE
Gaylord, Mich.,

9-29-14

I hereby certify that according to our records all taxes returned to this office are paid for five years preceding the date of this instrument. This does not include taxes in the process of local collection, board of review, PRE denial or tax tribunal.

Brooke Hymes Deputy COUNTY TREASURER

LIBER 1357 PAGE 564

OTSEGO COUNTY MICHIGAN
RECEIVED FOR RECORD
SUSAN DEFEYTER, CLERK/REGISTER OF DEEDS
09/29/2014 3:01:02 PM

OTSEGO COUNTY
SEPTEMBER 29, 2014
RECEIPT #22168

STATE OF MICHIGAN
REAL ESTATE TRANSFER TAX
$ 41.80-CO
$ 285.00-ST
STAMP # 8602

RCVD SEP29'14PM2:47

Warranty Deed

(3/97)

The Grantor	Gary Lee Haskill and Nancy JoAnne Haskill, husband and wife
whose address is	11801 Sparr Road, Johannesburg, MI 49751,
conveys and warrants to	Wesley S. Atkinson and Holly A. Atkinson, husband and wife
whose address is	5827 M-32 East, Gaylord, MI 49735,

the following described premises situated in the , County of Otsego, State of Michigan to wit:

Lot 13, Block 17, Amended Plat of the Village of Johannesburg, according to the plat thereof as recorded in Liber 5 of Plats, Page 25, Otsego County Records.

023-170-017-007-01

Lots 7, 8 and 9, Block 17, Village of Johannesburg, according to the plat thereof as recorded in Liber 1 of Plats, Page 45, Otsego County Records.

023-170-017-007-01

Lots 4, 5, 6, 7, 8, 9, 10, 11 and 12, Block 18, Village of Johannesburg, according to the plat thereof as recorded in Liber 1 of Plats, Page 45, Otsego County Records.

023-170-018-004-00

Lot 11 and 12, Block 19 Village of Johannesburg, according to the plat thereof as recorded in Liber 1 of Plats, Page 45, Otsego County Records.

023-170-019-003-00

A parcel of land on part of the vacated streets of the plat of the Village of Johannesburg, as recorded in Liber 1 of Plats, Page 45, Otsego County Records, and part of the Northeast quarter of Section 20, Town 30 North, Range 1 West described as commencing at the North 1/4 corner of said Section 20; thence South 88°38'00" East, 742.53 feet along the North line of said Section 20 to the point of beginning; thence South 00°25'59" West, 589.53 feet; thence South 88°32'02" East, 99.01 feet; thence North along the East line of vacated Hemlock Street to the North section line; thence West to the point of beginning.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anyway appertaining thereto.

U315 Vistahaus Ln.
Johbg 49751
20/3

Exhibit 4

SUBJECT TO all easements, reservations, rights-of-way and restrictions of record, if any.

The Grantors grant to the Grantees the right to make ____ divisions under Section 108 of the Land Division Act, Act 288 of the Public Acts of 1967.

This property may be located within the vicinity of farmland or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan Right to Farm Act

Subject to any encumbrances accruing from the acts or omissions of those other than Grantor from and after January 6, 2009, being the date of a certain Land Contract executed between the parties herein, recorded in Liber 1188, Page 605, Otsego County records, pursuant to which this deed is given in complete fulfillment thereof

Reserving unto Grantors herein all oil, gas and mineral rights of every kind and nature, and all rights incidental thereto.

This deed is given for the sum of Thirty Eight Thousand and 00/100 ($38,000.00) Dollars.

Dated: 7-21-14

Signed:

Gary Lee Haskill

Nancy JoAnne Haskill

State of Michigan
County of Cheboygan } ss.

This foregoing instrument was acknowledged before me 21st day of July, 2021 by Gary Lee Haskill and Nancy JoAnne Haskill.

Notary Public [signature]
Emily Matelski-Brude
Cheboygan, acting in Otsego County, Michigan
My commission expires: 9/22/2018

Prepared by and Return To:
Maura A. Saabes, Esq.

Drafted without opinion as to title
802 Bridge Street
Charlevoix, MI 49720

File No: MI-160696

Revenue stamps: State: $285.00 County: $41.80

Parcel Number: 69-021-020-100-020-01 Jurisdiction: CHARLTON TOWNSHIP County: OTSEGO Printed on 04/29/2019

Grantor	Grantee	Sale Price	Sale Date	Inst. Type	Terms of Sale	Liber & Page	Verified By	Prcnt. Trans.
HASKILL, GARY L & NANCY J	ATKINSON, WESLEY S & HOLLY	38,000	01/06/2009	LC	Good	1188/605	Deed	100.0

Property Address

Class: 402 RES VACANT Zoning: R-1

School: Jo-burg-Lewiston Area

P.R.E. 0%

:

2019 Est TCV 1,600(Value Overridden)

Building Permit(s)	Date	Number	Status

Owner's Name/Address

ATKINSON, WESLEY S & HOLLY A
6315 WESTSHORE LN
JOHANNESBURG MI 49751

Improved X Vacant

Land Value Estimates for Land Table .

Description	Frontage	Depth	* Factors * Front	Depth	Rate	%Adj.	Reason	Value
			1.340	Acres	0	100		0
Flat Value:								1,670
			1.34 Total Acres		Total Est. Land Value =			1,670

Public Improvements

Dirt Road
Gravel Road
Paved Road
Storm Sewer
Sidewalk
Water
Sewer
Electric
Gas
Curb
Street Lights
Standard Utilities
Underground Utils.

Taxpayer's Name/Address

Tax Description

COMM AT THE N 1/4 COR OF SEC 20, TH S 88DEG 38MIN 00SEC E 742.53FT ALG THE N LINE OF SEC TO POB; TH S 00DEG 25MIN 59SEC W 589.53FT, TH S 88DEG 32MIN 02SEC E 99.01FT, TH N ALG E LINE OF VACATED HEMLOCK ST TO THE N SEC LINE, TH W TO THE POB, CONT. 1.34 ACRES M/L T30N R1W 1999 ADDED TO ROLL

Topography of Site

Level
Rolling
Low
High
Landscaped
Swamp
Wooded
Pond
Waterfront
Ravine
Wetland
Flood Plain

Comments/Influences

Who	When	What

Year	Land Value	Building Value	Assessed Value	Board of Review	Tribunal/ Other	Taxable Value
2019	800	0	800			800S
2018	800	0	800			800S
2017	900	0	900			900S
2016	900	0	900			900S

The Equalizer. Copyright (c) 1999 - 2009.
Licensed To: County of Otsego, Michigan

*** Information herein deemed reliable but not guaranteed***

Parcel Number: 69-023-170-018-004-00 Jurisdiction: CHARLTON TOWNSHIP County: OTSEGO Printed on 04/26/2019

Grantor	Grantee	Sale Price	Sale Date	Inst. Type	Terms of Sale	Liber & Page	Verified By	Prcnt. Trans.
HASKILL, GARY LEE & NANCY	ATKINSON, WESLEY S & HOLLY	0	07/21/2014	WD	Fulfilment of LC	1357/564	DEED	0.0
HASKILL, GARY L & NANCY J	ATKINSON, WESLEY S & HOLLY	38,000	01/06/2009	LC	Good	1188/605	Deed	100.0

Property Address

Class: 202 COM VACANT Zoning: R-2

School: Jo-burg-Lewiston Area

P.R.E. 0%

:

2019 Est TCV 5,800(Value Overridden)

Building Permit(s)	Date	Number	Status

Owner's Name/Address

ATKINSON, WESLEY S & HOLLY A
PO BOX 45
JOHANNESBURG MI 49751

Improved X Vacant

Land Value Estimates for Land Table .

Description	Frontage	Depth	* Factors * Front	Depth	Rate	%Adj.	Reason	Value
			1.490	Acres	0	100		0
Flat Value:								5,851
			1.49 Total Acres				Total Est. Land Value =	5,851

Public Improvements

Dirt Road
Gravel Road
Paved Road
Storm Sewer
Sidewalk
Water
Sewer
Electric
Gas
Curb
Street Lights
Standard Utilities
Underground Utils.

Topography of Site

Level
Rolling
Low
High
Landscaped
Swamp
Wooded
Pond
Waterfront
Ravine
Wetland
Flood Plain

Who When What

Tax Description

LOTS 4-12 BLK 18 VILLAGE OFJOHANNSEBURG.
SEC 20 T30N R1W.

Comments/Influences

Year	Land Value	Building Value	Assessed Value	Board of Review	Tribunal/ Other	Taxable Value
2019	2,900	0	2,900			2,867C
2018	2,800	0	2,800			2,800S
2017	2,800	0	2,800			2,800S
2016	2,800	0	2,800			2,800S

The Equalizer. Copyright (c) 1999 - 2009.
Licensed To: County of Otsego, Michigan

*** Information herein deemed reliable but not guaranteed***

Exhibit 4

Parcel Number: 69-023-170-019-003-00 Jurisdiction: CHARLTON TOWNSHIP County: OTSEGO Printed on 04/26/2019

Grantor	Grantee	Sale Price	Sale Date	Inst. Type	Terms of Sale	Liber & Page	Verified By	Prcnt. Trans.
HASKILL, GARY LEE & NANCY	ATKINSON, WESLEY S & HOLLY	0	07/21/2014	WD	Fulfilment of LC	1357/564	DEED	0.0
HASKILL, GARY L & NANCY J	ATKINSON, WESLEY S & HOLLY	38,000	01/06/2009	LC	Good	1188/605	Deed	100.0

Property Address

Class: 202 COM VACANT Zoning: R-1

School: Jo-burg-Lewiston Area

P.R.E. 0%

:

2019 Est TCV 1,200(Value Overridden)

Building Permit(s)	Date	Number	Status

Owner's Name/Address

ATKINSON, WESLEY S & HOLLY A
PO BOX 45
JOHANNESBURG MI 49751

Improved X Vacant

Land Value Estimates for Land Table .

Description	Frontage	Depth	* Factors * Front	Depth	Rate	%Adj.	Reason	Value
			0.330	Acres	0	100		0
Flat Value:								1,200
			0.33 Total Acres		Total Est. Land Value =			1,200

Public Improvements

Dirt Road
Gravel Road
Paved Road
Storm Sewer
Sidewalk
Water
Sewer
Electric
Gas
Curb
Street Lights
Standard Utilities
Underground Utils.

Tax Description

LOTS 11 & 12 BLK 19 VILLAGE OF JOHANNESBURG. SEC 20 T30N R1W.

Comments/Influences

Topography of Site

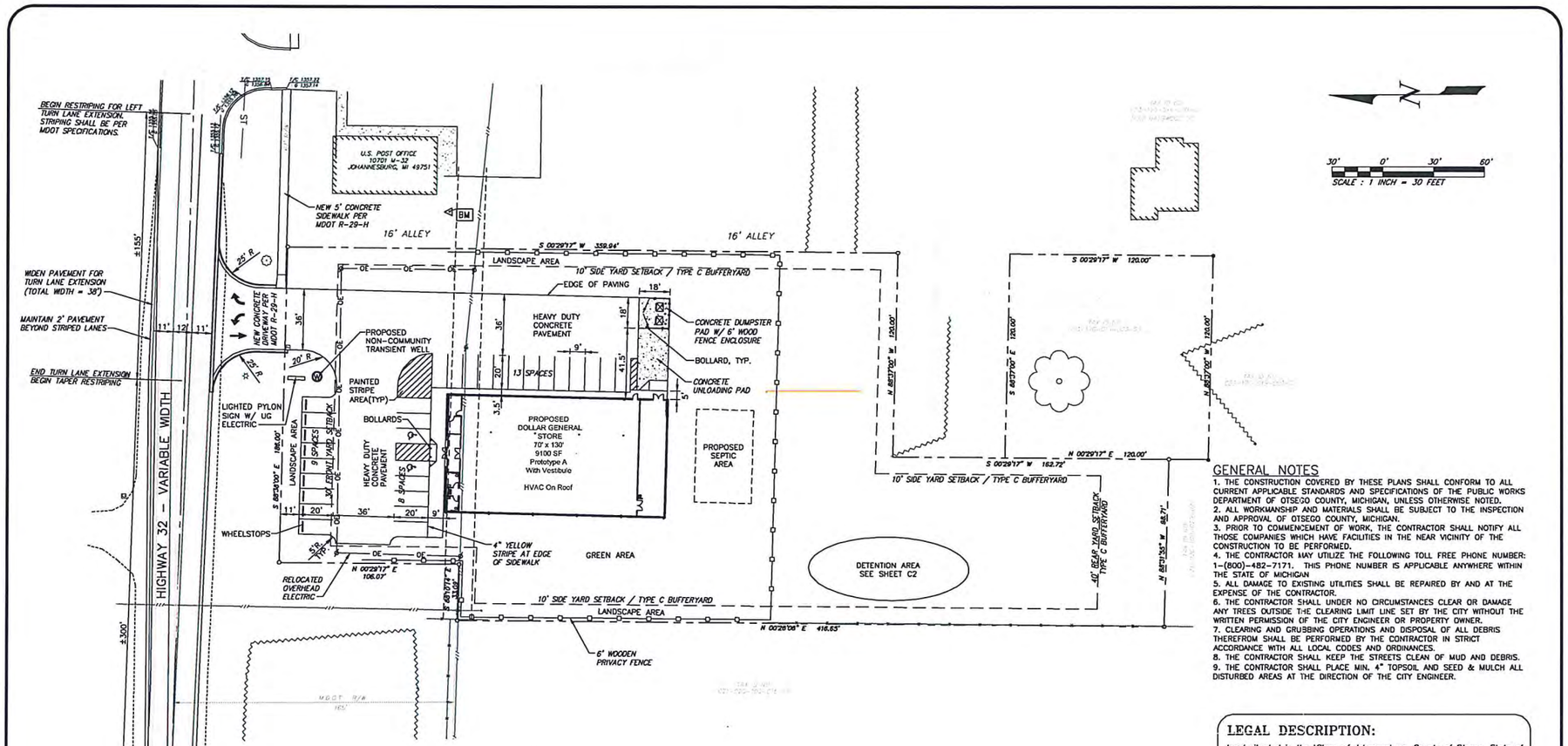
Level
Rolling
Low
High
Landscaped
Swamp
Wooded
Pond
Waterfront
Ravine
Wetland
Flood Plain

Year	Land Value	Building Value	Assessed Value	Board of Review	Tribunal/ Other	Taxable Value
2019	600	0	600			600S
2018	600	0	600			600S
2017	600	0	600			600S
2016	600	0	600			600S

Who	When	What

The Equalizer. Copyright (c) 1999 - 2009.
Licensed To: County of Otsego, Michigan

*** Information herein deemed reliable but not guaranteed***



GENERAL NOTES

1. THE CONSTRUCTION COVERED BY THESE PLANS SHALL CONFORM TO ALL CURRENT APPLICABLE STANDARDS AND SPECIFICATIONS OF THE PUBLIC WORKS DEPARTMENT OF OTSEGO COUNTY, MICHIGAN, UNLESS OTHERWISE NOTED.
2. ALL WORKMANSHIP AND MATERIALS SHALL BE SUBJECT TO THE INSPECTION AND APPROVAL OF OTSEGO COUNTY, MICHIGAN.
3. PRIOR TO COMMENCEMENT OF WORK, THE CONTRACTOR SHALL NOTIFY ALL THOSE COMPANIES WHICH HAVE FACILITIES IN THE NEAR VICINITY OF THE CONSTRUCTION TO BE PERFORMED.
4. THE CONTRACTOR MAY UTILIZE THE FOLLOWING TOLL FREE PHONE NUMBER: 1-(800)-482-7171. THIS PHONE NUMBER IS APPLICABLE ANYWHERE WITHIN THE STATE OF MICHIGAN
5. ALL DAMAGE TO EXISTING UTILITIES SHALL BE REPAIRED BY AND AT THE EXPENSE OF THE CONTRACTOR.
6. THE CONTRACTOR SHALL UNDER NO CIRCUMSTANCES CLEAR OR DAMAGE ANY TREES OUTSIDE THE CLEARING LIMIT LINE SET BY THE CITY WITHOUT THE WRITTEN PERMISSION OF THE CITY ENGINEER OR PROPERTY OWNER.
7. CLEARING AND GRUBBING OPERATIONS AND DISPOSAL OF ALL DEBRIS THEREFROM SHALL BE PERFORMED BY THE CONTRACTOR IN STRICT ACCORDANCE WITH ALL LOCAL CODES AND ORDINANCES.
8. THE CONTRACTOR SHALL KEEP THE STREETS CLEAN OF MUD AND DEBRIS.
9. THE CONTRACTOR SHALL PLACE MIN. 4" TOPSOIL AND SEED & MULCH ALL DISTURBED AREAS AT THE DIRECTION OF THE CITY ENGINEER.

