

ARTICLE 2-A

PLANNED UNIT DEVELOPMENT

Section 2A.01 INTENT AND PURPOSE

- A. A Planned Unit Development (PUD) is established as a zoning district in which creative development and preservation of land is permitted and encouraged in appropriate locations within Bois Blanc Township. By allowing a PUD as an option, the Township intends to provide a regulatory basis whereby a degree of flexibility may be available in the use, density, building placement, dimensions, access, open space, and other land development features, in order to encourage innovations in land use and promote the preservation of forest resources, natural features, and open space.
- B. More particularly, the PUD zoning district is intended to achieve the following purposes:
 - 1. Implement the goals and recommendations of the Township Master Plan.
 - 2. Provide a more desirable living environment by preserving the rural and forested character of the Township through the protection of forested lands, stands of trees, lakes, streams, hills, wetlands, and similar natural features.
 - 3. Encourage innovation in land use and variety in design, layout, and type of buildings and structures.
 - 4. Allow limited development at a scale that is commensurate with the availability of public services to accommodate it.
 - 5. Achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities.
 - 6. Encourage the use of land in accordance with its character and adaptability.
 - 7. Balance the protection and preservation of the Township's natural assets and rural and forest character with the individual rights to a reasonable use of property.
 - 8. Allow development opportunities that afford recognizable and substantial benefits to the ultimate users of the development and to the community in general, where such benefits would be infeasible or unlikely under the rigid requirements of conventional zoning districts.
- C. To accomplish these purposes, the provisions of this Article regulate the use, development, and preservation of PUD lands differently than the regulations of the prior zoning district in which the lands are located.

- D. Development under the provisions of this Article shall occur only in compliance with the minimum requirements and approval procedures specified in this Article.
- E. Township Board approval of a PUD shall be given only in accordance with the standards for PUD approval stated herein.

Section 2A.02 MINIMUM QUALIFYING CONDITIONS

A PUD shall comply with the following minimum qualifying conditions:

- A. The lands comprising a PUD must be under unified ownership or control, so the person or legal entity applying for PUD approval will have proprietary responsibility for the completion of the development, if approved. If multiple persons or legal entities have ownership interests in the land, all such persons or entities must sign the PUD application.
- B. All applicable requirements of this Ordinance shall apply to a PUD unless otherwise modified as provided in this Article.

Section 2A.03 PERMITTED USES

- A. A PUD may be approved for any use allowed within the underlying zoning district by this Ordinance.
- B. Approval of a PUD shall include identification of the specific uses proposed within the PUD, and only those uses so approved shall be allowed.

Section 2A.04 CERTAIN DEVELOPMENTS CAN ONLY OCCUR AS A PUD

- A. No subdivision (as defined in this Section) shall be established, developed or created and no lot, site condominium unit, or parcel of land in a subdivision shall be sold, conveyed, transferred or otherwise established, nor shall any building permit or zoning approval permit be issued, for any land in a subdivision unless such subdivision shall have first been approved by the Township Board as a Planned Unit Development (PUD).
- B. If lots or parcels of land are contiguous or if they are known, held, designated, or advertised as a single or common development, or by a single or common name, the land shall be deemed to be offered for disposition as part of a common promotional plan and shall accordingly be deemed to be part of a subdivision, if the total number of lots, parcels of land, site condominium units or other interests, or any combination thereof, exceeds eight (8).

- C. If a lot or parcel of land is created, divided or split from or out of another parcel of land or lot, and if either or both of such parcels or lots are further divided, split, or site condominium units are created, or if any of such actions is proposed, within ten (10) years after the recording of the first land division or land split, then each parcel or lots shall be considered a subdivision for purposes of this section, and accordingly, each parcel shall be subject to planned unit development approval, if the number of lots, parcels of land, or site condominium units created or developed from or out of such parcels or either of them exceeds eight (8).
- D. For purposes of this Section, a “subdivision” means any land or property, wherever located, improved or unimproved, which is divided, split, conveyed, proposed to be divided, split, or conveyed, or developed as a recorded plat or site condominium, for the purpose of sale, development, transfer, or building construction, into or including a number of lots, parcels of land, site condominium units, or other interests in land, or any combination thereof, whether in whole or in part, which is greater than eight (8). For purposes of this section, “subdivision” also includes any lands, whether contiguous or not, if the number of lots, parcels of land, site condominium units, or other units or interests, greater than eight (8), are offered as part of a common promotional plan for sale or conveyance, or where the subdivision is being developed or is offered for sale, transfer, or building construction by one developer, or more than one developer, whether acting individually or in concert.
- E. For purposes of this Section, “contiguous” land means any additional land adjacent to or adjoining the subdivided land included in any previous subdivision.
- F. In summary, no more than eight (8) lots, parcels or site condominium units may be created out of a parcel unless approved as a PUD.

