

**CHARTER TOWNSHIP OF VAN BUREN
PLANNING COMMISSION AGENDA**

**Wednesday, March 23, 2016 – 7:30 PM
Board of Trustees Room**

CALL TO ORDER:

ROLL CALL:

APPROVAL OF AGENDA:

MINUTES:

ITEM #1: Approval of minutes from the regular meeting of March 9, 2016.

CORRESPONDENCE:

PUBLIC HEARING:

UNFINISHED BUSINESS:

ITEM #1: Medical Marijuana Ordinance Amendment

TITLE: Consider amending the text of the Van Buren Charter Township Zoning Ordinance No. 6-2-92 by adding a new subsection 16.03.i in the M-2 General Industrial District, Permitted Uses after Special Approval providing for the regulation, location and operation of medical marihuana cultivation facilities.

- A. Presentation by Staff.
- B. Planning Commission discussion.
- C. Planning Commission considers action.

NEW BUSINESS:

ITEM #1: 16-013 - Temporary Land Use

TITLE: The applicant, Elliott's Amusements, LLC., is requesting final approval to host a carnival for a period extending beyond the as-a-right seven consecutive days or less requirement found in Section 4.44 of the Township Zoning Ordinance 06-02-92, as amended.

LOCATION: This site is located in the Belleville Square Shopping Plaza at 10900 Belleville Road. The subject location is on the west side of Belleville road, north of the I-94 Service Drive.

- A. Presentation by the applicant.
- B. Presentation by Township Staff.
- C. Planning Commission discussion.
- D. Planning Commission considers action on Final Approval.

ITEM #2: 16-014 - Temporary Land Use

TITLE: The applicant, TNT Fireworks, is requesting final approval to hold "tent" sales of retail goods beyond the seven consecutive days allowed as-a-right in the zoning

ordinance for temporary land use under section 4.44 of Township zoning ordinance 06-02-92, as amended.

LOCATION: This site is located at the Belleville Road Walmart, Store #2872, at 10562 Belleville Road. The subject location is on the west side of Belleville Road, north of the I-94 Service Drive.

- A. Presentation by the applicant.
- B. Presentation by Township Staff.
- C. Planning Commission discussion.
- D. Planning Commission considers action on Final Approval.

ITEM #3: Zoning Ordinance Update (PUD)– McKenna

GENERAL DISCUSSION:

ADJOURNMENT

**CHARTER TOWNSHIP OF VAN BUREN
PLANNING COMMISSION
MARCH 9, 2016
MINUTES - Draft**

Chairperson Thompson called the meeting to order at 7:31 p.m.

ROLL CALL:

Present: Kelley, Atchinson, Budd, Boynton, Franzoi and Thompson.

Excused: Jackson.

Staff: Director Akers, Deputy Director Best and Secretary Harman.

Planning Representatives: McKenna Associate, Patrick Sloan and Wade Trim Associate, David Nummer.

Audience: One hundred seven (107).

APPROVAL OF AGENDA:

Motion Kelly, Boynton second to approve the agenda of March 9, 2016 as presented. Motion Carried.

APPROVAL OF MINUTES:

Motion Budd, Boynton second to approve the regular meeting minutes from January 27, 2016 as presented. Motion Carried.

CORRESPONDENCE: None.

PUBLIC HEARING:

ITEM # 1 MEDICAL MARIJUANA ORDINANCE AMENDMENT

TITLE: CONSIDER AMENDING THE TEXT OF THE VAN BUREN CHARTER TOWNSHIP ZONING ORDINANCE NO. 6-2-92 BY ADDING A NEW SUBSECTION 16.03i IN THE M-2 GENERAL INDUSTRIAL DISTRICT, PERMITTED USES AFTER SPECIAL APPROVAL PROVIDING FOR THE REGULATION, LOCATION AND OPERATION OF MEDICAL MARIHUANA CULTIVATION FACILITIES.

Motion Kelley, Boynton second to open the public hearing. Motion Carried.

Patrick Sloan of McKenna Associates gave an overview of the proposed amendments and presented his review letter dated 3-3-16 recommending placing the proposed amendments to the Medical Marijuana Ordinance on the March 23, 2016 Planning Commission agenda for a recommendation to the Township Board of Trustees.

Residents inquired about patients growing marijuana in their own home, if patients can be a caregiver, the definition of a caregiver, the number of patients a caregiver can have, how a caregiver distributes to patients, how to become a grower at a cultivation facility and if cultivation facilities will only be permitted in the M-2 district under the ordinance.

Patrick Sloan read the definition of a “caregiver” to explain to the residents what is required of a caregiver in the Medical Marijuana Ordinance.

No comments from Commission members.

Motion Franzoi, Boynton second to close the public hearing. Motion Carried.

OLD BUSINESS:

ITEM # 1 UPDATE ON LAKESHORE ORDINANCE

Director Akers and Deputy Director Best presented the update on the Lakeshore Ordinance. Public outreach sessions for the lakeshore ordinance were held at the Township Hall: Lakeshore Ordinance Public meeting on February 27th, Lakeshore Ordinance Open House on February 22nd and 23rd which included one on one informational meetings in the evening on both dates and a meeting was also held at the BYC (Belleville Yacht Club). Many residents and stakeholders have serious concerns and comments regarding the lakeshore ordinance. Director Akers recommends removing the Lakeshore Ordinance from Planning Commission consideration to better address comments and concerns with residents and stakeholders. Deputy Director Best would like to start by forming a sub-committee including residents and stakeholders to further discuss and address concerns and work towards forming a draft ordinance, then form a larger group to review and receive comments on the draft prior to establishing a public hearing with the Planning Commission.

Commissioners agreed with the process.

Twelve (12) residents addressed the Planning Commission, the discussed items included: little notice/lack of mailing to homeowners in regards to the lakeshore ordinance, no grandfather clause for existing lakefront structures, re-establishing the Lake Committee, FERC license requirements, lake and island maintenance by the Township, lily pad growth, functions of the French Landing Dam, City of Belleville as a stakeholder, are FERC and the Dam needed, money received from the Dam and its use, the purpose of the lakeshore ordinance, the removal of buoy’s, the history of Belleville Lake and the French Landing Dam, requirements of the MDEQ, money from the Dam being used for lake maintenance and removal of logs in the water adjacent to Township and City property. Several members of the audience volunteered to serve on the lakeshore ordinance sub-committee.

Motion Boynton, Franzoi second to move in accordance with the recommendations from Director Akers and Deputy Director Best in a letter dated 2-19-16, the Planning Commission set aside the Lakeshore Ordinance so more clarification and other points that were brought up in the recommendation paragraph can be effectively handled. Motion Carried.

NEW BUSINESS:

ITEM # 1 16-004 – TEMPORARY LAND USE

TITLE: THE APPLICANT, PHANTOM OF MICHIGAN, IS REQUESTING FINAL APPROVAL TO HOLD “TENT” SALES OF RETAIL GOODS BEYOND THE SEVEN CONSECUTIVE

DAYS ALLOWED AS-A-RIGHT IN THE ZONING ORDINANCE FOR TEMPORARY LAND USE UNDER SECTION 4.44 OF TOWNSHIP ZONING ORDINANCE 06-02-92, AS AMENDED.

LOCATION: THIS SITE IS LOCATED IN THE LAKEWOOD SHOPPING PLAZA AT 2095 RAWSONVILLE ROAD. THE SUBJECT LOCATION IS ON THE EAST SIDE OF RAWSONVILLE ROAD, SOUTH OF THE I-94 SERVICE DRIVE.

Deputy Director Best presented his temporary land use review letter dated 2-2-16 for the Phantom Fireworks temporary land use application. Deputy Director Best recommends approval of the application subject to approval from the Van Buren Fire Marshall, the applicant provide the Township with a current Consumer Fireworks Retail Facility: Non-Permanent license prior to the establishment of the temporary land use and that all proposed signage comply with the Zoning Ordinance.

Fire Marshall, David McNally presented the Fire Department review letter dated 2-8-16 recommending temporary land use approval.

Commissioner Boynton discussed the well-detailed tent layout and evacuation plan provided by the applicant and the possibility of the Fire Marshall helping to impose this as a requirement for future applicants.

No comments from the Commission or the audience.

Motion Boynton, Budd second to grant temporary land use to Phantom Fireworks subject to the Fire Department review letter dated 2-8-16 and recommendations in the review letter submitted by Deputy Director Best dated 2-2-16. Motion Carried.

ITEM # 2 THE APPLICANT, BELLEVILLE DEVELOPMENT, INC., IS REQUESTING SITE PLAN APPROVAL TO CONSTRUCT A HOTEL AND SITE IMPROVEMENTS AS REQUIRED IN SECTION 12.02 OF THE ZONING ORDINANCE 06-02-92, AS AMENDED.

LOCATION: PARCEL NUMBERS V125-83-064-99-0002-002, ALSO KNOWN AS 11105 QUIRK ROAD, AND V125-83-064-99-0002-003, WHICH IS VACANT, ARE THE TWO (2) SUBJECT PARCELS OF THIS PROJECT. PARCEL V125-83-064-99-0002-002 MEASURES APPROXIMATELY 7.421 ACRES AND PARCEL V125-83-064-99-0002-003 MEASURES APPROXIMATELY 3.895 ACRES. THESE PARCELS ARE LOCATED NOTHREAST OF THE INTERSECTION OF QUIRK ROAD AND N. I-94 SERVICE DRIVE.

Jim Tiruga gave the presentation for the applicant. The applicant is currently in the process of having the two (2) parcels combined into one (1) parcel, he has the met the requirements provided by the planning engineers and desires to move forward with the project.

Patrick Sloan of McKenna Associates presented the preliminary site review letter dated 2-11-16 recommending the Planning Commission grant preliminary site plan approval subject to the conditions referenced in the letter.

David Nummer of WadeTrim presented the preliminary site plan review letter dated 2-12-16 recommending the Planning Commission grant preliminary site plan approval.

Fire Marshall David McInally presented the Fire Department review letter dated 1-20-16 recommending preliminary site plan approval subject to the eight (8) conditions referenced in the letter.

Commissioners and the applicant discussed making the pond look more natural prior to final site plan approval.

No comments from the audience.

Motion Kelley, Franzoi second to grant preliminary site plan approval to Belleville Development Inc. to construct a hotel and site improvements as required in section 12.02 of the zoning ordinance 06-02-92, as amended, located at 11105 Quirk Road. Subject to the conditions referenced in the McKenna Associates review letter dated 2-11-16, WadeTrim review letter dated 2-12-16 and the Fire Department review letter dated 1-20-16. Motion Carried.

GENERAL DISCUSSION:

Commissioner Atchinson discussed the importance of community involvement.

Motion Boynton, Kelley second to adjourn at 9:25 p.m. Motion Carried.

Respectfully submitted,

Christina Harman
Recording Secretary

March 3, 2016

Planning Commission
Charter Township of Van Buren
46425 Tyler Road
Belleville, MI 48111

Subject: Proposed Zoning Ordinance Amendment (Medical Marihuana Cultivation Facilities)

Dear Commissioners:

At the January 27, 2016 Planning Commission meeting, we discussed the proposed amendments to the Charter Township of Van Buren Zoning Ordinance that would permit Medical Marihuana Cultivation Facilities as Special Land Uses in the M-2 (General Industrial) zoning district. After discussion, the Planning Commission scheduled a public hearing on the proposed Zoning Ordinance amendments for Wednesday, March 9, 2016 at 7:30p.m.

PURPOSE AND SUMMARY OF PROPOSED ZONING ORDINANCE AMENDMENTS

Van Buren Township currently has a moratorium on medical marihuana establishments until April 7, 2016. The purpose of the current moratorium is to allow the Township time to study this topic and, if necessary, prepare ordinance amendments. The Township's work in this endeavor is summarized in our previous letter on this matter, dated January 22, 2016.

The proposed regulations for Medical Marihuana Cultivation Facilities include the following:

- Requiring all marihuana growing and other activities to be conducted indoors only, including prohibiting outdoor storage.
- Prohibiting drive-through uses.
- A minimum 1,000-foot setback from religious institutions, public parks, residential zoning districts, residential land uses, child care facilities, and educational facilities. An analysis of the Township Zoning Map indicates approximately 7 or 8 M-2 areas that meet these setback requirements.
- Prohibiting on-site transfer, consumption, or retail sales.
- Limiting the number of caregivers per facility to six (6) and requiring separate growing areas for each caregiver.
- Additional requirements for security, access, parking, inspections, waste disposal, and enforcement.

PROSPECTIVE CHANGES TO STATE LAW

There are currently three (3) bills related to medical marihuana that were passed by the State House of Representatives last fall. In our discussions with the Van Buren Township Public Safety Director and Deputy Director, it is the understanding of law enforcement organizations throughout the state that these bills may be passed and signed into law this year. At this time, the Legislature is obtaining feedback from Police Chiefs, County Sheriffs, the Michigan Townships Association (MTA), and the Michigan Municipal League (MML) before taking additional action on these bills.

