

**OFFICE OF COMMUNITY DEVELOPMENT**8140 Main Street • Dexter, Michigan 48130-1092 • (734) 426-8303 • Fax (734) 426-5614

STAFF REPORT

To: Chairman Kowalski and Planning Commission
Courtney Nicholls, City Manager

From: Michelle Aniol, Community Development Manager

RE: Unmanned Automated Aircraft (DONES)

Date: May 23, 2016

Over the last few months City Council has been considering an ordinance to regulate unmanned automated aircraft (DRONES). The City Manager recently spoke to Steve Hanes at the East Michigan Federal Aviation Administration (FAA) branch. According to Mr. Hanes, federal law pre-empts communities from regulating where unmanned automated aircraft (i.e. Drones) can fly (i.e. airspace), and as a result, municipalities have regulated where operators may be located when flying drones. He offered to give a presentation to Council, and Council decided it would be prudent if the Planning Commission could attend too.

Since the Planning Commission has scheduled reoccurring worksessions to consider updates to the Zoning Ordinance, staff recommended that Mr. Hanes' presentation be schedule during the June worksession. That way Council and the Planning Commission receive the benefit of the information Mr. Hanes will present, without having to schedule a joint meeting between the Planning Commission and City Council.



CARLISLE

WORTMAN
associates, inc.

605 S. Main Street, Ste. 1
Ann Arbor, MI 48104

(734) 662-2200
(734) 662-1935 Fax

MEMORANDUM

TO: City of Dexter Planning Commission
Michelle Aniol, Community Development Manager

FROM: Doug J. Lewan, City Planner
Laura K. Kreps, City Planner

DATE: May 23, 2016

RE: Non-Conformities Provisions REVISED

Revisions have been made to the Non-Conformities chapter related to the Planning Commission's discussion and request for further quantification of the language provided related to Non-Conforming Sites. As you will see in the attached revised draft, language regarding non-conforming sites has been modified to include further clarification.

We look forward to reviewing these provisions with you at an upcoming Planning Commission work session. Please feel free to contact us with any questions or comments.

Sincerely,

CARLISLE/WORTMAN ASSOCIATES, INC.

CARLISLE/WORTMAN ASSOC., INC.
Douglas J. Lewan, PCP, AICP
Principal

CARLISLE/WORTMAN ASSOC., INC.
Laura K. Kreps, AICP
Associate

Cc: File

Article IV

NON-CONFORMITIES

Section 4.01 INTENT

Certain existing lots, structures, and uses of lots and structures were lawful before this Ordinance was adopted, but have become non-conformities under the terms of this Ordinance and its amendments. It is the intent of this Ordinance to permit such legal non-conforming lots, structures, or uses to continue until they are removed, but not to encourage their survival or where discontinuance or removal is not feasible, to gradually upgrade such non-conformities to conforming status. Non-conformities shall not be enlarged, expanded, or extended, except as provided herein, and shall not be used as grounds for adding other structures and uses of lots and structures which are prohibited. Non-conformities are declared by this Ordinance to be incompatible with the structures and uses permitted in the various districts.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding such demolition or removal shall be deemed to be actual construction, provided work shall be diligently carried on until completion of the building involved.

Section 4.02 NON-CONFORMING LOTS OF RECORD

Any non-conforming lot shall be used only for a use permitted in the district in which it is located. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record -at the effective date of adoption or amendment of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance requests from district yard requirements may be applied for through the City of Dexter Zoning Board of Appeals.

If two or more lots or combination of lots with contiguous frontage in single ownership are of record at the time of adoption or amendment of this Ordinance, and if all or part of the individual lots do not meet the requirements established for lot width and area, the lots involved shall be considered to be an individual parcel for the purposes of this Ordinance. No portion of said parcel shall be used, occupied, or sold in a manner which diminishes

compliance with lot width and area requirements established by this Ordinance, nor shall any division of a parcel be made which creates a lot with width or area less than the requirements stated in this Ordinance. These provisions shall not apply to contiguous lots in single ownership where each of the lots is occupied by a dwelling unit.

Upon application, the Zoning Administrator may permit the combination, in whole or in part, of non-conforming lots of record into building sites less than the size requirements established by this Ordinance, provided that the combination of lots reduces the degree of non-conformity and results in a parcel which is capable of accommodating a structure that is in conformance with the building area, setback, and side yard requirements of this Ordinance.

Section 4.03 NON-CONFORMING USES OF LAND

The lawful use of any land existing on the effective date of this Ordinance or amendment thereto, may be continued even though such use does not conform to the provisions of this Ordinance or amendments subject to the following provisions:

- A. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance;
- B. No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance;
- C. If such non-conforming use of land ceases for any reason for a period of more than six months, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.
- D. Where non-conforming off-street parking, landscaping, signage, fences, and other similar land uses exist, those uses shall be made to conform to the terms of this Ordinance when any legal use, principal or accessory, located on the land in question is established or expanded in such a manner that would necessitate site plan review and approval in accordance with Article XXII.

Section 4.04 NON-CONFORMING BUILDINGS AND STRUCTURES

Where a lawful building or structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful subject to the following provisions:

- A. **Restriction on Creating Non-conformities:** No such building or structure may be enlarged or altered in a way which increases its non-conformity.

- B. **Restriction on Movement:** Should such structure be moved for any reason or for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is relocated or moved.
- C. **Restrictions on Alteration or Modification:** If a non-conforming structure or building is altered or modified so as to eliminate, remove, or lessen any or all of its non-conforming characteristics, then such non-conforming characteristics shall not be later re-established or increased. The Zoning Board of Appeals shall determine if a proposed alteration should decrease the degree of non-conformity.
- D. **Restrictions on Replacements:** Nothing in this Ordinance shall prevent the reconstruction, repair, or restoration and the continued use of any non-conforming structure damaged by fire, collapse, explosion, acts of God or acts of public enemy, subsequent to the effective date of this Ordinance.

Any non-conforming building which has been damaged substantially or destroyed may be repaired, rebuilt or replaced within 18 months of such damage or destruction, provided that such repairs or rebuilding or replacement does not extend or expand the previously existing non-conforming structure.

Where pending insurance claims require an extension of time, the Zoning Administrator may grant a time extension provided that the property owner submits a certification from the insurance company attesting to the delay. Until such time as the debris from the fire or act of God is fully removed, the premises shall be fenced and secured from pedestrian or unauthorized access.

- E. A non-conforming structure, except a single-family dwelling and its accessory structures, which are damaged by any means to an extent of more than 50% of its assessed value as determined by the City Assessor, shall not be reconstructed except in conformity with the regulations of the district in which it is located. Any non-conforming structure, except single-family dwellings and their accessory structures, that is damaged to an extent of 50% or less of its replacement cost, may be replaced in its location existing prior to such damage, provided replacement is commenced within 18 months of date of damage and is diligently pursued to completion. Failure to commence replacement within 18 months shall result in the loss of legal non-conforming status.

Non-conforming structures may be replaced or expanded in accordance with the following requirements:

1. A single-family dwelling unit and permitted accessory structures may be replaced or expanded, subject to the following standards:
 - a. The dwelling is a permitted use in the district in which it is located; and
 - b. Any expansion shall meet yard, lot coverage, floor area ratio, and impervious surface regulations of the zoning district in which it is located.
2. All other non-conforming structures, in any zoning district, may be expanded only after approval by the Zoning Board of Appeals, as provided in Section 24.05 F.