LEGAL DESCRIPTION:

Land situated in the Village of Johannesburg, County of Otsego, State of Michigan to wit:

Lots 7, 8, 9, 10, 11 and 12, Block 18, Village of Johannesburg, according to the plat thereof as recorded in Liber 1 of Plats, Page 45, Otsego County Records.

AND

Lots 11 and 12, Block 19, Village of Johannesburg, according to the plat thereof as recorded in Liber 1 of Plats, Page 45, Otsego County Records.

AND

A parcel of land on part of the vacated streets of the plat of the Village of Johannesburg, according to the plat thereof as recorded in Liber 1 of Plats, Page 45, Otsego County Records, AND part of the Northeast 1/4 of Section 20, Town 30 North, Range 1 West described as: Commencing at the North 1/4 corner of said Section 20; thence South 88°38'00" East, 742.53 feet along the North line of said Section 20 to the Point of Beginning; thence South 00°25'59" West, 589.53 feet; thence South 88°32'02" East, 99.01 feet; thence North along the East line of vacated Hemlock Street to the North section line; thence West to the Point of Beginning.

BENCHMARK:

A bolt on the West face of the well head, located at the SW building corner of the Post Office.
ELEV = 1359.03' NAVD88

LEGEND

- STORM SEWER & MANHOLE
- SANITARY SEWER & MANHOLE
- WATERMAIN, HYDRANT, VALVE & FLAGGING
- GAS MAIN & VALVE & FLAGGING
- BURIED TELEPHONE & MANHOLE
- UNDERGROUND ELECTRIC, MANHOLE & FLAGGING
- OVERHEAD ELECTRIC, POLE, & GUY WIRE
- BURIED CABLE & FLAGGING
- BURIED FIBER OPTIC & FLAGGING
- CATCH BASIN (CURB & ROUND)
- WATER MANHOLE
- TELEPHONE & CABLE PEDESTAL
- CONTOUR LINE (EXISTING)
- FENCE
- GUARD RAIL
- LIGHT POLE
- SIGN
- STREET SIGN
- BENCH MARK
- MAILBOX
- SANITARY CLEANOUT
- P.O.B. – POINT OF BEGINNING
- ASP – ASPHALT
- 1 – TITLE ITEM
- (M) – MEASURED
- (R) – RECORDED
- (P) – PLATTED
- SEC. CORNER FOUND
- IRON RECORD
- IRON FOUND
- MONUMENT SET
- MONUMENT FOUND
- ASPHALT SURFACE
- CONCRETE SURFACE
- GRAVEL SURFACE

3 WORKING DAYS BEFORE YOU DIG CALL MISS DIG 1-800-482-7171 (TOLL FREE)

UTILITY DISCLAIMER

EXISTING UNDERGROUND UTILITIES AND BURIED STRUCTURES IN THE VICINITY OF THE WORK TO BE PERFORMED HEREIN ARE INDICATED ON THE DRAWINGS ONLY TO THE EXTENT THAT SUCH INFORMATION HAS BEEN MADE AVAILABLE TO OR DISCOVERED BY THE ENGINEER IN THE PREPARATION OF THE DRAWINGS. THERE IS NO GUARANTEE AS TO THE ACCURACY OR THE COMPLETENESS OF SUCH INFORMATION AND ALL RESPONSIBILITY FOR THE ACCURACY AND COMPLETENESS THEREOF IS EXPRESSLY DISCLAIMED

DOLLAR GENERAL

HIGHWAY 32, JOHANNESBURG, MICHIGAN

NO.	DATE	DESCRIPTION	BY

3/11/19

Overland ENGINEERING, LLC
1556 BIDERAL CTR., STE. 2029 WEST PLAINS, MO 65775
PHONE: (417) 256-9552 FAX: (417) 256-9552
WWW.OVERLANDENGINEERING.COM

DOLLAR GENERAL
JOHANNESBURG, MICHIGAN

SITE PLAN

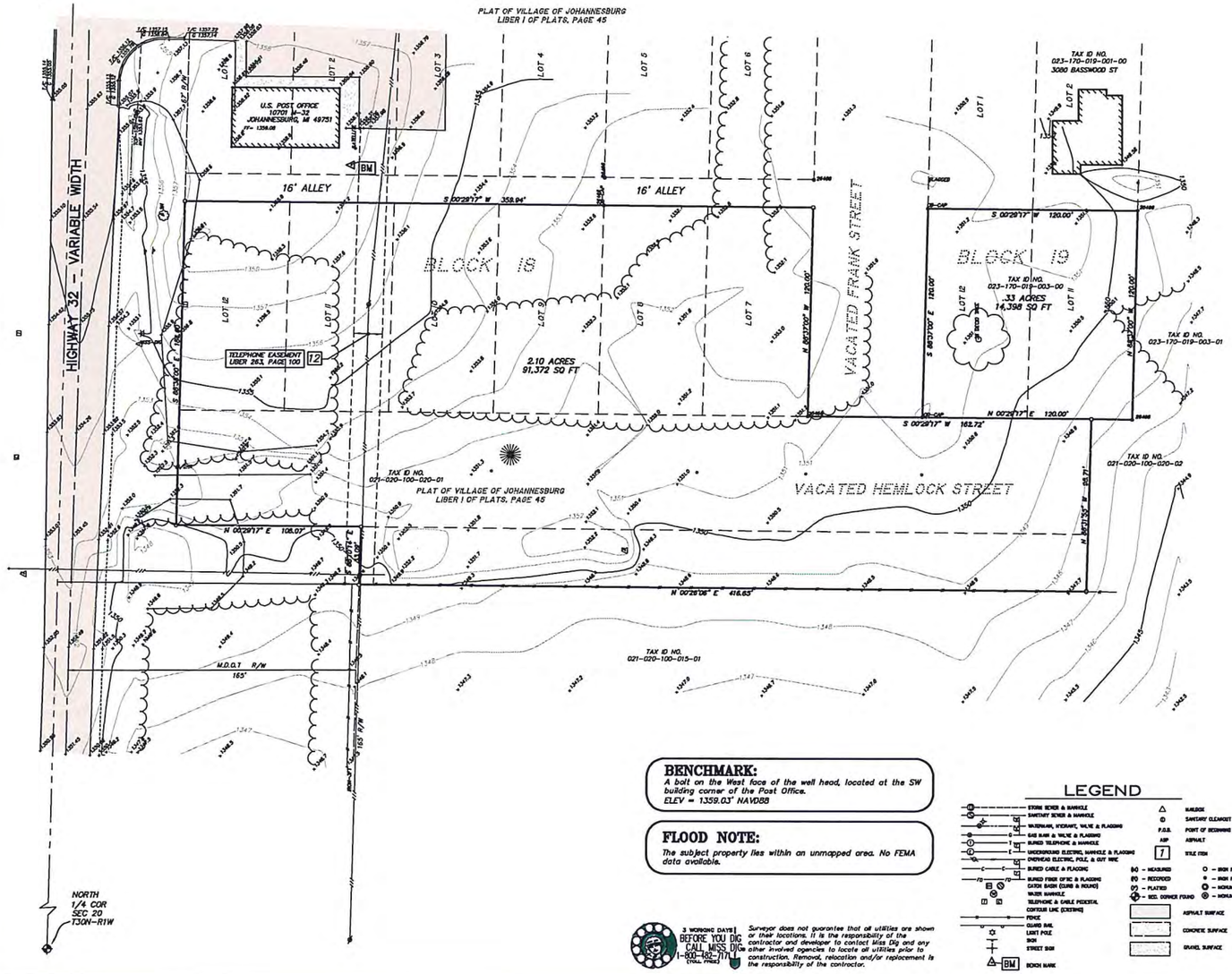
SHEET
C1

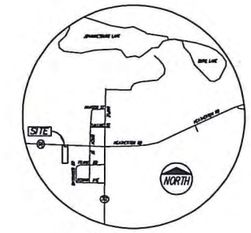
Exhibit 5

ALTA/NSPS LAND TITLE SURVEY FOR:

PROPOSED JOHANNESBURG DOLLAR STORE

PART OF SECTION 20, T30N-R1W
VILLAGE OF JOHANNESBURG, OTSEGO COUNTY, MICHIGAN





LOCATION MAP:
N.T.S.

LEGAL DESCRIPTION:

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
TITLE NO. 458215
EFFECTIVE DATE: FEBRUARY 19, 2019 AT 08:00 AM

Land situated in the Village of Johannesburg, County of Otsego, State of Michigan to wit:

Lots 7, 8, 9, 10, 11 and 12, Block 18, Village of Johannesburg, according to the plat thereof as recorded in Liber 1 of Plats, Page 45, Otsego County Records.

AND

Lots 11 and 12, Block 19, Village of Johannesburg, according to the plat thereof as recorded in Liber 1 of Plats, Page 45, Otsego County Records.

AND

A parcel of land on part of the vacated streets of the plat of the Village of Johannesburg, according to the plat thereof as recorded in Liber 1 of Plats, Page 45, Otsego County Records, AND part of the Northeast 1/4 of Section 20, Town 30 North, Range 1 West described as: Commencing at the North 1/4 corner of said Section 20; thence South 88°38'00" East, 742.53 feet along the North line of said Section 20 to the Point of Beginning; thence South 00°25'59" West, 589.53 feet; thence South 88°32'02" East, 99.01 feet; thence North along the East line of vacated Hemlock Street to the North section line; thence West to the Point of Beginning.

SCHEDULE B – SECTION II EXCEPTIONS:

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
TITLE NO. 458215
EFFECTIVE DATE: FEBRUARY 19, 2019 AT 08:00 AM

[12] Easement in favor of General Telephone Company of Michigan as set forth in Liber 263, Page 100, Otsego County Records.
–AFFECTS ALL OF BLOCK EIGHTEEN, SEE SKETCH.

ZONING:

PARCEL IS ZONED "R-1 & R-2"
(R-1: RESIDENTIAL, R-2: GENERAL RESIDENTIAL)

"R-1 & R-2" (RESIDENTIAL & GENERAL RESIDENTIAL)
FRONT SETBACK– 30 FEET

SIDE SETBACK– 10 FEET
BOTH SIDES– 20 FEET

REAR SETBACK – 20 FEET

MINIMUM LOT AREA – 20,000 FEET
MINIMUM LOT WIDTH – 100 TO 150 FEET
MAXIMUM BUILDING HEIGHT – 35 FEET
MINIMUM FLOOR AREA – NONE

Zoning ordinances obtained from Otsego County Land Use Services.

BENCHMARK:

A bolt on the West face of the well head, located at the SW building corner of the Post Office.
ELEV = 1359.03' NAVD88

FLOOD NOTE:

The subject property lies within an unmapped area. No FEMA data available.

LEGEND

STORM SEWER & MANHOLE
SANITARY SEWER & MANHOLE
WATERMAIN, HYDRANT, VALVE & FLAGGING
GAS MAIN & VALVE & FLAGGING
BURIED TELEPHONE & MANHOLE
UNDERGROUND ELECTRIC, MANHOLE & FLAGGING
OVERHEAD ELECTRIC, POLE & GUY WIRE
BURIED CABLE & FLAGGING
BURIED FIBER OPTIC & FLAGGING
CATCH BASIN (GUARD & POLE)
WATER MANHOLE
TELEPHONE & CABLE PEDESTAL
CONTOUR LINE (EXISTING)
FENCE
GUARD RAIL
LIGHT POLE
SIGN
STREET SIGN
BENCH MARK
BM
HANDICAP
SANITARY CLEANOUT
P.O.B. POINT OF BEGINNING
ASP ASPHALT
7 TITLE ITEM
(M) – MEASURED
(R) – RECORDED
(P) – PLATED
– REC. CORNER FOUND
– IRON RECORD
– IRON FOUND
– MONUMENT SET
– MONUMENT FOUND
ASPHALT SURFACE
CONCRETE SURFACE
GRAVEL SURFACE

3 WORKING DAYS BEFORE YOU DIG CALL MISS DIG 1-800-482-7171 (TOLL FREE)

Surveyor does not guarantee that all utilities are shown or their locations. It is the responsibility of the contractor and developer to contact Miss Dig and any other involved agencies to locate all utilities prior to construction. Removal, relocation and/or replacement is the responsibility of the contractor.

SURVEYOR'S CERTIFICATION

To: OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY;
ALPINE TITLE & ESCROW

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS and includes Table A Items: 1, 2, 3, 4, 5, 6(b), 7(a), 8, 9, 11, 13, 16 and 17. The fieldwork was completed on April 3, 2019.

CREG M. McARDLE
Michigan Professional Land Surveyor No. 46878

APRIL 8, 2019
DATE

DATE: MARCH 14, 2019
REVISED DATE:
JOB NO: 2019019
FIELD: AN/DS
OFFICE: GMM/MG

CLIENT: OVERLAND GROUP
SECTION: 20
CITY: JOHANNESBURG
COUNTY: OTSEGO

SHEET 1 OF 1

ALTA / NSPS LAND TITLE SURVEY
PROPOSED JOHANNESBURG DOLLAR STORE
PART OF SECTION 20, T30N-R1W,
VILLAGE OF JOHANNESBURG, OTSEGO COUNTY, MICHIGAN

MERIDIAN LAND SURVEYING
(810) 339-6605
www.meridianls.com
300 E FIRST STREET • SUITE 200
CITY OF FLINT • MICHIGAN • 48502

NORTH
0 13 30
SCALE: 1" = 30'

STATE OF MICHIGAN
CREG M. McARDLE
PROFESSIONAL SURVEYOR
No. 46878
PROFESSIONAL SURVEYOR NO. 46878

Exhibit 6

PURCHASE AND SALE CONTRACT

THIS PURCHASE AND SALE CONTRACT OF REAL PROPERTY (the "Agreement") made and entered into this 11 day of February 2019 by and between **WESLEY AND HOLLY ATKINSON** and/or ASSIGNS, (hereinafter "Seller") and **THE OVERLAND GROUP, LLC**, and/or ASSIGNS, (hereinafter "Buyer").

WITNESSETH:

WHEREAS, Seller is the owner of a certain tract of real property, with PINs 021-020-100-020-01, 023-170-019-003-00, and part of 023-170-018-004-**00 (excluding lots 4,5,6 of block 18)**, measuring approximately 186' of frontage on M-32 by an irregular depth for a total 2.5± acres, City of Johannesburg, Ostego County, Michigan, which tract of land is more particularly shown on Exhibit "A" attached hereto and made a part hereof (the "Property"); The Property shall mean net usable acres and shall not include real property burdened by permanent rights-of-way for public roads, drainage or utilities; and

WHEREAS, Buyer desires to purchase the Property upon the terms, provisions and conditions hereinafter set forth, together with all right, title and interest, if any, of Seller in and to any land lying in the bed of any street, road, alley or way, whether opened to, in front of or adjacent to the Property, and together with all appurtenances, improvements, easements and/or hereditaments thereunto belonging; and

NOW THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, Buyer and Seller hereby covenant and agree as follows:

1. PURCHASE PRICE. The total purchase price for the Property shall be ONE HUNDRED AND FIFTEEN THOUSAND NO/100 DOLLARS ($115,000.00). The Purchase Price, less credit for monies heretofore paid to Seller by Buyer for the Inspection Period and any payments made pursuant to Section 18 herein below, shall be paid to Seller at closing as hereinafter defined (the "Closing").

2. EARNEST MONEY. Buyer shall deposit **THREE THOUSAND AND NO/100 ($3,000.00)** into a non-interest bearing escrow account held by **Alpine Title and Escrow, 114 E Main Street, Gaylord, MI 49735 Phone: 989-732-6392, Fax: 989-732-6392, contact person: Rita Johnson rjohnson@alpinetitleco.com** within five (5) days after execution of the contract.

