

# MEMORANDUM

To: Washington Township Planning Commission

From: Joe Tangari, AICP

Date: 3/1/2023

Re: Ordinance Amendment Discussion – Round 2

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## Introduction

I've provided an updated version of the first round of amendments we looked at in February. This memo covers the next set of amendments.

## Section 3.17C.5 Planned Unit Development

The goal of this amendment is to add language regarding the minor modification review process and authority.

### Existing Language

5. Site plan and amendment procedure. Application for approval of each phase of the PUD shall be submitted and regulated under the standard site plan review process outlined in [Section 6.1.D](#) and/or [Section 6.2](#) as well as [criteria i. to iii. outlined above in subsection 3](#).
  - i. Each phase of the project shall be in compliance with the approved PUD and development agreement signed and approved by the Township. The PUD and development agreement shall not be amended without a majority vote of approval by the full Township Board (four (4) votes), after review and recommendation by the Planning Commission. All amendments to the site plan and/or development agreement shall follow the same review procedures as outlined for the initial PUD approval.
  - ii. Development within the PUD property shall not be permitted to appeal specific standards of the Zoning Ordinance to the ZBA unless otherwise stated in the development agreement.

### Proposed Language

New language for item 5 above (current item ii becomes item iii):

5. Phasing and site plans. Application for approval of each phase of the PUD shall be submitted and regulated under the standard site plan review process outlined in [Section 6.1.D](#) and/or [Section 6.2](#) as well as [criteria i. to iii. outlined above in subsection 3](#). Each phase of the project shall be in compliance with the approved PUD and development agreement signed and approved by the Township.

6. Amendments. Proposed amendments or changes to an approved PUD plan shall be submitted to the planning commission. The planning commission shall determine whether the proposed modification is a minor or major amendment. If the planning commission determines the proposed amendment is minor, the Planning Commission shall approve or deny the amendment. If the Planning Commission determines the amendment is major, the amendment shall be reviewed by the planning commission and Township Board in accordance with the provisions and procedures of this section as they relate to final approval of the PUD, including all public hearing requirements. An amendment shall be deemed a major amendment if any of the following criteria are met:
  - i. The amendment requires an amendment to the written PUD agreement.
  - ii. The amendment changes the permitted uses within the PUD.
  - iii. The amendment changes the density or street layout within the PUD.
  - iv. The amendment results in an additional building or an addition to an approved building in excess of 200 square feet.
  - v. The addition results in a change to site access.
  - vi. The amendment would require relief from an ordinance standard.
  - vii. Other changes determined by the Planning Commission to result in a material change to the overall character of the PUD.
7. Appeals. Development within the PUD property shall not be permitted to appeal specific standards of the Zoning Ordinance to the ZBA unless otherwise stated in the development agreement.

## Section 6.1.C.2 Site Plan Review and Approval – Admin Approval

This discussion will focus on whether the Township should continue to permit administrative review of changes to site plans. The existing language that enables this is included below:

2. The Township Supervisor may delegate authority to a committee comprised of at least four (4) of the following, depending on the nature of the project: The Supervisor, Building Official, Township Engineer, Township Planner, Fire Marshal and Planning Commission member. The committee may waive the site plan submission requirements and approve a proposal when the proposed building or site change is minimal. A majority shall be required to receive administrative approval.
  - a. A report to the Planning Commission regarding administrative approvals shall be made monthly;
  - b. To qualify as a minimal change, the proposal must meet the following requirements:
    - (1) There is an approved site plan on file for the property, as currently used; and
    - (2) The proposed site plan amendment does not increase the parking requirement on the site; and
    - (3) The proposal meets all requirements of the Zoning Ordinance; and
    - (4) The project must not require road commission or other similar governmental site plan approvals; and
    - (5) Any additional building space shall be limited to 10% of the previously approved space and shall not exceed more than 3,000 additional square feet.

## Rezoning and Conditional Rezoning

Currently, the Zoning Ordinance has a single paragraph in Section 7.10 that covers amendments, which reads as follows:

E. Amendments and changes. Amendments to this Ordinance may be made in the manner provided in Act 184 of the Michigan Public Acts of 1943, as amended, and in accordance with the initiatory procedure set forth hereinafter. Amendments may be initiated by the Township Board upon written request to the Planning Commission, or the Planning Commission may initiate amendments upon its own motion. Any person, firm or corporation affected by the provisions of this Ordinance may initiate a request for a text amendment hereto by submitting the necessary forms, obtainable from the Township, to the Planning & Zoning Department. Unless Township initiated, an amendment to the Zoning Map may only be initiated by a person, firm or corporation with a proprietary interest in the site proposed for rezoning. The petition shall be processed according to the procedures adopted by the Township.