Section 4.05 NON-CONFORMING USES OF STRUCTURES AND LAND

If a lawful use of a structure, or of structure and land in combination, exists at the effective date of adoption or amendment of this Ordinance, that would not be permitted in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions:

- A. **Prohibition on Enlargement of a Building Housing Non-conforming Use:** No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- B. **Extension Throughout Building:** Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
- C. **Changing Use:** If no structural alterations are made, any non-conforming use of a structure, or structure and land in combination, may be changed to another non-conforming use of the same or a more restricted classification provided that the Zoning ~~Board of Appeals~~[Administrator](#) either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Zoning ~~Board of Appeals~~[Administrator](#) may require conditions and safeguards in accord with the purpose and intent of this Ordinance and/or may request review and determination by the Planning Commission. Where a non-conforming use of a structure, land, or structure and land in combination is hereafter changed to a more conforming use, it shall not thereafter be changed to a less conforming use.
- D. **Prohibition of Re-establishment if Replaced by Conforming Use:** A non-conforming use of any structure which is replaced by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the non-conforming use may not thereafter be resumed.
- E. **Discontinuance or Termination of Non-conforming Use of Structure:** When a non-conforming use is discontinued or ceases to exist for six consecutive months the non-conforming -structure or use of land shall not thereafter be used except in conformance with the regulations of the district in which it is located. Structures occupied by seasonal uses shall be ~~excepted~~exempt from this provision. ~~Appeals for continuation of such uses shall be provided and determined by making application to the City of Dexter Zoning Board of Appeals.~~

- F. **Repairs to Non-conforming Use:** On any building devoted in whole, or in part, to any non-conforming use, work may be done in any period of 18 consecutive months on ordinary repairs, improvements, or modernization, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing to correct deterioration, obsolescence, depreciation and wear. Such repairs, improvements, replacement, or modernization activities shall be permitted providing the total area (in square feet) of the building as it existed at the time of passage or amendment of this Ordinance shall not be increased. Repairs begun within the required 18 consecutive months but not completed upon the expiration of the permitted time period may be completed provided the repairs have been issued and approved and valid building permit and the work has continued without interruption to eventual completion.
- G. **Safety Repair.** Nothing in the Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building, or part, thereof declared unsafe by an official charged with protecting public safety, upon order of such official.
- H. **Destruction of Non-Conforming Structure.** If a structure devoted in whole or in part to a non-conforming use is destroyed by any means to an extent of more than 50% of its assessed value as determined by the City Assessor at the time of destruction, it shall not be reconstructed and again be devoted to any use except in conformity with the regulations of the district in which it is located.

Section 4.06 NON-CONFORMING SITES

- A. **Intent:** The purpose of this Section is to encourage improvements to existing sites in the City that were developed before the site design standards of this Chapter were established or amended. This section ~~establishes standards for prioritizing improvements to existing sites that are intended to gradually bring the site into compliance with current zoning ordinance standards. Non-conforming sites may be improved or modified without a complete upgrade of all site elements, subject to the following conditions~~ is intended to:

- ~~— A non-conforming site shall not be improved or modified in a manner that increases its non-conformity.~~
- ~~— The proposed site improvements shall resolve public safety deficiencies, including building and fire code violations, emergency access, and pedestrian/vehicle conflicts.~~
- ~~— The proposed site improvements shall include exterior lighting, landscaping, screening, and building improvements that are in reasonable proportion to the scale and construction cost of the proposed building improvements, expansions, or other improvements.~~
- ~~— The proposed site improvements shall include the installation, restoration, or expansion of sidewalks within the through the site, where appropriate.~~

~~A reasonable timeline for completion of site improvements to an existing non-conforming site may be approved as part of any plan approval. Failure to complete improvements in accordance with an approved timeline shall be deemed a violation of the approved site plan.~~

1. Allow for reasonable re-use, maintenance, and improvements to these sites that will gradually improve compliance with these requirements.
2. Permit a proportionate amount of improvements to non-conforming sites relative to the amount of expansion or improvement proposed to the use or building.
3. Allow the needed flexibility in the regulations to encourage gradual site improvements and increased compliance with the intent of the Zoning Ordinance Requirements.

B. **Required Reviews.** This Section provides for the conditions under which re-occupancy, improvement, and modification to non-conforming sites may occur. It does not replace other reviews and requirements contained elsewhere in this Ordinance. Where improvements and modifications are proposed to non-conforming sites, they shall be subject to Site Plan Review in accordance with Article XXI.

C. **Standards for Review.** Applications to improve or modify nonconforming sites shall be reviewed in accordance with Article XXI for new development, redevelopment, or change of use as listed in Section 21.02. Such activity may only be permitted if the following standards are met:

1. **General Standards.**

- a. Expansions to non-conforming structures or buildings comply with Section 4.04.
- b. Changes to non-conforming uses comply with Section 4.05.
- c. The applicant is proposing reasonable site improvement to the overall site in relation to the scale and construction cost of any proposed building improvements or expansion.
- d. The applicant has addressed safety related site issues on the overall site.
- e. The improvements or minor expansion will not increase non-compliance with other site requirements.

2. **Driveways.** Driveways that do not conform to the City of Dexter design standards shall be removed or redesigned to the greatest extent possible.

3. **Sidewalks.** Whenever modifications are proposed, or any expansion of the building, parking lot or site, the sidewalks shall be installed along the site frontage, as required by the City of Dexter design standards.
4. **Parking.** Existing parking areas must be in good condition, as determined by the Zoning Administrator, and any improvements necessary to provide a safe durable surface have been proposed. For projects involving new development, redevelopment, or change of use, parking areas that are non-conforming in terms of required number of spaces, landscaping, setbacks, lighting or other requirement of this Ordinance, shall be brought into full compliance with this Ordinance if any of the following occur:
 - a. The non-conforming parking area is expanded or altered by an area that is 50% or more of the original area.
 - b. Twenty-five percent (25%) or more of the surface area of the parking lot is reconstructed (existing pavement removed and replaced).
 - c. Where full compliance is not possible due to existing site conditions, a variance may be requested.
 - d. Whenever re-occupancy is proposed, or the parking area is not proposed to be expanded or reconstructed beyond the percentages noted in a. and b. above, then any necessary repairs shall be made to the existing parking lot pavement as determined by the Zoning Administrator.
5. **Screening.** Whenever modifications are proposed, or any expansion to the building or site proposed, then required screening walls for waste receptacles, fencing of outdoor storage or screening from adjacent residential uses shall be provided.
 - a. Where existing screening walls are in disrepair, they shall be improved to a sturdy and attractive condition.
 - b. All outdoor storage areas shall be screened from adjacent residential uses as required in Section 6.05 and all waste receptacles shall be screened as required in Section 6.09.
6. **Landscaping.** For projects involving new development, redevelopment, or a change of use on sites that are non-conforming by reason of landscaping required by this Ordinance, either by required area, materials, or other requirement of this Ordinance, the site shall be brought into compliance with this Ordinance under the following conditions:
 - a. Whenever the size of the non-conforming site (building, parking, and outdoor storage) is redeveloped or expanded by an area that is 50% or more of the original non-conforming area, all landscaping on the site shall be brought into compliance.

- b. Whenever 25% or more the surface area of the landscaped area is redeveloped or reconstructed (existing materials and ground cover removed and replaced) the reconstructed portion of the landscape area shall be brought into compliance with this Ordinance.

Section 4.06-07 GENERAL REQUIREMENTS

- A. **Structure and Land in Combination.** Where non-conforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.
- B. **Illegal Non-conforming Uses:** Those alleged non-conforming uses which cannot be proven conclusively to have been in existence prior to the date of the enactment or amendment of this Ordinance shall be declared illegal uses and shall be discontinued following the enactment of this subsection.