3. INSPECTION PERIOD. For a period of **ninety (90) days** from the date of this Agreement (the "Inspection Period"), Buyer shall have the privilege of going upon the Property as needed to confirm zoning, confirm availability of all utilities (including sewer), to inspect, examine, survey, make soil and subsoil tests, percolation tests, arrange financing for the proposed development and to otherwise do what Buyer reasonably deems necessary to determine, to Buyer's sole satisfaction, whether the Property is suitable for Buyer's intended development and use. If Buyer exercises its rights under the provisions of this Section, it shall (1) keep the Property free of any liens or third-party claims resulting therefrom; (2) promptly pay when due the costs of all tests, investigations and examinations done with regard to the Property; (3) indemnify and hold Seller harmless from and against any and all liability, damages, claims, causes of action,

Buyer's Initials SA Seller's Initials WA HA

costs or other expenses, including without limitation reasonable attorney's fees, paid, incurred or asserted against Seller any lien claims or for injuries to or death of persons or damage to property arising from or caused by Buyer's entry onto the Property or the negligence or willful misconduct of Buyer, its agents, employees and contractors in connection with the exercise by Buyer of the rights hereunder, and (4) if Closing does not occur for any reason, fully restore the Property as nearly as practicable to its condition immediately before such exercise. This Section shall survive the termination of this Agreement or Closing and delivery of the Deed. If Buyer determines, in its sole discretion, that the Property is unsuitable for its proposed development and gives notice of this to Seller prior to the expiration of the Inspection Period, then this Agreement shall terminate and all earnest monies less $100 to Seller as independent consideration for the right to terminate shall be immediately returned to the Buyer. If Buyer terminates this contract before the end of the initial Inspection Period, Buyer shall be entitled to the immediate return of the Earnest Money without the need of Seller's release. Notwithstanding the foregoing, the Buyer may extend its Inspection Period for an additional ninety (90) days by depositing into escrow an additional FIVE THOUSAND AND NO/100 DOLLARS ($5,000.00) nonrefundable Earnest Money, for a total of EIGHT THOUSAND AND NO/100 DOLLARS ($8,000.00), which shall be applicable to the purchase Price but nonrefundable

4. SURVEY. Buyer will secure at Buyer's expense a boundary survey of the Property, prepared by an engineer or land surveyor registered in the state of Michigan, selected by Buyer. This boundary survey shows all easements, rights of way, encroachments and matters of record, together with a certification as to the number of acres.

5. CONVEYANCE AND PERMITTED EXCEPTIONS. Upon payment by Buyer of all amounts due at Closing for the Property and Buyer's performance of all other obligations to be performed by Buyer at Closing, Seller shall convey title to the Property to Buyer by general warranty deed subject to any permitted exceptions.

6. TITLE EVIDENCE. Within thirty (30) days after execution of this Contract for Purchase and Sale, Buyer shall obtain a commitment (the "Commitment") for owner's policy of title insurance from **Alpine Title and Escrow, 114 E Main Street, Gaylord, MI 49735 Phone: 989-732-6392, Fax: 989-732-6392, contact person: Rita Johnson rjohnson@alpinetitleco.com** certified to a current date, and at Closing, the title policy referred to in the commitment (the "Title Policy") in the amount of the Purchase Price. If the commitment or survey shows any defects or encumbrances or any covenant, restriction, easement or right-of-way of record or any private road or utility line or facility which in Buyer's reasonable judgment will materially interfere with Buyer's proposed development of the Property, then prior to Closing, Buyer shall notify Seller of its objections to any such matter. Seller shall have a reasonable time to cure the title defects to which Buyer has objected. If Seller fails to cure the title defects, Buyer shall have the option of either (1) accept title subject to the objections raised by Buyer and such accepted objections become Permitted Exceptions ("Permitted Exceptions") without any adjustment in the Purchase Price, or (2) rescind this Agreement, whereupon the earnest monies less $100 to Seller as independent consideration for the right to terminate shall be immediately returned to Buyer by Escrow Agent, or (3) work with Seller to

satisfy unacceptable matters and postpone the closing date for the same time period as it takes to satisfy these matters

7. DEVELOPMENT OF TRACT AND CONDITIONS PRECEDENT. Buyer's obligation to close is subject to the satisfaction, as of the Closing Date, of each of the conditions described below (any of which may be waived in whole or in part in writing by Buyer at or prior to the Closing Date). Unless specifically stated as Seller's obligation, the satisfaction of all these conditions shall be at Buyer's sole expense. Buyer shall diligently and in good faith pursue the satisfaction of these conditions and Seller shall promptly cooperate whenever required by Buyer. In the event the conditions below have not been satisfied to the Buyer's satisfaction, the Buyer shall have the right to terminate this Agreement by so notifying Seller in writing. In such event, the Escrow Agent shall return the refundable earnest money to Buyer.

A. Subdivision. In the event a subdivision plat is required pursuant to applicable law in connection with the conveyance of the Property to Buyer and/or the development of the Property, Buyer shall use diligent efforts to cause the Property to be properly subdivided in compliance with applicable law prior to Closing. Without limitation, Seller shall sign subdivision plats and other normal and customary documentation as may be required to comply with applicable laws relating to the subdivision of the Entire Tract.

In the event that the Seller has property adjacent to the Property conveyed hereunder or the Property conveyed hereunder is subdivided out of a larger tract still owned by the Seller the remaining Seller's Property shall be subjected to a DECLARATION OF COVENANTS AND RESTRICTIONS as described on **Exhibit "B"**. Without limitation, Seller shall sign DECLARATION OF COVENANTS AND RESTRICTIONS on or before Closing. Buyer shall pay for subdivision costs.

B. Mutual Cooperation. Buyer and Seller agree to cooperate with one another in all reasonable respects in connection with any approvals, zoning changes or variances, or similar actions or consents which may be necessary or appropriate in connection with use of the Property and to otherwise cooperate in all reasonable respects in connection with the development of the Property. As of the Closing Date the Property shall be properly zoned for commercial real estate with all necessary zoning variances, if any are required, approved for Buyer's intended development. Buyer shall pay all costs incurred by either party in connection with satisfying this condition.

C. No Moratoriums. There shall be no development or building moratorium in effect with regard to the Property. In the event any such moratorium shall exist, then Buyer shall have the option of either (1) closing the transaction in accordance with the terms of this Agreement, (2) delaying closing until after the moratorium is lifted, or (3) terminating this Agreement by notice to the Seller, in which event the earnest monies shall be returned to Buyer.

D. Ingress and Egress. There shall be suitable ingress and egress to the Property, including all necessary turning movements and curb cuts for Buyer's proposed development.

PURCHASE AND SALE CONTRACT

Buyer and Seller agree that there shall be no shared access between the property being purchased and the remainder of Seller's land

E. Sanitary Sewer and Water Facilities. Buyer shall have (1) determined that sanitary sewer and water facilities adequate to serve the Property are available and (2) secured all required governmental approvals for the installations and use of such sanitary sewer and water facilities

F. Governmental Approvals. Buyer shall have obtained all necessary governmental approvals from the appropriate authorities for Buyer's proposed development, including without limitation, building permits, site plan approval including parking, and storm water retention. In addition, Buyer shall have received approval of its proposed tenant of the site plan as satisfying all tenants' conditions pursuant to tenant's lease agreement with Buyer. If Buyer's have requests pending before any government body for a permit, license or other approval required to begin the construction Buyer anticipates on the Property. Buyer may, by delivering written notice prior to expiration of this Agreement, extend the closing for thirty (30) days past such time as all applicable government bodies rule on the issuance of any requested permits, not to exceed one hundred twenty (120) days in addition to all other extensions provided for herein

G. Taxes/Liens. In the event there are unpaid taxes or liens relating to the Property for any time prior to the execution of the contract, Buyer will give Seller written notice by facsimile transmission or electronic mail of such unpaid taxes or liens effecting the Property and request that Seller pay those taxes or liens. In the event Seller fails to pay the taxes or liens within three (3) calendar days of Seller's receipt, Buyer may pay those taxes or liens directly and Seller shall reimburse Buyer for such paid amounts on or before Closing out of Seller's closing proceeds. The Parties agree that Seller will only be liable for taxes or liens resulting from its use of the Property prior to Closing. For purposes of this Section 7 (G), notice to Seller's agent shall constitute sufficient notice to Seller

8. NON-NEGOTIATION. Seller hereby covenants and agrees that it shall not during the Inspection Period or any extension thereof, nor prior to closing, lease the Property or convey, demise, or otherwise encumber the Property except as specifically provided in this Agreement

9. REPRESENTATIONS AND WARRANTIES OF BUYER. Buyer represents and warrants to Seller that:

A. Buyer is a Missouri Limited Liability Company, duly organized, validly existing, and in good standing under the laws of the State of Missouri and duly authorized to transact business in and in good standing under the laws of the state where the Property is located

B. Buyer has full capacity, right, power and authority to execute, deliver and perform this Agreement and all documents to be executed by Buyer pursuant hereto

10. REPRESENTATIONS AND WARRANTIES OF SELLER. Seller to the best of their knowledge represents and warrants, and covenants with, Buyer as follows:

PURCHASE AND SALE CONTRACT

A. Seller has good and indefeasible fee simple title to the Property subject to matters of record and affecting the Property and at Closing will have and will convey to Buyer by warranty deed good and indefeasible fee simple title to the Property, free and clear of all liens, defects, encumbrances, conditions, exceptions, restrictions or other matters affecting title except Permitted Exceptions;

B. Seller has full capacity, right, power and authority to execute, deliver and perform this Agreement and all documents to be executed by Seller pursuant hereto;

C. Seller has not received any written notice of any current or pending litigation, tax appeals or environmental investigations against Seller or the Property and, to Seller's knowledge, there is no pending litigation, tax appeals or environmental investigations against Seller or the Property;

D. Seller has not entered into any contracts, subcontracts or agreements affecting the Property which will be binding upon Buyer after the Closing;

E. Seller has not received any written notice from (or delivered any notice to) any governmental authority regarding any violation of any law applicable to the Property and, to the best of Seller's knowledge, there are no such violations;

F. There are no occupancy rights, leases or tenancies affecting the Property;

G. No person or entity has any option, right of first refusal or other right to purchase the Property or any part thereof or interest therein;

H. To Seller's knowledge, no pending or, to Seller's knowledge, threatened condemnation proceedings affecting the Property and Seller has not received any written notice that there is any pending or threatened condemnation of all or any part of the Property;

I. To Seller's knowledge, no hazardous substances have been generated, stored, released, or disposed of on or about the Property in violation of any law, rule or regulation applicable to a Property which regulates or controls matters relating to the environment or public health or safety (collectively, "Environmental Laws"). Seller has not received any written notice from (nor delivered any notice to) any federal, state, county, municipal or other governmental department, agency or authority concerning any petroleum product or other hazardous substance discharge or seepage relating to the Property. For purposes of this Agreement, "hazardous substances" shall mean any substance or material that is defined or deemed to be hazardous or toxic pursuant to any Environmental Laws; and

J. Seller has no knowledge of any hazardous or solid waste placed on the property that would require remediation or disposal.

Should Seller receive notice or actual knowledge of any materially inaccurate information regarding any of the matters set forth in this Section 10 after the date of this Agreement and prior to Closing, Seller will immediately notify Buyer of the same in writing. If Seller is unwilling or unable to correct such inaccuracy on or before Closing of the applicable Property, Buyer may cancel this Agreement and any Earnest Money shall be returned to Buyer. The representations and warranties of Seller shall survive the Closing for a period of one (1) year. Any action based on a breach of any such representations or warranties shall be commenced within such one (1) year period or deemed waived.

11. NOTICES. All notices will be in writing and served by postage prepaid certified mail, by next day delivery (such as Federal Express), by facsimile transmission, or by electronic

PURCHASE AND SALE CONTRACT

mail to the addresses shown below, until notification of a change of such addresses. All such notices shall be deemed delivered on the date initiated.

For Buyer:
The Overland Group, LLC
194 Narrows Drive, Suite 1
Birmingham, AL 35242
Phone: 205-995-2990
Fax: 205-995-2989

With a Copy To
The Overland Group, LLC
1598 Imperial Center, Ste. 2001
P.O. Box 885
West Plains, MO 65775

For Seller:
Wesley and Holly Atkinson
PO Box 45
Johannesburg, MI 49751

12. AGENCY DISCLOSURE

THE BUYERS ARE LICENSED REAL ESTATE BROKERS IN THE STATES OF MISSOURI AND ALABAMA.

The listing company NA is an agent of the seller.
The selling company DeGroat Kennan Commercial is assisting the buyer as a transaction broker.

13. BROKER. Each party represents and warrants to the other that DeGroat Keenan Commercial is the only Broker in connection with the sale of the Property. Seller agrees to pay DeGroat Keenan Commercial in this transaction, in cash, at closing, a commission in the amount of eight percent (8%) of the total Purchase Price. Buyer and Seller each warrant and represent to the other that no real estate broker or agent other than Broker aforementioned have been used or consulted in connection with the negotiation or execution of this Agreement and each covenants and agrees that it will defend, indemnify and save the other harmless from and against any actions, real estate commissions, fees, costs and /or expenses (including reasonable attorney's fees) resulting or arising from acts of the indemnifying party and resulting in commission, fees, costs and/or expenses being actually found due to any real estate broker or agent by a court of competent jurisdiction in connection with the purchase and sale, if at all, of the Property.

14. DISCLAIMER. Seller and Buyer acknowledge that they have not relied upon advice or representations of Broker (or Broker's associated salespersons) relative to the legal or tax consequences of this contract and the sale, purchase or ownership of the Property. Seller and Buyer acknowledge that if such matters are of concern to them in the decision to sell or purchase the Property, they have sought and obtained independent advice relative thereto.

Buyer's Initials SA

Seller's Initials WA HA

PURCHASE AND SALE CONTRACT

15. DEFAULT. In the event Seller breaches its covenant to convey the Property to Buyer or otherwise fails to perform its obligations under this Agreement which are to be performed by Seller at or prior to Closing in accordance with its terms, Buyer shall be entitled to one of the following as Buyer's sole remedy: (a) terminate this Agreement and receive a prompt and complete return of the Earnest and any other monies heretofore paid by Buyer to Seller or for Buyers out-of-pocket expense. OR (b) obtain specific performance of this Agreement. If Buyer fails to perform as required under this Agreement, then Seller shall receive the earnest monies as liquidated damages, it being agreed between Buyer and Seller that such sum shall be liquidated damages for a default of Buyer hereunder because of the difficulty, inconvenience, and the uncertainty of ascertaining actual damages for such default.

16. FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT (FIRPTA). In the Closing of this transaction, Seller and Buyer shall comply with the FIRPTA and the regulations promulgated thereunder by the IRS.

17. NON-BUSINESS DAYS. If any date herein set forth for the performance of any obligations by Seller or Buyer or for the delivery of any instrument or Notice or for the satisfaction of any condition precedent, or the expiration of any contingency period, as herein provided should be on a Saturday, Sunday or legal holiday, the compliance with such obligations or delivery or satisfaction of such condition or expiration of such contingency period, shall be extended to the next business day following such Saturday, Sunday or legal holiday. As used herein, the term "legal holiday" means any state or federal holiday for which financial institutions or post offices are generally closed in the State of Michigan for observance thereof.

18. CLOSING. In the event Buyer exercises its rights to purchase the Property, the consummation of the purchase and sale, delivery of the deed of conveyance and payment of the Purchase Price (the "Closing") shall take place at a legal office on a date and time mutually agreed to by the parties hereto, but in no event later than sixty (60) days after the end of the Inspection Period, or any extensions of Closing as outlined in Section 18. All federal, state, county and municipal ad valorem real property taxes and assessments with respect to the Property shall be prorated at closing. If the amount of such taxes and assessments is not known as of closing, then the pro-ration of such taxes and assessments shall be made upon the basis of the most recent ascertainable statements, and such pro-rations shall be adjusted when such taxes and assessments are available.

Seller agrees that it shall deliver sole and exclusive possession of the Property to Buyer at Closing free and clear of all tenancies. Seller further agrees that Buyer shall have the option to set a closing date upon sixty (60) days written notice. Seller shall be able to remove any furniture, buildings, fixtures, or contents prior to closing. Any furniture, buildings, fixtures, or contents remaining on the property after closing shall be owned by the Buyer. In the event that Buyer sets a closing date in accordance with this section and Seller fails or refuses to close on the closing date as set, Buyer may, (1) either waive the default and proceed to close the transaction, or (2) terminate the contract and receive the return of all Earnest Money in which case Buyer shall also be entitled to recover all of Buyer's out of pocket expenses in due diligence and design of its project in an amount not

Buyer's Initials SA Seller's Initials WA HA

to exceed fifty thousand Dollars ($50,000). The remedies contained herein shall be in addition and cumulative to those set forth in section 15 above.

Notwithstanding the foregoing, Buyer may extend the closing date for two (2) additional periods of sixty (60) days each upon payment of $5,000 to the Escrow Agent at the time each such extension is requested, which deposits shall be non-refundable (subject only to Seller's ability to convey clear title), and shall be applied towards the Purchase Price at closing.

Seller will pay the costs of Seller's counsel, preparation of the deed and any bill of sale, a title insurance policy in an amount equal to the Purchase Price, broker commissions, and transfer taxes for the conveyance.

Buyer will pay the cost of Buyer's counsel, the cost of the survey, all loan costs required by Buyer's lender, including title policy cost in excess of owner's policy provided by Seller, escrow fees, and recording fees for the deed and mortgage, and any applicable mortgage tax.