One of the House bills, House Bill 4209, includes provisions for medical marijuana uses and municipal regulation. HB 4209 permits a municipality to allow any of the 5 uses authorized in the bill (Grower, Processor, Secure Transporter, Provisioning Center, and Safety Compliance Facility). The "Grower" use is similar to the "Cultivation Facility" use in the proposed Zoning Ordinance amendments, though the following differences between the two uses are the most notable:

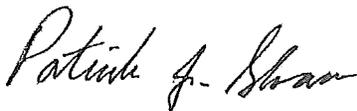
1. In HB 4209, the lowest Class of Grower is a Class A Grower, which allows 500 plants (Class B Growers can have up to 1,000 plants and Class C Growers can have up to 1,500 plants). The allowable quantity for a Class A Grower is similar to a Cultivation Facility with 7 caregivers (i.e., 7 caregivers x 72 plants = 504 plants). The proposed Zoning Ordinance amendment limits the number of caregivers/units to 6 in a Cultivation Facility, so the size would be comparable between a Cultivation Facility and a Class A Grower.
2. In HB 4209, a Grower is prohibited from being a Licensed Caregiver. This prohibition would be contrary to the proposed Zoning Ordinance amendments, where the grower in a Cultivation Facility is required to be a Caregiver. If HB 4209 and the proposed Zoning Ordinance amendments are both adopted in their current forms, the Zoning Ordinance can later be amended to make Cultivation Facilities compliant with State Law. Because it is still not known if HB 4209 will be adopted in its current form, if at all, we recommend that the Township proceed with consideration of the proposed Zoning Ordinance amendments and continue to monitor prospective changes to State Law.

RECOMMENDATION

If there are no significant changes to the proposed Zoning Ordinance amendments after the March 9th public hearing, we recommend placing the proposed amendments on the March 23, 2016 Planning Commission agenda for a recommendation to the Township Board of Trustees.

Respectfully submitted,

McKENNA ASSOCIATES



Patrick J. Sloan, AICP
Principal Planner

January 22, 2016

Planning Commission
Charter Township of Van Buren
46425 Tyler Road
Belleville, MI 48111

Subject: Proposed Zoning Ordinance Amendment (Medical Marihuana Cultivation Facilities)

Dear Commissioners:

Enclosed for your review are proposed amendments to the Charter Township of Van Buren Zoning Ordinance for Medical Marihuana Cultivation Facilities. Van Buren Township currently has a moratorium on medical marihuana establishments until April 7, 2016. The purpose of the current moratorium is to allow the Township time to study this topic and, if necessary, prepare ordinance amendments. Since the original moratorium was adopted by the Board of Trustees in April 2015, the Planning Commission assigned a subcommittee to address this issue. The subcommittee met on May 14, 2015, June 18, 2015, July 20, 2015, September 17, 2015, and December 17, 2015, and has studied several aspects of how to proceed on this matter. These included:

- Reviewing zoning and general ordinance regulations from other communities (City of Ypsilanti, Commerce Township, and City of Wayne).
- Considering zoning districts, development standards, setbacks, safety, on-site and off-site impacts, size limitations, and other related aspects.
- Touring a cultivation facility and dispensary in the City of Ypsilanti on July 20, 2015. This tour was arranged by the Ypsilanti Police Department, with the cooperation of the owners of the cultivation facility and dispensary. Representatives of Van Buren Township included subcommittee members, David Greco (Township Attorney), representatives of the Van Buren Township Public Safety Department, and me. We were escorted on this tour by the Ypsilanti Police Department.

Based on our analysis of these issues, we prepared the draft Zoning Ordinance amendment to regulate Medical Marihuana Cultivation Facilities and permit them as Special Land Uses in the M-2 (General Industrial) zoning district. Mr. Greco reviewed a prior version of the proposed Zoning Ordinance amendment, and the enclosed version includes revisions made by Mr. Greco. The proposed regulations for medical marihuana cultivation facilities include the following:

- Requiring all marihuana growing and other activities to be conducted indoors only, including prohibiting outdoor storage.
- Prohibiting drive-through uses.
- A minimum 1,000-foot setback from religious institutions, public parks, residential zoning districts, residential land uses, child care facilities, and educational facilities. An analysis of the Township Zoning Map indicates approximately 7 or 8 M-2 areas that meet these setback requirements.
- Prohibiting on-site transfer, consumption, or retail sales.

- Limiting the number of caregivers per facility to six (6) and requiring separate growing areas for each caregiver.
- Additional requirements for security, access, parking, inspections, waste disposal, and enforcement.

Based on our discussions with the subcommittee and our analysis of the above, we do not propose permitting dispensaries at this time. However, if there are changes to State Law or new case law on this matter, we will recommend revisiting dispensary regulations at that time.

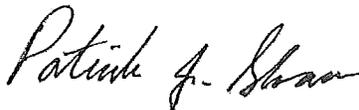
Concurrent with the Zoning Ordinance amendment is a proposed Registration Ordinance for Medical Marihuana Cultivation Facilities. A final version of the proposed Registration Ordinance has not yet been completed. The purpose of the Registration Ordinance, which will be administered by the Public Safety Department, will be to address public safety issues the Township may have and require operators to register with the Township Public Safety Department. The proposed Registration Ordinance will be a general ordinance that will not require Planning Commission review, though the Township Board may seek input from the Planning Commission on the proposed Registration Ordinance.

RECOMMENDATION

If the Planning Commission is satisfied with the level of detail of the proposed Zoning Ordinance amendment, we recommend scheduling a public hearing for **February 24, 2016**. The public hearing will be an opportunity for members of the public to review the proposed Zoning Ordinance amendments, ask questions, and provide comment.

Respectfully submitted,

McKENNA ASSOCIATES



Patrick J. Sloan, AICP
Principal Planner

**CHARTER TOWNSHIP OF VAN BUREN
COUNTY OF WAYNE, STATE OF MICHIGAN
ORDINANCE NO. _____**

AN ORDINANCE TO AMEND THE ZONING ORDINANCE 6-2-92 AS AMENDED OF THE CHARTER TOWNSHIP OF VAN BUREN TO PROVIDE FOR REGULATIONS GOVERNING MEDICAL MARIHUANA WITHIN THE TOWNSHIP:

THE CHARTER TOWNSHIP OF VAN BUREN ORDAINS:

SECTION 1 – ORDINANCE AMENDMENT

Pursuant to this Ordinance, there shall be created in the Charter Township of Van Buren Zoning Ordinance a new subsection 16.03.i. in the M-2 General Industrial District, Permitted Uses After Special Approval providing for the regulation, location and operation of medical marihuana cultivation facilities, upon the effective date of this Amendment:

(i) Medical Marihuana Cultivation Facilities

1. Purpose.

- a. It is the intent of this section to provide reasonable conditions for the cultivation of marihuana allowed by the Michigan Medical Marihuana Act, MCL 333.26421 et seq, as amended (MMMA). Due to conflicts between the federal Controlled Substances Act and the MMMA, the cultivation of medical marihuana is a specialized land use with ramifications that need to be addressed by a local ordinance. Although some specific uses of marihuana may not be prosecuted according to the MMMA, marihuana continues to be classified as a Schedule 1 controlled substance under federal law making it unlawful under federal law to use, manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense marihuana. Due to its conflicting legal status, such businesses are generally not funded, financed or supported by banks and similar financial institutions as other federally lawful enterprises may be. As a consequence, medical marihuana enterprises are primarily cash-based operations, making them targets for crime and theft. The regulations set forth herein are intended to take into account these issues and thereby take steps to protect public safety and welfare of the community at large.
- b. It is further the intent of this section to protect the health, safety, and general welfare of persons and property by limiting land uses related to marihuana cultivation to the district that is most compatible with this use. Additional regulations in this section are intended to provide reasonable restrictions within a zoning district so that this use does not compromise the health, safety, and general welfare of persons in the district, or other uses allowed in the district.
- c. While the MMMA generally allows a primary caregiver to grow medical marihuana on his/her own property in accordance with the Act, there are negative impacts and circumstances that could be deemed a nuisance including, but not limited to, the inadequacy of the property or home for safe growing of medical marihuana, and noxious odors from medical marihuana plants and growing that impact neighboring residents in

violation of Township ordinances. Therefore, providing for and regulating medical marihuana cultivation facilities allows primary caregivers to cultivate medical marihuana at a non-residential facility that is better-suited for such use.

2. **Medical Marihuana Definitions.** Some of the words and phrases defined below are also defined in the MMMA, MCL 333.26421 et seq, as amended. If the definition of a word or phrase set forth below conflicts with the definition in the MMMA or if a term is not defined below but is defined in the MMMA, then the definition in the MMMA shall apply. The words and phrases below are defined as follows:
 - a. **Marihuana:** That term as defined in Section 7106 of the Public Health Code, 1978 PA 368, MCL 333.7106, as amended.
 - b. **Medical Use:** The acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition.
 - c. **Primary Caregiver:** A person who is at least 21 years old and who has agreed to assist with a patient's medical use of marihuana and who has never been convicted of a felony involving illegal drugs.
 - d. **Qualifying Patient:** A person who has been diagnosed by a physician as having a debilitating medical condition.
 - e. **Registry Identification Card:** A document issued by the Michigan State Department of Community Health that identifies a person as a registered qualifying patient or registered primary caregiver.
 - f. **Medical Marihuana Cultivation Facility ("Cultivation Facility"):** A building other than the personal residence of a primary caregiver where one or more primary caregivers are growing medical marihuana in compliance with the MMMA. A medical marihuana cultivation facility may also be referred to as growing facility. A "medical marihuana cultivation facility" shall not include a primary caregiver or a qualifying patient growing medical marihuana at his/her personal residence in accordance with the Michigan Medical Marihuana Act and all applicable Township ordinances including, but not limited to, ordinances prohibiting noxious odors.
 - g. **Medical Marihuana Dispensary ("Dispensary"):** A building, part of a building, a facility, a club or other set-up where primary caregivers who are legally registered by the Michigan Department of Community Health (MDCH) may lawfully assist qualifying patients to whom the primary caregiver is connected through the state registration process and who are also legally registered by the MDCH with the medical use of marihuana in accordance with the Michigan Medical Marihuana Act, as amended. A "dispensary" shall not include a primary

caregiver assisting a qualifying patient with whom he/she is connected through the Michigan Department of Community Health's registration process with the medical use of marihuana in the qualifying patient's residence in accordance with the Michigan Medical Marihuana Act.

- h. **Plant:** Any marihuana plant with not more than one readily observable root formation.
- i. **Unit:** A portion of a building that is separate from the remainder of the building by a fireproof wall, and accessible only through an exterior door.
- 3. **Medical Marihuana Dispensaries Prohibited.** Medical marihuana dispensaries are prohibited in all districts.
- 4. **Special Site Design and Use Standards.**

 - a. **Indoor Growing.** The growing of medical marihuana at a cultivation facility shall be indoors only and shall not be visible from any point outside the medical marihuana cultivation facility.
 - b. **Drive-Through Prohibited.** The medical marihuana cultivation facility shall not be permitted to have drive-through facilities.
 - c. **Setback From Protected Areas.** The lot lines of a cultivation facility shall be no less than one thousand (1,000) feet from the nearest lot lines of the following: a religious institution, a public park, a residential zoning district, a residential land use, a child care facility, a public or private educational facility including but not limited to pre-schools, nurseries, elementary, secondary and high schools. The setback distance shall be measured as a straight line from the nearest points of the lot lines.
 - d. **Maximum Number of Cultivation Facility Buildings Per Lot.** There shall be not more than one (1) building housing a medical marihuana cultivation facility per lot.
 - e. **Setback From Other Cultivation Facilities.** The lot lines of a cultivation facility shall be at least one thousand (1,000) feet from the lot lines of another cultivation facility, as measured from the edges of the property on which the use is located.
 - f. **State and Local Licensing.** Medical marihuana cultivation facilities shall comply with all applicable state and local licensing regulations. Initial and annual proof of such compliance shall be a condition of special land use approval.
 - g. **On-Site Consumption Prohibited.** No smoking, inhalation, or other consumption of marihuana shall take place on the premises of a medical marihuana cultivation facility.
 - h. **On-Site Transfer Prohibited.** Any person-to-person transfer of marihuana is prohibited at a cultivation facility. All transfers of medical marihuana between persons shall take place off-site only and in accordance with the MMMA and this Ordinance.
 - i. **Retail Sales Prohibited.** Retail sales, including sales of products customarily incidental to the use of medical marihuana, is prohibited at medical marihuana cultivation facilities.

- j. **Indoor Activities Only.** All activities of medical marihuana cultivation facilities shall be conducted indoors.
 - k. **Outdoor Storage Prohibited.** Outdoor storage is prohibited.
 - l. **State and Local Compliance.** Medical marihuana cultivation facilities shall comply with all applicable provisions of this Ordinance, all other Township ordinances, regulations, and codes, and the MMMA. This section preempts any other section of this Ordinance when there is a conflict between this section and another section. This section does not preempt the Michigan Medical Marihuana Act.
 - m. **Maximum Units and Maximum Plants Per Unit.** The maximum number of individual plants permitted within a single unit shall not exceed seventy-two (72) plants, and there shall be no more than six (6) primary caregivers or units in any building housing a medical marihuana cultivation facility.
 - n. **Security.** A security system shall be installed in each unit of a medical marihuana cultivation facility which shall include monitoring cameras with audio capability which are operating continuously. Recordings and data from the security system shall be kept a minimum of three hundred and sixty five (365) days. The recordings shall be made available to law enforcement pursuant to a lawfully issued subpoena or search warrant.
 - o. **Odors.** Odors generated by the medical marihuana cultivation facility shall be contained within the building or the portion of building used by the medical marihuana cultivation facility. The primary caregiver's proposed method of addressing odors generated through use of air filters or air scrubbers must be demonstrated and found to be satisfactory to the Township.
 - p. **Access to Minors Prohibited.** No minors under the age of eighteen (18) are permitted on the site.
 - q. **Limited Accessibility to the Site.** The medical marihuana cultivation facility shall not be accessible to anyone but the primary caregiver lawfully growing medical marihuana in the cultivation facility and lawful visitors to the site, which include contractors working on the site and representatives of the Township administering or enforcing an ordinance or law.
 - r. **Parking.** Off-street parking shall be provided consistent with that of "Industrial Establishments, Assembly, Processing" set forth in Section 6.01.E.1 of Off-Street Parking Requirements of this Ordinance.
5. **Access & Identification.** Each primary caregiver growing medical marihuana in a medical marihuana cultivation facility shall assign an identifying number to each qualifying patient for whom that primary caregiver intends to grow and cultivate medical marihuana including the primary caregiver if the primary caregiver is also a qualifying patient. The primary caregiver shall keep a list identifying the registry identification card of the qualifying patient to whom a number is assigned which shall be made available to law enforcement pursuant to a lawfully issued subpoena or search warrant.

