

March 9, 2009

Regular meeting of the Ludington City Council held in the Council Chambers of the Municipal Building on Monday, March 9, 2009, at 7:30 o'clock p.m.

Present: His Honor Mayor John Henderson and Councilors Kaye Holman, Paul Peterson, Greg Dykstra, Brent Scott, Pete Engblade, and Gary Castonia.

Absent: Councilor Weston who was excused.

Also present were City Manager John Shay, Police Chief Mark Barnett, Fire Chief Jerry Funk, and City Clerk Deborah Luskin.

Invocation was pronounced by Councilor Pete Engblade.

Pledge to the Flag was given.

Moved by Councilor Engblade, seconded by Councilor Scott, that the Agenda be approved as presented. Councilor Peterson questioned why the fire department annual report was not on this agenda and it was explained that this report will be presented at the March 23rd council meeting. Motion Carried.

The meeting was opened for public comments.

After no further comments were received, the regular order of business was resumed.

Moved by Councilor Dykstra, seconded by Councilor Holman, to approve the minutes of the regular meeting 2/23/09. Motion Carried.

Moved by Councilor Dykstra, seconded by Councilor Peterson, to approve Pomorski Tavern's request to hold the 1st Annual organized St. Patrick's parade in the City of Ludington, 4th Ward on March 14, 2009 from 2 p.m. to 3 p.m. Proprietor Warren Smith provided the background on this parade and was available to answer questions. He noted that Phyllis Alvesteffer and Loretta Peterson started the tradition of a St. Patrick's Day parade 30 years ago at Murphy's Tavern in Pentwater. Everyone climbs on a trolley and visits all establishments in Ludington and Manistee. Because the First Street Tavern in Manistee has gone out of business, the organizers have asked Warren Smith if Pomorski Tavern would sponsor this event. He explained that there will be no drinking in the roadway, on the trolley, or outside of the establishment. Councilor Engblade asked if the street is blocked by the parade is the City required to have insurance for this. City Manager Shay explained that in our special events policy the City is covered. City Attorney Roger Anderson explained that it would not hurt to get the insurance coverage for this event. His Honor Mayor Henderson stated that this event is no different than any other event approved by Council and the City does not require insurance for these other events. Police Chief Mark Barnett had no problem with this event. Motion Carried.

Moved by Councilor Holman, seconded by Councilor Peterson, that the Finance Report with total expenditures in the amount of \$241,963.41 for this period be approved and orders drawn according to the City Charter. Motion Carried.

Moved by Councilor Holman, seconded by Councilor Dykstra, to approve the Management Agreement between the City of Ludington and Mason County Economic Development Corporation and the Mason County Brownfield Redevelopment Authority. This agreement would provide compensation to the City of Ludington in the amount of \$2,400 per year to provide administrative support to the Mason County Economic Development Corporation and the Mason County Brownfield Redevelopment Authority. Motion Carried.

Councilor Castonia presented the February Monthly Police Department Report.

ORDINANCE NO. 190-09 Changes to Temporary Signs

Short Title: An ordinance to amend the City of Ludington Zoning Ordinance No. 23-00, as amended.

THE CITY OF LUDINGTON ORDAINS:

Section 1, ARTICLE 800.4, Section 800.4:1 shall be amended to read as follows:

ARTICLE 800.4 TEMPORARY SIGNS

SECTION 800.4:1 Temporary Signs Not Requiring Permit. The signs and devices listed in this Section shall be permitted on a temporary basis in all zones if installed in compliance with existing regulations and shall not require a permit.

(1) Construction signs which identify the name of the building, owner, architect, engineer, contractor, or other individuals involved with the construction, but not including any advertisement of any product or service during the period of construction. Signs shall have a maximum surface area of 16 square feet, shall be confined to the site of construction, and shall be removed within 14 days following occupancy for the intended use of the project.

(2) Real estate signs advertising the sale, rental, or lease of the premises or part of the premises on which the signs are displayed, up to a total area of 12 square feet. These signs shall be confined to private property, and shall be removed within 14 days after the sale, rental, or lease.

(3) Election campaign signs announcing a candidate or issue to be voted upon, up to a total area of 16 square feet for each premises. These signs shall be confined to private property and shall be removed within 14 days following the election which they announce.

(4) Community or special event signs advertising a public entertainment or event, if approved by the City Council as to location, size, duration, and content.

(5) Pennants, flags, banners, or bunting shall be permitted in any commercial or industrial district for a period of 30 days without a permit provided that they are kept in a state of good repair. No such pennants, flags, banners, or bunting shall be redisplayed on the same premises until the expiration of an interim period of 90 days unless specifically permitted.