Section 2A.05 DEVELOPMENT REQUIREMENTS

A. Minimum Size and Zoning Requirements.

1. Land, buildings, and structures in a Residential PUD may include the following leisure and recreational uses if they are accessory to a residential use: golf courses; riding stables; athletic fields; bicycle paths and walking trails; parks, playgrounds and picnic areas; the use and mooring of watercraft; swimming and fishing areas; community buildings and health and fitness clubs; and similar leisure and recreational amenities approved as part of the PUD.
2. No individual lot, parcel or condominium unit within a PUD shall have direct access from an abutting perimeter road. All lots, parcels and

condominium units shall be served by and accessed from one or more interior streets.

3. The lot area and width, building setbacks, and yard requirements for any lot or parcel designated for residential use shall comply with the requirements in Section 2.08 of this Ordinance, unless a modification is approved by the Township Board through the PUD approval process.

B. Open Space.

1. At least thirty (30) percent of the area of a residential or mixed-use PUD shall consist of dedicated open space. Dedicated open space may be located on noncontiguous lands and approved as part of the transfer of development rights.
 - (a) Non-contiguous open space, for purposes of this provision, means open space that does not touch the developed portion of the PUD at any point. Open space that is located across from a public or private road that abuts a boundary of the developed portion of the PUD is non-contiguous open space.
 - (b) Non-contiguous open space shall be established by legally sufficient and recorded covenants, condominium documents, or such other recordable instruments as will ensure the preservation of the open space in perpetuity and limit its uses to only those specified in such documents.
 - (c) The permitted uses of non-contiguous open space may include any of those permitted herein for contiguous open space, to the extent permitted by the Township Board in its approval of the PUD.
 - (d) In other respects, non-contiguous open space shall comply with the requirements specified herein for contiguous open space.
2. Dedicated open space may include fields for the cultivation and harvesting of crops; orchards; other bona fide farming activities; natural areas including forests, man-made wetlands, ponds, lakes, streams, and wildlife habitat; and such recreational facilities as playgrounds, athletic fields, golf courses, walking trails, bicycle paths, picnicking areas, and the like. Structures accessory to the open space use, such as picnic shelters, storage buildings, and restroom facilities, may be erected within the open space if approved as part of the PUD.
3. Dedicated open space shall not include public or private street rights-of-way; land included within a platted lot, site condominium unit, or other parcel used for or intended to include a building unrelated to the open space; vehicle parking and loading areas; and storm water detention or retention ponds.
4. Dedicated open space shall be available for use by all residents of the PUD, subject to such reasonable rules and regulations as may be included in the

Master Deed or other governing documents of a development; provided, open space in the RP zoning district may be restricted as a condition of approval from use by residents of the PUD and/or the general public.

5. Dedicated open space shall be of sufficient size and configured to be reasonably usable by the PUD residents and shall be otherwise established to achieve the intent and purposes of this article with respect to PUD amenities.
6. Dedicated open space shall be subject to legally established restrictive covenants, condominium documents, plat restrictions, or such other recorded and effective instruments to accomplish the dedication of the open space in perpetuity in accordance with the requirements of this article. Lands included in dedicated open space shall be owned in common by the property owners within the PUD, or in the name of a condominium association or other property owners' association, or similar legally-effective arrangement, subject to the open space requirements of this article. Open space that is designated for use as productive agriculture, natural resource preservation, or public park may be leased or sold and conveyed to a party other than the owner or owners of the other lands in the PUD.
 - (a) The legal instruments establishing and limiting the use of open space shall include maintenance and similar requirements, consistent with the extent or type of use of the open space as specified in the approval of the PUD.
 - (b) Prior to recording, the legal instruments establishing and restricting dedicated open space shall be submitted to the Township attorney for review and approval consistent with the open space provisions of this article and the PUD approval provisions.
7. The Township approval of a residential PUD shall include establishing and maintaining a greenbelt or other unimproved buffer area pursuant to Section 3.19 of this Ordinance.