### Comments

This paragraph does not lay out any requirements for a rezoning or address conditional rezonings, and also includes an outdated statutory reference. I've provided draft language for a new Section 7.12 below that would replace this paragraph, which would be deleted.

### Proposed Language

#### Section 7.12 ORDINANCE AMENDMENTS, INCLUDING REZONING

- A. **Initiation of Amendments.** Amendments to the provisions of this Ordinance, including amendments to the zoning district boundaries shown on the Official Zoning Map (a "rezoning") may from time to time be initiated by the Township Board, the Planning Commission or by petition from one or more residents or property owners of the Township. An owner of land may voluntarily offer in writing and the Township may approve, certain use of the land as a condition to the approval of a rezoning consistent with the provisions of Section 405 of the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended, (M.C.L. 125.3101 et seq.) ("Enabling Act"). All proposed amendments to the provisions of this Ordinance or the Official Zoning Map shall be referred to the Planning Commission for public hearing and recommendation to the Township Board, prior to consideration thereof by the Township Board.
- B. **Application Procedure.** An amendment to this Ordinance or the Official Zoning Map, except those initiated by the Township Board or Planning Commission, shall be initiated by submission of a completed application on a form supplied by the Township, including an application fee, which shall be established from time to time by resolution of the Township Board.

In the case of an amendment to this Ordinance, other than an amendment to the Official Zoning Map, a general description of the proposed amendment shall accompany the application form.

In the case of an amendment to the Official Zoning Map, the following information shall accompany the application form:

1. Completed application form and fee to cover administrative cost and review by consultants.
2. A legal description and street address of the subject property, together with a map

identifying the subject property in relation to surrounding properties.

3. The name and address of the owner of the subject property, and a statement of the applicant's interest in the subject property if not the owner in fee simple title.
4. The existing and proposed zoning district designation of the subject property.
5. A written narrative explaining the purpose of the proposed rezoning.
6. A written description of how the site's rezoning meets Section 7.12.E, Criteria for Amendment to the Official Zoning Map.
7. Conditional rezoning requests shall include the applicant's proposed offer of conditions. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process. The Statement of Conditions shall:
  - a. Be in a form recordable with the Grand Traverse County Register of Deeds and include a statement acknowledging that it will be recorded.
  - b. Contain a legal description of the land to which it pertains.
  - c. Acknowledge that upon the rezoning taking effect, the use of the land shall conform thereafter to all of the requirements regulating use and development within the new zoning district.
  - d. Contain a provision acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
  - e. Specify that failure to comply with any of the conditions set forth in the Statement of Conditions shall constitute a violation of this Zoning Ordinance and shall be enforceable accordingly.
  - f. Contain the signatures of all the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the statement of conditions.

**C. Amendment Procedure; Public Hearing and Notice.**

1. An applicant may request and pay a fee, as set by a resolution of the Township Board, for a pre-application conference with Township staff and consultants prior to formal submission of a request for rezoning in order to identify potential issues with the request.
2. Upon initiation of an amendment, a public hearing to consider the proposed amendment shall be scheduled before the Planning Commission. Notice of the hearing shall be given by one (1) publication in a newspaper of general circulation in the Township. The notice shall be given not less than fifteen (15) days before the public hearing date, in accordance with the Enabling Act and shall describe the nature of the proposed amendment, state the time and place of the public hearing, and indicate when and where written comments will be received. For rezoning requests of an individual property or of ten (10) or fewer adjacent properties, notice shall also be given by mail or personal delivery to the owners of property for which approval is being considered, to all persons whose real property is assessed within 300 feet of the subject property, and to the occupants of all structures within 300 feet of the subject property regardless of whether the property or occupant is located within Washington Township. The notice shall indicate the property that is subject to the request including a listing of all existing street addresses within the subject property.
3. Following receipt of the findings and recommendation of the Planning Commission, the

Township Board shall consider the proposed amendment. In considering the proposed amendment, the Township Board may modify or revise the proposed amendment prior to its enactment, or may remand the amendment back to the Planning Commission for its consideration and comment within a time specified by the Township Board. In the case of an amendment to the Official Zoning Map, the Township Board shall approve or deny the amendment, based on its consideration of the criteria contained in Section 7.12.E below.