Section 4.07-08 USES UNDER EXCEPTION PROVISIONS NOT NON-CONFORMING USES

Any use for which a special exception is permitted as provided in this Ordinance shall not be deemed a non-conforming use, but shall, without further action, be deemed a conforming use in such district.

Section 4.08-09 CHANGE OF TENANCY OR OWNERSHIP

There may be a change of tenancy, ownership, or management of any existing non-conforming uses of land, structures and land in combination provided there is no change in the nature or character of such non-conforming uses except in conformity with the provisions of this Ordinance.

Section 4.10-10 ACQUISITION OF NON-CONFORMING USES

The City Council may acquire private property, or an interest in private property, to remove a non-conformity, as provided in Act 207, PA of 1921, as amended.



CARLISLE

WORTMAN
associates, inc.

605 S. Main Street, Ste. 1
Ann Arbor, MI 48104

(734) 662-2200
(734) 662-1935 Fax

MEMORANDUM

TO: City of Dexter Planning Commission
Michelle Aniol, Community Development Manager

FROM: Douglas J. Lewan, City Planner
Laura K. Kreps, City Planner

DATE: May 23, 2016

RE: Site Plan Provisions – Clean Copy for Review

As discussed at our last worksession, we have provided a clean copy draft of the Site Plan provisions for your ease in review. You will find this Article has been reorganized for ease of use. However, modifications include:

- Revision of the Intent.
- Outlining buildings, structures, and uses that require site plan review (eliminating items that do not require site plan review).
- Data required for preliminary and final site plan review has been formatted into a table.
- Site plan review criteria specific to underground storage tanks and secondary containment, etc. (9 provisions in all) have been eliminated. These items generally will not apply, and are covered under new provision J.

Suggested modifications outlined in the City Attorney's review have also been provided in the attached draft.

We look forward to reviewing these provisions with you at an upcoming Planning Commission work session or meeting. Please feel free to contact us with any questions or comments.

Sincerely,

CARLISLE/WORTMAN ASSOCIATES, INC.

CARLISLE/WORTMAN ASSOC., INC.

Douglas J. Lewan, PCP, AICP

Principal

Cc: File

CARLISLE/WORTMAN ASSOC., INC.

Laura K. Kreps, AICP

Associate

Richard K. Carlisle, *President* Douglas J. Lewan, *Executive Vice President*

R. Donald Wortman, *Principal* John L. Enos, *Principal* David Scurto, *Principal* Benjamin R. Carlisle, *Principal* Sally M. Elmiger, *Principal*
Brian Oppmann, *Associate* Laura K. Kreps, *Associate*

Article XXI SITE PLAN REVIEW

Section 21.01 INTENT

The intent of this Article is to provide consistent standards and methods for review and approval of site plans to ensure full compliance with the regulations in this Ordinance, other applicable ordinances, and state and federal regulations. Further, the intent is to encourage a harmonious relationship of buildings and uses both within a site and in relation to adjacent uses, achieve efficient use of the land, encourage innovative design solutions, protect natural resources, ensure safety for both internal and external vehicular and pedestrian users, achieve innovative storm water management solutions, and prevent adverse impact on adjoining or nearby properties. It is the intent of these provisions to encourage cooperation and consultation between the City and the applicant to facilitate development in accordance with the City's land use objectives.

This Article also allows administrative approval in certain cases where there is a change in use, a minor change to an existing site, or a minor change determined necessary in the field during construction.

Section 21.02 BUILDINGS, STRUCTURES, AND USES REQUIRING SITE PLAN REVIEW

1. **Site Plan Review Requirement.** The following buildings, structures, and uses require site plan review:
 - A. All proposed or permitted uses and related buildings, except single- and two-family dwellings located on individual lots and their associated accessory structures;
 - B. All proposed special land uses and related buildings;
 - C. Any alteration, addition, or expansion of an existing permitted or special use and/or related building;
 - D. Any parking lot or addition thereto.

Some site plans may be eligible for administrative review and approval pursuant to Section 21.07.

Section 21.03 PRE-APPLICATION MEETING

An applicant may request a pre-application meeting with the City Zoning Administrator, City Planner, and City Engineer. During the pre-application meeting, a generalized site plan may be presented by the 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 shall be discussed. City officials, including a member of the City Council and/or a member of the Planning Commission, may attend this informal meeting. At this meeting the applicant or their representative is also presented with the applicable procedures required by this Article for approval of the proposed development and with any special problems or steps that might have to be followed, such as requests to the Zoning Board of Appeals for any variances.

Section 21.0 PRELIMINARY SITE PLAN REVIEW

- A. **Application and Fee for Preliminary Site Plan Review.** An application for a preliminary site plan review shall be filed with the Zoning Administrator and include the number of copies specified on the application. An application for preliminary site plan review shall be accompanied by the required fees, as well as other data, exhibits, and information hereinafter required.
- B. **Required Data for a Preliminary Site Plan.** An application for approval of a preliminary site plan shall provide the information required for a preliminary site plan as set forth in Section 21.08.
- C. **Staff/Consultant Review of Preliminary Site Plan.** The Zoning Administrator shall determine if the preliminary site plan includes the required information set forth in this Article. If complete, the Zoning Administrator shall forward the preliminary site plan to the Planner and Engineer. The Planner and Engineer shall review the plans and other information submitted for compliance with applicable ordinances, policies, laws, and standards and shall furnish written comments, opinions and recommendations to the City Zoning Administrator at least two weeks prior to the Planning Commission meeting where action is sought.

The City may permit the applicant to resubmit revised plans in response to the review comment depending on the complexity of the project and the time necessary to review the plans. Any plan revised in response to comments from the Planner, Engineer or agencies/departments having jurisdiction shall not be placed on the Planning Commission agenda until written review comments from those persons noted above on the revision have been received by the Zoning Administrator.

D. **Planning Commission Review of Preliminary Site Plan.** If complete, the Zoning Administrator shall transmit complete submittals of the application and preliminary site plan drawing(s), including Planner and Engineer reviews to the Planning Commission prior to its next available regularly scheduled meeting. The Planning Commission shall undertake a study of the same and shall make a recommendation on approval, disapproval, or approval with modifications to the City Council.

E. **City Council Approval of a Preliminary Site Plan.** After recommendation of the Planning Commission, the City Council may approve, deny, or may require changes in the preliminary site plan, and may attach conditions to its approval. If the preliminary site plan is approved, the City Council shall, within two weeks of the date of approval of the preliminary site plan, transmit a written certification of such approval by the applicant. If the City council denies the preliminary site plan or requires changes, the City Council shall advise the applicant in writing of its action and any required modifications to a preliminary site plan necessary to achieve conformance to the standards specified in this Ordinance.

The City Council may, at its discretion and with appropriate conditions attached, authorize issuance of permits by the Zoning Administrator for grading and foundation work on the basis of an approved preliminary site plan. The conditions which may be attached to such permit for grading and foundation work shall include, but shall not be limited to, measures to control erosion, exemption of the City from any liability if a final site plan is not approved, and provision of a bond for site restoration if work does not proceed to completion. The applicant must request, in writing, permission from City Council to authorize grading and foundation work, if not specifically permitted by City Council.

Approval of a preliminary site plan by the City Council shall indicate its acceptance of the proposed layout of buildings, streets, drives, parking areas, and other facilities and areas in accordance with the standards set forth in Section 21.04 (c)(2), herein.