Section 2A.07 PUD APPLICATION AND REVIEW

A. Preapplication Conference.

1. A pre-application conference shall be held with the Planning Commission for the purpose of determining the eligibility of the request for consideration as a PUD.
2. A request for a pre-application conference shall be made to the Zoning Administrator who shall schedule a date and time with the Planning Commission. Prior to the pre-application conference, the applicant shall submit 12 copies of a conceptual plan which shows the property location, boundaries, acreage, property dimensions, significant natural features, vehicular and pedestrian circulation, land use for the entire site, and anticipated number and density of dwelling units. If the PUD includes noncontiguous property and a transfer of development rights, the

noncontiguous property and number of credits to be transferred shall be indicated.

3. The Planning Commission may confer with the applicant with respect to whether the PUD conceptual plan appears to comply with the minimum PUD requirements and whether the minimum qualifying conditions are satisfied.
4. In its discretion, the Planning Commission may continue to confer with the applicant with respect to the PUD conceptual plan at an additional meeting or meetings subsequent to the pre-application conference.

B. Application and Preliminary Site Plan. Applicants seeking approval of a PUD shall submit a complete application and a preliminary site plan to the Zoning Administrator, who shall forward the materials to the Planning Commission, Township planner, engineer, fire department, and other applicable agencies and professionals. The PUD application shall include the following:

1. A completed application form supplied by the Zoning Administrator.
2. Payment of the required application fee and deposit of the required initial escrow amount, for reimbursement to the Township of expenses incurred in the review and consideration of the application.
3. A narrative statement describing:
 - (a) The objectives of the proposed PUD and how it relates to the intent of planned unit development in the Township, as described in Section 2A.01.
 - (b) The relationship of the proposed PUD to the Township Master Plan goals and recommendations.
 - (c) Density calculations indicating the number of dwelling units and lots by type, per gross acre of the site and, if applicable, the number of additional unit credits being transferred.
 - (d) Proposed deed restrictions, covenants, or similar legal instruments to be used within the PUD.
 - (e) Type, size, and percent of areas to be dedicated and preserved for common open space.
 - (f) Area of the site containing significant natural features, including a breakdown of the approximate square footage/acreage by type of significant natural feature, including wetlands, flood plains, water bodies, woodlands, slopes in excess of 12 percent, active agricultural land, or other unique natural features.
4. Twelve copies of a preliminary site plan shall be submitted. If the PUD is to be developed in phases, the preliminary site plan shall show all phases. The preliminary site plan shall contain the following:
 - (a) The project name, the applicant's name, the name and address of the

firm and individual who prepared the preliminary development plan, scale, and north arrow.

- (b) Property lines, dimensions of all property lines, and size of the PUD (and individual phases) in acres including noncontiguous land, if applicable.
- (c) Existing zoning and land use of all abutting properties.
- (d) Significant natural features on the site.
- (e) Existing buildings and structures on the site.
- (f) Proposed uses and their approximate locations. Rights-of-way and pavement edges of existing streets abutting the PUD.
- (g) Approximate layout of interior streets within the PUD and their width.
- (h) Proposed walkways or pedestrian paths.
- (i) Proposed method of providing water, sanitary sewer, and storm water drainage facilities.
- (j) General layout and typical dimensions of proposed lots.
- (k) The Planning Commission may require additional information reasonably necessary to demonstrate compliance with the review standards and other requirements of this Article or to evaluate the potential impact of the proposed development. Such information may include soil reports, hydrological tests, traffic studies, wetland determinations, or other such evidence which shall be submitted by the applicant prior to the Planning Commission's recommendation.

C. Public Hearing.

1. After a PUD application has been received and the Zoning Administrator has determined that the application and all required supporting materials are complete, the Planning Commission shall schedule a public hearing on the preliminary PUD plan.
2. Notice of the Planning Commission public hearing shall be given in accordance with Section 10.01 of this Ordinance.
3. At the public hearing, the Planning Commission shall invite comments from the public with respect to the proposed development.

D. Planning Commission Recommendation. Following the public hearing, the Planning Commission shall review the PUD application and the preliminary site plan, consider public comments, and shall make a recommendation to the Township Board to approve, approve with conditions, or deny the preliminary PUD application and rezoning. In considering its recommendation, the Planning Commission shall determine whether the PUD satisfies all of the following standards:

1. Whether the PUD would be consistent with the intent and purposes of this Article.
2. Whether the PUD complies with the minimum requirements and other qualifying conditions as stated in this Article for a PUD.