19. GOVERNING LAW. This Agreement shall be construed, and the terms hereof shall be enforceable, in accordance with the internal laws (as distinguished from the conflicts of law provisions) of the state where the Property is located, and in the event any legal proceedings are brought in connection with this Agreement, the parties agree that the venue therefore shall be only state and federal courts located in the state where the Property is located, and the courts to which an appeal therefrom may be taken.

20. EXPENSES OF ENFORCEMENT. In the event of litigation between the parties with respect to the Property, this Agreement, the performance of their obligations hereunder or the effect of a termination under this Agreement, the losing party shall pay all costs and expenses incurred by the prevailing party in connection with such litigation, including reasonable attorneys' fees.

21. SEVERABILITY. In case any of the provisions of this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, the remaining provisions shall remain in effect and the Agreement be performed in a fair and equitable manner as to any uncertainties arising from the unenforceable provisions.

22. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. Signatures may be faxed or e-mailed.

23. AMENDMENTS. Neither this Agreement nor any provisions hereof may be waived, modified, amended, discharged or terminated except by an instrument in writing signed by the party against which the enforcement of such waiver, modification, amendment, discharge or termination is sought, and then only to the extent set forth in such instrument.

24. DESTRUCTION OR DAMAGE. Risk of loss by damage or destruction to the Property prior to the Closing shall be borne by Seller. The parties acknowledge that if there are

improvements on the Property, and in the event of any damage or casualty to any such improvements on the Property, by fire or other casualty, this Agreement shall continue unaffected, and Buyer shall have no right to any insurance proceeds of Seller with respect to said damage.

25. CROPS/FARMING. In the event that the Property is farmed for crops, Seller shall have the right to plant crops on the property, maintain and harvest the crop while Property is under contract. If Buyer closes on the Property and desires to commence construction prior to harvesting the crops, Buyer shall pay Seller the sum of $2000.00 as compensation for the crop loss. Buyer may also request that Sellers forego planting any crops by written request to Seller, with Buyer paying Seller $1,000.00 as compensation for the anticipated loss of profit. Any amounts paid pursuant to this paragraph shall be in addition to the purchase price stated in paragraph 1.

26. EXPIRATION. If this Agreement is not executed by Seller and Buyer on or before 5:00 P.M., CST/CDT time February 15, 2019, this Agreement shall be null and void and shall have no force and effect and neither Seller nor Buyer shall have any further obligations hereunder. The effective date of this Agreement shall be the date upon which the later of Seller or Buyer executes this Agreement.

27. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between Buyer and Seller regarding the Property, and supersedes all prior discussion, negotiations and agreements between Buyer and Seller, whether oral or written. Neither Buyer, Seller, nor Broker, nor any sales agent shall be bound by any understanding, agreement, promise, or representation concerning the Property, expressed or implied, not specified herein. If any clause or provision of this Agreement, or the application thereof to any entity or circumstance, is or becomes illegal, invalid or unenforceable to any extent because of present or future laws or rules or regulation of any governmental body or entity, the intention of the parties hereto is that the remaining parts of this Agreement shall not be affected thereby and that the same shall otherwise remain enforceable to the fullest extent permitted by law. This Agreement shall be construed under Michigan law, and the parties agree that any action to enforce this Agreement shall not be affected thereby and that the same shall otherwise remain enforceable to the fullest extent permitted by law.

Buyer's Initials SA

Seller's Initials WA HA

PURCHASE AND SALE CONTRACT

Seller(s)

WESLEY AND HOLLY ATKINSON

Wesley Atkinson Holly Atkinson

Date: 2-11-19

Buyer:

THE OVERLAND GROUP, LLC

By: Sid Aultman

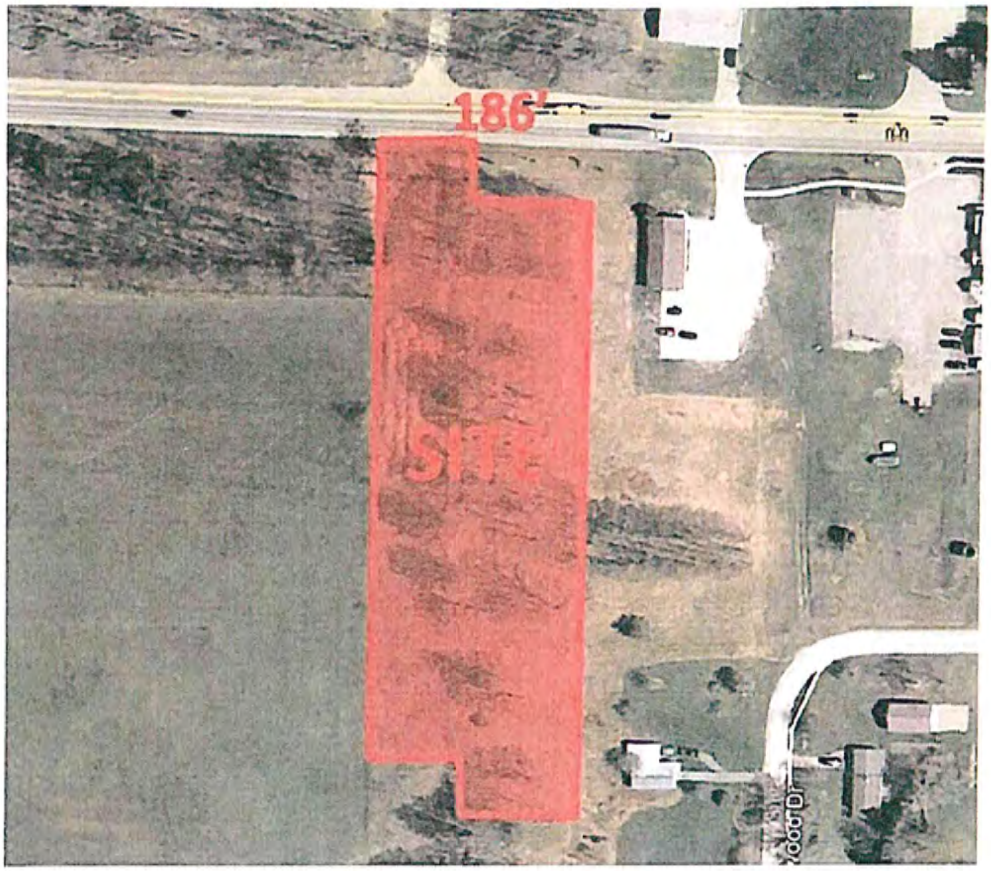
As Its: Member

Date: 2-14-19

PURCHASE AND SALE CONTRACT

EXHIBIT "A"

PINs 021-020-100-020-01, 023-170-019-003-00, and part of 023-170-018-004-00



Buyer's Initials SA

Seller's Initials WA HA

PURCHASE AND SALE CONTRACT

EXHIBIT "B"

Prepared by and when recorded return to:

_____

_____

_____

DECLARATION OF COVENANTS AND RESTRICTIONS

Date February 11, 2019

Owner Wesley and Holly Atkinson

When recorded return to 1598 Imperial Center, Suite 2001, West Plains, MO 65775

Tract Shall be described once there is a survey and legal description

The Owner hereby declares that the Tract shall be held, sold, and conveyed subject to the following restrictions for the purpose of, among other things, insuring the quiet enjoyment of the Tract for the purpose that it is being developed and improved.

1. Benefited Parties/Binding Effect. The rights and obligations established in this Declaration of Restrictions (this "Declaration") shall run with the land and be for the benefit of the Tract and any portion of the Tract and shall run with the land and be binding upon the Tract and any use of the Tract.

2. Business Restrictions on Tract. Owner hereby further declares that the Tract shall not be used for or used to access any business operated as the following: Family Dollar Store, Bill's Dollar Store, Fred's, Dollar Tree, Dollar Zone, Variety Wholesale, Dollar Express, Ninety-Nine Cents Only, Deals, Bonus Dollar, Maxway, Super Ten, Planet Dollar, Big Lots, Walgreens, CVS, Rite Aid, or any Wal-Mart concept including but not limited to Super Wal-Mart, Wal Mart, Wal-Mart Neighborhood Market, or Walmart Express, as well as any establishment selling or exhibiting paraphernalia for use with illicit drugs, any establishment selling or exhibiting materials or devices which are adjudicated to be pornographic by a court of competent jurisdiction, and any adult bookstore, adult video store or adult movie theater or a funeral parlor, for any unlawful purpose or in any way which would constitute a legal nuisance to an adjoining owner or occupant, as a discotheque, dance hall or night club, as a massage parlor, funeral parlor, bingo parlor, car wash, any use which emits a strong, unusual, offensive or obnoxious odor, fumes, dust or vapors, or any sound which can be heard outside of any buildings, any assembling, manufacturing, distilling, refining, smelting, agricultural, or mining operation, any "second hand" store or liquidation outlet, any mobile home park, trailer court, labor camp, junk yard, recycling facility or stock yard, any dumping, disposing, incineration or reduction of garbage (exclusive of garbage compactors located near the rear of any building), any dry cleaners performing on site cleaning services, any automobile, truck, trailer or recreational vehicles sales, leasing, storage, display or body shop repair operation, any living quarters, sleeping apartments or lodging rooms, any veterinary hospital or animal raising facilities (except this

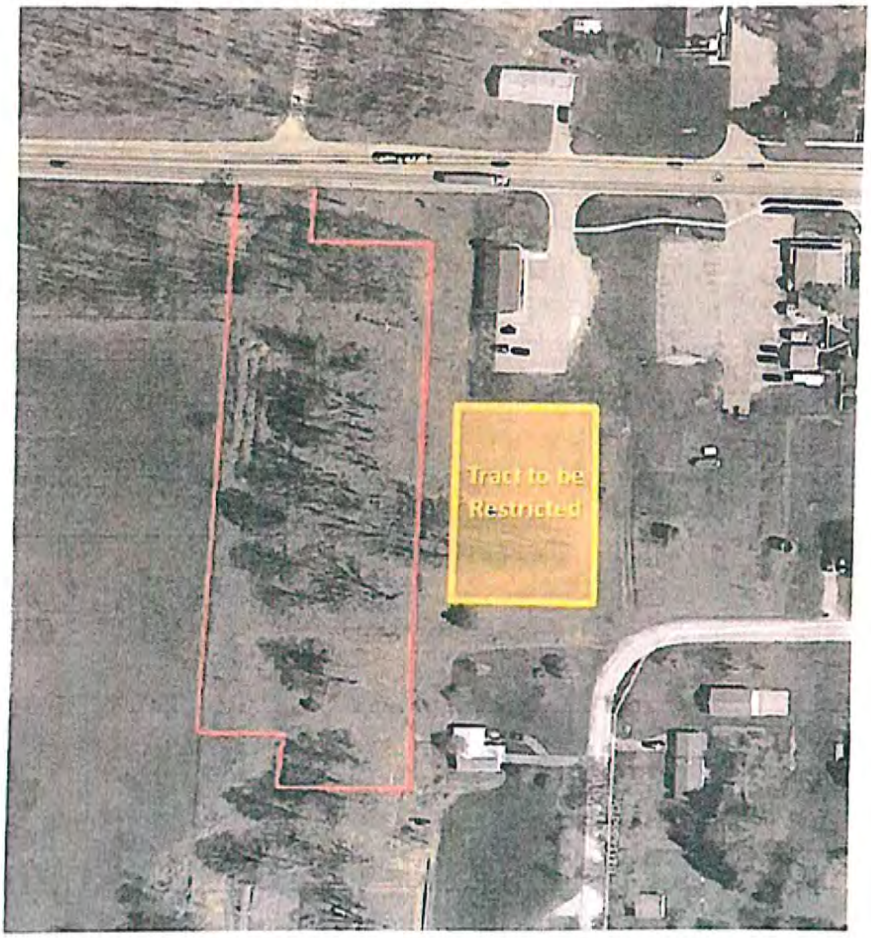
Buyer's Initials SA Seller's Initials WA HA

PURCHASE AND SALE CONTRACT

provision shall not prohibit pet shops and shall not prohibit the provision of veterinary services in connection with pet shops or pet supplies business), any bar or tavern; provided, however, a bar within a restaurant shall be permitted, any pool or billiard hall, gun range or shooting gallery, or amusement or video arcade, any use which creates fire, explosives or other hazards, and facilities for the use of treating addiction including but not limited to inpatient or outpatient substance abuse treatment facilities, pharmacological treatment facilities, safe injection sites and methadone maintenance therapy or clinics.

3. Enforcement. Owner acknowledges that monetary damages would be an inadequate remedy for breach of this Declaration, and that any violation of this Declaration will result in immeasurable and irreparable harm to the other party, warranting an injunction.

4. Duration. The provisions of this Declaration shall run with and bind the land described herein and shall be and remain in effect perpetually to the extent permitted by law.



OTSEGO COUNTY
PLANNING COMMISSION

PUBLIC HEARING NOTICE
June 17, 2019

The Otsego County Planning Commission will hold a public hearing on Monday, June 17, 2019 at 6:00 pm in the Planning and Zoning Meeting room located at 1322 Hayes Rd Gaylord, Michigan.

The purpose of the public hearings will be to obtain citizen comment on the following:

1. Wesley & Holly Atkinson, property owners, represented by Dollar General, applicant, have requested a Rezone for properties located in Charlton Township on M-32 East Johannesburg, MI 49751. The proposed purpose of the rezone is for the construction of a retail business. The properties are currently zoned R1/Residential and R2/General Residential with a request to be rezoned B2/General Business.

   Parcel identification number: **021-020-100-020-01**
   M-32 East
   Johannesburg, MI 49751

   Legal Description:
   COMM AT THE N 1/4 COR OF SEC 20, TH S 88DEG 38MIN 00SEC E 742.53FT ALG THE N LINE OF SEC TO POB; TH S 00DEG 25MIN 59SEC W 589.53FT, TH S 88DEG 32MIN 02SEC E 99.01FT, TH N ALG E LINE OF VACATED HEMLOCK ST TO THE N SEC LINE, TH W TO THE POB, CONT. 1.34 ACRES M/L T30N R1W 1999 ADDED TO ROLL

   Parcel identification number: **023-170-018-004-00 - part of**
   M-32 East
   Johannesburg, MI 49751

   Legal Description:
   LOTS 4-12 BLK 18 VILLAGE OF JOHANNSEBURG SEC 20 T30N R1W

   Parcel identification number: **023-170-019-003-00**
   M-32 East
   Johannesburg, MI 49751

   Legal Description:
   LOTS 11 & 12 BLK 19 VILLAGE OF JOHANNESBURG SEC 20 T30N R1W

All citizens are welcome to attend the meeting or provide written comment. If written comments are provided the comments must be received at the Otsego County Land Use Services Office by noon (12:00 pm) the day of the meeting.

Any citizen who has questions regarding this application or needs assistance to attend this meeting should contact the Director of Land Use Services at 989.731.7400.

Exhibit 8

Otsego COUNTY
ESTABLISHED 1875 MICHIGAN

Department of Land Use Services
1322 Hayes Rd • Gaylord, MI 49735
Phone: 989.731.7400 • Fax: 989.731.7419
www.otsegocountymi.gov

April 30, 2019

Charlton Township
PO Box 367
Johannesburg, MI 49751

RE: Parcel Rezone

Pursuant to Article 27 of the Otsego County Zoning Ordinance/Township Participation in County Zoning, the application for the Rezone of three (3) parcels is being forwarded.

If you require the applicant or their representative to be present at your meeting, they can be notified at the following:

Representative:
DGOGJohannesburgMI030619 LLC
1598 Imperial Center Ste 2001
West Plains, MO 65775

Owners:
Wesley & Holly Atkinson
PO Box 45
Johannesburg, MI 49751

If you have any questions, please contact us and we will be glad to assist you. We anticipate your input concerning this matter. Thank you for your participation in County Zoning.