(6) One tent sign is permitted to be located in front of each establishment in the C1, C2, Central Business District and Maritime Commercial districts. Such signs shall not exceed nine square feet in area, or 4-1/2 feet in height, and may be displayed only during business hours.

For a business directly fronting on City Property zoned G-1 (i.e. 100 block of N. James St.), one tent sign will be permitted as above on City property.

(7) Yard, garage, estate sale or similar signs advertising the location of the sale shall be confined to private property and only placed with permission of the owner or occupant. These signs shall be removed immediately after any single event.

No more than two (2) such signs shall be located on a single property. Any individual sign shall be no larger than two (2) square feet in area (12" x 24" for example).

Section 2. Severability: It is the legislative intent of the City Council that all provisions of this Ordinance be liberally construed to protect and preserve the peace, health, safety and welfare of the inhabitants of the City. Should any provision of this Ordinance or part thereof be held unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions, and the remainder of this Ordinance shall stand, notwithstanding the invalidity of any such provision thereof.

Section 3. Repeal: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 4. Effective Date: This ordinance shall take effect twenty (20) days after publication.

Moved by Councilor Engblade, seconded by Councilor Scott, to adopt the foregoing Ordinance No. 190-09, Changes to Temporary Signs. City Manager Shay explained that this ordinance would allow the sandwich signs to be out all year round, but the business must take these down at the end of each day. Councilor Holman explained that an article in the Ludington Daily News stated that the signs would be allowed in front of the businesses on North James Street, and this was not correct, the signs would be allowed where James Street meets Ludington Avenue.

Roll Call: Ayes: Councilors Holman, Scott, Engblade, Castonia, Dykstra, and Peterson.

Absent: Councilor Weston

Nays: None. Motion Carried.

ORDINANCE NO. 191-09 US 10/M116 Corridor Overlay Zone

Short Title: An ordinance to amend the City of Ludington Zoning Ordinance No. 23-00, as amended.

THE CITY OF LUDINGTON ORDAINS:

Section 1: Article 400.19 of the City of Ludington Zoning Ordinance No. 23-00 shall read as follows:

Article 400.19 U.S. 10/M-116 CORRIDOR OVERLAY ZONE

SECTION 400.19:1 Findings. Conditions along US-10 continue to change in the City of Ludington, Pere Marquette Charter Township and Mason County. A primary function of this state highway is to move traffic through the City of Ludington, Pere Marquette Township, and to points beyond. Studies of motorists traveling along this segment of US-10 indicate, however, that a very high percentage of the traffic has an origin or destination in the City or townships. Thus, US-10 also has a secondary, but important, function to provide access to adjacent and nearby land uses. M-116 also serves such a secondary role and so is included in the overlay zone and is included in the discussion for the US-10 Corridor below.

The need for this overlay district is based, in part, on specific studies for US-10 that conclude the road is in need of improved access management. Continued development along the corridor will increase traffic volumes and introduce additional conflict points which will further erode traffic operations and increase potential for vehicular and pedestrian accidents. Numerous published studies and reports document the positive relationship between well-designed access management systems and traffic operations and safety. Those reports and experiences of other communities demonstrate that implementing standards on the number and placement of access points (driveways and side street intersections) can preserve the capacity of the roadway and reduce the potential for accidents while providing a good business or residential environment along the roadway. The standards set forth in this Article are based on

recommendations published by various national and Michigan transportation agencies that were refined during preparation of the US-10 Access Management, which is on file.

The City of Ludington finds that special comprehensive standards are needed along the US-10 corridor based upon the following findings:

- A. The combination of roadway design, function (arterial highway), traffic speeds, current and projected traffic volumes, traffic accidents, neighboring residential areas and other characteristics necessitate special access standards.
- B. Studies by transportation organizations in Michigan and nationally have found a direct correlation between the number of access points and the number of accidents.
- C. The standards of this overlay zone are based upon considerable research and recommendations by the Michigan Department of Transportation (MDOT).
- D. Preservation of roadway capacity through access management protects the substantial public investment in the roadway system and helps avoid the need for costly reconstruction, which disrupts businesses.

SECTION 400.19:2 Purpose. The MDOT has jurisdiction within the highway's right-of-way, while the City of Ludington and Pere Marquette Township have authority for land use and site plan decisions within individual parcels along the highway. The standards of this overlay district were created to help ensure a collaborative process by MDOT, the City, the Mason County Road Commission and the township on access decisions along US-10 to implement the recommendations of the US-10 Corridor Improvement Plan and other adopted community plans.