3. Whether approval of the PUD would result in a substantial public benefit to the Township such as preservation of forested land or significant natural features; retention of the Township's rural character; a complementary mix of land uses or housing types; preservation of open space beyond the minimum required; connectivity of preserved open space with adjacent open space, greenways or public trails; coordinated redevelopment of multiple lots or parcels; or removal/renovation of deteriorating buildings, sites, or contamination clean-up.
4. Whether the PUD would be compatible with the goals and recommendations of the Township Master Plan.
5. Whether the proposed PUD would be reasonably compatible with adjacent and nearby land uses, the natural environment, and the capacities of the public services and facilities likely to be required by the development.
6. Whether the proposed PUD would be reasonable.
7. Whether the PUD would have significant adverse impacts on adjoining or nearby lands or area uses.

E. Township Board Review of Preliminary Plan.

1. The Planning Commission recommendation, together with any terms and conditions of the recommendation and any required revisions or modifications of the preliminary site plan, shall be forwarded to the Township Board.
2. The Township Board shall consider the preliminary site plan, the Planning Commission recommendation, the application materials, Planning Commission minutes, and comments from the public relative to the criteria specified in Section 2A.07D.
3. The Township Board shall approve, approve with conditions or deny the preliminary PUD plan.

F. Final Site Plan Submittal.

1. Following approval of the preliminary site plan and within one year of the Township Board's approval of the preliminary site plan and PUD agreement, the applicant shall submit an application to the zoning administrator for Planning Commission approval of the final site plan.
2. An application for final site plan approval shall consist of the following:
 - (a) A completed application form.
 - (b) Payment of the application fee, as established by the Township Board.
 - (c) A written statement setting forth the applicant's response to the Township Board's action approving the preliminary site plan, including responses to all terms and conditions of the approval. The written statement shall also include a detailed explanation of the

changes included in the final site plan, if any, that have been made in response to the terms and conditions of preliminary site plan approval.

- (d) Proof that all required permits, other than building permits, have been applied for, where required by county, state, and federal agencies having jurisdiction over any aspect of the PUD.
- (e) A final site plan, including all information required in Section 4.03, pertaining to final site plan review; provided, however, that individual detached single family dwellings need not be shown on the plan.
- (f) If the PUD consists of three or more phases, a final site plan complying with the requirements of Section 4.03 may be submitted for one or more phases. Each subsequent phase shall be subject to final site plan review in the same manner.

G. Planning Commission Review of Final Plan

- 1. The Planning Commission shall review the final site plan. In its review of the plan, the Planning Commission shall determine whether the plan conforms to the preliminary site plan and the terms and conditions, if any, under which the Township Board approved the preliminary site plan. If the Planning Commission determines that the final site plan does not substantially conform to the preliminary site plan, the plan shall be deemed a preliminary site plan, and the review by the Planning Commission shall be conducted according to the procedures and standards specified for review of a preliminary site plan.
- 2. If the final site plan substantially conforms to the preliminary site plan, including the terms and conditions of Township Board approval of the preliminary site plan, then the Planning Commission shall review the final site plan in accordance with the standards of Section 4.03.
- 3. The Planning Commission shall provide a recommendation to approve, approve with conditions, or deny the final site plan.

H. Final Site Plan Approval Standards. The Planning Commission and Township Board shall approve a final site plan only if it complies with all of the following standards:

- 1. The proposed PUD is compatible with surrounding uses of land, the natural environment, and the capacities of public services and facilities affected by the development.
- 2. The proposed PUD will not contain uses or conditions of use that would be injurious to the public health, safety, or welfare of the community.
- 3. The proposed PUD meets all the review standards of Section 4.03 (site plan review) of this Ordinance.
- 4. The PUD preserves, in perpetuity, forested lands, significant natural features, or designated open spaces, as applicable.