Sincerely,

Chris Churches
Planning & Zoning Director

cbw

encl

Exhibit 9

PZRZ19-001 021-020-100-020-01, 023-170-018-004-00, 023-170-019-003-00

OWNERS WITHIN THREE HUNDRED FEET (300')									
Parcel Number	Property Address	Owner	Mailing Address				Record Acres	Property Class	Zoning Code
021-020-100-020-01		ATKINSON, WESLEY S & HOLLY A	PO BOX 45	JOHANNESBURG	MI	49751	0.93	402	R-1
023-170-018-004-00		ATKINSON, WESLEY S & HOLLY A	PO BOX 45	JOHANNESBURG	MI	49751	1.49	202	R-2
023-170-019-003-00		ATKINSON, WESLEY S & HOLLY A	PO BOX 45	JOHANNESBURG	MI	49751	0.33	202	R-1
021-020-100-015-01	10319 M-32 EAST	KWAPIS, DANIEL J & BRENDA A	10297 M-32 EAST	JOHANNESBURG	MI	49751	22.25	101	R-1
023-170-011-005-01	10676 M-32 EAST	GASCHO, DUSTIN & KIMBERLY M	33364 LINSDALE CT	STERLING HTS	MI	48310	0.34	401	B-2
023-170-011-007-01/ 023-170-011-007-02	10660 M-32 EAST	BANASZAK, PENNY KAY	PO BOX 41	JOHANNESBURG	MI	49751	0.30/ 0.28	402/ 401	B-2/ B-2
023-170-011-001-01/ 023-170-011-007-03/ 023-170-012-007-00	10722 M-32 EAST	JOHANNESBURG CHRISTIAN CHURCH	PO BOX 75	JOHANNESBURG	MI	49751	0.66/ 0.40/ 0.33	702/ 702/ 702	B-2/ B-2/ B-2
023-170-017-004-01	3050 BIRCH ST	DICE - THOMAS	6235 APPLE ST	JOHANNESBURG	MI	49751	0.45	401	B-2
023-170-017-013-01/ 023-170-017-015-01	10757 M-32 EAST	ATKINSON, WESLEY S & HOLLY A	PO BOX 45	JOHANNESBURG	MI	49751	0.55/ 0.81	202/ 201	B-2/ B-2
023-170-018-001-01	10701 M-32 EAST	NATTER, HUBERT & DIANA	350 S SHORE DR	OSPREY	FL	34229	0.49	201	B-2
021-020-100-020-02/ 023-170-019-001-00/ 023-170-019-003-01/ 023-170-024-001-00	10771 BASSWOOD ST/ 3080 BASSWOOD ST/ 10774 ROWAN AVE/ 10775 ROWAN AVE	TOWNSHIP OF CHARLTON	PO BOX 367	JOHANNESBURG	MI	49751	2.11/ 0.33/ 1.29/ 5.87	701/ 701/ 701/ 701	R-1/ R-1/ R-1/ R-1
023-170-020-007-00	3109 BASSWOOD ST	RIDDERING, JAMES L & CAROL J TRUST	7386 MELVINDALE CAMP RD	JOHANNESBURG	MI	49751	0.33	401	R-1
023-170-020-009-00	3099 BASSWOOD ST	MOYER, ELIZABETH M	508 RANDOM LN CHALET RM #10	GAYLORD	MI	49735	0.16	401	R-1
023-170-020-010-00	3079 BASSWOOD ST	MOYER, DEBORAH R	PO BOX 205	GAYLORD	MI	49734	0.32	401	R-1
023-170-020-001-02	3080 BIRCH ST	LEWIS, WILLIAM J & LORIE J	PO BOX 552	JOHANNESBURG	MI	49751	0.66	401	R-1

Exhibit 11

PZRZ19-001 DOLLAR GENERAL

021-020-100-020-01, 023-170-018-004-00, 023-170-019-003-00

021-020-100-020-01	023-170-011-001-01	021-020-100-020-02	023-170-020-001-02
023-170-018-004-00	023-170-011-007-03	023-170-019-001-00	
023-170-019-003-00	023-170-012-007-00	023-170-019-003-01	
021-020-100-015-01	023-170-017-004-01	023-170-024-001-00	
023-170-011-005-01	023-170-017-013-01	023-170-020-007-00	
023-170-011-007-01	023-170-017-015-01	023-170-020-009-00	
023-170-011-007-02	023-170-018-001-01	023-170-020-010-00	

Exhibit 11

OTSEGO COUNTY LAND USE SERVICE
1322 HAYES RD
GAYLORD, MI 49735
PH: 989-731-7400
FAX: 989-731-7419
INSPECTION LINE: 989-731-7401

Otsego COUNTY
ESTABLISHED 1875 MICHIGAN

Paid By:

OVERLAND PROPERTY GROUP LLC/ATKINSON

RECEIPT NUMBER

01317550

04/29/2019

Type	Record	Category	Description	Amount
Permit	PZRZ19-001	ADMIN ZONING	REZONE	$ 700.00

Total	**$ 700.00**
Cash	
Check	$ 700.00
Credit	
Transferred	
Tendered	**$ 700.00**
Change	**$ 0.00**
To Overpayment	**$ 0.00**

Exhibit 12

OTSEGO COUNTY
PLANNING COMMISSION

PZRZ19-001
REZONE
021-020-100-020-01, 023-170-018-004-00 – part of, 023-170-019-003-00

FINDING OF FACT

1. This is a proposal for a rezone of a three (3) parcels located in Charlton Township along M-32 East Johannesburg, MI 49751. *Exhibit #1, Exhibit #5*

2. The properties are located in a R1/Residential and R2/General Residential Zoning District. *Exhibit #1, Exhibit #2*

3. The proposed rezone is to a B2/General Business Zoning District. *Exhibit #1*

4. Adjoining properties are zoned R1/Residential and B2/General Business. *Exhibit #2*

5. The purpose of the rezone is to allow the construction of a retail store. *Exhibit #1*

6. Any general recognized retail business within an enclosed building less than one hundred thousand (100,000) square feet, excluding bars and restaurants serving alcoholic beverages is a permitted use in a B2/General Business Zoning District. *Exhibit #3*

7. The proposed properties are 2.43 acres. *Exhibit #4*

8. Lots 4-6 Block 18 Village of Johannesburg part of parcel 023-170-018-004-00 are not included in the project. *Exhibit #1, Exhibit #5, Exhibit #6*

9. The proposed properties are currently under the ownership of Wesley & Holly Atkinson, applicants. *Exhibit #4*

10. The applicants are being represented by Dollar General, Rusty Doss. *Exhibit #7*

11. The Future Land Use Map depicts this area as a Mixed Use/Town Center Zoning District. *Exhibit #14*

12. Approval of the proposed rezone would be consistent with the adjoining properties and consistent with the Otsego County Future Land Use Map. *Exhibit #2, Exhibit #14*

13. The Public Hearing Notice was published in the Herald Times on May 31, 2019. *Exhibit #8*

14. The requirements of Article 27 of the Otsego County Zoning Ordinance have been met. *Exhibit #9, Exhibit #10*

15. All property owners within three hundred (300') feet were properly notified of the public hearing. *Exhibit #11*

16. The Planning Commission has the authority to approve a *Rezone* request after review and compliance with the Otsego County Zoning Ordinance, Future Land Use Map and Master Plan. (Section 25.7) *Exhibit #3, Exhibit #14*

17. The required fees have been collected by Otsego County Land Use Services. *Exhibit #12*

FINDINGS UNDER ARTICLE 11/B2 GENERAL BUSINESS DISTRICT

ARTICLE 11 B2 GENERAL BUSINESS DISTRICT

INTENT

The B2 General Business District is designed to provide sites for more diversified business types than the B1 Local Business District and often located so as to serve passer-by-traffic. Tourist services are included as being in character with the District.

SECTION 11.1 PRINCIPAL USES PERMITTED

No building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses:

11.1.1 All principal uses permitted in the B1 Local Business District

11.1.2 Theaters, halls, and similar places of assembly

11.1.3 Laundromats and dry cleaners

11.1.4 Bowling alleys, pool or billiard parlors or clubs

11.1.5 Equipment rental shops with outside storage

11.1.6 Indoor archery range

11.1.7 Lumber yards and building material suppliers-within enclosed building

11.1.8 Tavern/night clubs

11.1.9 Restaurants serving alcoholic beverages

11.1.10 Public parking garages

11.1.11 Bus stations and passenger terminals

11.1.12 Businesses and restaurants with drive-through service

11.1.13 Wireless Telecommunications Towers and Facilities one hundred ninety (190) feet or less in height without lights [Permit criteria includes Article 21.46]

11.1.14 Transient Merchants-Tent and open air merchants, for periods of up to ninety (90) days per year, housing retail uses otherwise allowed by the Zoning Ordinance in this district. A single thirty (30) day extension may be applied for. Three (3) or more merchants on a parcel simultaneously must be permitted as a "Flea market".

11.1.15 WTG Building-Mounted: Permitted as an accessory use to an allowed Principal Use [See Article 21.46]

FINDINGS UNDER ARTICLE 10/B1 LOCAL BUSINESS DISTRICT

ARTICLE 10 B1 LOCAL BUSINESS DISTRICT

INTENT

The B1 Local Business District establishes a Business District that is more selective than a General Business District. It provides for the establishment of neighborhood shopping areas, personal services, and professional office areas that are compatible with and of service to residential uses, provided the uses are within a completely enclosed building.

SECTION 10.1 PRINCIPAL USES PERMITTED

No building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses:

10.1.1 Office buildings for administrative, professional, governmental and sales offices

10.1.2 Medical and dental offices, including clinics

10.1.3 Banks and financial institutions, without drive through

10.1.4 Any generally recognized retail business within an enclosed building less than one hundred thousand (100,000) square feet, excluding bars and restaurants serving alcoholic beverages

10.1.5 Any personal service establishment which performs such services as, but not limited to: barber, beauty salon, shoe repair, tailor shops, interior decorators and photographers

10.1.6 Offices and showrooms of plumbers, electricians, decorators or similar trades, without outdoor storage

10.1.7 Rental shops with no outdoor storage

10.1.8 Printing establishments, newspaper offices, publishers, and copying services

10.1.9 Existing residences

10.1.10 Athletic or sports facilities and health clubs, indoor only

10.1.11 Churches

10.1.12 Convalescent or nursing home care facility

10.1.13 Community service facilities (public library, offices operated through public funds, etc.)

10.1.14 Educational institutions

10.1.15 Commercial Day Care

10.1.16 Funeral home and mortuary

10.1.17 Family Care Facility

10.1.18 WTG Building-Mounted: Permitted as an accessory use to an allowed Principal Use [See Article 21.46]

******PERMITTED USE IN A B1/B2 ZONING DISTRICT***

FINDINGS UNDER ARTICLE 25

ARTICLE 25 ADMINISTRATION AND ENFORCEMENT

SECTION 25.7 CHANGES AND AMENDMENTS

The County may from time to time, on recommendation from the Planning Commission, or on petition, amend, supplement or change the District boundaries or the regulations, herein, or subsequently established herein, pursuant to the authority and procedure established in Public Act 110 of 2006 as amended. The notices for all public hearings before the planning commission or County Board of Commissioners concerning proposed zoning ordinance amendments (zoning text or map amendments) shall comply with all of the following applicable provisions:

A. For a proposed amendment to the text of the zoning ordinance, the notice shall comply with all of the following:

1. The content of the notice shall include all of the following information

a. A description of the nature of the proposed zoning ordinance amendment.

b. The time, date, and place the proposed zoning ordinance will be considered.

c. The places and times at which the proposed zoning ordinance amendment may be examined.

d. The address where and the deadline when written comments will be received concerning the proposed zoning ordinance amendment.

B. For a proposed zoning ordinance amendment rezoning an individual property or ten (10) or fewer adjacent properties, the notice shall comply with all of the following:

1. The content of the notice shall include all of the following information:

a. A description of the nature of the proposed zoning ordinance amendment.

b. A description of the property or properties proposed for rezoning. The notice shall include a listing of all existing street addresses within the property or properties. Street addresses, however, do not need to be created and listed if no such addresses currently exist within the property or properties. If there are no street addresses, other means of identification may be used, such as using tax parcel identification numbers or including a map showing the location of the property or properties.

c. The time, date, and place the proposed zoning ordinance will be considered.

d. The places and times at which the proposed zoning ordinance amendment may be examined.

e. The address where and the deadline when written comments will be received concerning the proposed zoning ordinance amendment.

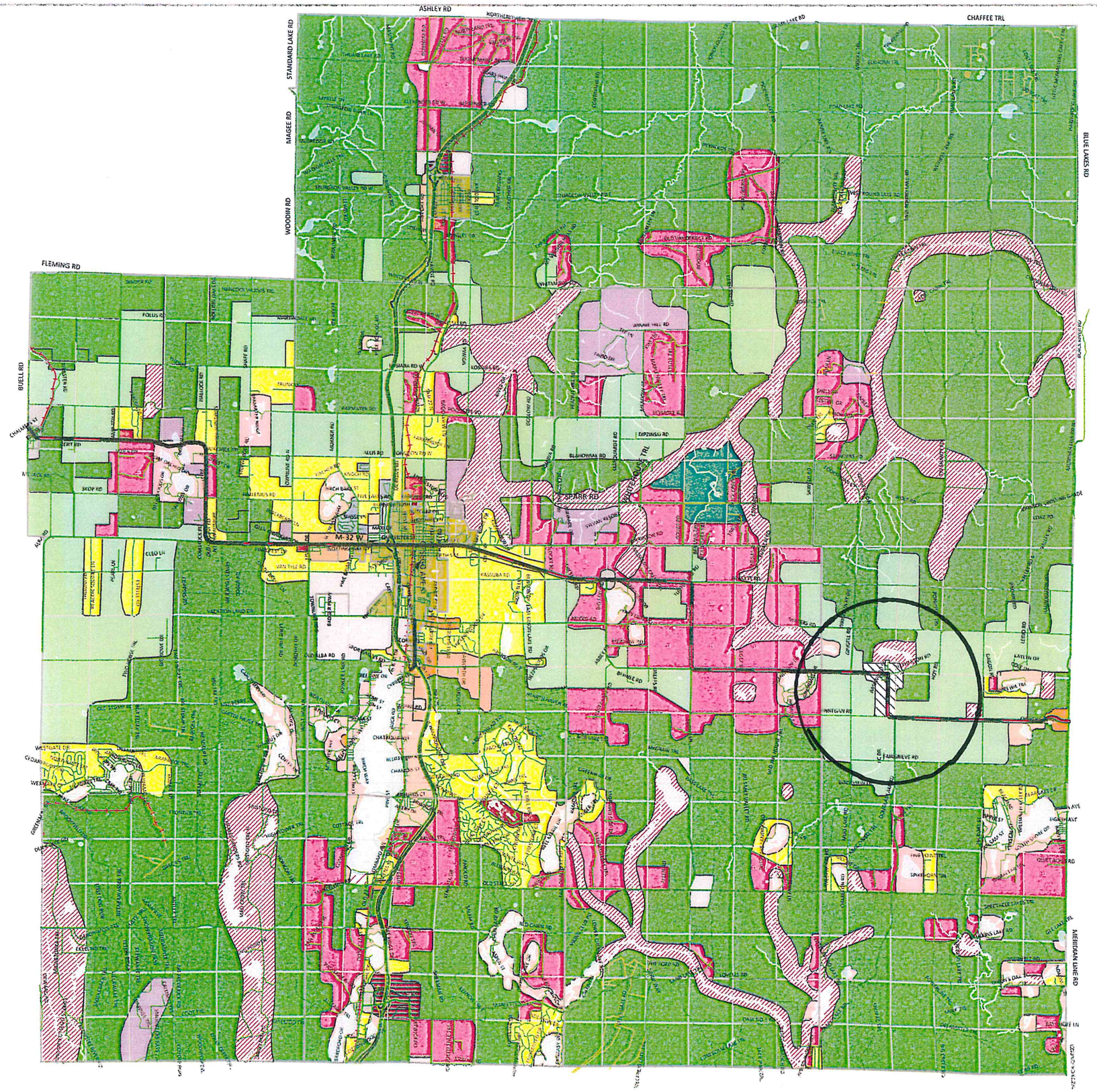
2. The notice shall be published in a newspaper of general circulation within the County not less than fifteen (15) days before the scheduled public hearing.

3. The notice shall be sent by first-class mail or personal delivery to the owners of the property or properties proposed for rezoning not less than fifteen (15) days before the scheduled public hearing.

4. The notice shall also be sent first-class mail or personal delivery to all persons to whom real property is assessed within three hundred (300) feet of the property or properties proposed for rezoning and to the occupants of all structures within three hundred (300) feet of the property or properties proposed for rezoning not less than fifteen (15) days before the scheduled public hearing, regardless of whether the property or occupant is located in the County. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.

5. The notice shall be given by first-class mail to each electric, gas, and pipeline public utility Company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the County clerk for the purpose of receiving the notice of public hearing.