- a. **Separate Grow Areas.** The primary caregiver shall keep the marihuana plants grown for each qualifying patient of the primary caregiver separate from the marihuana plants grown for any other qualifying patient. Each qualifying patient's plants shall be kept in a separate enclosed locked facility to which only the primary caregiver has access. The identifying number of the qualifying patient for whom the medical marihuana is grown and cultivated shall be prominently and permanently displayed on each enclosed locked facility.
- b. **Access Log.** Each primary caregiver shall keep a written log including the identifying number, date and time of every person entering the medical marihuana cultivation facility, which shall be made available to law enforcement pursuant to a lawfully issued subpoena or search warrant. Each primary caregiver shall also keep a written log including the date and time marihuana was removed by the licensed caregiver from the enclosed locked facility and the amount of marihuana removed.
- c. **Correct and Accurate Records.** The primary caregiver shall certify under oath that the written records kept are correct and accurate.

6. Inspections.

- a. **Initial Inspection.** A cultivation facility shall be subject to the same inspections as all other buildings and uses as required by this Ordinance and the Charter Township of Van Buren Code of Ordinances.
- b. **Inspections.** The cultivation facility may be inspected annually by the Township to confirm that it is being operated in compliance with the MMMA and any Township ordinance. The cultivation facility may be inspected more frequently at the discretion of the Township. Representatives of the Township for the on-site inspection include, but are not limited to, the Planning Director, Building Official(s), and Public Safety Department. The Township shall limit its inspection to only those issues associated with compliance with the MMMA and Township ordinances, and shall not make inquiry into the identity of any qualifying patient. The cultivation facility shall be available for inspection between the hours of 8:00 a.m. and 8:00 p.m. Eastern Time upon two (2) hours notice.

7. Application Requirements and Review. In addition to the application for and review of a site plan in accordance with Section 16.07 and a special land use permit for a medical marihuana cultivation facility in accordance with Section 4.46, the following shall also be required:

- a. **Security Plan.** A security plan and floor plan shall be submitted with the special land use application. The security plan shall:
 - i. Identify the number and location of all monitoring cameras, the format in which all recordings are maintained, and where the recordings will be stored. The recording format shall be of a type capable of being reviewed by the Township.
 - ii. The security plan shall identify the number of plants to be grown, the location of the secured locked facilities assigned to qualifying patients, the location where chemicals and fertilizers are stored, and the layout of the building which shall identify any other entities occupying the building. The security and floor plan shall be a confidential document kept by the Township and exempt from disclosure under the Freedom of

SECTION 4 - SAVINGS CLAUSE

Nothing in this Ordinance shall be construed to affect any suit or proceeding pending in any court or any rights acquired or any liability incurred, or any cause or causes of action acquired or existing, under the Zoning Ordinance, or any act or Ordinance hereby repealed as cited in Section 3 of this Ordinance; nor shall any just or legal right or remedy of any character be lost, impaired, or affected by this Ordinance.

SECTION 5 - EFFECTIVE DATE

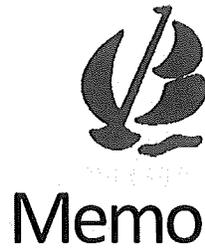
This Ordinance shall take effect following publication in the manner prescribed by law.

SECTION 7 – ADOPTION

This Ordinance is hereby declared to have been adopted by the Township Board of the Charter Township of Van Buren at a meeting duly called and held on the ____ day of _____, 2016, and ordered to be given publication in the manner prescribed by law.

Leon Wright, Clerk

Linda Combs, Supervisor



TO: Planning Commission

**FROM: Matthew R. Best
Deputy Director – Planning and Economic Development**

**RE: Review of Temporary Land Use Request #TLU 16-013 – Elliott’s Amusements
10900 Belleville Road – Belleville Sq. Shopping Center**

DATE: March 18, 2016

Elliott’s Amusements is proposing to host a carnival in the Belleville Square Shopping Plaza at 10900 Belleville Road. Their request is for a period extending beyond the as-a-right seven consecutive days or less requirement found in Section 4.44 of the Township Zoning Ordinance 06-02-92, as amended. The Planning Commission is required to grant a permit that extends beyond the seven day administrative Temporary Land Use approval.

Planning Commission Review Items under Section 4.44 of the Zoning Ordinance are:

1. **Adequacy of Parking and Access** (Section 4.44.c.1) – 165 public parking spaces with 4 handicapped reserved will be available for attendees and plaza customers. The largest carnival crowds are typically when the commercial uses are closed so the shared parking should be adequate. This arrangement has worked with past carnivals at this location.
2. **Adequate drainage** (Section 4.44.c.2) – the site is in an existing parking lot that already has storm water drainage. The equipment will not affect the amount of impervious surface or water that would be diverted into the storm system.
3. **Compatibility with surrounding land uses** (Section 4.44.c.3) – the proposed use is carnival entertainment in a parking lot of an existing shopping plaza. The intensity of the uses is compatible with the surrounding intensive commercial uses.
4. **Size, height, and type of construction of proposed buildings and structures in relation to surrounding site** (Section 4.44.c.4) – the installations are temporary in nature, and they will not impact the surrounding site.
5. **Sufficient setbacks from road right-of-ways and lot lines** (Section 4.44.c.5) – the proposed carnival area is located within the former Farmer Jack parking lot, and the carnival area is inside the landscape islanding within the parking lot.

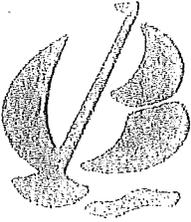
6. **Adequate utilities** (Section 4.44.c.6) – the applicant will supply their own electrical generation. The generator and electrical hook-up will be inspected by the Township’s Electrical Inspector.
7. **Trash disposal and site clean up** (Section 4.44.c.7) – Elliott’s Amusements will be responsible for all trash disposal and site clean-up in relation to their agreement with Canvasser Development Inc., managing agent for Belleville Sq. Limited Partnership Ltd. One 30 yard dumpster will be on-site and emptied as necessary.
8. **Sanitary facilities** (Section 4.44.c.8) – four porta-johns (one handicapped accessible) will be located on-site for patrons. Two additional porta-johns will be located at the rear of the parcel for use by employees in their camping area.
9. **Hours of operation** (Section 4.44.c.9) – On Thursdays and Fridays (May 12-13, 2016 and May 19-20, 2016) 4:00-10:30 PM; Saturdays (May 14, 2016 and May 21, 2016) Noon – 11:00 PM; and Sundays (May 15, 2016 and May 22, 2016) 1:00 – 10:00 PM. These hours are consistent with the hours of the surrounding commercial uses.
10. **Outdoor light and signs** (Section 4.44.c.10) – exterior lights will be provided on all rides and games. The site is currently lit with street lamps, and the surrounding area is intensive commercial zoning and use so the lighting from onsite will not have an impact on less intensive uses. All signs are subject to approval of the Township’s Planning and Economic Development Department.
11. **Other licenses and permits required** (Section 4.44.c.11) – the Township Building Official and Electrical Inspector will conduct inspections prior to the opening of the carnival, and the Van Buren Fire Marshal shall be separately issuing a review letter. All rides will be inspected and permitted by the Michigan Department of Labor – Ride Safety Division. All food concessions will be inspected by the Wayne County Health Department prior to opening.
12. **Potential noise, odor, dust, and glare** (Section 4.44.c.12) – this proposed use is no more intensive than the Extensive Highway Business zoning that has been approved for this site and the surround parcels. The use should not increase the noise, odor, dust of glare extending beyond the site.
13. **Fire lanes, fire protection, and security** (Section 4.44.c.13) – the Van Buren Fire Marshal shall review the application for adequacy of fire lanes and fire protection. The site plan does indicate 20’ wide lanes between rides and concessions that exceed the fire lane requirements.
14. **Off-site impacts of traffic volumes** (Section 4.44.c.14) – the roads in the immediate vicinity are major Township roads and this temporary use will not significantly impact their flow or travel volumes.
15. **Necessity of performance bond to ensure prompt removal** (Section 4.44.c.15) – the property owner will be responsible for ensuring the site is returned to its pre-sale condition.

16. **Other concerns which may impact the public health, safety, or general welfare** (Section 4.44.c.16) – there are no other known concerns for this temporary carnival use.

Recommendation

This site has hosted several carnivals in past years without major incidents or without any land use issues.

Per my review of the application, I am recommending approval of this application pending recommended approval from the Van Buren Township Fire Marshal and day-of inspection approvals by the Township and Wayne County inspectors.



CHARTER TOWNSHIP OF VAN BUREN
 APPLICATION FOR
 TEMPORARY LAND USE/SPECIAL EVENT
 46425 TYLER ROAD
 BELLEVILLE, MI 48111

DATE: 3.10.16

TLU 16-013

BUSINESS NAME: Elliott's Amusements, LLC

CONTACT PERSON: Debbie Elliott PHONE # 517-244-0929 (Before April 10)
517-403-8455

SUPERVISOR FOR SITE: Nick Elliott PHONE # 517-

EVENT TITLE: Belleville Spring Carnival

TYPE OF EVENT: Carnival DATE(S): May 12-22, 2016

LOCATION OF EVENT: Belleville Shopping Center

ADDRESS OF LOCATION: 10800 Belleville Rd. Belleville, MI 48111

PROPERTY OWNER REPRESENTATIVE: Mark Canvasser PHONE # 248-790-4490

ARE SIGNS PROPOSED FOR ADVERTISING: YES NO IF YES, INCLUDE LOCATIONS & DETAILS

OTHER _____

IF OUTSIDE USE OF THE SITE IS PROPOSED SUBMIT DRAWING OF LAYOUT AND INCLUDE CRITERIA ITEMS (ATTACHED)

NOTES:
 IF NOISE ABOVE 65 DB, ODOR, GLARE, SMOKE, VIBRATION ARE EXPECTED BEYOND THE PROPERTY BOUNDRIES PLEASE EXPLAIN IN SEPARATE LETTER.

ALL STRUCTURES INSTALLED FOR THE SPECIAL EVENT MUST BE REMOVED FROM SITE NO LATER THAN THREE (3) DAYS AFTER THE EVENT.

PROCESSING FEE \$ _____ BOND FEE \$ _____ TOTAL \$ 1650.00

Debbie Elliott
 (SIGNATURE OF APPLICANT)

3.10.16
 (DATE SIGNED)

 (APPROVED BY)

 (DATE SIGNED)

BELLEVILLE SQUARE

March 4, 2016

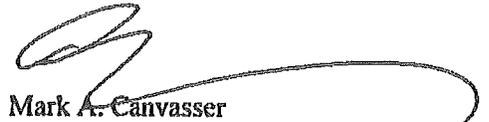
Van Buren Township
46425 Tyler Road
Van Buren Twp., MI 48111

To Whom It May Concern,

We hereby give authorization to Elliott's Amusements, LLC to utilize the property in order to conduct a carnival. Set-up only will be on May 9-11, 2016 and carnival operations will be from May 12-22, 2016.