I. Township Board Review of Final Plan.

1. The Planning Commission recommendation, together with any terms and conditions of the recommendation and any required revisions or modifications of the final site plan, shall be forwarded to the Township Board.
2. The Township Board shall approve, approve with conditions or deny the final PUD plan. If approved or approved with conditions, such approval shall not be final until the applicant has submitted a PUD agreement to be reviewed by the Township attorney and accepted by the Township Board. The agreement shall include:
 - (a) A survey of the acreage comprising the proposed development;
 - (b) The manner of ownership of the developed land;
 - (c) The manner of ownership and of dedication or mechanism to protect any areas designated as common areas, open space, or other preserved lands;
 - (d) Provision assuring that all dedicated property shown on the plan will be or has been irrevocably committed for that purpose; the Township may require deed restrictions, conveyances, or other documents to be placed in escrow to accomplish this;
 - (e) Satisfactory provisions shall be made to provide for the future financing of any improvements shown on the plan for site enhancements, open space areas, and common areas which are to be included within the development and that maintenance of such improvements is assured by a means satisfactory to the Township Board;
 - (f) The cost of installing, improving and maintaining streets and the necessary utilities has been assured by a means satisfactory to the Township;
 - (g) Provisions to ensure adequate protection of natural features;
 - (h) Statements binding the agreement and approved final PUD site plan to any future owner;
 - (i) Any other commitment determined necessary to ensure that the PUD is developed and operated in accordance with the requirements of this Article; and
 - (j) The final site plan shall be incorporated by reference and attached as an exhibit.
3. Upon approval of the final site plan and PUD agreement by the Township Board, the property shall be rezoned to PUD.

Section 2A.08 TIME LIMITS

Each PUD shall be under substantial creation or construction within one year after the date of approval of the final PUD plan, except as noted in this section.

- A. The Planning Commission may grant one extension of up to an additional 12 months if the applicant requests such extension, in writing, prior to the date of the expiration of the PUD and provided that:
 - 1. The applicant presents reasonable evidence that the development has encountered unforeseen difficulties beyond the control of the applicant; and
 - 2. Conditions within the PUD site or surrounding properties that are reasonably related to the development and the standards of approval have not changed.
- B. If either of the provisions of this section is not fulfilled, or if an extension has expired without construction underway, the PUD approval shall be null and void.

Section 2A.09 CHANGES TO AN APPROVED PUD

Changes to an approved PUD shall be permitted only under the following circumstances.

- A. The holder of an approved final site plan shall notify the Zoning Administrator, in writing, of any desired change to the approved plan.
- B. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design and character of the PUD, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:
 - 1. Change in any building size, up to five percent in gross floor area.
 - 2. Movement of buildings or other structures by no more than 10 feet.
 - 3. Replacement of plant material specified in the landscape plan with comparable materials of an equal or greater size.
 - 4. Changes in building materials to a comparable or higher quality.
 - 5. Changes in floor plans which do not alter the character of the use.
 - 6. Relocation of dumpsters or signs.
 - 7. Modification of parking up to 10 percent of the total parking area, provided there is no change in the approved driveway location(s).
 - 8. Changes required or requested by the Township, the Mackinac County Road Commission, or other county, state, or federal regulatory agency in order to conform to other laws or regulations.
 - 9. Change of phases or sequence of phases, only if all phases of the PUD have received final approval.
- C. Any proposed change not determined by the Zoning Administrator to be minor shall be submitted as an amendment to the PUD and shall be

processed in the same manner as the original PUD application, including both preliminary and final plan review.

Section 2A.10 EXISTING PUDS

PUDs in existence prior to the date of adoption of this Ordinance shall conform to the prior approved final site plans. Any expansion, alteration, or amendment of the approved plans or the terms of the PUD agreement that do not constitute a minor change or any subsequent phase for which a final PUD plan was not approved shall be subject to the applicable requirements of Section 2A.07.

Section 2A.11 PERFORMANCE GUARANTEE

- A. The Planning Commission may, as a condition of final site plan approval, require that the applicant provide to the Township a performance guarantee, in the form of cash, bank irrevocable letter of credit, or other security deemed acceptable to the Township in order to ensure compliance with the requirements of the Zoning Ordinance and any conditions attached to the PUD approval.
- B. Such guarantee shall be for the purpose of ensuring completion of required improvements such as roads, paving, landscaping, utilities, stormwater facilities, sidewalks or pathways, and similar structures or features required as part of the final site plan approval.
- C. The amount of the cash, irrevocable letter of credit, or other security to be submitted, if required, shall be equal to the total estimated cost for completing the required improvements, as approved. The cost estimate shall be prepared by the applicant and submitted for review and approval by the Township engineer.
- D. The financial surety or unspent portions thereof, will be returned to the applicant(s) by the Township upon completion of the improvements as required.