******THE PLANNING COMMISSION HAS THE AUTHORITY TO APPROVE A REZONE IF COMPLIANCE IS FOUND WITH THE FUTURE LAND USE MAP AND MASTER PLAN***



OTSEGO COUNTY FUTURE LAND USE

LEGEND

- Interstate
- State
- County/ City
- Trails
- Ralroads
- Rivers
- Lakes
- Municipal Boundaries
- Section

FUTURE LAND USE

- Agriculture
- Forest
- Environmental Protection
- Government and Institution
- Industrial
- Large Commercial
- Highway Interchange Commercial
- Retail / Business / Office (Mixed Uses)
- Town Centers (Mixed Use)
- Recreation
- Residential Recrerational
- Low Density Residential
- Medium Density Residential
- High Density Residential (Mixed Residential)

N
W E
S

Exhibit 14

OTSEGO COUNTY
Planning Commission

Otsego COUNTY
ESTABLISHED 1875 MICHIGAN

EXECUTIVE SUMMARY

AGENDA ITEM: 10	AGENDA DATE: 6/17/2019
AGENDA PLACEMENT:	ACTION REQUESTED:
Unfinished Common Business, Item 1	Commission Review
STAFF CONTACT(S):	ATTORNEY REVIEW:
Chris Churches, Planning & Zoning, Capital Projects Director Christine Boyak-Wohlfeil, Zoning Officer	No

BACKGROUND/DISCUSSION:

The proposed text amendment to Article 21 of the Otsego County Zoning Ordinance changes the provisions listed in Section 21.1, Accessory Buildings.

RECOMMENDED MOTION:

No motion is desired. Staff requests approval of a final version of the proposed text amendment (incorporating Township / Planning Commission input) in order to move forward with a public hearing and final adoption.

OTSEGO COUNTY LAND USE SERVICES, PLANNING AND ZONING DEPARTMENT

MEMORANDUM

TO: OTSEGO COUNTY PLANNING COMMISSION

FROM: CHRIS CHURCHES, DIRECTOR OF PLANNING & ZONING, CAPITAL PROJECTS & GRANTS, OTSEGO COUNTY

SUBJECT: ARTICLE 21, SECTION 21.1 TEXT AMENDMENTS

DATE: 5/29/2019

The proposed text amendment to Article 21 of the Otsego County Zoning Ordinance changes the provisions listed in Section 21.1, Accessory Buildings. The proposed amendment results in three main changes to the regulations of accessory buildings. These are as follows:

1. Changes the maximum size restrictions to be governed by the setback and lot coverage requirements in Article 17.
2. Eliminates zoning permit requirements for accessory buildings less than 200 square feet (sheds).
3. Limits the height of accessory buildings in Residential Districts within 500' of any waterfront to one story with sidewalls not exceeding 14'.

The motivation behind changing size restrictions was to eliminate the cumbersome calculation of maximum accessory building size allowed on lots with an area greater than the minimum threshold defined in Article 17. After examination of various options for making this easier so, the subcommittee came to the conclusion that the setback and lot coverage requirements already in place through Article 17 were sufficient in regulating accessory building size. These requirements include minimum setbacks and maximum of 25% lot coverage.

The intent of the height restriction on accessory buildings near the waterfront was twofold. The first was by placing a height restriction on these buildings, we hope to curtail the recent trend of building "accessory" buildings with living space in the loft near the waterfront. The second was to ensure that in removing the size limit on accessory buildings, we would not inadvertently cause the loss of lakefront views for waterfront lot owners in close proximity to one another. We do not want to unnecessarily regulate the height of an accessory

building for property owners who own large tracts of lakefront property, as building such a structure would not result in the loss of any views, etc. for their neighbors.

Removing the zoning requirement for accessory buildings less than 200 square feet is proposed as these structures currently do not require building department approval. Zoning violations would still be enforced on an as-reported bases.

Sincerely,

Christopher Churches
Director of Planning & Zoning, Capital Projects & Grants

Attachments:
1. Proposed text amendment incorporating Township comments/concerns
2. Original text amendment sent to Townships
3. Bagley Township response letter
4. Elmira Township response letter
5. Hayes Township response letter
6. Otsego Lake Township response letter
7. Land Use response to Otsego Lake Township response letter

ATTACHMENT 1:

Proposed text amendment incorporating Township comments/concerns

***Original Amendment changes / additions are highlighted in yellow

***Updated Amendment changes / additions incorporating Township recommendations are highlighted in blue

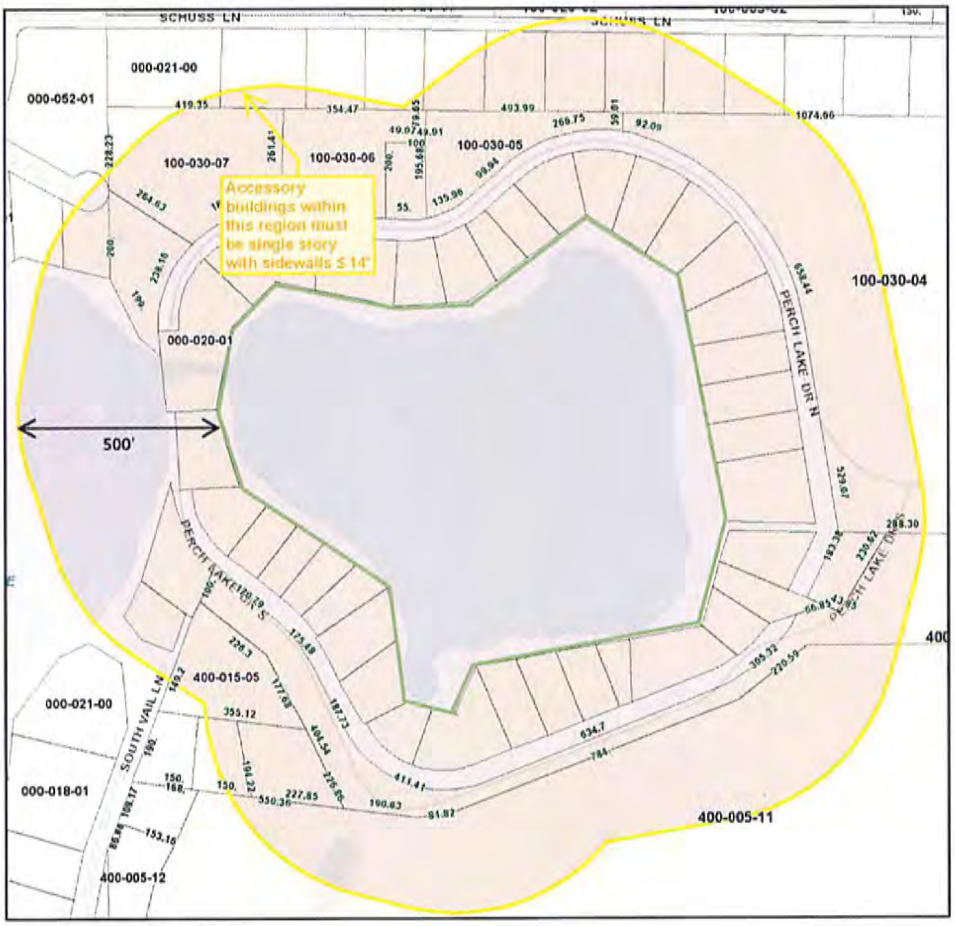
***Amendment deletions are struck

Proposed Language:

SECTION 21.1 ACCESSORY BUILDINGS

21.1.1 Accessory buildings in the R1, R2, R3 & RR Districts shall be subject to the side and front yard setback requirements as regulated in Article 17 SCHEDULE OF DIMENSIONS, but need not be farther than ten (10) feet from the rear property line.

21.1.2 In residential districts all accessory buildings and uses shall be in the rear yard except in the case of one detached private garage which may be allowed in the side or front yard, provided it maintains the setback requirements as regulated in Article 17 SCHEDULE OF DIMENSIONS. Accessory buildings in Residential Districts (R1, R2, R3 & RR) within 500' of any waterfront shall be limited to one story and have sidewalls not exceeding fourteen (14) feet in height (see example diagram below).



21.1.3 Accessory buildings two hundred (200) square feet or less do not require a zoning permit. Such buildings must maintain the setback requirements defined in Article 17 SCHEDULE OF DIMENSIONS. ~~Detached accessory buildings for residential use in any district shall not exceed a total ground floor area of: twelve hundred (1,200) square feet in R1, R2 and RR, and two thousand (2,000) square feet in R3, FR and AR, except:~~

~~21.1.3.1 Where the lot is larger than the minimum size for that zoning district, the total accessory building square footage may be increased proportionally to the lot size in the following manner: twenty-five (25) square feet increase in allowable accessory buildings for every one thousand (1,000) square feet that the lot exceeds minimum lot size, up to a maximum of four thousand (4,000) square feet.~~

21.1.4 Agricultural buildings and structures incident to use for agricultural purposes are exempt from accessory building requirements.

21.1.5 Accessory buildings shall not be used for residences.

21.1.6 Accessory buildings may not be used for commercial storage. Accessory structures incident to a permitted or special use in the zoning district which it is located are permitted (for example, an accessory building for the storage of golf carts would be allowed on an approved golf course in an RR District).

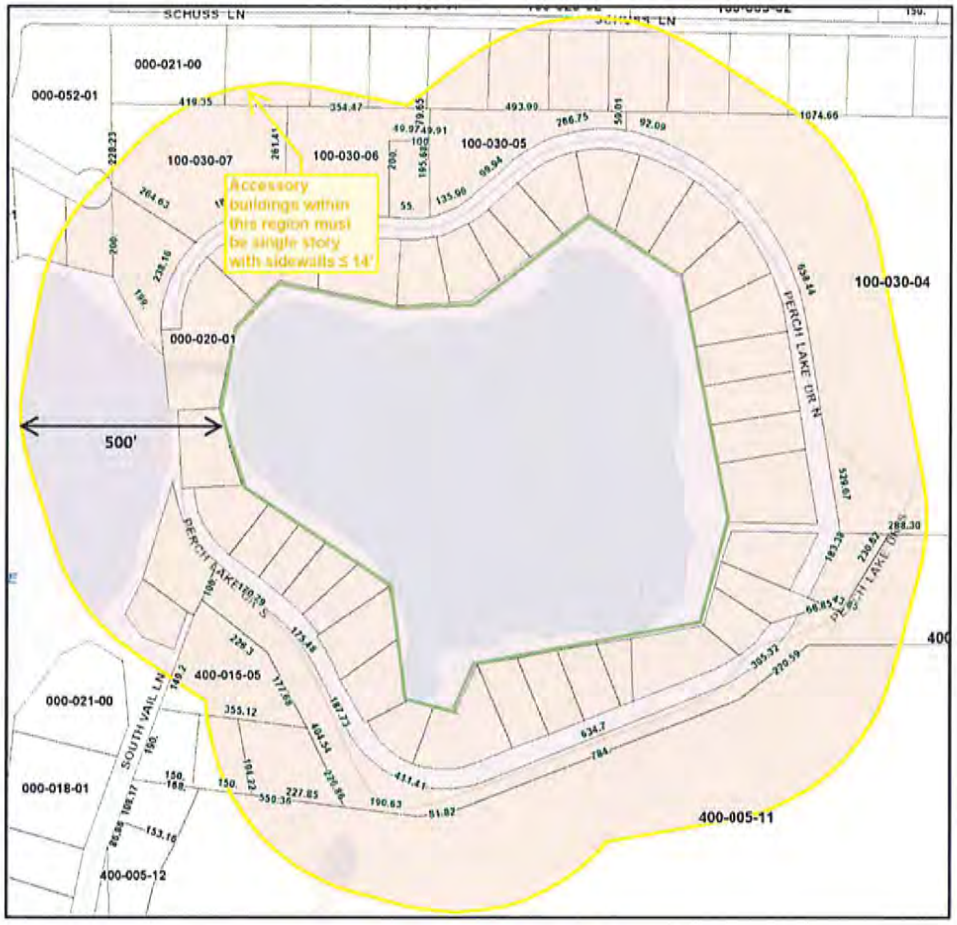
ATTACHMENT 2:

Original text amendment sent to Townships

SECTION 21.1 ACCESSORY BUILDINGS

21.1.1 Accessory buildings in the R1, R2, R3 & RR Districts shall be subject to the side and front yard setback requirements as regulated in Article 17 SCHEDULE OF DIMENSIONS, but need not be farther than ten (10) feet from the rear property line.

21.1.2 In residential districts all accessory buildings and uses shall be in the rear yard except in the case of one detached private garage which may be allowed in the side or front yard, provided it maintains the setback requirements as regulated in Article 17 SCHEDULE OF DIMENSIONS. Accessory buildings in RR Districts within 500' of any waterfront shall be limited to one story and have sidewalls not exceeding fourteen (14) feet in height (see example diagram below).



21.1.3 Accessory buildings two hundred (200) square feet or less do not require a zoning permit. Such buildings must maintain the setback requirements defined in Article 17 SCHEDULE OF DIMENSIONS. ~~Detached accessory buildings for residential use in any district shall not exceed a total ground floor area of: twelve hundred (1,200) square feet in R1, R2 and RR, and two thousand (2,000) square feet in R3, FR and AR, except:~~

~~21.1.3.1 Where the lot is larger than the minimum size for that zoning district, the total accessory building square footage may be increased proportionally to the lot size in the following manner: twenty-five (25) square feet increase in allowable accessory buildings for every one thousand (1,000) square feet that the lot exceeds minimum lot size, up to a maximum of four thousand (4,000) square feet.~~

21.1.4 Agricultural buildings and structures incident to use for agricultural purposes are exempt from accessory building requirements.

21.1.5 Accessory buildings shall not be used for residences.

21.1.6 Accessory buildings may not be used for commercial storage.

ATTACHMENT 3:

Bagley Township response letter

Bagley Township Planning Commission

Bagley Township, Michigan

Established 1868

March15, 2019

Subject: Meeting Minutes and record of decisions for Scheduled Special Meeting on March 15, 2019.

Members Present:

Ken Arndt
Brian Goebel
Wally Loney (Skype)
Celeste Szymanski
Larry Beckett

Item:
1. Special Use Permit for self-storage unit expansion at 4855 West Otsego Lake Drive in Gaylord. Otsego Lake Drive, case PZSU19-0001

2. Recommendation for changes allowing increased communication tower height (No formal submission, narrative attached).

3. Consensus approval of building height increase for proposed construction of a residential apartment unit on Dickerson Road with 18 units to 3 stories from the original 2 story plan.

4. Discussion and approval of proposed text changes to Section 21.1, Accessory Buildings (attached)

Other Attendees:
Michelle Noirot, Supervisor
Celeste Szymanski, Voting Trustee

Citizens Attending: Dave Drews, Northern Michigan Engineering, (representing Item 1.) None

Meeting Opened at 7:00PM by Arndt

Item 1

Members viewed the pictures of the site and examined the layout of the addition which is to extend north of the existing building. Entrance is to be maintained on Henry Drive. Zoning supports the current and proposed addition, noting that there are dwellings east of the current use. Owner plans to keep open storage on the east side the buildings. Units will be 10x10 and nothing larger is planned. Discussion followed, mood was favorable and Loney offered a motion, Burkett seconds: Chair records a vote all in favor, none opposed.

Motion passes.

Item 2 Proposed Increase to Communication Towers (21.46)

This proposal responds to a request to increased allowable tower height to 190 feet initially, but the conflict arises because the change brings any tower extension over 200 feet with lighting protection and the height will require lighting. That this issue has an impact on surrounding housing was considered undesirable by the original committee. The height will be proposed at 179 feet and will require supporting statement by an engineer to justify any greater height.

The fall-down setbacks were reviewed as well as removal provisions, and certain other requirements have been added to the section. It will be heard in March.

There appeared no apparent objections once the members read the proposed language changes. We send the proposed change forward awaiting further comments.

Item 3 Text Changes Accessory Buildings (21.1)

This proposed text change does several things: it limits the permit requirement for small accessory buildings, it limits wall height of accessory buildings to 14 feet within 500 feet of water front and reduces the rear and side setback in certain zoning districts to 10 feet.

Discussion followed. Goebel offered motion to accept item 3, Loney seconded and the motion passed without opposition.

There being no further business or discussion,

Meeting closed by the chair at 7:55 PM.

Respectfully Submitted,

Kenneth Arndt, Chairman

Item 1: ***Approved as Recommended*** Approved with Edits Not Approved

ATTACHMENT 4:

Elmira Township response letter

Elmira Township
Otsego County
7252 Alba Road
Gaylord, MI 49735

March 15, 2019

RE: Otsego County Zoning Article 27, Township Participation

RE: Otsego County Zoning Article 21.1, Accessory Buildings

Elmira Township held their regular board meeting on March 13, 2019 and approved the ETPC's recommendation to the Otsego County Planning Commission which will improve communication between County and Township Planning Commissions by allowing for electronic mail and including the Chairpersons of the Township PC's as well as the Township clerks.

The Elmira Township board also approved the ETPC's recommendation to the Otsego County Planning Commission Article 21.1, Accessory Buildings; allowing for smaller (less than 200 sq. ft.) accessory buildings to be built without a building permit; doing away with the 4000 sq. ft. maximum size of the accessory building(s); and limiting the height of RR District accessory buildings within 500 ft. of any waterfront to 14 ft.