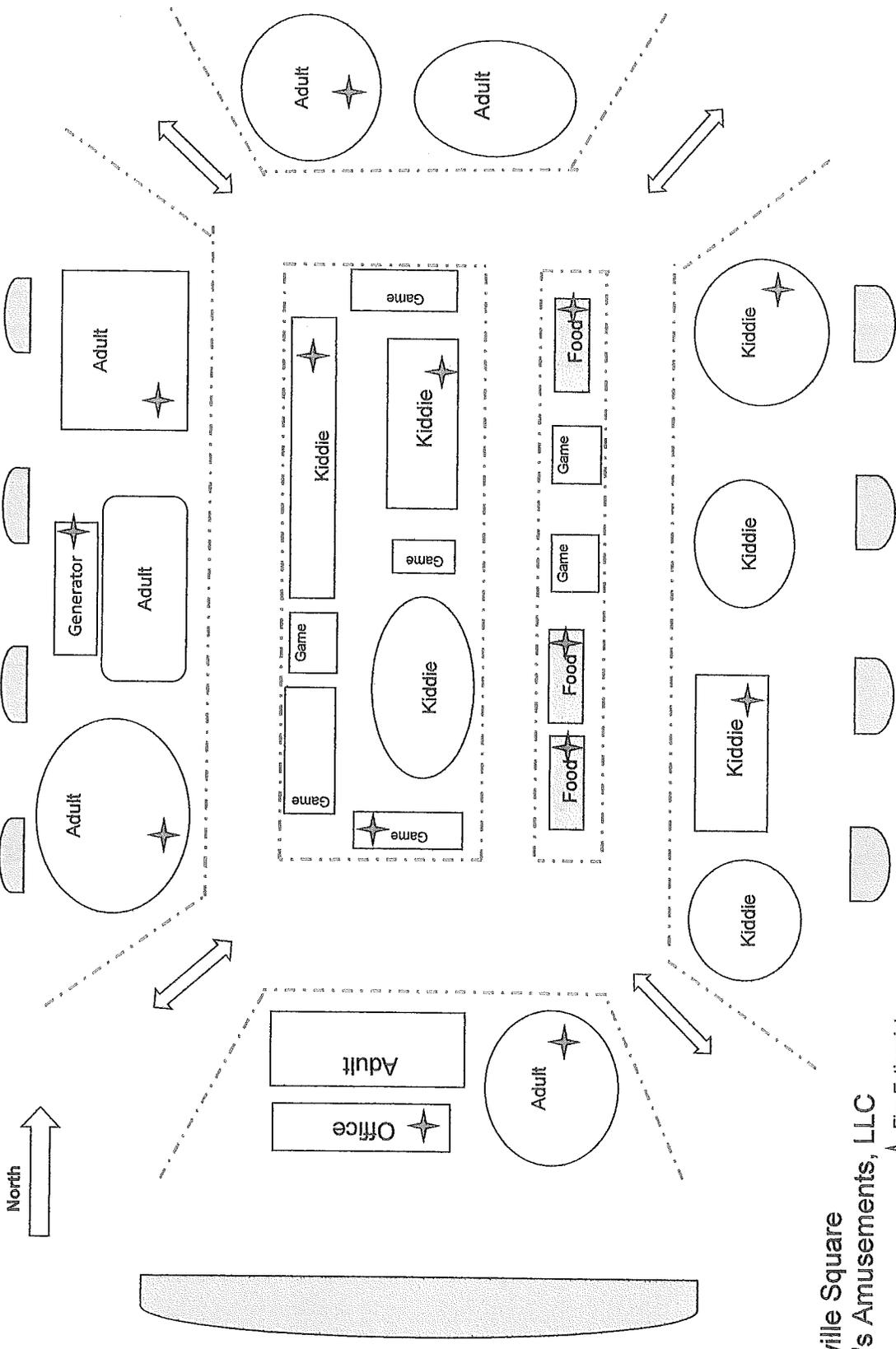
If you have any questions, please do not hesitate to call.

Sincerely



Mark A. Canvasser
Agent for Belleville Square Holdings LLC

Old Farmer Jack's



North

Belleville Square
 Elliott's Amusements, LLC
 2016

★ Fire Extinguishers

Elliott's Amusements, LLC

Tracy & Debbie Elliott

P.O. Box 236 Mason, MI 48854

Winter Office 517-244-0929

Tracy 517-819-7000 Deb 517-403-8455

www.elliottsamusements.com debelliott01@gmail.com



March 7, 2016

Lt. Kenneth Floro
Van Buren Police
Belleville, MI

Dear Lt. Floro,

We are requesting permission to host another carnival at the Belleville Square on Belleville Rd and the Service Drive I-94. It will only be a 10 day event from May 12 - 22, 2016. We would like to hire Police officers for security as in the past. I believe we have had 2 officers on every day and an additional 2 officers for Saturday evening. Please let me know if that is acceptable and possible.

We have kept the NO Parking signs we have used in Belleville over the last few years. We are familiar with the areas you want marked and we will adhere. Traffic control will be handled efficiently as well. Our crowds are very fluid with people constantly leaving and others coming so it doesn't require quite as many spaces as some other types of events. Nevertheless, we will definitely monitor the situation and make sure everybody stays safe.

If you have any questions or concerns at all, please use the contact info above to reach us. Thank you in advance for your consideration.....

Regards,

A handwritten signature in cursive script that reads "Debbie Elliott".

Debbie Elliott
Elliott's Amusements, LLC

May 27 - 31, 2015
Thursday 4pm - 11pm
Friday 4pm - 11pm
Saturday 12pm - 11pm
Sunday 1pm - 10pm

Elliott's Amusements, LLC

Tracy & Debbie Elliott

P.O. Box 236 Mason, MI 48854

Winter 517-244-0929

Tracy 517-819-7000 Deb 517-403-8455

www.elliottsamusements.com debelliott01@gmail.com



March 7, 2016

Township of Van Buren
46425 Tyler Rd.
Belleville, MI 48111

On behalf of the Canvasser Development, Inc.; Elliott's Amusements, LLC (EIAM) is requesting your permission to present a carnival. The carnival would be located on the parking lot, in front of the old Farmer Jack at Belleville Rd and I-94 Service Dr. in Van Buren Township, Michigan. We have booked that location yearly since 2012 and would like to return this year.

The following is for your information and approval:

- EIAM will obtain all State and County permits and licenses.
- EIAM will obtain the local carnival permit, plumbing, building and electrical permits and will comply with the local Fire Marshall regulations.
- The days and hours of operation: May 12-22, 2016
Weekdays 4:00pm to 10:30pm
Saturday 12:00pm – 11:00pm Sunday 1:00pm – 10:00pm(usually earlier)
- All food trailers have STFU licenses and will abide by all rules and regs by the County Health Department.
- All rides and mechanical devices will be permitted by the Michigan Department of Labor-Ride Safety Division.
- EIAM will provide an insurance certificate in the amount of \$3,000,000.00 naming "the Township of Van Buren, Canvasser Development, Inc., and Belleville Square Limited Partnership".
- EIAM will provide and pay for security (local police)
- EIAM will provide six (6) portable toilets to be maintained daily and a 30-yard dumpster.
- EIAM will provide a site plan showing generators, ride locations, locations of fire extinguishers, and all emergency ingress/egress routes, which will be a minimum of 20 feet in width.
- EIAM will post No Parking signs in the areas requested in past years.
- As in the past, EIAM will monitor traffic and parking situations to keep the patrons safe and as easily accessible to the midway as possible.
- EIAM games are family-oriented games of skill with the majority of games being "prize every time."

If you have any questions, concerns or require further information, do not hesitate to email, or call me at any time. Thank you in advance for your consideration.

Sincerely,

Debbie Elliott, Owner/Operator
Elliott's Amusements, LLC

David C. McNally II
Fire Marshal
O: 734-699-8900 ext9416

Van Buren Fire Department
46425 Tyler Rd
Van Buren Twp., MI 48111



March 16, 2016

Director of Building and Planning
46425 Tyler Road
Belleville, MI 48111

Re: TLU16-013
Elliotts Amusements, LLC
10900 Belleville Rd.(Belleville Square Plaza)
Belleville, Mi 48111

APPROVED
Van Buren Township
Fire Department

A handwritten signature in black ink, appearing to read 'D. McNally II', written over a horizontal line.

Date: 3-16-16

To whom it may concern,

I have reviewed the submittal from Elliott's Amusements, LLC
NFPA 1, NFPA 101 and NFPA 96 were used in the review of this plan. The following items will
need to be addressed prior to operation.

Chapter 96 Commercial Cooking Equipment

All sections that apply to use of tents and trailers described in the application shall be followed,
including the following.

1. All extinguishers shall be mounted and visible (not under counters or hidden).
2. Extinguishers shall have an inspection tag within the last year.
3. All cooking suppression systems shall have an inspection sticker from a certified company within the last 4 months.
4. All cooking equipment shall also be stickered from a company stating they have been cleaned.

Our Mission: The members of the Van Buren Fire Department shall work together in a professional and caring way to protect life and property from the adverse effects of fire, trauma, illness and dangerous conditions. Our services will be provided in a fair, honest, and ethical manner with the highest respect and dignity to all.

5. Diesel fuel storage for generator that is mounted in trailer shall be identified on map and maximum quantity shall be visibly listed on all four sides of trailer.

Water supply

1. Hydrant listed on map provided for review, shows it in front of old Farmer Jacks. This is for **FD use only**. If allowed to be used by Elliot, it must have a gate valve identified as **FD use only** on one half of hydrant.

Access

1. A minimum opening of 20 ft. on the four corners shall be maintained for Emergency apparatus as shown on map provided by.
2. Same 20 ft. clearance shall be maintained on all interior isles for emergency equipment.

If there are any questions, please contact me.

Respectfully Submitted,

David C. McNally
Fire Marshal
Van Buren Fire Department



Memo

TO: Planning Commission

FROM: Matthew R. Best
Deputy Director of Planning and Economic Development

RE: Review of Temporary Land Use Request #TLU 16-014 – TNT Fireworks
Agenda Item for March 23, 2016

DATE: March 17th, 2016

TNT Fireworks is requesting a Temporary Land Use permit for a tent sale of fireworks at the Belleville Road Walmart, Store #2872, at 10562 Belleville Road. The use is proposed to be from June 23, 2016 through July 5, 2016. Per Section 4.44 of the Zoning Ordinance, temporary uses that operate for more than seven (7) consecutive days require Planning Commission approval.

Under Section 7 of Michigan Public Act 256 of 2011, local units of government are limited in their ability to regulate the sale of fireworks within their communities. The Michigan Attorney General has issued an Opinion on this section of the Act (Opinion #7266), which states, “so long as the local ordinance does not prohibit fireworks vendors from undertaking their commercial operations in any way that other vendors may undertake their operations, the ordinance is not preempted by the Act.” Therefore, fireworks vendors are subject to the same Zoning Ordinance regulations as any other temporary land use.

I have reviewed the application and the requirements of Section 4.44 for temporary use approval, and have the following comments:

- 1. Adequacy of parking and access** (Section 4.44.c.1) – The site currently has 714 public parking spaces, 23 of which are handicapped reserved. The site is currently is over-parked, and the tent will have a limited impact on the number of available parking spaces. This site is located in the heart of Van Buren’s downtown district, and sufficient access is available.
- 2. Adequate drainage** (Section 4.44.c.2) – The site is in an existing parking lot that already has storm water drainage. The tent will not affect the amount of impervious surface or water that would be diverted into the storm system.
- 3. Compatibility with surrounding land uses** (Section 4.44.c.3) – The surrounding parcels are all commercial in nature, and this temporary use is not expected to impact the surrounding commercial uses.

4. **Size, height, and type of construction of proposed buildings and structures in relation to surrounding site** (Section 4.44.c.4) – The tent is temporary in nature, and the parking lot Walmart store, and the surrounding commercial businesses will not be impacted by the bulk of the tent.
5. **Sufficient setbacks from road right-of-ways and lot lines** (Section 4.44.c.5) – The tent is located behind a landscaping island within the Walmart Parking Lot. It is over 100 feet from the southern lot line, and 20 feet from the interior service road. Therefore, the setbacks are sufficient and the tent will not impact traffic flow or adjoining commercial businesses.
6. **Adequate utilities** (Section 4.44.c.6) – TNT Fireworks will supply its own electrical generation. The generator and electrical hook-up will be inspected to ensure compliance with National Fire Protection Association requirements.
7. **Trash disposal and site clean-up** (Section 4.44.c.7) – TNT Fireworks will be responsible for all trash disposal and site clean-up in relation to their lease agreement with Walmart.
8. **Sanitary facilities** (Section 4.44.c.8) – Walmart has authorized all customers and TNT employees to use its restroom facilities.
9. **Hours of operation** (Section 4.44.c.9) – The hours of operation will be from 9:00 a.m. to 10:00 p.m. Although Van Buren Township has a Fireworks Ordinance (adopted in 1986) which requires fireworks sales to conclude at 9:00 p.m., Act 256 preempts this requirement as there is no restriction on the hours of operation for other temporary uses. However, staff are not aware of any complaints with TNT Fireworks closing at 10:00 p.m. in previous years, so the hours of operation approved last year are reasonable and we recommend the same hours of operation for this year.
10. **Outdoor light and signs** (Section 4.44.c.10) – No exterior lights are provided. Interior lights will be hung inside the tent. Although no temporary commercial sign permit requests have been received, the Zoning Ordinance permits one (1) 32 sq. ft. temporary sign for a period not to exceed 30 days. Any temporary signage must comply with the Zoning Ordinance before it obtains a sign permit from the Building Department.
11. **Other licenses and permits required** (Section 4.44.c.11) – Last year, the applicant provided the Township with their Consumer Fireworks Retail Facility: Non-Permanent license. A current license must be provided by the applicant prior to the establishment of the temporary use. The Van Buren Fire Marshal shall be separately issuing his review letter.
12. **Potential noise, odor, dust, and glare** (Section 4.44.c.12) – The proposed temporary use should not increase the noise, odor, dust or glare from their use.
13. **Fire lanes, fire protection, and security** (Section 4.44.c.13) – The Van Buren Fire Marshal shall review the application for adequacy of fire lanes and fire protection. The site will be continually staffed. During non-operating hours, all products will be stored inside the tent and tent security will be maintained at all times by the tent operator or their representative.
14. **Off-site impacts of traffic volumes** (Section 4.44.c.14) – The road in the immediate vicinity is a major Township road (Belleville Road) and this temporary use will not impact the flow or travel volumes. During 2014's Public Hearing, a resident raised a concern of the launching of fireworks at the site. No fireworks are permitted to be launched within 300 feet.
15. **Necessity of performance bond to ensure prompt removal** (Section 4.44.c.15) – The property owner will be responsible for ensuring the site is returned to its pre-sale condition.