Section 2A.12 APPEALS AND VARIANCES

The Zoning Board of Appeals shall have no jurisdiction or authority to accept or consider an appeal from any PUD determination or decision, or any part thereof, nor shall the Zoning Board of Appeals have authority to grant variances for or with respect to a PUD or any part thereof.

Section 2A.13 CONDITIONS

The Township Board may attach reasonable conditions to any PUD approval.

Section 2. Section 3.19 – Tree Preservation. Section 3.19 of the Zoning Ordinance of the Township of Bois Blanc is hereby added to provide for Tree Preservation, which shall read in its entirety as follows:

Section 3.19 Tree Preservation

Purpose and Intent. Tree preservation is recognized as essential throughout the Township to protect the health, safety, and general welfare of the natural environment, and the residents. The intent of this section is to promote the aesthetic, biological, and environmental benefits of trees and the natural landscape. Further, the Township seeks to implement the goals of protection, preservation, and reforestation of trees, as encouraged by the Bois Blanc Township Master Plan, recognizing:

- The natural beauty and rural character of the township are increased.
- Tree-lined roads are an asset to the historic island character of the community.
- Mature trees create a spectacular canopy along roadways and create shade.
- New development should preserve tree stands.
- Avoiding the loss of significant woodlots to disease and infestation is important.
- Tree canopy and health analysis, maintenance, and reforestation should regularly occur.

Definitions. The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the content clearly indicates a different meaning:

Buffer: A vegetative screening of mature trees, or planted trees, or a combination of both, that protects and enhances the existing natural beauty and is sufficient to reduce noise and visually screen abutting property from the impacts of the development property.

Development: Any planned unit development, condominium, site condominium, plat, private road, site plan, or other application subject to review by the Township Planning Commission.

Diameter Breast Height: The measurement of a tree diameter at four and one half (4.5) feet above the ground.

Stands of Trees (Tree Stands): An aggregation of trees or other growth occupying a specific area and sufficiently uniform in species composition, size, age, arrangement, and condition as to be distinguished from the forest or other growth on adjoining areas.

Tree: A woody perennial plant with six (6) inches or greater of diameter breast height, typically containing a single stem or trunk, and bearing lateral branches.

1. Road Trees. Pursuant to the Purpose and Intent of this section, the Township seeks to preserve, enhance, and create tree-lined roads along road rights-of-way. No person or property owner shall allow the removal of any tree within the road right-of-way nor remove any tree within the minimum road front setback pursuant to Section 2.08 of this Ordinance, linearly measured to the diameter breast height of the tree trunk. Tree removal shall be permitted for only the purpose of driveways or private roads intersecting the road right-of-way. Tree removal shall be the minimum amount necessary to reasonably access the lot for vehicular access and emergency services. Tree stands shall not be removed unless absolutely unavoidable.
2. Residential, Commercial, and Industrial Development. Any development with commercial use, industrial use, or a residential development of two (2) or more residential building sites or units, shall be subject to a buffer. The designation of a buffer shall be located along the side and rear lot lines for a residential, commercial, or industrial development. The Planning Commission has the discretion to increase, decrease, or eliminate the buffer in whole or in part, based upon a consideration of the following factors:
 - A. Whether trees within or near the proposed buffer are mature trees;
 - B. Whether the buffer contains or could contain tree stands;
 - C. The area of the proposed buffer related to the area of the overall development property;
 - D. The location and type of existing adjacent uses;
 - E. The type of permitted adjacent uses; and
 - F. The density permitted in the zoning district.

Section 3. Section 3.20 – Special Zoning Regulations for the Waterfront within the Plat of Pointe Aux Pins. Article 3.20 of the Zoning Ordinance of the Township of Bois Blanc is hereby added to provide for Special Zoning Regulations for the Waterfront within the Plat of Pointe Aux Pins, which shall read in its entirety as follows:

Section 3.20 Special Zoning Regulations for the Waterfront within the Plat
of Point Aux Pins

- A. Within the Plat of Pointe Aux Pins in Sections 30 and 31 of Bois Blanc Township (the "Plat"), both a dedicated platted road (called "Huron Avenue") and a dedicated park (called "the Beach Park") run along the waterfront, between the waters of Lake Huron and the first tier of lots in the Plat. To date, the exact status and ownership of such road right-of-way and park is unclear. Over the years, a number of structures have been built,