F. **Variance Requests.** When the applicant intends to seek a variance from the Zoning Board of Appeals for the subject request, the applicant shall first receive tentative approval of the preliminary site plan from the City Council. Tentative approval of the preliminary site plan by the City Council shall be conditioned upon the granting of any necessary variances by the Zoning Board of Appeals.

G. **Effect of Approval.** Effect of Approval - Approval of a preliminary site plan by the City Council shall indicate its acceptance of the proposed layout of buildings, streets, drives, parking areas, and other facilities and areas in accordance with the standards set forth in Section 21.09 herein.

The City Council may, at its discretion and with appropriate conditions attached, authorize issuance of permits by the Zoning Administrator for grading and

foundation work on the basis of an approved preliminary site plan. The conditions which may be attached to such permit for grading and foundation work shall include, but shall not be limited to, measures to control erosion, exemption of the City from any liability if a final site plan is not approved, and provision of a bond for site restoration if work does not proceed to completion. The applicant must request, in writing, permission from City Council to authorize grading and foundation work, if not specifically permitted by City Council.

- H. **Expiration of Approval.** Approval of a preliminary site plan shall be valid for a period of 180 days from the date of approval and shall expire and be of no effect unless an application for a final site plan for all or part of the area included in the approved preliminary site plan is filed with the City Zoning Administrator.

Phased Site Plans: If a final site plan is submitted for only a part of the area included in the approved preliminary site plan, successive final site plans shall be filed at intervals no greater than three years from the date of approval of the previously approved final site plan. If such period is exceeded, the City Council may declare the approved preliminary site plan invalid with respect to the remaining parts of the site, unless good cause can be shown for the development schedule. In such case, the City Council may require that the site plan be revised to meet current ordinance requirements.

- I. **Extension of Time Limits.** Time limits set forth in this Article may be extended upon showing of good cause, and by written agreement between the petitioner and the recommendation of the Planning Commission and approval by City Council.

Section 21.05 FINAL SITE PLAN REVIEW

- A. **Application and Fee for Final Site Plan Review.** Following approval of the preliminary site plan, an application for final site plan review shall be filed with the Zoning Administrator, including the number of copies specified on the application of the proposed final site plan as well as other data, exhibits, and information hereinafter required. An application for final site plan review shall be accompanied by the required fees.
- B. **Required Data for a Final Site Plan.** An application for approval of a final site plan shall provide the information required for a final site plan as set forth in Section 21.08.
- C. **Staff/Consultant Review of Final Site Plan.** The Zoning Administrator shall determine if the final site plan includes the required information set forth in this Article. If complete, the Zoning Administrator shall forward the final site plan to the Planner and Engineer. The Planner and Engineer shall review the plans and other information submitted for compliance with applicable ordinances, policies, laws, and standards and shall furnish written comments, opinions and

recommendations to the City Zoning Administrator at least two weeks prior to the Planning Commission meeting where action is sought.

The City may permit the applicant to resubmit revised plans in response to the review comment depending on the complexity of the project and the time necessary to review the plans. Any plan revised in response to comments from the Planner, Engineer or agencies/departments having jurisdiction shall not be placed on the Planning Commission agenda until written review comments from those persons noted above on the revision have been received by the Zoning Administrator.

- D. **Planning Commission Review of a Final Site Plan.** The Zoning Administrator shall transmit complete submittals and applicable consultant reviews to the Planning Commission prior to its next available regularly scheduled meeting. The Planning Commission shall undertake a study of the same and shall make a recommendation on approval, disapproval, or approval with modifications to the City Council.

The Planning Commission shall include in its study of the site plan consultation with the Zoning Administrator, the Fire Chief, Planner, and Engineer, and other governmental officials and departments and public utility companies that might have an interest in or be affected by the proposed development.

- E. **City Council Review of a Final Site Plan.** After recommendation of the Planning Commission, the City Council may approve, deny or may require changes in the final site plan, and may attach conditions to its approval. The City Council shall advise the applicant in writing of its action and any required modifications to a final site plan necessary to achieve conformance to the standards specified in this Ordinance. If the final site plan is rejected, the City Council shall notify the applicant in writing of such action and the reasons therefore based on the criteria set forth in Section 21.09 within two weeks following the action.

- F. **Approval of a Final Site Plan.** Upon approval of a final site plan by the City Council, and resolution of any approval contingencies, the applicant, the owner(s) of record, or the legal representative thereof, and the Zoning Administrator shall each sign and stamp five copies of the approved final site plan. One (1) electronic CD copy of the approved site plan in PDF and/or DWG format shall also be provided for the City's records. The Zoning Administrator shall transmit two signed copies of the plan and any conditions attached to the approval to the applicant and City project file.

The approved site plan shall become part of the record of approval, and subsequent actions relating to the activity authorized shall be consistent with the approved site plan unless a change conforming to the Zoning Ordinance is agreed by the landowner and the City Council.

- G. **Effect of Approval.** Approval of a final site plan authorizes issuance of a certificate of zoning compliance and issuance of a building permit, provided all other requirements for a building permit have been met. In the case of uses without buildings or structures, approval of a final site plan authorizes issuance of a certificate of zoning compliance and issuance of a certificate of occupancy, provided all other requirements for such certificate have been met.
- H. **Expiration of Approval.** Approval of a final site plan shall expire and be of no effect two years following the date of approval unless a Zoning Compliance Certificate has been issued and construction has begun on the property and is diligently pursued to completion in conformance with the approved final site plan.
- I. **Extensions of Time Limits.** Time limits set forth in this Article may be extended upon showing of good cause, and by written agreement between the petitioner and the recommendation of the Planning Commission and approval by City Council.

Section 21.06 COMBINING PRELIMINARY AND FINAL SITE PLANS

An applicant may, at the applicant's discretion and risk, with approval of the Zoning Administrator, combine a preliminary and final site plan in an application for approval. The Zoning Administrator shall have the authority to require submittal of a preliminary site plan separate from a final site plan, where, in his/her opinion, the complexity and/or size of the proposed development so warrant. A preliminary and final site plan shall not be combined for any development consisting of two or more phases.

SECTION 21.07 ADMINISTRATIVE REVIEW

- A. **Authority.** The City Zoning Administrator shall have the authority to conduct an administrative review of a site plan, provided all other standards of this Ordinance are met. The Zoning Administrator may seek the review and comments of applicable staff and/or consultants and reserve the right to refer the matter to the Planning Commission if desired.
- B. **Projects to be Reviewed Administratively.** Administrative review of a site plan may be conducted for the following projects or under the following circumstances.
1. Minor changes required by outside governmental agencies during construction as determined by the Zoning Administrator.
 2. Expansion or reduction of an existing conforming structure or use of 1,000 square feet or less or five percent of the floor area of the structure, whichever is less, provided the site will not require any significant change

to existing site improvements such as parking, landscaping, lighting, signs, or sidewalks.

3. A change in use to a similar or less intense use provided the site will not require any significant changes to the existing site improvements such as parking, landscaping, lighting, signs, or sidewalks.
 4. Increase in parking or loading area of up to 25% or 6,000 square feet of pavement area without any building changes.
 5. Changes to the building height that do not add additional floor area nor exceed the maximum height requirements of the district.
 6. Site improvements such as installation of walls fences, lighting, or landscaping consistent with the Ordinance standards.
 7. Temporary uses, sales, and seasonal events.
- C. **Information Required.** At the direction of the Zoning Administrator, any information required in Section 21.04 of the Zoning Ordinance may be required for administrative site plan approval. However, at a minimum, submissions of a site plan including the following information:
1. Proprietors', applicants, and owner's names, addresses and telephone numbers.
 2. Date (month, day, year), including revisions.
 3. Title Block and Scale.
 4. North arrow.
 5. Proposed and existing structures, parking areas, etc. on the parcel, and within one hundred (100) feet of the parcel.
 6. Floor plans and Elevations. Two or Three dimensional color renderings may be requested by the Zoning Administrator.
- D. The Zoning Administrator shall consider the criteria set forth in Section 21.09 in the review of the site plans submitted under this Section.