16. Other concerns which may impact the public health, safety, or general welfare (Section 4.44.c.16) – There are no additional concerns; however, the applicant is subject to the regulations of Act 256 and applicable regulations of the Fire Department.

Recommendation

This will be the third (3rd) year that TNT Fireworks has operated at this location, and I am not aware of any complaints or issues that took place last year. Per my review of the application, I recommend approval of this application subject to the following three (3) conditions:

1. That the applicant obtains approval from the Van Buren Township Fire Marshal.
2. That the applicant provide the Township with a current Consumer Fireworks Retail Facility: Non-Permanent license prior to the establishment of the temporary use.
3. That all proposed signage comply with the Zoning Ordinance.



CHARTER TOWNSHIP OF V. J. BUREN
 APPLICATION FOR
 TEMPORARY LAND USE/SPECIAL EVENT
 46425 TYLER ROAD
 BELLEVILLE, MI 48111

RECEIVED

DATE: ~~3/9/16~~ 3/9/16 Case 16-014

MAR 11 2016

BUSINESS NAME: AMERICAN PROMOTIONAL EVENTS INC. DBA: TNT FIREWORKS BY: _____

CONTACT PERSON: CHARLES FRIESE PHONE # 517.526.3839

SUPERVISOR FOR SITE: SAME PHONE # _____

EVENT TITLE: FIREWORKS TENT SALE

TYPE OF EVENT: TEMP/TENT SALE DATE(S): 6/23 TO 7/5/2016

LOCATION OF EVENT: WALMART PARKING LOT

ADDRESS OF LOCATION: 10562 BELLEVILLE RD, 48111

PROPERTY OWNER REPRESENTATIVE: STORE MANAGER-EUGENE PHONE # 734.697.2078

ARE SIGNS PROPOSED FOR ADVERTISING: YES NO IF YES, INCLUDE LOCATIONS & DETAILS

OTHER SIGNS ON TENT/BANNERS _____

IF OUTSIDE USE OF THE SITE IS PROPOSED SUBMIT DRAWING OF LAYOUT AND INCLUDE CRITERIA ITEMS (ATTACHED)

NOTES:

IF NOISE ABOVE 65 DB, ODOR, GLARE, SMOKE, VIBRATION ARE EXPECTED BEYOND THE PROPERTY BOUNDRIES PLEASE EXPLAIN IN SEPARATE LETTER.

ALL STRUCTURES INSTALLED FOR THE SPECIAL EVENT MUST BE REMOVED FROM SITE NO LATER THAN THREE (3) DAYS AFTER THE EVENT.

PROCESSING FEE \$ _____ BOND FEE \$ _____ TOTAL \$ _____



 (SIGNATURE OF APPLICANT)

3/9/2016

 (DATE SIGNED)

 (APPROVED BY)

 (DATE SIGNED)

*Chuck Friese
TNT Fireworks
Michigan Area Manager
friesec@tntfireworks.com*



*PO Box 7
Three Rivers, MI 49093
Cell 517.526.3839
Fax 866.496.0838*

March 9, 2016

Reference: Temporary Fireworks Sale in Walmart Parking Lot

To whom it may concern:

Below is information on the temporary fireworks tent sale.

1. Our company will be selling Michigan approved fireworks.
2. Our sales period will be no longer than from June 23rd through July 5th, 2016.
3. Hours of operation will be from 9am through 10pm daily.
4. Sales will be conducted from a tent erected by a local tent rental company with a flame sheet provided.
5. Fire extinguishers and 'no smoking' signs will be present.
6. Overnight security will be provided by the group that is operating the tent (2 people present at all times).
7. Our company will make sure the environment will be kept clean and safe.
8. Our company will also provide all necessary insurance.

Attached is also a rough sketch of the location of the tent in the parking lot of Walmart, a permission letter from Walmart and proof of insurance available upon request.

Also, please let me know if there are any changes or further requirements that need to be met.

Thank you,

Chuck Friese
TNT Fireworks
Michigan~Area Manager

Tenant Access Letter

TNT Fireworks to scope parking lot space and sell fireworks

To: American Promotional Events, Inc. D.B.A. TNT Fireworks

From: Walmart Services

Date: 12/21/15

RE: ✓ TNT Fireworks to scope parking lot space and sell fireworks

Dear Valued Tenant,

Thank you for your continued support and collaboration. Upon arrival at the store where the event/promotion will occur, this access Letter ("Letter") should be provided to store management. This letter shall serve as proof that you are authorized to enter the store and complete the parking lot scoping and execution of a temporary firework stand as a promotion/event for the time period specified below. You are also authorized and required to obtain the proper permitting as required by the local city, county, and/or state. Only your employees (collectively "Representatives") may perform the promotion on your behalf. Your Representatives must produce credentials to store management showing that the Representative has been authorized by you to perform the promotion on your behalf.

Project Timeline: Scope work and parking lot sales may happen anytime from February 01, 2016 – July 31, 2016

Store Associate (Management) Responsibilities:

- 1) Allow and agree upon space with TNT Fireworks to sell fireworks on the parking lot during the Independence Day season
- 2) Customers and employees of TNT Fireworks may have access to restrooms in Walmart facilities
- 3) For other questions call Walmart Field Support at 1-700-Walmart
- 4) Keep a copy of this LOA for your records

This particular program does **NOT** violate the Walmart Corporate Solicitation Policy.

Best regards,



Jesse Danielson
Manager II, WM Services



Gary Withrow
Senior Director, Walmart Services

Chuck Friese
TNT Fireworks
Area Manager
friesec@tntfireworks.com



PO Box 7
Three Rivers, MI 49093
Cell 517.526.3839
Fax 866.496.0838

Site Plan for Belleville Walmart #2872- 10562 BELLEVILLE RD BELLEVILLE, MI 48111

End Row 2

North



Picture from MSN Maps

The little box on the south end of the parking lot is where the tent would be. (30x40)

** Cars would park no less than 10 feet away

** Any generator used would be placed 20 feet away



CERTIFICATE OF LIABILITY INSURANCE

11/1/2016

DATE (MM/DD/YYYY)
11/1/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Lockton Companies 3280 Peachtree Road NE, Suite #250 Atlanta GA 30305 (404) 460-3600	CONTACT NAME: PHONE (A/C, No, Ext): E-MAIL ADDRESS:	FAX (A/C, No):	
	INSURER(S) AFFORDING COVERAGE		NAIC #
INSURED 1378172 American Promotional Events, Inc. - East DBA TNT Fireworks, Inc. P.O. Box 1318 4511 Helton Drive Florence AL 35630	INSURER A: Everest Indemnity Insurance Company		10851
	INSURER B: Maxum Indemnity Company		26743
	INSURER C: Starr Surplus Lines Insurance Company		13604
	INSURER D: Arch Specialty Insurance Company		21199
	INSURER E:		
	INSURER F:		

COVERAGES **CERTIFICATE NUMBER:** 13397800 **REVISION NUMBER:** XXXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC <input type="checkbox"/> OTHER:	Y	N	SI8GL00242-151	11/1/2015	11/1/2016	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS			NOT APPLICABLE			COMBINED SINGLE LIMIT (Ea accident) \$ XXXXXXXX BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX \$ XXXXXXXX
B	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$	Y	N	EXC6023470-03	11/1/2015	11/1/2016	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$ XXXXXXXX
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	NOT APPLICABLE			<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ XXXXXXXX E.L. DISEASE - EA EMPLOYEE \$ XXXXXXXX E.L. DISEASE - POLICY LIMIT \$ XXXXXXXX
C D	Excess Liability	Y	N	1000011255 UXP0056189-02	11/1/2015 11/1/2015	11/1/2016 11/1/2016	\$5,000,000 Each Occurrence Total XS Limits: \$10,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 Additional Insured: FMI2872 Property located at Wal-Mart #2872 at 10562 Belleville Road, Belleville, MI 48111. The Township of Van Buren, all elected and appointed officials, all employees and volunteers, all boards, commission and/or authorities and board members, including employees and volunteers thereof. It is understood and agreed that by naming the Township of Van Buren as additional insured, coverage afforded is considered to be primary and any other insurance the Township of Van Buren may have in effect shall be considered secondary and/or excess

CERTIFICATE HOLDER

13397800
 Wal-Mart Stores, Inc.
 2001 SE 10th Street
 Bentonville AR 72716

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Chuck Friese
TNT Fireworks
Area Manager
friese@tntfireworks.com



2016-CT07360

PO Box 7
Three Rivers, MI 49093
Cell 517.526.3839
Fax 866.496.0838

List of Notes for Floor Plan

- * There will be OVER 500 pounds of consumer grade fireworks in the tent
- * 8 foot tables are used for displays
- * All aisles will be at least 4 feet wide in shopping floor space
- * 3 remote exits will have Lighted EXIT combo signs above them – tent will be open past dusk (noted in picture) Emergency Lighting will be on the EXIT signs
- * Tent openings/doorways will be at least 7 feet wide
- * Since all fireworks are 'packaged', the packaged fireworks act as a flame breaks (Code: 7.3.15.3.4) along with the 4 foot spaces between aisles
- * Exits will be available within the 35 foot requirement of each other (less than 35 feet from any point within the tent)
- * Fire extinguishers will be present - one pressurized water type and a dry chemical with rating of at least 2A (10 lb)
- * Display area will not exceed 35% of the square footage of tent
- * "Fireworks – No Smoking" signs will be posted near entrances/exits and visible from within the tent (minimum of 4)
- * "No Fireworks Discharge Within 300 Feet" signs will be posted on all four sides of the tent (facing outside)
- * Flame Certificates will be available on the tent – showing flame resistance
- * Merchandise displayed within the perimeter of the sales area will not exceed 6 feet in height.
- * Evacuation Plan will be posted along with permits and sales tax license
- *

List of Notes for Site Plan

- * Any generator used would be placed 20 feet away from tent when in operation
- * Parked Vehicles will be at least 10 feet away
- * Nearest gas station or retail propane-dispensing stations will be over 50 feet away
- * No flammable gas bulk dispensers will be within 300 feet
- * No other buildings or cfrs will be located within 20 feet
- * Extra storage of fireworks other than inside inventory, will be no less than 20 feet away
- * Fire department vehicle access is readily available

David C. McInally II
Fire Marshal
O: 734-699-8900 ext 9416

Van Buren Fire Department
46425 Tyler Rd
Belleville, MI 48111



March 16, 2016

Director of Building and Planning
46425 Tyler Road
Belleville, MI 48111

Re: American Promotional Events Inc. /TNT Fireworks
Wal-Mart Parking Lot, Belleville Rd
TLU-16-014

APPROVED
Van Buren Township
Fire Department

Date: 3-16-16

To whom it may concern:

I have reviewed a set of site plans dated March 9th, 2016 and received March 15, 2016 for the above referenced project.

Project Overview:

The site plan is for a temporary fireworks retail facility. It is noted in the permit application a copy of a letter of authorization signed by TNT and Wal-Mart representatives is included. Also included is a statement from the TNT representative Chuck Friese, stating that a rough sketch of the location of the tent, as well as proof of insurance are available upon request.

An affidavit of intent to comply with **NFPA 1123, 1124 and 1125** as required by the State of Michigan and the Township of Van Buren.

This site will be inspected by Fire Marshall McInally as we are the delegated agency for the State of Michigan. This will be conducted once the proper notices have been received from the State of Michigan indicating that Phantom Fireworks is in possession of a tentative permit to sell Fireworks.

Only concern is the map indicating where the tent will be does not include the 10 ft. radius that come out into the isles on the North and South side of the tent.

Our Mission: The members of the Van Buren Fire Department shall work together in a professional and caring way to protect life and property from the adverse effects of fire, trauma, illness and dangerous conditions. Our services will be provided in a fair, honest, and ethical manner with the highest respect and dignity to all.

Review and approval by the Authority Having Jurisdiction shall not relieve the applicant of the responsibility of compliance with these codes.

Respectfully submitted,

David C. McNally
Fire Marshal
Van Buren Fire Department

MEMORANDUM

To: Van Buren Township Planning Commission

From: Patrick Sloan, AICP

Subject: Proposed Amendments to Planned Residential Development (PRD) Regulations

Date: February 5, 2016

We are continuing to make progress on the comprehensive updates to the Zoning Ordinance, and we expect to have the draft completed in the next 2-3 months. At this time, however, we would like to share with you the amendments proposed to the Planned Residential Development (PRD) regulations. Since the current PRD regulations were adopted in 1999, the Township has approved several PRDs, most notably Cobblestone Ridge, Cobblestone Creek, and Country Walk. The purpose of the PRD regulations is to encourage superior design, natural features preservation, and innovative land use planning by allowing higher densities and flexible design standards.

The outcomes of PRD's have been mixed. While the PRD regulations have led to some high quality developments that would not have been possible under conventional zoning standards, some of the PRD agreements have been difficult to enforce when a developer goes bankrupt or when a new developer takes over the project. Also, while the maximum allowable density bonus of 30% is quantifiable, the factors for granting density bonuses (e.g., innovative design and substantial community benefits) have not been quantified.