Thank You,

Susan Schaedig
Elmira Township Clerk
(989)732-2920

ATTACHMENT 5:

Hayes Township response letter

Christopher Churches

From: Christopher Churches
Sent: Monday, March 4, 2019 11:39 AM
To: Christine Boyak-Wohlfeil
Subject: FW:

-----Original Message-----
From: msanders@freeway.net [mailto:msanders@freeway.net]
Sent: Monday, March 04, 2019 11:38 AM
To: Christopher Churches; James Mouch
Subject:

Good Morning,

I have reviewed the brief paperwork for the accessory buildings and noted that they do not need to have a zoning permit. I believe that if the building is less than 200 square feet, it does not need a building permit as there is no longer a fee for that size.

However, as the assessor, I would need to know that that building is being constructed or placed on the property. I had discussed this issue with Christine previously and she did forward me information for my township.

I would appreciate it if a simple notification would be forthcoming of the "sheds" being built with property code number, name and address.

I agree with the proposed changes for the updates as presented.

Mary

ATTACHMENT 6:

Otsego Lake Township response letter

March 12, 2019

Mr. Christopher Churches
Director of Planning and Zoning
Otsego County Land Use Services
1322 Hayes Road
Gaylord, Mi, 49735

Dear Chris,

The Otsego Lake Township Planning Commission does not recommend adoption of 21.1 Accessory Buildings as submitted. Some examples of our concerns (but not all) are as follows:

1. The rationale is lacking for the proposed limit of 14 foot side walls to a one story accessory building within 500 feet of waterfront. It does not appear to be supported by the requirement of zoning to promote the health, safety, and welfare of the public.
2. In 21.1.2, we would recommend --- In residential districts all accessory buildings for residential use shall be in the rear yard..... Also for 21.1.3 -- Accessory buildings for residential use two hundred.....
3. In the RR district there are certain commercial uses allowed such as marinas and golf courses that should be considered in 21.1.6. They could possibly require accessory buildings for storage. Would these uses be allowed accessory buildings?
4. The Otsego Lake Township Planning Commission recommends the Lots on Waterfront subcommittee review this text change before it is recommended for adoption.

Sincerely,

Nora Corfis
Secretary

ATTACHMENT 7:

Land Use response to Otsego Lake Township

Christopher Churches

From: Christopher Churches
Sent: Wednesday, March 06, 2019 8:58 AM
To: Nora Corfis - Otsego Lake Twp
Cc: Christine Boyak-Wohlfeil
Subject: Revised Accessory Building Language
Attachments: SECTION 21.1 edit 1.pdf

Good morning Nora,

Please see revised language for the accessory building text amendment in the Otsego County Zoning Ordinance. Thank you for pointing out the fact that not all residential lakefront property is zoned RR, this was a great catch! Our intent was to limit the height of accessory buildings in **residential** districts, therefore we changed the text revision to ensure clarity. The reason for not imposing such a height restriction in AR/FR districts around a lakefront was that many of these parcels are large (average parcel size for AR and FR districts in Otsego County is 26.9 acres and 38.0 acres, respectively). The intent of the height restriction was to ensure that in removing the size limit on accessory buildings, we would not inadvertently cause the loss of lakefront views for waterfront lot owners in close proximity to one another. We do not want to unnecessarily regulate the height of an accessory building for property owners who own large tracts of lakefront property, as building such a structure would not result in the loss of any views, etc. for their neighbors.

Please do not hesitate to contact me with any questions.

Thanks!

Christopher Churches
Director of Planning & Zoning, Capital Projects & Grants
OTSEGO COUNTY
cchurches@otsegocountymi.gov
Admin Office: 989-731-7515
Land Use Office: 989-731-7400

OTSEGO COUNTY
Planning Commission

Otsego COUNTY
ESTABLISHED 1875 MICHIGAN

EXECUTIVE SUMMARY

AGENDA ITEM: 10	AGENDA DATE: 6/17/2019
AGENDA PLACEMENT:	ACTION REQUESTED:
Unfinished Common Business, Item 1	Commission Review
STAFF CONTACT(S):	ATTORNEY REVIEW:
Chris Churches, Planning & Zoning, Capital Projects Director Christine Boyak-Wohlfeil, Zoning Officer	Yes

BACKGROUND/DISCUSSION:

The proposed text amendment to Article 21 of the Otsego County Zoning Ordinance changes the provisions listed in Section 21.26, Nonconformities.

RECOMMENDED MOTION:

No motion is desired. Staff requests approval of a final version of the proposed text amendment (incorporating Township / Planning Commission input) in order to move forward with a public hearing and final adoption.

OTSEGO COUNTY LAND USE SERVICES, PLANNING AND ZONING DEPARTMENT

MEMORANDUM

TO: OTSEGO COUNTY PLANNING COMMISSION

FROM: CHRIS CHURCHES, OTSEGO COUNTY DIRECTOR OF PLANNING & ZONING, CAPITAL PROJECTS & GRANTS

SUBJECT: SECTION 21.26 TEXT AMENDMENTS

DATE: 6/3/2019

The proposed text amendment to Article 21 of the Otsego County Zoning Ordinance changes the provisions listed in Section 21.26 to allow for the replacement of nonconforming structures so as long as the new structure utilizes the original structure's footprint. The motivation behind this change was that the Zoning Department was seeing an increase in the denial of zoning/building applications for the remodeling of homes (especially in RR Districts) due to the non-conformity of the parcels and/or structures. This motivated us to perform an analysis of all of the parcels in Otsego County in an effort to understand the extent of existing non-conforming lots. As a result of the lot analysis (see attachment 1), it was discovered that, on average, 40% of all lots zoned residential (R1, R2, R3, RR) have areas less than that required by the ordinance, making them non-conforming. These non-conforming lots are responsible for 20.25% of the County's total tax receipts (see attachment 2).

The previous language in the Ordinance was contradictory as it relates to the re-building of non-conforming structures, resulting in confusion/disagreement between applicants and Land Use staff. Section 21.26.4.1 states, "No nonconforming structure may be enlarged or altered in a way which increases its nonconformity. Such structures may be enlarged or altered in a way which does not increase its nonconformity." This implies that a structure can be updated/remodeled/enlarged (i.e. "altered"), so long as it does not increase its nonconformity. However, section 21.26.4.2 states, "Should such structure be destroyed by any means to an extent of more than sixty (60) percent of its volume or floor area, exclusive of the foundation, or basement, it shall be reconstructed only in conformity with the provisions of this Ordinance." This implies that someone

could not "alter" a structure to an extent more than 60 percent, but could, however, completely re-build a non-conforming structure if they did it in such a way that it did not exceed 60% of the floor area at any one time.

Given the issues outlined above, it was thought that allowing non-conforming structures to be re-built so long as they do not expand their original footprint would best serve the public as well as the local bodies of government overall.

Please do not hesitate to reach out with any questions or concerns.

Sincerely,

Christopher Churches
Director of Planning & Zoning, Capital Projects & Grants

Attachments:
1. Nonconforming Parcel Composition Analysis
2. Nonconforming Parcel Taxable Value Analysis[1]
3. Proposed Text Amendment
4. Charlton Response Letter
5. Hayes Response Letter
6. Corwith Response Letter
7. Otsego Lake Township Response Letter

[1]Taxable values based upon those in Land Use Services database which is synced from Equalization database.

ATTACHMENT 1:

Non-conforming lots as a percentage of total parcels in Otsego County and in each Township

Non-conforming Parcel Composition Analysis

Table 1. Total County zoned conforming and non-conforming parcels (City of Gaylord excluded).

Zoning District	# of Conforming Parcels	# of Non-Conforming Parcels	Total Number of Parcels	Percent Conforming	Percent Non-Conforming
AR	1977	464	2441	81%	19%
B-1	45	0	45	100%	0%
B-2	386	0	386	100%	0%
B-3	210	0	210	100%	0%
FR	4080	1279	5359	76%	24%
HX	33	0	33	100%	0%
I	93	0	93	100%	0%
MUZ	105	0	105	100%	0%
N/A	922	0	922	100%	0%
PUD	2232	0	2232	100%	0%
R-1	1096	326	1422	77%	23%
R-2	625	512	1137	55%	45%
R-3	732	550	1282	57%	43%
RR	4960	4559	9519	52%	48%
Grand Total	**17496**	**7690**	**25186**	**69%**	**31%**

Table 2. Bagley Township Zoning District data

Zoning District	Number of Parcels	Percent of Total Parcels	Percent Non-Conforming
AR	79	1.55%	0.35%
B-1	15	0.29%	0.00%
B-2	171	3.35%	0.00%
B-3	54	1.06%	0.00%
FR	235	4.61%	0.39%
I	70	1.37%	0.00%
PUD	542	10.63%	0.00%
R-1	667	13.08%	1.39%
R-2	848	16.63%	8.51%
R-3	276	5.41%	3.35%
RR	2142	42.01%	20.75%
Grand Total	**5099**	**100.00%**	**34.75%**

Table 3. Charlton Township Zoning District data

Zoning District	Number of Parcels	Percent of Total Parcels	Percent Non-Conforming
AR	259	9%	0.76%
B-2	39	1%	0.00%
FR	701	23%	1.55%
R-1	43	1%	0.83%
R-2	2	0%	0.03%
RR	1986	66%	31.58%
Grand Total	**3030**	**100%**	**35%**

Table 4. Chester Township Zoning District data

Zoning District	Number of Parcels	Percent of Total Parcels	Percent Non-Conforming
AR	334	18%	3%
B-2	6	0%	0%
FR	564	30%	3%
R-3	43	2%	0%
RR	907	49%	24%
Grand Total	**1854**	**100%**	**30%**

Table 5. Corwith Township Zoning District data

Zoning District	Number of Parcels	Percent of Total Parcels	Percent Non-Conforming
AR	245	16%	5%
B-1	3	0%	0%
B-2	31	2%	0%
B-3	9	1%	0%
FR	1099	74%	13%
I	23	2%	0%
R-1	48	3%	0%
R-2	34	2%	0%
Grand Total	**1492**	**100%**	**18%**

Table 6. Dover Township Zoning District data

Zoning District	Number of Parcels	Percent of Total Parcels	Percent Non-Conforming
AR	331	49.4%	13.7%
FR	331	49.4%	5.7%
R-2	8	1.2%	0.3%
Grand Total	**1854**	**100%**	**19.7%**

Table 7. Elmira Township Zoning District data

Zoning District	Number of Parcels	Percent of Total Parcels	Percent Non-Conforming
AR	255	17.5%	1.2%
B-1	1	0.1%	0.0%
B-2	3	0.2%	0.0%
B-3	6	0.4%	0.0%
FR	448	30.8%	5.4%
MUZ	105	7.2%	0.0%
R-1	1	0.1%	0.1%
R-2	3	0.2%	0.0%
R-3	274	18.8%	8.9%
RR	359	24.7%	7.1%
Grand Total	**1455**	**100.0%**	**22.7%**

Table 8. Hayes Township Zoning District data

Zoning District	Number of Parcels	Percent of Total Parcels	Percent Non-Conforming
AR	316	7.3%	2.2%
B-1	4	0.1%	0.0%
FR	1585	36.8%	18.6%
R-3	274	6.4%	0.0%
RR	2125	49.4%	28.5%
Grand Total	**4304**	**100.0%**	**49.2%**

Table 9. Livingston Township Zoning District data

Zoning District	Number of Parcels	Percent of Total Parcels	Percent Non-Conforming
AR	620	33.9%	4.9%
B-1	22	1.2%	0.0%
B-2	76	4.2%	0.0%
B-3	112	6.1%	0.0%
FR	59	3.2%	0.3%
PUD	29	1.6%	0.0%
R-1	663	36.2%	12.5%
R-2	57	3.1%	1.0%
R-3	65	3.6%	0.0%
RR	126	6.9%	2.2%
Grand Total	**1829**	**100.0%**	**20.9%**

Table 10. Otsego Lake Township Zoning District data

Zoning District	Number of Parcels	Percent of Total Parcels	Percent Non-Conforming
AR	2	0.0%	0.0%
B-2	60	1.3%	0.0%
B-3	29	0.6%	0.0%
FR	337	7.4%	1.1%
HX	33	0.7%	0.0%
PUD	1661	36.7%	0.0%
R-2	185	4.1%	1.2%
R-3	350	7.7%	5.3%
RR	1874	41.4%	16.0%
Grand Total	**4531**	**100.0%**	**23.7%**

ATTACHMENT 2:

Taxable Value analysis of on-conforming lots in each Township

Taxable Value Tables Summarized By Township

Table 1. Otsego Lake Township Taxable Value by Zoning District and Conformity

Otsego Lake Twp	Taxable Value		Percent of Total Taxable Value	
Zoning District	**Non-Conforming**	**Conforming**	**Non-Conforming**	**Conforming**
AR		$ 155,100.00	0.00%	0.08%
B-2		$ 1,192,700.00	0.00%	0.65%
B-3		$ 1,039,400.00	0.00%	0.57%
FR	$ 1,919,000.00	$ 11,031,400.00	1.04%	6.00%
HX		$ 2,499,100.00	0.00%	1.36%
PUD		$ 59,483,700.00	0.00%	32.35%
R-2	$ 922,100.00	$ 4,067,600.00	0.50%	2.21%
R-3	$ 1,728,400.00	$ 2,656,400.00	0.94%	1.44%
RR	$ 33,738,600.00	$ 63,465,300.00	18.35%	34.51%
(blank)		$ -	0.00%	0.00%
Grand Total	**$ 38,308,100.00**	**$ 145,590,700.00**	**20.83%**	**79.17%**

Table 2. Bagley Township Taxable Value by Zoning District and Conformity

Bagley Twp	Taxable Value		Percent of Total Taxable Value	
Zoning District	**Non-Conforming**	**Conforming**	**Non-Conforming**	**Conforming**
AR	$ 529,900.00	$ 3,379,700.00	0.21%	1.34%
B-1		$ 2,017,000.00	0.00%	0.80%
B-2		$ 7,510,600.00	0.00%	2.97%
B-3		$ 5,896,100.00	0.00%	2.34%
FR	$ 558,900.00	$ 7,381,500.00	0.22%	2.92%
I		$ 3,358,900.00	0.00%	1.33%
N/A		$ 133,000.00	0.00%	0.05%
PUD		$ 20,850,500.00	0.00%	8.26%
R-1	$ 3,067,600.00	$ 36,031,000.00	1.21%	14.27%
R-2	$ 12,392,100.00	$ 19,745,900.00	4.91%	7.82%
R-3	$ 3,569,800.00	$ 5,121,500.00	1.41%	2.03%
RR	$ 53,546,300.00	$ 67,405,200.00	21.21%	26.70%
(blank)		$ 600.00	0.00%	0.00%
Grand Total	**$ 73,664,600.00**	**$ 178,831,500.00**	**29.17%**	**70.83%**

Table 3. Charlton Township Taxable Value by Zoning District and Conformity

Charlton Twp	Taxable Value		Percent of Total Taxable Value	
Zoning District	Non-Conforming	Conforming	Non-Conforming	Conforming
AR	$ 338,700.00	$ 14,492,700.00	0.27%	11.69%
B-2		$ 1,104,000.00	0.00%	0.89%
FR	$ 827,000.00	$ 38,394,700.00	0.67%	30.97%
R-1	$ 596,700.00	$ 295,600.00	0.48%	0.24%
R-2	$ -	$ 2,900.00	0.00%	0.00%
RR	$ 24,038,200.00	$ 43,902,300.00	19.39%	35.41%
Grand Total	**$ 25,800,600.00**	**$ 98,192,200.00**	**20.81%**	**79.19%**

Table 4. Chester Township Taxable Value by Zoning District and Conformity

Chester Twp	Taxable Value		Percent of Total Taxable Value	
Zoning District	Non-Conforming	Conforming	Non-Conforming	Conforming
AR	$ 1,374,900.00	$ 15,901,200.00	1.70%	19.64%
B-2		$ 336,400.00	0.00%	0.42%
FR	$ 773,700.00	$ 25,180,900.00	0.96%	31.10%
R-3	$ 249,200.00	$ 1,668,300.00	0.31%	2.06%
RR	$ 10,447,200.00	$ 25,023,600.00	12.90%	30.91%
Grand Total	**$ 12,845,000.00**	**$ 68,110,400.00**	**15.87%**	**84.13%**