SECTION 21.08 DATA REQUIRED FOR PRELIMINARY AND FINAL SITE PLANS.

All plans shall be prepared by a professional engineer registered in the State of Michigan whose seal shall be affixed to the first sheet. All landscape plans shall be

prepared by a Landscape Architect licensed in the State of Michigan whose seal has been affixed to the first sheet. Preliminary and final site plans shall include the information set forth in Table 21.08 A-1.

Table 21.08 A-1. Preliminary Site Plan and Final Site Plan Submittal Requirements

Plan Data	Required For:	
	Preliminary Site Plan	Final Site Plan
A. Application Form		
Name and address of the applicant and property owner	X	X
Address and common description of property and complete legal description	X	X
Dimensions of land and total acreage	X	X
Zoning on the site and all adjacent properties	X	X
Description of proposed project or use, type of building or structures, and name of proposed development, if applicable	X	X
Name and address of firm or individual who prepared the site plan	X	X
Proof of property ownership	X	X
B. Site and Zoning Data		
Existing lot lines, building lines, structures, parking areas, and other improvements on the site and within 100 feet of the site	X	X
Proposed lot lines, lot dimensions, property lines setback dimensions, structures, and other improvements to the site and within 100 feet of the site.	X	X
All existing and proposed easements, including type	X	X
Zoning district of site and all adjacent properties	X	X
Land use of site and all adjacent property	X	X
Proposed use of site	X	X
Gross and net lot area in acres and square feet, net lot area excluding all existing road rights-of-way as well as that in proposed rights-of-way, required access easements and portions covered by wetlands, bodies of water (including streams, ponds, lakes), and 90% of the area of all existing drainage easements	X	X
Ground floor and total floor area to be constructed	X	X
Lot coverage (ground floor area divided by net lot area)	X	X
Impervious surface (total impervious area and percentage of impervious area to total net lot area)	X	X
Floor area ratio (total floor area divided by net lot area)	X	X
Number and type of dwelling units and density, for residential projects	X	X

Site Plan Review

Plan Data	Required For:	
	Preliminary Site Plan	Final Site Plan
Building height, in feet and number of floors	X	X
Required yards	X	X
C. Natural Features		
General location of existing plant materials, with identification of materials to be removed and materials to be preserved	X	X
Location, sizes, types, and condition of existing trees	X	X
Topography on the site and within 100 feet of the site at two-foot contour intervals, referenced to a USGS benchmark	X	X
Location of existing drainage courses, floodplains, lakes and streams, and wetlands with elevations	X	X
Wetlands delineated both in the field and on the plan. The existing area must be shown for each wetland. All impacted areas and mitigation areas shall be shown with calculations provided.	X	X
Soils information, location, and extent of soils that are unbuildable in their natural state because of organic content or water table level, based on the Washtenaw County Soil Survey or equivalent information.	X	X
Groundwater information on the site, with supporting evidence including, but not limited to site-specific soils information.	X	X
D. Access and Circulation		
Dimensions, curve radii, and centerlines of existing and proposed access points, roads, and road rights-of-way or access easements		X
Driveways and intersections within 250 feet of the site		X
Location of proposed roads, driveways, parking lots, sidewalks, and non-motorized pathways	X	X
Cross-section details of proposed roads, driveways, parking lots, sidewalks, and non-motorized paths illustrating materials and thickness		X
Dimensions of acceleration, deceleration, and passing lanes		X
Calculations for required number of parking and loading spaces, location, and layout	X	X
Dimensions of parking spaces, islands, circulation aisles, and loading zones		X
Fire protection plan	X	X
Traffic regulatory signs and pavement markings		X
E. Landscape Plans		
General landscape plan, including location and type of all proposed shrubs, trees, and other live plant material.	X	X

Site Plan Review

Plan Data	Required For:	
	Preliminary Site Plan	Final Site Plan
Existing live plant material to remain, and if material will be applied to landscaping requirements	X	X
Existing and proposed topography, by contours, correlated with the grading plan	X	X
Location of all proposed improvements, as shown on the site plan	X	X
Planting list for proposed landscape materials, with caliper size or height of material, root ball type, method of installation (planting/staking details), botanical and common names, spacing, and quantity		X
Irrigation system plan for watering and draining landscape areas		X
Sections, elevations, plans, and details of landscape elements, such as berms, walls, ponds, retaining walls, and tree wells.		X
Proposed means of protecting existing plan material during construction		X
Proposed dates of installation		X
Landscape maintenance schedule		X
F. Building, Structure, ad Miscellaneous Site Information		
Location, height, and outside dimensions of all proposed buildings and structures	X	X
Building floor plans and total floor area		X
Details on accessory structures and any screening		X
Location, size, height, and lighting of all proposed site and wall signs		X
Building façade elevations for all sites, drawn at an appropriate scale		X
Description of exterior building materials and colors (samples may be required)		X
Location of exterior lighting (site and building lighting)		X
Lighting details, including size, height, initial lumen rating, type of lamp, method of shielding, type of lens, and depiction of lighting pattern for all site and building lighting		X
Lighting photometric grid overlaid on proposed site plan showing light intensity (in foot-candles) on site and 10 feet beyond parcel lines		X
Location of trash receptacle(s) and transformer pad(s) and method of screening		X
Location of any outdoor sales or display area	X	X
G. Information Concerning Utilities, Drainage, and Related Issues		

Site Plan Review

Plan Data	Required For:	
	Preliminary Site Plan	Final Site Plan
Location of existing and proposed sanitary sewer systems	X	X
Size of existing and proposed sanitary sewer systems		X
Location of existing and proposed water mains, water service, and fire hydrants	X	X
Size of existing and proposed water mains, water service, and fire hydrants		X
Site grading, drainage patterns, and other stormwater management measures	X	X
Stormwater drainage and retention/detention calculations	X	X
Stormwater retention and detention ponds, including grading, side slopes, depth, high water elevation, volume, and outfalls		X
Location of storm sewers and drains	X	X
Size of storm sewers and drains		X
Location of above and below ground gas, electric, and telephone lines, existing and proposed	X	X
Location of transformers and utility boxes		X
Assessments of potential impacts from the use, processing, or movement of hazardous materials or chemicals, if applicable		X
H. Additional Information Required for Multiple-Family Residential Development		
The number and location of each type of residential unit (one-bedroom units, two-bedroom units, etc.)	X	X
Density calculations by type of residential unit (dwelling units per acre)	X	X
Garage and/or carport locations and details, if proposed		X
Mailbox clusters		X
Location, dimensions, floor plans, and elevations of common building(s) (e.g. recreation, laundry, etc.), if applicable		X
Swimming pool fencing detail, including height and type of fence, if applicable		X
Location and size of recreation and open space areas		X
Indication of type of recreation facilities proposed for recreation area		X
I. Additional Study (as required by the Zoning Administrator)		
Traffic Study	As required by Zoning Administrator	
Environmental Assessment	As required by Zoning Administrator	
Noise	As required by Zoning Administrator	

Site Plan Review

Plan Data	Required For:	
	Preliminary Site Plan	Final Site Plan
Additional Study as required by the Zoning Administrator	As required by Zoning Administrator	

NOTE: If any of the items listed above are not applicable, a list of each item considered not applicable and the reason(s) why each listed item is not considered applicable should be provided on the site plan.