In our Zoning Ordinance Technical Review (dated October 17, 2014), we noted several problems with the PRD regulations based on the Township's experiences with them and our experiences with similar regulations in other communities. Furthermore, when we met with the Planning Commission's Zoning Ordinance subcommittee on June 4, 2015, additional insights were given by the subcommittee. While there are several amendments proposed to the PRD regulations (enclosed), the major amendments can be summarized by the following nine (9) items:

- 1. Minimum Site Area (proposed Section 6.404(C)).** Currently, the minimum site area for a PRD is 15 acres, which is often too small for a large-scale development envisioned by the current PRD standards. We recommend increasing the minimum site area to 40 acres to encourage larger projects that have a better chance of preserving natural features and providing substantial benefits to the community. However, we recommend allowing an applicant to obtain a waiver from the 40-acre requirement from the Planning Commission and Township Board based on the unique characteristics of the site and the project.
- 2. Public Services (proposed Section 6.404(D)).** Currently, the Zoning Ordinance requires all public services (utilities, roads, etc.) to be provided before the PRD is completed. During the severe recession in the late 2000's, many communities were left with partially-completed developments where several homes were already built but the public services were not all installed. In many cases, the developer had gone bankrupt and the bonds ensuring the installation of public services had

expired. To address this problem, we recommend that all services be installed by the time 30% of the homes are completed or on a timeline specified in the PRD Agreement. It is also worth noting that the Township now requires cash, certified check, letter of credit, or similar financial instrument (excluding bonds) that allows immediate access to cash if the Township is required to complete a development. Therefore, the PRD Agreement will be supported by a better performance guarantee.

3. **Master Plan Compliance (proposed Section 6.404(E)).** The current PRD regulations permit a deviation from the Master Plan if such a deviation is justified based on the current planning and development objectives of the Township. However, as deviations are granted over time, the effectiveness of the Master Plan could be diminished. Therefore, when deviations from the Master Plan are granted, we recommend that the Planning Commission consider initiating amendments to the Master Plan where necessary so that the Master Plan remains defensible.
4. **Attached Single-Family Residences (proposed Section 6.05(B)(2)).** Although attached single-family residences are currently permitted in PRD's, we recommend adding additional standards to ensure that the attached units are of high quality and that PRD's do not become predominantly attached single-family residential. Therefore, we recommend lowering the maximum number of attached single-family units from 40% to 30%, requiring attached garages, prohibiting carports and stacked flats, and requiring at least 50% of the exterior wall areas to be brick or stone.
5. **Density (Parallel Plan) (proposed Section 6.406(A)).** Currently, the permitted density of a PRD is based on a mathematical formula, with lot area deductions for sensitive areas, road rights-of-way, and other infrastructure. This type of mathematical formula often does not address additional on-site factors that can reduce density, such as unique lot shapes, locations of sensitive features, and storm water pond sizes and locations. Therefore, we recommend requiring a parallel plan at the beginning of the process that will show *how* the site can be developed under conventional zoning standards (i.e., viable building envelopes, roads, storm water detention/retention, etc.). The process of reviewing a parallel plan will allow the Township to determine a realistic number of allowable units for a site based on the existing site factors. This process will, in turn, impact the number of units permitted by density bonuses.
6. **Density (Increases) (proposed Section 6.406(B)).** The existing PRD regulations permit a maximum density increase of 30% without measurable criteria for how many additional units may be approved based on the design characteristics presented. The absence of measurable criteria has led to applicants proposing a 30% density increase without giving attention to the required improvements (e.g., site design, natural features preservation, and community benefits). While we recommend keeping the maximum density bonus at 30%, we recommend adopting measurable performance standards that allow a 5% density bonus for achieving each of the following six (6) factors:
 - (1) Additional open space (50% site minimum);
 - (2) Creation of new woodlands (3,000 sq. ft. per additional unit);
 - (3) Open space amenities (e.g., paved trails, playgrounds, clubhouses, swimming pools, etc.);
 - (4) Additional landscape buffering along adjacent roads (at least twice as much frontage landscaping as required in the general landscaping standards of the Zoning Ordinance);
 - (5) Superior building architecture (at least 80% of all façades must be brick or stone, and all of the first story of the building must be brick or stone).

(6) Other unique features (e.g., preservation of historic buildings, landmark trees, waterways and wetlands, etc.).

7. **Setbacks (proposed Section 6.407(B)).** The current PRD setback standards are the same for both attached and detached single-family residences. Because PRD's are required to be predominantly detached single-family residential, we recommend requiring larger setbacks between attached units and the road frontage. This will encourage the frontage appearance of the development to include more single-family residences. At the same time, we recommend decreasing the front yard setbacks of attached units to 25 feet from the internal roads, which will make them more pedestrian-friendly.
8. **Quality of Open Space (proposed Section 6.408(D)(2)).** Currently, not more than 50% of the required open space in a PRD may include water bodies or regulated wetlands. These limits do not include storm water detention or retention, which often results in much of the remaining open space being occupied by storm water ponds. This undermines the intent of having quality open space in a PRD. We recommend including storm water detention or retention areas in the allowable 50% open space area that may also include water bodies and regulated wetlands. This will lead to much more upland open space that is usable or woodlands.
9. **Access (proposed Section 6.409).** Although PRD's are currently required to have frontage onto a paved road, the current regulations do not specify at what point during the development the frontage roads must be paved if the PRD fronts onto a gravel road. This can lead to a development being nearly completed without a performance guarantee to effect the required paving of the frontage road. Therefore, we recommend adding requirements that all of the paving must be completed and approved prior to the issuance of building permits for 80% of the dwelling units in the PRD. Also, as previously stated, we recommend referencing the performance guarantee standards of the Zoning Ordinance, which require cash, certified check, letter of credit, or other financial instrument that allows immediate access to cash if the Township is required to complete the paving.

Finally, we recommend requiring all PRD's to make street connections to adjacent residential developments where there is an easement or right-of-way for a connecting street or where there is a reasonable expectation that such streets will be extended to a suitable outlet when the adjacent property is developed. This requirement will have the long-term effect of alleviating off-site traffic congestion on adjacent major roads by giving drivers options for efficiently entering and exiting the development.

In summary, the PRD regulations can be a great tool for preserving natural features, creating usable open space, and encouraging high quality site and building design. However, there have been negative perceptions of PRD's based the Township's experiences with developers that have abandoned projects, insufficient performance guarantees to finish a project, and site and building designs that are not of the high quality envisioned at the time of site plan approval. Based on these experiences, we recommend strengthening the PRD regulations to require better performance guarantees and ensure higher quality site and building design that is more measurable. The proposed regulations will also lead to a more predictable development and review process for both the applicants and the Township.

We look forward to reviewing the proposed PRD amendments with you and receiving your feedback.

Chapter 4 Planned Residential Developments (currently 7.04)

Section 6.401 Intent

It is the intent of this Section to permit planned residential developments (PRD's) that achieve the following objectives:

- (A) Encourages the use of land in accordance with its character and adaptability;
- (B) Conserves natural resources, natural features, and energy;
- (C) Encourages innovation in land use planning;
- (D) Provides enhanced housing, employment, shopping, traffic circulation, and recreational opportunities for the people of the Township;
- (E) Ensures compatibility of design and use between neighboring properties;
- (F) Encourages development that is consistent with the Master Plan; and
- (G) Promotes rural open space development that preserves the Township's rural character and encourages the preservation of agricultural lands.

The provisions of this Section are not intended as device for ignoring this Zoning Ordinance and the specific standards set forth therein, or the planning upon which it has been based. To that end, the provisions of this Section are intended to result in land development substantially consistent with the zoning standards generally applied to the proposed uses, allowing for modifications and departures from generally applicable standards in accordance with guidelines in this Section to ensure appropriate, fair and consistent decision making.

Section 6.402 Additional Considerations

In addition to other requirements for review of a PRD, the Planning Commission and Township Board of Trustees shall take into account the following considerations, which may be relevant to a particular project: perimeter setbacks and berming; thoroughfare, drainage and utility design; underground installation of utilities; the extent to which sidewalks, trails, open space, playground and other areas used by pedestrians are insulated from roads, drives and parking areas used by vehicles; achievement of an integrated development with respect to signage, lighting landscaping and building materials and noise reduction and visual screening.

Section 6.403 Modifications

- (A) Modifications Permitted. The Township Board of Trustees may, upon recommendations from the Planning Commission, permit modifications to the following requirements, subject to any specific limitations for any specific requirements also enumerated herein, and upon finding that the modification will result in a substantial benefit to the users and community as whole:

Moved (insertion) [1]

Commented [PS89]: Relocated from later in this Chapter, with no text changes. This section has broad application and belongs earlier in the Chapter.

Commented [PS90]: This subsection includes much of the same text, but it is reformatted to read more clearly and the permitted modifications are numbered clearly state which requirements are eligible for modification.

**Article 6: Supplemental Zoning District Standards
Chapter 4: Planned Residential Developments**

- (1) PRD Site Area (Section 6.404(C)).
- (2) Density (Section 6.406).
- (3) Building Setbacks (Section 6.407(B)).
- (4) Lot Area and Width (Section 6.407(D)).

(B) Modification Criteria. A PRD application shall clarify and highlight all requested modifications to any of the PRD requirements enumerated herein. In its consideration of any modification to any of the requirements in Section 6.403(A), the Planning Commission and Township Board of Trustees shall consider whether other requirements would be more appropriate because of the topography, existing trees and/or other vegetation, proposed grading and/or landscaping, and/or existing or proposed site features. In making this determination, the Township Board of Trustees and the Planning Commission shall give due consideration to the following:

- (1) **Innovative Design.** The modification shall provide for extraordinary design excellence including but not limited to energy efficient or other innovative design, open space above and beyond the minimum and additional amounts required, additional improvements to assure vehicular and pedestrian safety, and/or additional landscaping or other site features to assure a long-term aesthetically pleasing appearance.
- (2) **Public Services.** The modification shall provide for the inclusion of certain public services including but not limited to sanitary sewers and/or a public water supply, to enhance the long-term viability of the PRD and to allow for more efficient use of land.
- (3) **Community Character.** The modification shall provide for land and/or facilities that contribute to and/or enhance community character examples of such land and facilities include but are not limited to parks, schools, community centers and civic buildings.
- (4) **Compatibility.** The modifications shall provide for an arrangement of uses and density that enhance the compatibility of the PRD with existing or planned uses on adjacent land.

Deleted: The Township Board of Trustees may, upon recommendations from the Planning Commission, permit modifications to any of the PRD requirements enumerated herein, subject to any specific limitations for any specific requirements also enumerated herein, and upon finding that the modification will result in a substantial benefit to the users and community as whole.

Commented [PS91]: This was relocated from a subsection in Section 6.406 because the relocated text includes general criteria for all modifications.

Deleted: Innovation

Deleted: Innovation

Deleted: which

Deleted: s

Section 6.404 Eligibility

To be eligible for consideration for PRD approval, the applicant must demonstrate that the following criteria will be met:

- (A) **Concept.** The overall design and all uses proposed in connection with a PRD shall be consistent with and promote the intent of PRD under this Chapter, as well with specific PRD design standards set forth herein.
- (B) **Recognizable and Substantial Benefit.** A PRD shall result in a recognizable and substantial benefit to ultimate users of the PRD and the community and shall result in a higher quality of development than could be achieved under conventional zoning.
- (C) **Size.** A PRD shall include at least forty (40) acres of contiguous land. However, the Township Board, upon recommendation from the Planning Commission, may permit a PRD on a smaller

Deleted: the

Deleted: concept

Commented [PS92]: We recommend a larger development area size to encourage larger projects. However, we also recommend lowering the size of the development based on certain standards.

Deleted: fifteen (15)

Article 6: Supplemental Zoning District Standards

Chapter 4: Planned Residential Developments

site if the subject site has unique characteristics and benefits that significantly impact development, such as unusual topography, tree stands, wetlands, poor soil conditions on portions of the parcel, water courses, unusual shape or proportions or utility easements crossing it, or other significant characteristics and benefits.

Deleted: Any modification to this requirement shall consider whether

For a PRD of smaller than forty (40) acres to be permitted, the applicant shall submit a letter to the Township requesting a waiver of the minimum PRD size requirements. The request shall be submitted prior to submittal of a site plan and application for PRD approval, and must document the unique characteristics that the applicant believes necessitate a PRD on less than 40 acres. The Planning Commission shall review the request and make a recommendation to the Township Board. The Township Board shall make the final decision concerning a request to waive the PRD size requirements.

- (D) Public Services.** A PRD shall not exceed the capacity of existing available public services, including but not limited to utilities, roads, police and fire protection services, and educational services, unless the PRD contains an acceptable phasing plan and timeline for providing necessary services or evidence that such services will be available by the time thirty percent (30%) of the homes in the PRD is completed or on a timeline specified in the PRD Agreement. Phasing shall be done in accordance with Section 6.420

Commented [PS93]: We recommend that public services be completed at a specific time period, with an alternative time period permitted in the PRD Agreement. This will require a deadline for public improvements.

- (E) Master Plan.** A PRD shall not conflict with the Master Plan. Any modification to this requirement shall consider whether inclusion of uses and densities which are not called for in the Master Plan and/or deviation from the Future Land Use Map are justified in light of the current planning and development objectives of the Township.

Deleted: s

If the Planning Commission determines that a deviation from this requirement is warranted, upon approval of the associated PRD, the Planning Commission shall consider initiating action where necessary to amend the Master Plan so that the Future Land Use Map designation is consistent with the approved PRD.