- utilized, and replaced within Huron Avenue and the Beach Park, including stairs, decks, landings, boathouses, sheds, and even small cottages.
- B. Given the uncertainty of the ownership of Huron Avenue and the Beach Park and the Township goal of keeping the waterfront free of clutter and structures that will interfere with pedestrian use of Huron Road and the Beach Park, special zoning regulations are needed for the areas of the Plat comprising Huron Road and the Beach Park. This Section and its regulations apply to the Common Area (as defined below).
- C. Definitions.
For purposes of this Section 3.18, the following definitions and meanings shall apply:
- (1) "Common Area" - shall mean the area and lands comprising Huron Avenue (adjoining the Beach Park) and the Beach Park (adjoining Lake Huron and Huron Avenue) as shown on the Plat of Pointe Aux Pins, as well as all areas located lakeward of the cement sidewalk (that has historically existed just upland of the break of the bank) and including the break of the bank located lakeward of that historic cement sidewalk.
 - (2) "Plat" - shall mean the Plat of Pointe Aux Pins located in Sections 30 and 31 of Bois Blanc Township, as well as any and all portions thereof.
- D. Within the Common Area along the waterfront in the Plat of Pointe Aux Pins, the following structures are prohibited:
- (1) Decks.
 - (2) Sheds, gazebos, pump houses, trellises, and similar structures and items.
 - (3) Dwellings, accessory buildings, storage structures, boathouses, and similar structures.
 - (4) Stairs or steps exceeding four feet in width, having rails or hand railing exceeding four feet in height, having any approach, landing or decking (other than comprised of cement, wood or similar item that is no taller than natural grade level) or having any landing, rest area or similar platform exceeding an area of 12 square feet.
 - (5) Fences.
 - (6) Any structure other than lawful stairs or steps.
- E. If any lawful nonconforming deck, gazebo, trellis, stairs, steps, shed, boathouse, dwelling or similar structure or item is demolished or removed or if any such item is destroyed by more than 50% by any act of nature (including, but not limited to, fire, high winds, ice jams, tornado, wave action or deterioration), such item, structure or building shall not be rebuilt, replaced or reconstructed and its lawful nonconforming status shall be deemed abandoned.
- F. Except for lawful nonconforming stairs or steps, no lawful nonconforming structure or item shall be replaced or rebuilt, nor be expanded, enlarged or extended.

- G. Existing lawful nonconforming stairs or stairways may be repaired, maintained, and even replaced to residential code. No such work can occur until the Township issues a zoning permit under this Ordinance.
- H. New stairs or steps may be installed in areas where none have existed, but shall be subject to all of the following:
 - (1) Stairs or steps shall not exceed 4 feet in width.
 - (2) Such stairs or steps shall not have any rails, hand rail or items exceeding 4 feet in height.
 - (3) No approach or landing shall be located above ground level except for hand rails.
 - (4) No landing, rest area or similar platform shall have a floor area exceeding 12 square feet.
 - (5) The Township must issue a zoning permit for such new stairs or steps.
 - (6) No such stairs or steps shall be installed or constructed unless the Zoning Administrator determines that the steps or stairs will:
 - a. enhance access to the Common Area for all lot owners in the Plat;
 - b. be aesthetically consistent with the area and nearby structures; and
 - c. to be built to residential code.
- I. In addition to the zoning regulations contained in this Section, the construction or installation of any new item or structure within the Common Area, as well as the repair, maintenance, and replacement of any existing structure or item within the Common Area, may also require approvals or permits from one or more agencies of the State of Michigan as well as potentially the United States Army Corps of Engineers. Any zoning approval for any item or structure within the Common Area by the Township does not negate the requirement that the applicant must also obtain any and all applicable additional state and federal permits or approvals.
- J. The Township may require a survey (both a survey drawing and staked corners and material points in the field) before any structure or item within the Common Area is installed, expanded, rebuilt, modified or replaced.
- K. Except for lawful stairs or steps as provided in Subsection G hereof, lawful nonconforming structures may be maintained and repaired, but shall not be partially or wholly replaced, modified or rebuilt. In addition, no lawful nonconforming structure shall be enlarged, expanded or extended.

- L. This Section does not regulate piers, docks or boat hoists in the waters of Lake Huron. Such items may be regulated by other parts of this Ordinance, and are generally also regulated by the State of Michigan and the United States Army Corps of Engineers.