Section 21.09 CRITERIA FOR SITE PLAN REVIEW

- A. **Standards.** The Planning Commission (and City Council) shall review the site plan to ensure that it complies with all of the criteria below:
1. The proposed use will be harmonious to the surrounding neighborhood.
 2. The location of buildings, outside storage receptacles, parking areas, lighting, fences or obscuring walls, and utility areas will minimize adverse effects of the proposed use for the occupants of that property and the tenants, owners, and occupants of surrounding properties.
 3. There is a proper relationship between roadways and proposed service drives, driveways, and parking areas to encourage the safety and convenience of pedestrian and vehicular traffic. The site plan includes the minimum number of driveways required to provide reasonable access. Driveways are spaced as far apart from intersections and other driveways as practical to reduce accident and congestion potential. Sharing driveways and parking with adjacent uses is encouraged.
 4. The site plan provides for proper development of roads, easements, and public utilities and protects the general health, safety, and welfare of the City and its residents.
 5. Building architecture, materials, roof line, colors, windows and similar elements shall be consistent with buildings in the immediate neighborhood area. Three-dimensional color renderings or two-dimensional color elevations may be requested by the Planning Commission at any point in the review process. The Zoning Administrator may request material samples for verification in the field during construction. The intent of this standard is to provide a harmonious, unified community to help create a sense of place and contribute to the image and quality of life in the City.
 6. The proposed site plan complies with all City codes and ordinances.
 7. The project and related improvements shall be designed to include the conservation and protection of existing natural resources and features, such as lakes, ponds, streams, wetlands, floodplains, steep slopes, groundwater, trees

and wooded areas, and to protect land and water resources from pollution, including pollution of soils, groundwater, rivers, streams, lakes, ponds, and wetlands. The proposed development shall respect the natural topography to the maximum extent possible by minimizing the amount of cutting, filling and grading required.

8. Storm water detention, retention, transport, and drainage facilities shall be designed to conserve and enhance the natural storm water system on site, including the storage and filtering capacity of wetlands, watercourses, and water bodies, and/or the infiltration capability of the natural landscape. Storm water facilities shall not cause flooding or the potential for pollution of surface or groundwater, on-site or off-site. Storm water facilities shall conform to the requirements of the Washtenaw County Water Resource Commissioner. Deviations from the Washtenaw County Water Resource Commissioner standards may be permitted upon review and approval by the City Engineer.
9. The proposed development will not cause soil erosion or sedimentation problems.
10. The plan meets the standards of other governmental agencies, where applicable, and the approval of these agencies has been obtained or is assured.

Section 21.10 FINAL SITE PLAN AND ENGINEERING

- A. No certificates of zoning compliance or building permits shall be issued until all required site plans and engineering plans have been approved and all applicable construction permits are in effect.
- B. No grading, removal of trees or other vegetation, landfilling, or construction of improvements shall commence for any development for which site plan approval is required until a final site plan is approved and is in effect, and construction permits are issued, except as otherwise provided in this Ordinance.

Section 21.11 MODIFICATION OF PLAN DURING CONSTRUCTION

All site improvements shall conform to the approved final site plan, including engineering drawings approved by the City Engineer. If the applicant makes any changes during construction in the development in relation to the approved final site plan, such changes shall be made at the applicant's risk, without any assurances that the City Council will approve the changes.

It shall be the responsibility of the applicant to notify in writing the Zoning Administrator, and the City Council of any changes. The Zoning Administrator may require the applicant to correct the changes so as to conform to the approved final site plan, approve the proposed modification or require the applicant to make the modification request to the City

Council.

Section 21.12 AS-BUILT DRAWINGS

- A. The applicant shall provide as-built drawings and a project engineer's certificate of all sanitary sewer, water, and storm-sewer lines and all appurtenances, which were installed on a site for which a final site plan was approved. As-built drawing requirements are available in the City's current engineering standards. The drawings shall be submitted to the City Zoning Administrator, and shall be approved by the City Engineer prior to the release of any performance guarantee or part thereof covering such installation. An as-built performance deposit is required to ensure the completion of the as-built drawings.
- B. The as-built drawings shall show, but shall not be limited to, such information as the exact size, type and location of pipes; location and size of valves, fire hydrants, tees and crosses; depth and slopes of retention basins; and location of any type of other utility installations. The drawings shall show plan and profile views of all sanitary and storm sewer lines and plan views of all water lines.
- C. The as-built drawings shall show all work as actually installed and as field verified by a professional engineer or a representative thereof. The drawings shall be identified as "As-Built Drawings" in the title block of each drawing and shall be signed and dated by the owner of the development or the owner's legal representative and shall bear the seal of a professional engineer.
- D. Upon acceptance of the as-built drawings the applicant shall submit the required information for the dedication of public infrastructure, if applicable.

Section 21.13 PHASING OF DEVELOPMENT

The applicant may divide the proposed development into two or more phases. In such case the preliminary site plan shall cover the entire property involved and shall clearly indicate the location, size, and character of each phase. A final site plan shall be submitted for review and approval for each phase. A construction timeline must be submitted for phased development. The City Council may impose restrictions on the approval of subsequent plans and phases due to lack of permit activity for a period of more than one year. Prior to the approval of subsequent phases the City Council may require that incomplete site work, such as but not limited to incomplete sidewalks, roads or other site amenities that affect the quality of life for residents, be completed.

Section 21.14 INSPECTION

The Zoning Administrator shall be responsible for inspecting all improvements for conformance with the approved final site plan. All sub-grade improvements, such as utilities sub-base installations for drives and parking lots, and similar improvements shall

be inspected and approved prior to covering. The applicant shall deposit with the City, to be held by the City in escrow, an amount deemed reasonable by the Zoning Administrator and/or City Engineer to pay for anticipated inspections. The applicant shall be responsible for requesting the necessary inspections. The Zoning Administrator shall obtain inspection assistance from the City Fire Chief, and Engineer, where applicable. The Zoning Administrator shall notify the Planning Commission in writing when a development for which a final site plan is approved has passed inspection with respect to the approved final site plan. The Zoning Administrator shall notify the City Council and the Planning Commission in writing, of any development for which a final site plan was approved, which does not pass inspection with respect to the approved final site plan, and shall advise the City Council and the Planning Commission of steps taken to achieve compliance. In such case, the Zoning Administrator shall periodically notify the City Council and the Planning Commission of progress toward compliance with the approved final site plan and when compliance is achieved.

Section 21.15 PERFORMANCE GUARANTEES

- A. Performance bonds, irrevocable bank letters of credit, cash deposits, or other forms of security shall be provided by the applicant to the City. The guarantee shall be provided after a final site plan and/or zoning compliance certificate is approved, but prior to issuance of a certificate of final zoning compliance, or as determined by the Zoning Administrator, for any improvements covered by the site plan. The guarantee shall cover site improvements shown on the approved final site plan, which will not be completed prior to issuance of the certificate of final zoning compliance. Site improvements shall include but not be limited to: streets and drives, parking lots, sidewalks, street signage, grading, required landscaping, required screens, storm drainage, exterior lighting, trash enclosures, utilities and any other information shown on the approved final site plan.
- B. The applicant shall provide a cost estimate of the improvements to be covered by the guarantee and such estimate shall be verified as to amount by the City Engineer. The form of the guarantee shall be approved by the City Attorney.
- C. If the applicant shall fail to provide any site improvement according to the approved plans within the time period specified in the guarantee, the City Council shall have the authority to have such work completed. The City Council may reimburse itself for cost of such work, including administrative costs, by appropriating funds from the deposited security, or may require performance by the bonding company.
- D. If a cash deposit is used, the applicant and City Zoning Administrator shall decide at the time of deposit on the means of rebating portions of the deposit in proportion to the amount of work completed on the covered improvements. All required inspections for improvements for which the cash deposit is to be rebated shall have been made before any rebate shall be made.