- (F) Economic Impact.** A PRD shall not result in an unreasonably negative impact upon surrounding properties.

- (G) Preservation of Natural Features.** The PRD shall preserve distinctive natural features on the site to the maximum extent feasible, such as, but not limited to: woodlands, wetlands, rolling topography, natural drainage courses, etc. The PRD shall comply with the Woodland and Tree Preservation provisions of Section 8.106.

- (H) Unified Control.** The PRD shall be under single ownership or control, pursuant to the requirements of Section 6.417.

Section 6.405 Districts and Uses

A PRD shall comply with the following standards:

- (A) Districts.** A PRD may be approved as a special use in any AG, R-1A, R-2A, R-1B or R-1C District, subject to the requirements of this Ordinance for special land use approval (Article 12, Chapter 3) and the additional review and approval requirements as provided for herein.

Deleted: , AG-A

Article 6: Supplemental Zoning District Standards
Chapter 4: Planned Residential Developments

(B) Uses. Uses permitted in a PRD shall include the following:

- (1) All permitted and special approval uses in the underlying District, with special approval uses in the underlying District being special approval uses in the PRD, unless otherwise provided for herein, and with minimum floor area in a PRD not less than, and maximum height in a PRD not greater than, the minimum floor area and maximum height, respectively, in the underlying District.
- (2) Attached single family dwelling units, subject to the requirements of Section 5.116 and the following. Where there is a discrepancy between the requirements of Section 5.116 and the following, the following requirements shall prevail in a PRD:
 - (a) Attached units shall abut common open space in a PRD.
 - (b) Attachment of units in a PRD shall be by means of either a common party wall which does not have over sixty percent (60%) of its surface area in common with an abutting unit wall, or an architectural wall detail which does to form interior room space, or common part wall in only the garage portion of an abutting unit.
 - (c) Not more than four (4) units may be attached in any one (1) building in a PRD in the manner outlined above.
 - (d) Not more than thirty percent (30%) of the total number of units in a PRD may be attached.
 - (e) All attached units shall have an attached garage with an area sufficient to enclose at least one (1) standard private passenger car.
 - (f) No detached accessory buildings or carports are permitted for the attached single-family dwelling units.
 - (g) No part of an attached single-family dwelling unit shall be located above or below another attached single-family dwelling unit.
 - (h) A minimum of fifty percent (50%) of the each exterior wall of an attached single-family dwelling unit building shall be faced with brick or stone. For the purposes of calculating total wall area, the wall area includes the entire vertical surface of all exterior walls, including the flat area of a gable end, but excluding windows, doors, related trim, and fascia.

Deleted: The Township Board of Trustees may, upon recommendation from the Planning Commission, permit a

Deleted: , including quadruplexes, with detached accessory structures not permitted as accessory to clusters of attached units

Deleted: for modifications enumerated herein, and subject to the following requirements

Deleted: forty

Deleted: 40

Section 6.406 Density

A PRD shall comply with the following standards:

- (A) Parallel Plan. The number of dwelling units permitted in a PRD shall be based on a parallel plan prepared by the applicant. The parallel plan shall be consistent with State, County, and Township requirements for a tentative preliminary plat, shall meet the requirements of the underlying zoning district for lot area, lot width, setbacks, public roads, and shall provide an area that conceptually would provide sufficient area for storm water detention. Lots in the

Commented [PS94]: Many communities require a parallel plan, and they are a very useful tool in determining how many units can reasonably be approved under conventional zoning based on the existing site restrictions.

Article 6: Supplemental Zoning District Standards
Chapter 4: Planned Residential Developments

parallel plan shall provide sufficient building envelope area to permit the construction of a conforming house without impacting the area of any regulated wetland. The parallel plan must demonstrate a realistic and reasonable development plan based on regulated environmental constraints, availability of utility and other necessary public infrastructure.

During preliminary site plan review of the PRD, the Planning Commission shall review the parallel plan and determine the number of units that could feasibly be constructed on the site following conventional design standards. This number shall be the number of dwelling units permitted in the PRD (before any discretionary density bonuses are applied),

(B) Density Increase. The Township Board of Trustees may, upon recommendation from the Planning Commission, permit an increase of up to thirty percent (30%) in the overall number of residential units calculated on the parallel plan in Section 6.406(A). To determine whether a PRD is eligible for any increase in density and how much additional density may be granted by the Township, a five percent (5%) density increase may be authorized for each of the following six (6) superior design standards that are achieved, based upon the discretion of the Planning Commission and Township Board of Trustees:

- (1) Additional Open Space.** That a minimum of fifty percent (50%) of the gross area of a PRD be set aside for common open space, which shall be subject to all of the other open space requirements of Section 6.408.
- (2) Creation of New Woodlands.** In addition to the woodland and tree preservation requirements of Section 8.106 and other landscaping requirements of this Ordinance, three thousand (3,000) square feet of new woodland area shall be created in the required open space for every additional unit permitted in excess of the number of units calculated on the parallel plan in Section 6.406(A). The new woodland areas should be contiguous to preserved woodland areas, if any. Trees in the woodland shall have a caliper of at least 1.5 inches, be planted at a rate of not less than 1 tree per 20 feet in any direction, and be of a species compliant with Section 8.106 and Article 10.
- (3) Open Space Amenities.** That the required open space be improved with amenities that will benefit the residents of the PRD such as paved trails through the required open space (dirt and woodchip trails are not acceptable), playgrounds, clubhouses, swimming pools, tennis courts, etc.
- (4) Additional Landscape Buffering Along Adjacent Roads.** That the 200-foot perimeter area of the PRD along adjacent roads (required in Section 6.407(B)) include twice as much frontage landscaping as required by Article 10 or as follows, whichever is greater: A minimum of one (1) deciduous or evergreen tree shall be planted for each twenty (20) linear feet or portion thereof of road frontage, PLUS, a minimum of one (1) ornamental tree shall be planted for each fifty (50) linear feet or portion thereof of road frontage, PLUS, a minimum of eight (8) shrubs shall be planted for each twenty (20) linear feet or portion thereof of road frontage. For the purposes of computing length of road frontage, openings for driveways and sidewalks shall not be counted. Trees and shrubs may be planted at uniform intervals, at random, or in groupings.

Deleted: Overall Density. The overall density of residential uses within a PRD shall not exceed the lesser of the density achievable in the underlying district or the density that is recommended by the Master Plan (or the average density that recommended by the Master Plan, if the Master Plan recommends a density range), except as specifically provided for herein. The density achievable in the underlying district shall be calculated by dividing the net buildable areas as defined below by the minimum lot area required in the underlying district and the density that is recommended by the Master Plan shall be calculated by multiplying the net buildable area by the density that is recommended by the Master Plan.

Deleted: ¶
 <#>Net Buildable Area. In determining the density achievable in the underlying district, only the net buildable area of the site shall be considered. The net buildable shall be calculated as follows:¶

¶ <#>Environmental features area equals the area encumbered by water, regulated wetlands, steep slopes or other existing proposed features that would prevent construction of a building or using for residential purposes, as determined by the Township Board of Trustees, upon recommendation from the Planning Commission.¶

¶ <#>Modified gross area equals gross area minus sixty-five percent (65%) of environmental features area.¶

¶ <#>Net buildable area equals eighty percent (80%) of modified gross area, to account for necessary road rights-of-way and easements.¶

¶ <#>The area of any land to be dedicated as additional right-of-way to existing roadways surrounding a PRD shall be credited to the buildable areas after calculation.¶

Commented [PS95]: Currently there are no criteria regarding how many additional units to approve based on the design characteristics presented. The proposed text keeps the maximum increase of 30% the same, but includes more tangible design criteria. Although the maximum increase and design criteria can be adjusted, it is important to include criteria that give predictability to the applicant and the Township.

Deleted: density

Deleted: uses

Deleted: within a PRD

Deleted: , subject to the requirements for modifications enumerated herein.

**Article 6: Supplemental Zoning District Standards
Chapter 4: Planned Residential Developments**

- (5) Superior Building Architecture. In addition to the building wall standards of Section 5.115(B)(7), eighty percent (80%) of the front facade wall (excluding windows, doors, and related trim) shall be faced with brick or stone, and all other exterior walls shall be faced with brick or stone from the finished grade to the top of the first story wall (i.e., excluding gables and other walls above the top of the first story wall).
- (6) Other Unique Features. Preservation of other unique features that benefit community character such as buildings of historic significance, landmark trees (defined in Section 8.106), waterways and wetlands, and/or other similar unique features.

Section 6.407 Design

A PRD shall comply with the following standards:

- (A) **Building Location.** Where feasible, buildings in a PRD shall comply with the following building location requirements:
- (1) Buildings in a PRD shall be located on the edges of fields and in wooded areas, to minimize the visual impact of development. Buildings should not be located in open fields.
 - (2) Buildings in a PRD shall not be located on the tops of ridge lines or in areas with slopes that exceed thirty-five (35) percent.
 - (3) Buildings in a PRD shall not be located in wetlands or flood plains.
 - (4) Any modification to these requirements shall consider whether other building locations are more appropriate because of topography, existing trees or vegetation, proposed grading or landscaping or other existing or proposed site conditions.
- (B) **Building Setbacks.** Buildings in a PRD shall comply with the following building setback requirements:
- (1) The following table lists several building setback requirements for buildings in a PRD:

	Minimum Setback (Feet)	
	Detached Unit	Attached Unit
Along perimeter, adjacent to a major thoroughfare	200	300
Along perimeter, adjacent to another public road	200	300
Along perimeter, but not adjacent to a road	50	300
Along an internal public road	35	25
Along an internal private road	25	25
Along waterfront, adjacent to lakes, ponds, rivers, regulated wetlands, streams, drains and storm water management basins and easements	75	75

Commented [PS96]: We recommend having a 200-foot viewshed along each abutting road.

Deleted: 100

- (2) Docks, bulkheads, patios, terraces, decks and pathways in a PRD may be permitted in the waterfront setback, noted above provided, however, the Township Board of Trustees,

Article 6: Supplemental Zoning District Standards

Chapter 4: Planned Residential Developments

upon recommendation from the Planning Commission, finds such placement of structures to be necessary and appropriate, as well as complementary to the character of the PRD.

(3) Notwithstanding Section 6.407(B)(1) and Section 6.407(B)(2) above, the minimum side and rear yards for all buildings in a PRD shall be the same as in the zoning district in which the PRD is located. The Township Board, upon recommendation from the Planning Commission, may modify the minimum side and rear yard setback requirements based on sound planning and design principles, taking into account the degree of compatibility between adjoining uses, sensitivity to the characteristics of the site, the need for free access for emergency vehicles, the need for adequate amounts of light and air between buildings and the need for proper amounts of open space for the exclusive use of residents of the PRD. However, the minimum building separation requirements of Section 6.407(C) may not be modified.

(C) **Building Separation.** Buildings in a PRD shall comply with the following building separation requirements:

- (1) Any detached single-family principal or accessory structure in a PRD shall be located at least five (5) feet from any side lot line and at least twenty (20) feet from any other detached single-family principal or accessory structure.
- (2) Any building in a PRD containing more than one (1) dwelling unit (i.e., apartments, townhouses, attached dwellings) shall be located at least ten (10) feet from any side lot line and at least twenty (20) feet from any other similar structure, as well as at least thirty (30) feet from any detached single-family principal or accessory structure.

(D) **Lot Size and Width Requirements.** The Township Board of Trustees may, upon recommendation from the Planning Commission, permit a reduction in minimum lot size and lot width for single-family detached residential dwelling units in a PRD below that which is permitted in the underlying district, subject to the requirements for modifications enumerated herein.

Section 6.408 Open Space Requirements

A PRD shall provide and maintain common open space, accessible to all residents of the PRD, subject to the following requirements:

- (A) **Minimum Required.** A minimum of thirty percent (30%) of the gross area of a PRD shall be set aside for common open space, regardless of whether or not the PRD includes a request for a density increases and/or a lot size reduction.
- (B) **Location.** Open spaces in a PRD shall meet one (1) or more of the following objectives:
 - (1) Preservation of distinctive natural features and rural characteristics.
 - (2) Preservation of land devoted to agricultural use.
 - (3) Minimization of impact from development on wetlands, rivers and other environmentally sensitive areas.

Deleted: ¶

<#>Any modifications to these setback requirements shall consider whether other setbacks would be more appropriate because of the topography, existing trees and/or other vegetation, proposed grading and/or landscaping, and/or existing or proposed site features. ¶

Commented [PS97]: The term "useable" is difficult to define, but the allowable uses and accessibility of the open space are addressed in this section.