4. In the case of a conditional rezoning petition, the applicant may voluntarily amend the conditions during the process of rezoning consideration. An applicant may withdraw all or part of its offer of conditions at any time prior to the planning commission's public hearing. The applicant may offer to add more restrictive conditions at the Township Board without requiring a new public hearing.
- D. **Amendments Required to Conform to Court Decree.** Any amendment for the purpose of conforming to a decree of a court of competent jurisdiction shall be adopted by the Township Board and published, without necessity of a public hearing or referral thereof to any other board or agency.
- E. **Criteria for Amendment to the Official Zoning Map (Rezoning).** In considering any petition for an amendment to the Official Zoning Map, including a conditional rezoning, the Planning Commission and Township Board shall consider the following criteria:
1. Consistency with the goals, policies and future land use map of the Washington Township Master Plan. If conditions have changed since the Master Plan was adopted, recent development trends in the area may be considered.
  2. Compatibility of the site's physical, geological, hydrological and other environmental features with the host of uses currently permitted in the proposed zoning district.
  3. The compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure, and potential influence on property values.
  4. Evidence from the applicant that there are substantial reasons the property cannot be developed with the uses permitted under the current zoning or otherwise in accord with current zoning.
  5. The capacity of utilities and services sufficient to accommodate the uses permitted in the requested district without compromising the health, safety and welfare of the Township.
  6. The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.
  7. The apparent demand for the types of uses permitted in the requested zoning district relative to the amount of land in the Township currently zoned and available to accommodate the demand.
  8. The boundaries of the requested zoning district are reasonable in relationship to surroundings and construction on the site will be able to meet the dimensional regulations for the zoning district listed in the Schedule of Regulations.
  9. If the request is for a specific use, is rezoning the land more appropriate than amending the list of permitted or special land uses in the current zoning district to allow the use?
  10. Whether the requested rezoning is a logical extension of an existing district in the area.

11. The requested rezoning will not create an isolated and unplanned spot zone or grant a special privilege to an individual property owner not available to other property owners or the general public.
  12. The request has not previously been submitted within the past one (1) year, unless conditions have changed or new information has been provided, as determined by the Planning & Zoning Department.
  13. An offer of conditions submitted as part of a conditional rezoning request shall bear a reasonable and rational relationship to the property for which rezoning is requested.
  14. Other factors as appropriate.
- F. **Conditional Rezoning.** An applicant for rezoning may voluntarily offer conditions on the rezoning request. The effect of conditional rezoning shall be as follows:
1. **Subsequent Rezoning of Land.** When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, the Statement of Conditions shall cease to be in effect.
  2. **Amendment of Conditions.** Amendment of conditions shall follow the process for rezoning outlined above.
  3. **Township Right to Rezone.** Nothing in the Statement of Conditions nor in the provisions of this Section shall be deemed to prohibit the Township from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this ordinance and the Enabling Act.
  4. **Reversion to Original Zoning Designation.** If development for the use or uses specified in the Statement of Conditions has not commenced within two (2) years of the approval of the conditional rezoning, the property shall revert to its original zoning designation.
- G. **Approval of Zoning Amendments.** Approved amendments shall require the following:
1. Publication of a notice of adoption in a newspaper of general circulation in the Township within fifteen (15) days of adoption in accordance with the provisions of the Enabling Act. The notice shall include either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment. The notice shall also include the effective date of the amendment and the place and time when a copy of the amendment may be purchased or inspected.
  2. The Zoning Text and/or Map shall be amended to reflect the new zoning classification or language. Map amendments for conditional rezonings should include a designation identifying that the property is subject to a Statement of Conditions.

## Defining the Role of the Pre-Planning Committee

### Proposed Definition

Pre-Planning Committee. An advisory committee comprising the Township Supervisor, Fire Marshal, Building Official, Assessor, Department of Public Works Director, Township Engineer, Township Planner, Director of Planning & Zoning, one Planning Commission member, and the Board liaison to the Planning Commission. The duties of this committee shall include holding pre-application meetings with potential

applicants, reviewing plans that have been approved for compliance with the conditions of approval, and approving temporary uses under 1 acre in size.