- E. The Zoning Administrator may refuse to sign a certificate of final zoning compliance in order to achieve compliance with the approved final site plan, and approved engineering plans related thereto. In such cases, a certificate of final zoning compliance shall be signed by the Zoning Administrator upon compliance with the approved plans or upon provision of adequate security to guarantee compliance following occupancy.

Section 21.16 - FEES

Fees for the application and review of site plans and inspections as required by this Article shall be established and may be amended by resolution of the City Council.

Section 21.17 - VIOLATIONS

The approved final site plan shall become part of the record of approval and subsequent action relating to the site in question shall be consistent with the approved final site plan, unless the City Council agrees to such changes as provided in this Article. Any violation of the provisions of this Article, including any improvement not in conformance with the approved final site plan, shall be deemed a violation of this Ordinance and shall be subject to all penalties therein.

Section 21.18 PROPERTY MAINTENANCE AFTER APPROVAL

It shall be the responsibility of the owner of a property for which site plan approval has been granted to maintain the property in accordance with the approved site design on a continuing basis until the property is razed, or until new zoning regulations supersede the regulations upon which site plan approval was based, or until a new site design is approved. This maintenance requirement includes healthy landscaping, walls, fences, pavement, pavement markings, signs, building exterior, drainage facilities and all other elements of a site. Any property owner who fails to so maintain an approved site design shall be deemed in violation of the use provisions of this Ordinance and shall be subject to the same penalties appropriate for a use violation.

With respect to condominium projects, the Master Deed shall contain provisions describing the responsibilities of the condominium association, condominium owners, and public entities, with regard to maintenance of the property in accordance with the approved site plan on a continuing basis. A storm water management maintenance schedule shall be part of the master deed. The Master Deed shall further establish the means of permanent financing for required maintenance and improvement activities, which are the responsibility of the condominium association. Failure to maintain an approved site plan shall be deemed in violation of the use provisions of this Ordinance and shall be subject to the same penalties appropriate for a use violation.

Prior to the transitional control date, the developer shall not amend the Master Deed without approval from the Planning Commission.

Section 21.19 DEVELOPMENT AGREEMENTS

The City Council may as a condition of final site plan approval, require the proprietor and/or developer to enter into a Development Agreement with the City. Such agreement shall set forth and define the responsibilities of the proprietor and the City, as set forth in Section 22.13.



CARLISLE

WORTMAN
associates, inc.

605 S. Main Street, Ste. 1
Ann Arbor, MI 48104

(734) 662-2200
(734) 662-1935 Fax

MEMORANDUM

TO: City of Dexter Planning Commission
Michelle Aniol, Community Development Manager

FROM: Doug J. Lewan, City Planner
Laura K. Kreps, City Planner

DATE: May 23, 2016

RE: Oil + Gas Ordinance Provisions

With the completion of the Master Plan update, we are re-submitting the draft Oil and Gas Ordinance provisions previously provided to the Planning Commission in October 2015. No modifications have been made to this draft since the initial submittal.

We look forward to discussing the draft with you at your upcoming Ordinance worksession.



CARLISLE/WORTMAN ASSOC., INC.
Douglas J. Lewan, PCP, AICP
Principal



CARLISLE/WORTMAN ASSOC., INC.
Laura K. Kreps, AICP
Associate

Cc: File

City of Dexter – OIL AND GAS MINING ORDINANCE

Purpose and Intent: It is the purpose and intent of these provisions to regulate the location of oil and gas wells, their ancillary uses and structures to mitigate any nuisance caused by these uses and structures on the land, water, roads, public utilities, and the residentially zoned and used areas of the City of Dexter. These provisions are intended to protect the health, safety, and welfare of the citizens of the City of Dexter by allowing these uses in areas of the City characterized as industrial or research and development.

- A. **Permitted Uses:** The drilling, completion, or operation of oil or gas wells or other wells drilled for oil or gas exploration purposes shall be a permitted use in the RD, Research and Development and I-1 Limited Industrial zoning districts, subject to the terms and conditions of this section and Article 21 – Site Plan Review. Further, hydraulic fracturing and/or fracking shall be expressly prohibited within the City.
- B. **Special Land Uses:** In addition to being a permitted land use in the RD, Research and Development and I-1, Limited Industrial Zoning Districts, the drilling, completion, or operation of oil or gas wells or other wells drilled for oil or gas exploration purposes shall be allowed on publicly-owned property not used for residential purposes, subject to the terms and conditions of this section, Article 8 - Special Land Use, Article 21 – Site Plan Review, and the following conditions:
1. The well shall be located 100 feet from all property lines.
 2. A landscaped buffer shall be provided in accordance with Section 6.06 along the property lines where the well will be visible from a residential property and/or a public right-of-way.
 3. No well shall be permitted as a special land use unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission and City Council that no other suitable location in the immediate or surrounding area can be accommodated, including an area zoned RD, Research and Development or LI, Limited Industrial as a permitted land use.
- C. **Application:** The petitioner shall file an application with the City describing the proposed location and activities. No drilling, completion, or operation of oil or gas wells or other wells drilled for oil or gas exploration purposes shall occur until the Community Development Department has issued a permit.
- D. **Compliance with Laws and Permit Issuance:** The drilling, completion, or operation of oil or gas wells or other wells drilled for oil or gas exploration purposes shall be done in conformity with all State and Federal laws, statutes, rules, and regulations pertaining thereto and particularly with the State of Michigan and the regulations of its Supervisor of Wells. This shall include obtaining the required permit from the Supervisor of Wells, which shall be provided to the City before the City issues a permit under this section. Conformance with State and Federal laws, statutes, rules, and regulations including obtaining the required permit from the Supervisor of Wells shall also apply to, but are not limited to, the plugging of wells and all material used and work done in connection with exploring for, producing, marketing, and transporting of

petroleum products as well as the disposition and removal of any by-products utilized and associated with said activities.

- E. **Associated Permits and Approvals:** The permit required by this section of the drilling completion, or operation of oil or gas wells or other wells drilled for oil or gas exploration purposes is in addition to and are not in lieu of any permit or plan which may be required by any other provision of this Zoning Ordinance, City of Dexter Codified Code of Ordinances, Building and Fire Codes, or by any other governmental agency, unless expressly outlined.
- F. **Spacing and Well Setbacks:** In addition to the spacing and setback requirements of the State of Michigan and the regulations of its Supervisor of Wells, the drilling, completion, or operation of oil or gas wells shall not be located within 300 feet from the Huron River and/or Mill Creek or within a designated wellhead protection area.
- G. **Height:** The completed wellhead structure shall not exceed 22 feet in height. The temporary drilling derrick/rig shall not exceed 110 feet in height.
- H. **Landscaping:** Staggered 12-foot tall evergreens shall be placed around the perimeter of the well site with a minimum landscape greenbelt buffer of 25 feet in depth within 30 days of the removal of the temporary drilling derrick/rig. The landscape buffer and trees shall be irrigated and maintained.
- I. **Lighting:** To the extent practicable, and taking into account safety considerations, site lighting shall be directed downward and internally in compliance with Section 3.19, Exterior Lighting.
- J. **Nuisance Mitigation:** The drilling, completion, or operation of oil or gas wells, or other wells drilled for oil or gas exploration purposes shall comply with Section 3.20, Performance Standards. Those standards address potential nuisances such as noise, some, dust, open storage, fire and explosive hazards, odors, wastes, and vibration. Due to the unique nature of this type of operation, the following additional information and standards will be required.
1. **Noise:** Prior to the issuance of a permit and the commencement of operations, the petitioner shall submit a noise management plan, as approved by the City, detailing how the equipment used in the drilling, completion, transportation, or production of a well complies with the maximum permissible noise levels of the Zoning Ordinance. The operator shall be responsible for verifying compliance with this section and the noise management plan after the installation of the noise generating equipment. The noise management plan shall include:
 - a) Identify operation noise impacts.
 - b) Provide documentation establishing the ambient noise level prior to construction.
 - c) Detail how the impacts will be mitigated. In determining noise mitigation, specific site characteristics shall be considered, including but not limited to the following:
 - i. Nature and proximity of adjacent development, location, and type;
 - ii. Seasonal and prevailing weather patterns, including wind directions;
 - iii. Vegetative cover on or adjacent to the site; and