Deleted: useable

Article 6: Supplemental Zoning District Standards
Chapter 4: Planned Residential Developments

- (4) Maintenance of rural open space character along major thoroughfares.
- (C) **Limitation.** Not more than fifty percent (50%) of required open space in a PRD shall be used for active recreation facilities such as swimming pools and tennis courts, etc. Not more than seventy-five percent (75%) of required open space in a PRD shall be used for golf courses, provided remaining open space accommodates walking or similar passive leisure pursuits.
- (D) **Exception.** Any pervious land area that is available for the common use of all residents of a PRD may be included as part of required open space, except as follows:
- (1) Required open space in a PRD shall not include the area of any public or private road, the area of any easement providing access to the PRD, or the area of any required setbacks except for rural view shed areas.
 - (2) Not more than fifty percent (50%) of required open space in a PRD shall include the area of water bodies, regulated wetlands, or storm water retention and detention.
 - (3) Up to one hundred percent (100%) of required open space in a PRD may include preserved natural areas provided, however, that those areas accommodate walking or similar passive leisure pursuits.
- (E) **Irrevocability.** Required open space in a PRD shall be set aside by the developer through an irrevocable conveyance, such as deed restrictions or covenants that run with the land or through a conservation easement, whereby all rights to develop the land are conveyed to a land conservation organization or other public body, assuring that the open space will be developed according to the plan for the PRD. Such conveyance shall include the following:
- (1) Indication of proposed use(s) of the required open space in a PRD.
 - (2) Indication of how all leisure and recreation needs of the population residing in or using a PRD will be accommodated.
 - (3) Provision for privately-owned open space in a PRD to be maintained by property owners with an interest in the open space.
 - (4) Provision of maintenance standards and maintenance schedule.
 - (5) Provision of notice of possible Township assessment to property owners in a PRD for the cost of maintenance of open space in the event that it is inadequately maintained and/or becomes a public nuisance or in the event the other facilities are not maintained.
 - (6) Recordation with County Register of Deeds to provide notice of restrictions to all persons having interest in property contained in the PRD.
- (F) **Redevelopment.** Notwithstanding the requirements cited above, required open space may be redeveloped for another purpose, subject to the following conditions:

Deleted: or

Article 6: Supplemental Zoning District Standards

Chapter 4: Planned Residential Developments

- (1) Redevelopment of required open space in a PRD shall require review and approval in accordance with the procedures by which the original plan for the PRD was approved.
- (2) Redevelopment of open space in a PRD shall not be permitted for the first twenty-five (25) years after the date of the initial final PRD approval. Commencing on the twenty-fifth (25th) anniversary of the initial final PRD approval and at every subsequent twenty-five year interval thereafter, there shall be a one (1) year period during which proposals to redevelop the required open space may be submitted for review and action by the Township. Proposals to redevelop required open space may not be submitted at any other time except during these one (1) year periods.
- (3) In the event that a proposal to redevelop required open space in a PRD is properly submitted during an appropriate one (1) year period, the Township shall proceed with review and shall take action on the proposal even if the review process extends beyond the one (1) year period.
- (4) Proposals to redevelop required open space in a PRD shall require written consent of persons holding not less than ninety (90) percent of all ownership interest in the conveyed lots contained in the PRD at the time the proposal is submitted or such other higher percentage as may be otherwise required by law. Voting rights on such a proposal shall be based on the proportion of the total area of all conveyed lot owned.
- (5) These provisions for redevelopment of required open space in a PRD may be included in the conveyance previously described.

Section 6.409 Frontages and Access

A PRD shall provide for frontage and access in accordance with the following requirements:

- (A) **Paved Access.** All roads from which a PRD takes access shall be paved along the entire length of the PRD site, and all means of access to the PRD shall be via roads which provide continuous paved connections between the PRD and the nearest major thoroughfares. If such roads are not paved, a performance guarantee pursuant to Section 6.109 and Section 12.210 shall be required and the PRD Agreement shall provide for such roads to be paved and improved as otherwise required in conjunction with the site development of the PRD. All of the required paving must be completed by the developer and approved by all applicable permitting agencies prior to the issuance of building permits for eighty percent (80%) of the dwelling units in the PRD.
- (B) **Drive Separation.** No entrance or exit drive to a PRD shall be closer than four hundred (400) feet to any road intersection, as measured between the center line of the entrance or exit drive to the PRD and the center line of the road intersection.
- (C) **Lot Access.** Each residential lot in a PRD shall have frontage on and each residential dwelling unit shall have direct access to, an approved public road or an approved private road that has been designed to the same standards as would be required for an approved public road.
- (D) **Limitation.** Individual residential dwelling units in a PRD shall not have direct access onto a major thoroughfare, collector road or state truck line.

Commented [PS98]: We recommend specifying which roads must be paved and by what time they must be paved. This will allow the applicant to construct most of the units before paving while eliminating the need to negotiate the time at which the paving must be complete.

Deleted:

Deleted: front onto a

Deleted: road

Deleted: all

Article 6: Supplemental Zoning District Standards
Chapter 4: Planned Residential Developments

- (E) ~~Through Traffic.~~ A PRD should be designed so that through traffic is discouraged from traveling on residential streets. ~~However, street connections to adjacent residential developments are required where the adjacent development has located an easement or right-of-way for a connecting street. Furthermore, the PRD shall provide for future connections to adjacent undeveloped land where the Township Planning Commission and Board of Trustees is of the opinion that there is a reasonable expectation that such streets will be extended to a suitable outlet when the adjacent property is developed.~~

Commented [PS99]: Connections to other residential developments lead to more traffic efficiency in the long run by giving residents more choices for entering and exiting the development based on convenience and traffic flow.

Section 6.410 Roads and Driveways

Site disruption caused by road and driveway construction and associated grading required for construction in a PRD shall be minimized. Accordingly, as feasible, the PRD shall comply with the following standards:

- (A) **Existing Contours.** Roads in a PRD shall follow existing contours, to minimize cut and fill.
- (B) **Linear Features.** Where a PRD includes linear features such as existing access roads, tree lines or stone rows, roads shall follow those features, to minimize visual impact.
- (C) **Open Fields.** Roads in a PRD shall not be located in open fields, to preserve rural open space character, except where the crossing of an open field is necessary to comply with some other standards enumerated herein.
- (D) ~~Shared Driveways.~~ Use of ~~shared~~ driveways to serve up to four (4) units in a PRD shall be permitted, to minimize the amount of paving and reduce the number of curb cuts onto public roads.

Deleted: Common

Deleted: common

Section 6.411 Traffic Impact

A PRD shall be designed to minimize its traffic impact on surrounding uses. In determining whether the PRD has met this requirement, due consideration shall be given to access to major thoroughfares, resulting increases in traffic congestion, proximity and relation to intersections, adequacy of driver sight distances, location of and access to off-street parking, required vehicular turning movements and proposals to alleviate traffic congestion, traffic safety concerns and other traffic impacts. ~~The Planning Commission or Township Board may require a traffic impact study to be submitted.~~

Commented [PS100]: The Planning Commission and Township Board should always reserve the right to require a traffic impact study.

Section 6.412 Pedestrian Circulation

A PRD shall provide pedestrian access and circulation in one (1) of the following configurations, or a combination thereof as determined to be appropriate by the Township Board of Trustees, upon recommendation from the Planning Commission.

- (A) **Sidewalks.** Sidewalks shall be provided along all perimeter roads surrounding and along both sides of all roads in a PRD.
- (B) **Other.** Paths or other means of pedestrian circulation shall be provided in a PRD, capable of achieving at least the same amount and linear footage of pedestrian circulation that would have been provided by sidewalks.

Article 6: Supplemental Zoning District Standards
Chapter 4: Planned Residential Developments

Section 6.413 Utilities

All utility lines in a PRD shall be installed underground in accordance with all requirements of applicable service providers.

Section 6.414 Natural Features

A PRD shall be designed to promote preservation of natural resources and natural features. If natural animal or plant habitat of significant value exist in the PRD, the Township Board of Trustees may, upon recommendation from the Planning Commission, require the PRD to preserve the areas in a natural state and protect them as open space or passive recreation areas.

Section 6.415 Landscaping and Lawns

In addition to the landscaping requirements of Article 10, the PRD shall comply with the following standards regarding landscaping and lawns:

Deleted: r

- (A) **Existing Vegetation.** Existing trees and other vegetation in a PRD shall be preserved where disturbance is not necessary outside building envelopes.
- (B) **Lawn Areas.** The creation of lawn areas in excess of ten thousand (10,000) square feet on individual lots shall be prohibited in a PRD, unless a larger lawn area is required to satisfy septic system requirements. Lawn areas shall be included in site disturbance. Instances where a lot includes open field areas, these areas may be seeded without being included in the lawn area or the site disturbance calculation.
- (C) **Clear Sites.** Where no natural features exist on a particular site, a PRD shall include measures to establish such features including but not limited to treed areas and wildlife cover.
- (D) **Native Species.** Where landscaping is proposed in a PRD, native species shall be used.

Section 6.416 Existing Structures

A PRD shall comply with the following standards regarding existing structures:

- (A) **Preservation.** If a PRD contains existing structures deemed by the Township to be historic, cultural or architectural significance (such as farm structures) and where those structures are deemed by the Township to be suitable for rehabilitation, those structures shall be retained, preserved and included in the PRD.
- (B) **Rehabilitation.** Adaptive reuse of existing structures for residential use or permitted accessory residential uses shall be permitted in a PRD.

Section 6.417 Control and Reserves

A PRD shall be under single ownership or control, such that there is a single person or entity having responsibility and financial capability for completing the PRD or assuring completion of the project in conformity with this Ordinance. The applicant shall provide legal documents of single ownership or control in the form of agreements, contracts, covenants and/or deed restrictions which indicate that the PRD can be completed as proposed and that cumulative financial reserves have been secured and designated for that purpose and further that all portions of the PRD that are not to be maintained or operated at public expense will continue to be operated and maintained by the developers or their

Article 6: Supplemental Zoning District Standards
Chapter 4: Planned Residential Developments

successors. These legal documents shall bind all successors in title to any commitments made as a part of the documents. The provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is given to the Township Clerk.

Section 6.418 Applicable Regulations

A PRD shall comply with all applicable Federal, State and local laws and regulations, including but not limited to general provision, special use requirements and site plan review requirements, as well as subdivision and/or condominium requirements, where applicable.

Section 6.419 Approval Procedures.

In addition to meeting the requirements and standards listed in this Article 6, Chapter 4 approval of a PRD application shall proceed in the same manner as other special use applications, including a recommendation by the Planning Commission and approval by the Township Board of Trustees pursuant to Article 12, Chapter 3. Action on a PRD shall include but not be limited to determination of eligibility, approval of preliminary plan and modifications and approval of final plan and modifications. The final approval, including all associated conditions and modifications, shall be documented, in a PRD Agreement in a form acceptable to the Township attorney, between the Township Board of Trustees and the applicant. The PRD Agreement shall be executed at the time of final PRD approval by the Township Board of Trustees.

Moved up [1]: 1

<#>Additional Considerations</#>

In addition to other requirements for review of a PRD, the Planning Commission and Township Board of Trustees shall take into account the following considerations, which may be relevant to a particular project: perimeter setbacks and berming; thoroughfare, drainage and utility design; underground installation of utilities; the extent of which sidewalks, trails, open space, playground and other areas used by pedestrians are insulated from roads, drives and parking areas used by vehicles; achievement of an integrated development with respect to signage, lighting landscaping and building material and noise reduction and visual screening.</p></div>

Section 6.420 Phasing

When a PRD is to be constructed in phases, it shall be designed so that each phase, when completed, is capable of standing on its own in terms of the presence of services, facilities and open space and contains the necessary components to ensure protection of natural resources and the health, safety and welfare of the users of the PRD and the residents of the surrounding areas. In addition, proposed phasing shall comply with the following requirements:

- (A) **Commencement.** Construction of a PRD, or improvements therein, may commence at any time following final PRD approval, but also not prior to any related and required engineering, condominium and/or subdivision approval, provided that construction shall be commenced for each phase of the PRD within twenty-four (24) months of the schedule set forth on the approved plan for the PRD. Improvements to infrastructure including but limited to paving of roads and installation of lights, signs and other traffic improvements, as well as installation of utilities and drainage improvements, etc., shall be completed prior to commencement of building construction in a PRD. Mitigation of other issues and impacts shall require a plan delineating funding and timing, etc., of installation of any required improvements.
- (B) **Revised Phasing Plan.** The applicant may, however, submit a revised phasing plan for review and approval by the Township Board of Trustees, upon recommendation from the Planning Commission. The applicant shall also submit a statement indicating the conditions which made the previous phasing plan unachievable. Once construction of a PRD has commenced, approval of a revised phasing plan shall not be unreasonable withheld or denied, provided that the revised phasing does not materially change the integrity of the approved PRD.
- (C) **Reconsideration and Revocation.** In the event that construction has not commenced within the required time period and a revised phasing plan has not been submitted, the Township

Article 6: Supplemental Zoning District Standards

Chapter 4: Planned Residential Developments

Board of Trustees, upon recommendation from the Planning Commission, may reconsider and revoke the PRD approval of the undeveloped portion of the PRD.

- (D) **Definition.** For the purposes of this Section, "commencement of construction" shall mean sustained progress resulting in, by way of example, construction of utilities, roads, foundations or similar substantial improvements.
- (E) **First Phase Projects.** If proposed as a part of a PRD, improvements to be completed in the first phase of the PRD shall include but not be limited to sewer and water treatment and storm water management facilities and other infrastructure as determined by the Township, such as golf courses, improvements to common areas and community centers and facilities.

Section 6.421 Revisions of Approved Plans.

- (A) **General Revisions.** The approved plan for a PRD may be revised in accordance with the procedures set forth in Section 6.419.
- (B) **Minor Changes.** Notwithstanding Section 6.421(A) above, minor changes to an approved PRD may be permitted by the Planning Commission following site plan review procedures outlined in Article 12, Chapter 2, subject to its findings that the following are true:
 - (1) Such changes will not adversely affect the initial basis for granting approval.
 - (2) Such minor changes will not adversely affect the overall PRD in light of the intent and purpose of such development, as set forth in Section 6.401.