### 5.12.H.3 Frontage Landscaping

The intent of this amendment is to require DPW approval of tree placement to ensure that they do not impede any public easements.

#### **Existing Language**

Frontage landscaping. Street trees shall be provided within every zoning district. The trees shall be spaced evenly in a linear fashion along all road rights-of-way. One (1) tree shall be planted for each forty (40) feet of road frontage and shall be planted five (5) feet outside of the road right-of-way. In no way shall the plantings impair the clear vision triangle. The trees shall be a minimum of three-inch caliper at the time of planting. These trees may not be counted towards parking lot or replacement tree requirements.

#### **Proposed Language**

Frontage landscaping. Street trees shall be provided within every zoning district. The trees shall be spaced evenly in a linear fashion along all road rights-of-way. One (1) tree shall be planted for each forty (40) feet of road frontage and shall be planted five (5) feet outside of the road right-of-way. In no way shall the plantings impair the clear vision triangle. Street trees shall also be planted outside of any public easements; the location of the trees shall be approved by the Director of the Department of Public Works. The trees shall be a minimum of three-inch caliper at the time of planting. These trees may not be counted towards parking lot or replacement tree requirements.

### 7.10.F.6 Administration & Enforcement - Fee Waivers

The intent of this amendment is to allow the Board to waive fees on a request from a delegated authority.

#### **Existing Language**

Waivers. The Township Board may waive payment of any fees established by resolution when it finds that the necessity for an appeal, variance and/or rezoning is the result of an error or omission by the Township Board in enactment of this Ordinance.

#### **Proposed Language**

Waivers. The Township Board may waive payment of any fees established by resolution when it finds that the necessity for an appeal, variance and/or rezoning is the result of an error or omission by the Township Board in enactment of this Ordinance, or upon the request of the delegated authority responsible for the review.

## 5.12.C Parking Requirements for Office, Commercial, and Industrial Uses

This discussion is focused on our current parking requirements for commercial, office, and industrial uses.

### Existing Language

Parking calculations, unless otherwise specified, are based on the gross floor area of the building at present: 5.12.B.9 “Unless otherwise stated, for the purpose of determining off - street parking requirements for a use, floor area shall mean one hundred (100) percent of the gross floor area as measured from the interior of all exterior walls.”

One potential way to accomplish an immediate reduction in parking requirements to more closely mirror modern trends in parking demand, particularly for office and industrial properties, is to move these uses to a usable floor area standard.

### Proposed Language

Basis for Calculations. Where a parking requirement is based on building floor area, the definition “Floor Area, Usable” in [Section 2.2 Definitions](#) shall control. Where true usable floor area, based on a floor plan, cannot be established at the time of approval (such as with a shopping center where tenants are not yet determined or a speculative building), usable floor area shall be determined as follows:

- a. Commercial: 80% of gross floor area
- b. Office: 75% of gross floor area
- c. Industrial: 70% of gross floor area

**Existing Language: The ordinance currently defines “Usable Floor Area” as follows:**

FLOOR AREA, USEABLE (for the purposes of computing parking): Useable floor area shall be considered the gross floor area as defined herein, minus the area used or intended to be used principally for elevator or stair bulkheads, or for areas dedicated to heating and cooling mechanisms, server rooms, or other areas which are necessary for the physical operation of the building itself.

**Proposed new definition:**

FLOOR AREA, USABLE That area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, for hallways, or for utilities or sanitary facilities, shall be excluded from this computation of usable floor area. Measurements of usable floor area shall be the sum of the horizontal area of the several floors of the building, measured from the interior faces of the exterior walls.

Current parking standards for office, commercial, and industrial uses follow:



**Table 5.12.C Off-Street Parking Requirements (continued)**

Use	Minimum Parking Spaces
<b>Offices</b>	
	Banks One (1) space for every two hundred (200) square feet of floor area. Stacking lanes for drive-thru tellers shall be provided.
	Business and professional offices or free-standing administrative offices, except as indicated below One (1) space for every two hundred and fifty (250) square feet of floor area.
	Clinics, medical, dental, veterinary One (1) space for each employee; plus one (1) space for every one hundred and fifty (150) square feet of floor area.

