

# Otsego County Planning Commission

Approved 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, *Mr. Scott*

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, Haider Kazim. Otsego County Attorney, 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*

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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 1*

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

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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.

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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

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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.

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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*

*Gaylord, MI 49735*

*080-006-300-010-01*

*Martindale Rd*

*Gaylord, MI 49735*

*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.

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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 20<sup>th</sup> should be added as Exhibit 21 for 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.

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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.

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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

# Otsego County Planning Commission

Approved Minutes for May 20, 2019

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**

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## 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**

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## **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 siting 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, siting, 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 siting 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

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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.

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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](#).)

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## 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

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- 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)

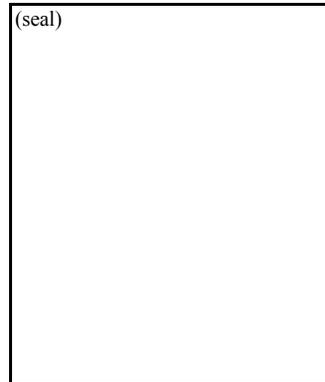
23.2.4 The Planning Commission or Zoning Administrator may waive any site plan submittal requirement when any of the following circumstances are found to be in existence:

- 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



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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 [21.18](#) of 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;

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- 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.

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## 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 use 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 or 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 related 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.

# Otsego County Planning Commission

Approved Minutes for May 20, 2019

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...*

Exhibit 13

# Otsego County Planning Commission

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## 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**

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## 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 be 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

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## 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 be 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.

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- 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

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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																	
<b>Boundary Zoning District</b>  		R-1	R-2	R-3	RR	FR	AR	B-1	B-2	B-3	MUZ	MUZ		HIGHWAY	I			
											MAIN STREET	TOWN CENTER		INTERCHANGE	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

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## 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.

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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.

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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.

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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**

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### 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

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## 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

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- 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,

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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)

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.

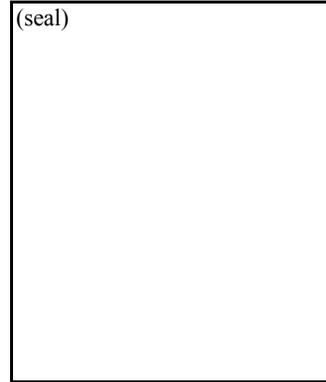
The Zoning Administrator shall review and act upon site plans except where a Special Use Permit is required. Site plans for Special Use Permit shall be forwarded by the Zoning Administrator to the Planning Commission for review and action. In addition, at the request of the Zoning Administrator or Planning 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:

(seal)



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- 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 [21.18](#) of 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.

# Otsego County Planning Commission

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Proposed Minutes for May 20, 2019

## 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.

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## 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 use 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 or 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 related 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

# Otsego County Planning Commission

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Proposed Minutes for May 20, 2019

*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

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**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**

# Otsego County Planning Commission

## Proposed Minutes for May 20, 2019

- 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.

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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	7.0 ft.
Side with front yard setbacks of 25 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

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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

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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

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TABLE II STANDARD PLANT MATERIAL REQUIREMENTS							
Plant Material Requirements			Vegetation Types				
Type	Plant Material Reductions with:		Buffer Width	Canopy Trees	Flowering Trees or Large Shrubs	Shrubs	Evergreens & Conifers
	6' Wall	3' Berm					
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.

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## 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](#).)

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- 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 <a href="#">Article 18</a> 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

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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
<b>Self-Storage Rental Units</b>	<b>1 per 10 units</b>
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

<u>Parking Pattern</u>	<u>Maneuvering Lane width</u>	<u>Parking Space width</u>	<u>Parking Space length</u>
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 used 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

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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.

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### 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

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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.

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**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.

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## **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**

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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

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- 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

\_\_\_\_\_

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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)

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.

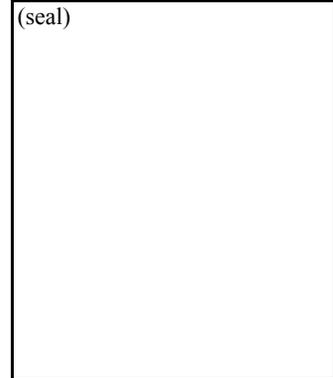
### SECTION 23.3 PRE-APPLICATION CONFERENCE

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.



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## 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 [21.18](#) of 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;

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- 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

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- 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.

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## 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 use 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 or 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**

# Otsego County Planning Commission

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## 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.

# Otsego County Planning Commission

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*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*

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## 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]

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### 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.

21.25.1.4 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.

# Otsego County Planning Commission

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- 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.

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- 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:
- 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.**
  - 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.**
  - 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.**
  - 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.**
  - 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:
  - Modification of the plan is necessary so that it will conform to existing laws.
  - It is found that the previously approved plan is clearly impractical to implement and maintain.
  - The approved plan is obviously not accomplishing the intent of the Ordinance.
  - Any modification shall be subject to all provisions of [Article 19](#) and [Article 23](#).

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### 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 ( $\frac{1}{3}$ ) of the cash deposit after completion of one-third ( $\frac{1}{3}$ ) of the rehabilitation plan;
- b. Two-thirds ( $\frac{2}{3}$ ) of the cash deposit after completion of two-thirds ( $\frac{2}{3}$ ) 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:

21.25.12.1 When 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.

# Otsego County Planning Commission

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## Proposed Minutes for May 20, 2019

### **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.

# Otsego County Planning Commission

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**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

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## 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]

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# Otsego County Planning Commission

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### 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.

21.25.1.4 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.

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- 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.
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### **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.
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### **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.

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- 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:
- 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.**
  - 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.**
  - 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.**
  - 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.**
  - 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:
- Modification of the plan is necessary so that it will conform to existing laws.
  - It is found that the previously approved plan is clearly impractical to implement and maintain.
  - The approved plan is obviously not accomplishing the intent of the Ordinance.
  - Any modification shall be subject to all provisions of [Article 19](#) and [Article 23](#).

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### 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 ( $\frac{1}{3}$ ) of the cash deposit after completion of one-third ( $\frac{1}{3}$ ) of the rehabilitation plan;
- b. Two-thirds ( $\frac{2}{3}$ ) of the cash deposit after completion of two-thirds ( $\frac{2}{3}$ ) 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:

21.25.12.1 When 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.

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### **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.

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## 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

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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 acres 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.