Table 5. Corwith Township Taxable Value by Zoning District and Conformity

Corwith Twp	Taxable Value		Percent of Total Taxable Value	
Zoning District	Non-Conforming	Conforming	Non-Conforming	Conforming
AR	$ 2,024,800.00	$ 8,594,300.00	2.50%	10.59%
B-1		$ 63,100.00	0.00%	0.08%
B-2		$ 1,284,600.00	0.00%	1.58%
B-3		$ 537,800.00	0.00%	0.66%
FR	$ 2,790,000.00	$ 61,160,100.00	3.44%	75.38%
I		$ 1,110,500.00	0.00%	1.37%
R-1		$ 2,183,300.00	0.00%	2.69%
R-2	$ -	$ 1,387,200.00	0.00%	1.71%
Grand Total	**$ 4,814,800.00**	**$ 76,320,900.00**	**5.93%**	**94.07%**

Table 6. Dover Township Taxable Value by Zoning District and Conformity

Dover Twp	Taxable Value		Percent of Total Taxable Value	
Zoning District	Non-Conforming	Conforming	Non-Conforming	Conforming
AR	$ 3,483,300.00	$ 17,086,300.00	8.58%	42.08%
FR	$ 1,507,700.00	$ 18,134,600.00	3.71%	44.66%
R-2	$ 117,200.00	$ 277,700.00	0.29%	0.68%
Grand Total	**$ 5,108,200.00**	**$ 35,498,600.00**	**12.58%**	**87.42%**

Table 7. Elmira Township Taxable Value by Zoning District and Conformity

Elmira Twp	Taxable Value		Percent of Total Taxable Value	
Zoning District	Non-Conforming	Conforming	Non-Conforming	Conforming
AR	$ 460,900.00	$ 15,132,700.00	0.55%	17.90%
B-1		$ 45,200.00	0.00%	0.05%
B-2		$ 28,400.00	0.00%	0.03%
B-3		$ 6,597,000.00	0.00%	7.80%
FR	$ 1,455,200.00	$ 18,497,800.00	1.72%	21.88%
MUZ MAIN		$ 702,000.00	0.00%	0.83%
MUZ TWN CN		$ 1,256,300.00	0.00%	1.49%
R-1	$ 9,500.00		0.01%	0.00%
R-2		$ 121,400.00	0.00%	0.14%
R-3	$ 7,120,500.00	$ 8,923,900.00	8.42%	10.56%
RR	$ 6,186,300.00	$ 17,959,200.00	7.32%	21.25%
(blank)		$ 31,000.00	0.00%	0.04%
Grand Total	**$ 15,232,400.00**	**$ 69,294,900.00**	**18.02%**	**81.98%**

Table 8. Hayes Township Taxable Value by Zoning District and Conformity

Hayes Twp	Taxable Value		Percent of Total Taxable Value	
Zoning District	Non-Conforming	Conforming	Non-Conforming	Conforming
AR	$ 4,226,600.00	$ 13,409,800.00	3.26%	10.34%
B-1		$ 55,300.00	0.00%	0.04%
B-2		$ 135,300.00	0.00%	0.10%
FR	$ 11,106,200.00	$ 28,850,700.00	8.57%	22.26%
R-3	$ 33,400.00	$ 9,164,600.00	0.03%	7.07%
RR	$ 21,893,600.00	$ 40,759,500.00	16.89%	31.44%
Grand Total	**$ 37,259,800.00**	**$ 92,375,200.00**	**28.74%**	**71.26%**

Table 9. Livingston Township Taxable Value by Zoning District and Conformity

Livingston Twp	Taxable Value		Percent of Total Taxable Value	
Zoning District	**Non-Conforming**	**Conforming**	**Non-Conforming**	**Conforming**
AR	$ 3,522,500.00	$ 37,525,700.00	2.85%	30.33%
B-1		$ 2,376,500.00	0.00%	1.92%
B-2		$ 11,000,700.00	0.00%	8.89%
B-3		$ 7,176,100.00	0.00%	5.80%
FR	$ 248,900.00	$ 4,634,000.00	0.20%	3.74%
PUD		$ 3,370,500.00	0.00%	2.72%
R-1	$ 11,196,200.00	$ 26,682,200.00	9.05%	21.56%
R-2	$ 602,100.00	$ 1,315,700.00	0.49%	1.06%
R-3		$ 7,538,500.00	0.00%	6.09%
RR	$ 918,000.00	$ 5,058,000.00	0.74%	4.09%
(blank)		$ 574,800.00	0.00%	0.46%
Grand Total	**$ 16,487,700.00**	**$ 107,252,700.00**	**13.32%**	**86.68%**

ATTACHMENT 3:

Proposed Text Amendment

SECTION 21.26 NONCONFORMITIES

21.26.1 INTENT

It is recognized that there exists within the districts established by this Ordinance and/or by subsequent amendments, lots, buildings, structures, and uses of land and structures which were lawful before this Ordinance was passed or amended which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendments.

It is the intent of this Ordinance to permit these legal nonconforming lots, buildings, structures, or uses to continue until they are removed but not to encourage their survival. ~~Minimum front, side and rear setbacks, minimum lot width and maximum lot coverage modifications up to twenty-five percent (25%) may be approved by the Zoning Administrator upon a written finding that such a modification will have no adverse impact on the use or development of adjoining lots or threaten the public health or safety in any way.~~

21.26.2 NONCONFORMING LOT

This deleted in 21.26.1 because it repeats in 21.26.2. Having the text in both locations makes it confusing, as it implies that reduced setbacks exist for non-conforming buildings, which I do not interpret to be the intent (reduced setbacks only for non-conforming lots). Haider also pointed this out as a potential point of confusion

A nonconforming lot is a lot that the boundar contract executed and delivered prior to the e and/or area of which does not meet the minin it is located.

A single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the District; provided that yard dimensions and other requirements not involving area or width or both, of the lot shall conform to the regulations for the District in which such lot is located. Minimum front, side and rear setbacks, and maximum lot coverage modifications up to twenty-five percent (25%) may be approved by the Zoning Administrator. Modifications greater than twenty-five percent (25%) may be obtained only by approval of the Board of Appeals.

Where two (2) or more adjoining nonconforming lots are in existence under single ownership, such lots shall be used only in combinations which most closely satisfy the minimum lot size standards prescribed for the District in which said lots are located.

For definition purposes, "most closely" shall apply in situations where, for example, two (2) lots combined do not meet the minimum, but a third (3) lot would exceed the minimum by a greater amount than two (2) lots would fall short; hence, only two (2) lots need to be combined in this case.

21.26.3 NONCONFORMING USE OF LAND

Nonconforming uses of land may be continued, so long as they remain otherwise lawful, subject to the following provisions:

21.26.3.1 No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.

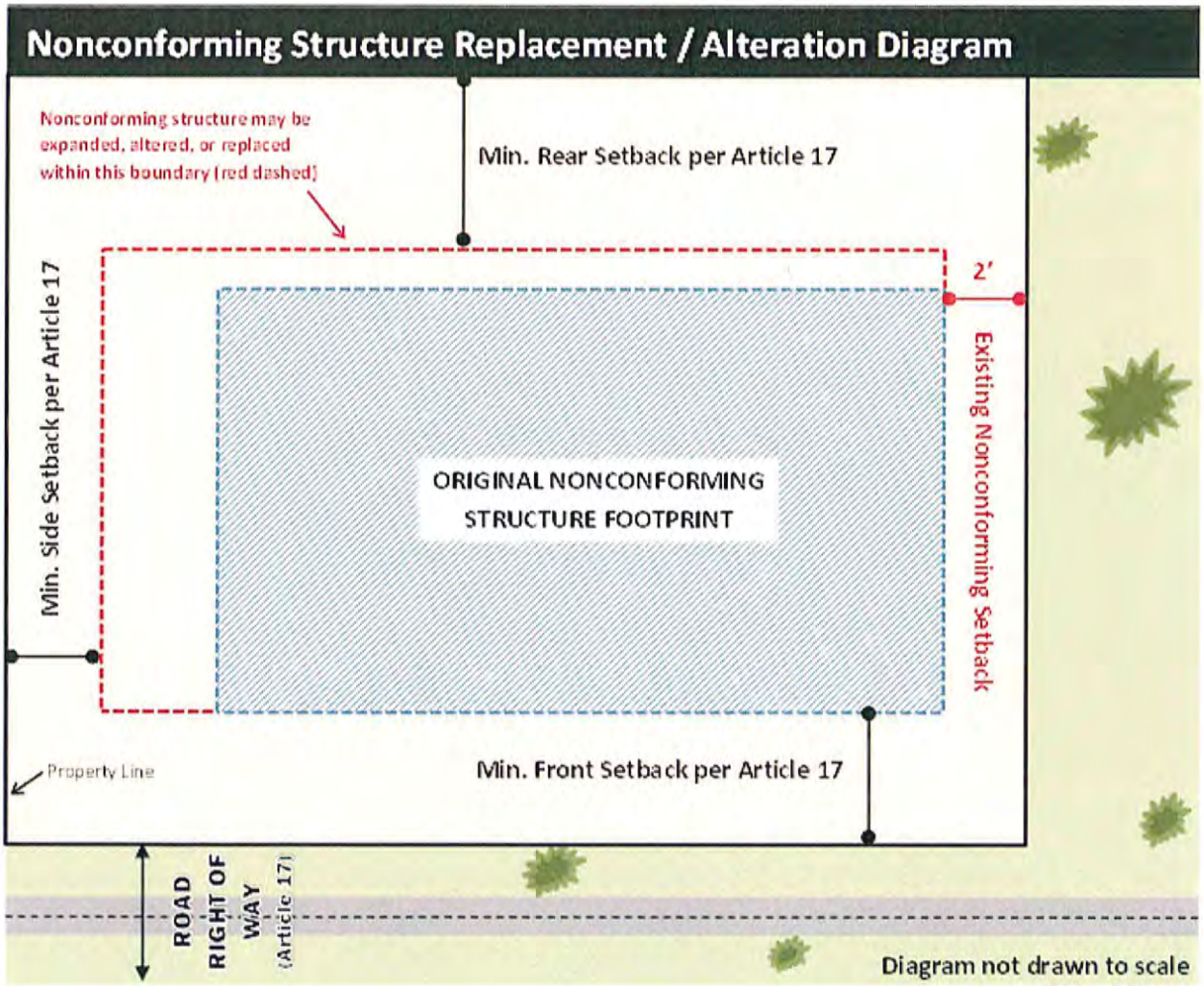
21.26.4 NONCONFORMING STRUCTURE

Nonconforming structures may be continued so long as they remain otherwise lawful, subject to the following provisions:

21.26.4.1 No nonconforming structure may be enlarged or altered in a way which increases its nonconformity. Such structures may be enlarged or altered in a way which does not increase its nonconformity.

21.26.4.2 ~~Should such structure be destroyed by any means to an extent of more than sixty (60) percent of its volume or floor area, exclusive of the foundation, or basement, it shall be reconstructed only in conformity with the provisions of this Ordinance.~~ A nonconforming structure may be restored, rebuilt, repaired, or replaced provided it utilizes the footprint of the original structure. Enlargements or alterations to the original structure's footprint may be made pursuant to section 21.26.4.1.

21.26.4.3 Should such structure be moved for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is removed.



21.26.5 NONCONFORMING USES OF STRUCTURES AND LAND

Nonconforming uses of structures and land may be continued so long as they remain otherwise lawful, subject to the following provisions:

21.26.5.1 No such nonconforming use of land or building shall be moved in whole or in part to any other portion of the lot or parcel occupied, other than to remove or lessen nonconforming conditions.

21.26.5.2 Any nonconforming use may be carried on throughout any parts of a building which were manifestly arranged or designed for such use, but no such use shall be extended to occupy any land outside such building.

21.26.5.3 Any nonconforming use of a structure, land, or structure and land, may be changed to another nonconforming use provided that the other use is equally or more appropriate to the district than the existing nonconforming use.

21.26.5.4 Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed. A change in tenancy and ownership of nonconforming premises is permissible.

21.26.5.5 When a nonconforming use of structure, land, or structure and land in combination, is discontinued or ceases to exist for eighteen (18) consecutive months, the use, structure, or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located.

21.26.5.6 Removal or destruction of the use and/or structure shall eliminate the nonconforming status.

21.26.6 REPAIR AND MAINTENANCE

Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official.

21.26.7 SPECIAL LAND USE IS NOT A NONCONFORMING USE

Any use for which a special use permit is issued as provided in this Ordinance shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

ATTACHMENT 4:

Charlton Township Response Letter

CHARLTON TOWNSHIP
OTSEGO COUNTY

P.O. Box 367 • Johannesburg, Michigan 49751 • Phone: (989) 731-1920 • Fax (989) 731-1070

To: Christopher Churches
Otsego Co. Planning & Zoning

16 May 2019

From: Ivan H. Maschke, Clerk

Dear Chris,

At the regular May meeting of the Charlton Township Board held on May 13, 2019, there was discussion regards to proposed changes to the Zoning Ordinance in reference to Article 2, 4, 5, 7, 8, 9, 10, 21 (Care Facilities) and Article 21 text amendments (reference nonconforming structures).

The board approved the recommendations of the township Planning Commission for the proposed changes.

Thanks for your time and consideration.

Sincerely,

Ivan H. Maschke, Clerk

CC: Township Planning
File

ATTACHMENT 5:

Hayes Township Response Letter

Christopher Churches

From: msanders@freeway.net
Sent: Thursday, April 25, 2019 8:08 AM
To: Christine Boyak-Wohlfeil
Subject: RE: Non conforming Structures

>After the review of the proposed changes for the non conformities to provide clarity, I agree with the changes suggested. Mary Sanders, Hayes Twp.

Good morning,
>
> After being reviewed by the County Attorney, the proposed language
> changes for Section 21.26 Non-Conformities is attached. Please review
> and send township input per Article 27 Township Participation in
> County Zoning. If you have any questions, please don't hesitate to contact us.
>
>
>
> Thank you,
> Christine
>
>
>
>
> [logo%20header]
> Christine Boyak-Wohlfeil
> Otsego County Land Use Services
> Phone: 989.731.7407
> Fax: 989.731.7419
> cboyak-wohlfeil@otsegocountymi.gov<mailto:cboyak-wohlfeil@otsegocounty
> mi.gov>
>
>
>

ATTACHMENT 6:

Corwith Township Response Letter

Christopher Churches

From: Christopher Churches
Sent: Wednesday, May 15, 2019 11:33 AM
To: Debbie Whitman
Cc: Christine Boyak-Wohlfeil
Subject: RE: RE: Non conforming Structures

Thank you Debbie!

From: Debbie Whitman [mailto:dawhitman@hotmail.com]
Sent: Wednesday, May 15, 2019 9:15 AM
To: Christopher Churches <cchurches@otsegocountymi.gov>
Subject: Re: RE: Non conforming Structures

Chris,

The Corwith Township Planning Commission reviewed the proposed changes to Section 21.26 and recommended approval of these changes. The Township Board voted in concurrence with their recommendation.

Debbie Whitman
Corwith Township Clerk

From: Christopher Churches <cchurches@otsegocountymi.gov>
Sent: Monday, April 15, 2019 10:40 AM
To: Christine Boyak-Wohlfeil; James Szymanski - Bagley Twp (bagclk@yahoo.com); Ivan Maschke (ivanmaschke@hotmail.com); Melissa Szymanski (chestertwpclerk@frontier.com); Debbie Whitman (dawhitman@hotmail.com); Janet Kwapis (jckwapis@hotmail.com); Susan Schaedig (clerk@elmiratownship.com); Richard Ross (rbross@freeway.net); Liz Mench (livingstontwp@gmail.com); Margaret Black (otslkclerk@charter.net)
Subject: RE: RE: Non conforming Structures

Good Morning,

Attached is a memo which provides a brief description behind the motivation of the language change to Section 21.26 of the Zoning Ordinance sent earlier. Moving forward, these memos will be provided with each proposed amendment in an effort to provide a more thorough background as to the reasons for each proposed text change.

As always, please do not hesitate to reach out with any questions or concerns.

Thank you,

Christopher Churches
Director of Planning & Zoning, Capital Projects & Grants
OTSEGO COUNTY
cchurches@otsegocountymi.gov
Administration Office: 989-731-7515
Land Use Office: 989-731-7400

ATTACHMENT 7:

Otsego Lake Township Response Letter

May 7, 2019

Mr. Christopher Churches
Director of Planning and Zoning
1322 Hayes Road
Gaylord, Mi 49735

Dear Chris,

The Otsego Lake Township Planning Commission held its meeting on May 2, 2019. At its meeting, the proposed changes to Section 21.26 were reviewed. The Otsego Lake Township Planning Commission is unable to support the text as written. The proposed changes to section 21.26 appear to encourage survival of nonconforming structures which is in conflict with the intent of Section 21.26.1.

Sincerely,

Nora Corfis
Secretary