<b>Auto-Related Uses</b>	
	Auto wash, hand or coin-operated Four (4) exterior waiting spaces at entry, plus two (2) exterior drying spaces for each bay; plus one (1) space for each employee.
	Full-service auto wash One (1) space for each employee, plus twenty (20) exterior spaces at entry.
	Auto service stations and auto repair services, excluding heavy and major repair One (1) at each pump; three (3) spaces for each service bay; plus one (1) space for every two hundred (200) square feet of retail floor area; plus one (1) space for each employee.
	Self-service gasoline stations (gasoline and convenience retail; no repair or fast food restaurants) One (1) at each pump, the following additional requirements shall apply; one (1) space for every two hundred fifty (250) square feet of retail floor area; plus one (1) space for each employee.
	Heavy and major auto repairs Three (3) spaces for each service bay. No wrecked vehicles to be parked or stored outside.
	Quick oil changes Two (2) spaces per bay; plus one (1) space for each employee at the peak shift; one (1) space for every two hundred (200) square feet of floor area used for retail sales.
	Vehicle sales/rental establishments One (1) space for every three hundred (300) square feet of sales area; one (1) space for every two hundred (200) square feet of office area; and two (2) spaces for each service bay.

Commercial		
	Banquet/catering halls	One (1) space for every two (2) persons allowed within maximum occupancy, as determined by the Fire Department.
	Beauty parlors/barber shops	Three (3) spaces for the first two (2) chairs, plus one (1) space for each additional chair; or one (1) space for every seventy-five (75) square feet of floor area, whichever is less.
	Dry cleaners	One (1) space for every two (2) employees, with a minimum of four (4) spaces.
	Funeral homes/mortuaries	One (1) space for every seventy-five (75) square feet of assembly room floor space, parlors, and slumber rooms.

Table 5.12.C Off-Street Parking Requirements (continued)		
Use	Minimum Parking Spaces	
Commercial (continued)		
	Furniture and appliance retail stores; household equipment repair shops; showroom of a plumber, decorator, electrician or similar trade; clothing and shoe repair and other similar uses.	One (1) space for every five hundred (500) square feet of floor area. For floor area used in processing or storage, one (1) additional space shall be provided for each two (2) persons employed within or each one thousand (1,000) square feet, whichever is greater.
	Greenhouses and nurseries	One (1) space per employee; plus one (1) space for every two hundred (200) square feet of actual permanent or temporary areas devoted primarily to sales.
	Laundromats and coin-operated dry cleaners	One (1) space for every three (3) machines.
	Motel, hotel, or other transient uses.	<ul style="list-style-type: none"> <li>■ One (1) space for each occupancy unit, plus one (1) space for each employee</li> <li>■ Spaces required for ancillary uses, such as lounges, restaurants or conference areas, shall be determined on the basis of the individual requirements for each use as specified herein.</li> </ul>
	Open air businesses	One (1) space for every five hundred (500) square feet of lot area used for retail sales, services, and uses.

	Retail stores, except as otherwise specified herein	One (1) space for every two hundred and fifty (250) square feet of floor area.
	Restaurants/lounges (excluding fast-food or carry-out establishments)	One (1) space for every one hundred fifty (150) square feet of floor area, or one space for every three (3) persons allowed within the maximum occupancy, whichever is greater.
	Restaurants - Fast-food and drive-ins	<ul style="list-style-type: none"> <li>■ One space (1) for every two (2) employees; plus one (1) space for every three (3) seats intended for patrons within the restaurant building; plus one (1) space for every twenty (20) square feet of building floor area available in the order-waiting area.</li> <li>■ Drive-thrus shall provide a minimum of eight (8) waiting spaces.</li> </ul>
	Restaurants - Carry-out only	One space (1) per employee plus fifty (50) percent of the minimum parking requirement for restaurants with permanent seating.

Table 5.12.C Off-Street Parking Requirements (continued)		
Use	Minimum Parking Spaces	
Industrial		
	Industrial and wholesale	One (1) space for every five hundred (500) square feet of floor area.
	Warehouse	One (1) space for every seventeen hundred (1,700) square feet of useable floor area.
	Office-research	One (1) space for every three hundred (300) square feet of floor area.
	Mini-warehouses or self-storage units	Two (2) spaces for the residential caretaker's unit; plus one (1) space per fifty (50) square feet of floor area used for office purposes.
	Bus garage	One and one-half (1.5) parking spaces for each bus parking space provided.