- iv. Topography.
- 2. **Dust, Vibration, and Odors:** All operations shall be conducted in such a manner as to minimize, so far as practicable, dust, vibration, or noxious odors, and shall be in accordance with the best accepted practices defined by the Michigan Department of Environmental Quality (MEDQ) for the production of oil, gas and other hydrocarbon substances in urban areas. All equipment used shall be constructed and operated so that vibrations, dust, odor or other harmful or annoying substances or effect will be minimized by the operations carried on at any drilling or production site or from anything incidental to, and to minimize the annoyance of persons living or working in the vicinity; nor shall the site or structures thereon be permitted to become dilapidated, unsightly, or unsafe.
- 3. **Vehicle Routes for Truck Traffic:** Construction vehicles and trucks, excluding pick-up trucks, associated with drilling and/or production operations shall be restricted to Class A roads designated by the City Department of Public Works.
- 4. **Emergency Response Plan:** Pursuant to State and Federal law, the operator shall provide any information necessary to assist the City with an emergency response plan and hazardous materials survey establishing written procedures to minimize any hazard resulting from the operation.
- K. **Permitted Construction Activity Hours:** Construction activities associate with establishing of the wellhead shall be restricted to the hours of 7:00AM to 7:00PM, Monday through Saturday. Construction shall be prohibited between the hours of 7:00PM and 7:00AM, on Sundays, and City-observed holidays.
- L. **Inspection:** The Fire Marshal, and any other designee of the City Manager shall have the right and privilege to enter upon the premises covered by any permit issued pursuant to this section at any time to enter upon the premises covered by any permit issued pursuant to this section for the purpose of making inspections to determine if the requirements of this section are complied with or the requirements of any other code or ordinance of the City are met.
- M. **Operator Information and Incident Reporting:** The operator shall notify the City of the following:
 - 1. Any changes to the name, address, and phone number of the operator within five (5) working days after the change occurs.
 - 2. Any changes to the name, address, and phone number of the person(s) designated to receive notices from the City within five working days after the change occurs.
 - 3. Any "incident reports" or written complaints submitted to the Michigan Department of Environmental Quality (MDEQ), the Supervisor or Wells, or other regulating agency within thirty (30) days aft eh operator has notices the existence of such reports or complaints.
- N. **Injection Wells:** Injection wells used for brine disposal or other chemicals from production wells or from other sources shall be expressly prohibited within the City.

- O. **Pipelines:** No operator shall excavate or construct any lines for the conveyance of fuel, water, oil, gas, or petroleum liquids on, under, or through the streets, alleys or other properties owned by the City without an easement or right-of-way permit from the City.
- P. **Ancillary Oil and Gas Uses and Structures:** In accordance with the Supreme Court of Michigan 1990 decision in Addison Township V. Gout, the intent of the following provisions is to regulate the location of ancillary oil and gas uses and structures to minimize and/or mitigate any nuisance caused by these uses and structure son the land, water, roads, public utilities, and the residentially zoned areas of the City.
1. **Location:** Ancillary Oil and Gas Uses and Structures shall be considered a special land use in the RD, Research Development and I-1, Limited Industrial Districts.
 2. **Supplementary Regulations:**
 - a) **Lot Area and Setbacks:**
 - i. Ancillary oil and gas uses and structures shall have a minimum lot size of six acres.
 - ii. Ancillary oil and gas uses and structure shall be setback at least 250 feet from adjacent lot lines.
 - iii. Ancillary oil and gas uses and structures shall have a minimum setback from the ordinary high water mark of all surface waters 1,320 feet.
 - iv. Buffering between ancillary oil and gas uses and structures shall be required in accordance with Section XX.XX of this Ordinance.
 - b) **Performance Standards:** In addition to the performance standards outlined in Subsection I. above, the following shall also apply:
 - i. Impact Statement on High Volume Water Removal, Supply, and Water Resources, such as a scientifically reliable hydrogeological study shall be submitted to demonstrate the proposed quantity, nature, scope, and extent of any proposed water removal, use, and/or transfers will not materially diminish adjacent groundwater wells, adjacent land uses dependent on water supply or sources, and not materially diminish or impair any groundwater or surface water. The impact statement required by this section must be prepared by a registered professional engineer licensed with the State of Michigan.

Such water impact study shall include identification of groundwater flow direction, connection of groundwater to any wetland, creek, lake, or stream, and any potential pathway to groundwater or such surface waters. A groundwater monitoring plan shall be provided before, during, and after handling, storage, mixing, or transport activities as outlined in subsection ii. below.
 - ii. Detailed plans for handling, storage, transport, mixing and/or use of chemicals or mixtures of water, chemicals and/or substances shall be

submitted. Emergency response procedures regarding a release, spill, transport accident, handling, and storage shall be submitted.

- iii. All facilities shall meet the stormwater management policies of the City as referenced in Section 3.23. Evidence of appropriate sedimentation and soil erosion permits shall be provided from Washtenaw County.
- c) **Access:** Access drives to all facilities shall meet the standards provided in Section 3.09.
- d) **Additional Information:** In addition to the information required for special land use and site plan review, the following information and exhibits shall be provided:
- i. Flowlines, gathering lines, pipelines, road and/or driveway access, alternative road access, truck and vehicle traffic routes, truck and vehicle terminals and off-street parking, and the location of the oil and or gas well to which these ancillary structures or facilities are connected.
 - ii. A plan showing all ancillary structures, pits, storage and mixing areas, tanks, vents, flares, and identification of potential air emissions or pollutants or hazardous substances that may escape or be released from such ancillary land uses, structures, or their operation.
 - iii. Demonstration that air emissions, pollutants, odors will not exceed any federal and state standard for air pollution, hazardous substance, or nuisance under federal and/or state law or regulations.
 - iv. A reclamation and restoration plan including an aerial information map and topographic survey which demonstrate how the property will be brought back to its pre-development state after production of the oil and gas well or wells to which the ancillary use or structure is associated or connected, or at a time of permanent removal of such ancillary uses or structures.
 - v. A performance bond adequate in amount and terms to cover the cost and expense to complete any and all of the requirements of this or other applicable provisions of the Ordinance to be provided by the applicant as approved by the City. This performance bond is in addition to the bond amount required under all other Federal, State, and local permits and approvals for any ancillary oil and gas uses or structure, and shall be submitted as part of the application. If approved the required performance bond will be made a condition of any permit, and shall be enforceable by the City as a violation of a permit and this Ordinance.