Among the specific purposes of this Corridor Overlay Zoning District are to:

- A. Preserve the capacity of US-10 by limiting and controlling the number, location and design of access points and requiring alternate means of access through shared driveways, service drives, and access off at cross streets in certain locations, as appropriate.
- B. Encourage efficient flow of traffic by minimizing the disruption and conflicts between through traffic and turning movements.
- C. Improve safety and reduce the potential for vehicular and pedestrian accidents.
- D. Avoid the proliferation of unnecessary curb cuts and driveways, and eliminate or reconfigure existing access points that do not conform to standards when the opportunities arise.
- E. Implement the recommendations of the City of Ludington Comprehensive Plan and the US-10 Corridor Improvement Plan.
- F. Require coordinated access among adjacent lands where possible.
- G. Improve situations where existing development within the corridor area does not conform to the standards and intent of this overlay district.
- H. Identify additional submittal information and review procedures required for parcels that front along US-10.
- I. Avoid the need for unnecessary and costly reconstruction which disrupts business operations and traffic flow.
- J. Ensure efficient access by emergency vehicles.
- K. Improve safety for pedestrians and other non-motorized travelers.
- L. Establish uniform standards to ensure fair and equal application.
- M. Provide landowners with reasonable access, even though the access may be restricted to a shared driveway or service drive or via a side street, or the number and location of access points may not be the arrangement most desired by the landowner or applicant.
- N. Promote a more coordinated development review process for the City and the township with MDOT and the Mason County Road Commission.

SECTION 400.19:3 Applicability. The standards of this Article shall apply to all lands with frontage along or with direct access to US-10 and M-116 and illustrated as the US-10 Corridor Overlay Zone on the Zoning Map, including S. James St.

The regulations herein apply in addition to, and simultaneously with, the other applicable regulations of the zoning ordinance. Permitted and special land uses within the US-10 Corridor Overlay Zone shall be as regulated in the underlying zoning district and shall meet all the applicable requirements for that district.

SECTION 400.19:4 Additional Submittal Information. In addition to the submittal information required for site plan review in Section 1100.4:3, the following shall be provided with any application for site plan or special land use review. The information listed in items A-H below shall also be required with any request for a land division.

- A. Existing access points. Existing access points within 100 feet on either side of the US-10 frontage, and along both sides of any adjoining roads, shall be shown on the site plan, aerial photographs or on a plan sheet.
- B. The applicant shall submit evidence indicating that the sight distance requirements of MDOT are met.
- C. Dimensions between proposed and existing access points (and median cross-overs if applicable in the future).
- D. Where shared access is proposed or required, a shared access and maintenance agreement shall be submitted for approval. Once approved, this agreement shall be recorded with the Mason County Register of Deeds, by the applicant, and a copy of the recorded agreement furnished to the City. Any amendments to the access and maintenance agreement subsequently proposed shall be submitted to the Zoning Administrator for approval and once approved, shall be recorded and filed as the original.
- E. Dimensions shall be provided for driveways (width, radii, throat length, length of any deceleration lanes or tapers, pavement markings and signs) and all curb radii within the site.
- F. The site plan shall illustrate the route and dimensioned turning movements of any expected truck traffic, tankers, delivery vehicles, waste receptacle vehicles and similar vehicles expected to service the site. The plan should

confirm that routing the vehicles will not disrupt operations at the access points nor impede maneuvering or parking within the site.

G. Traffic impact study. Submittal of a traffic impact study may be required for any special land use that would be expected to generate 100 or more vehicle trips during any peak hour, or 1,000 or more vehicle trips daily, or where modifications from the generally applicable access spacing standards are requested. The traffic impact study shall be prepared by a firm or individual that is a member of the Institute of Transportation Engineers with demonstrated experience in production of such studies. The methodology and analysis of the study shall be in accordance with accepted principles as described in the handbook "Evaluating Traffic Impact Studies, a Recommended Practice for Michigan," developed by the MDOT and other Michigan transportation agencies-

H. Review coordination. The applicant shall provide evidence that the proposal has been submitted to MDOT. Any correspondence from MDOT, the Township or MCRC shall be submitted to the Zoning Administrator and considered during the site plan review process. The City may request attendance at coordination meetings with representatives of the other applicable road agency. Attendance by the township or MCRC during a land division or site plan review by the City is optional. The approval of a land division or site plan does not eliminate the responsibility of an applicant to subsequently secure access permits from the applicable road agencies.

SECTION 400.19:5 Access Management Standards. Access points (not including driveways that serve a single family home, duplex or essential service facility structure) shall meet the following standards.

A. Each lot/site shall be permitted one access. This access point may consist of an individual driveway, a shared access with an adjacent use, or access via a service drive or frontage road. As noted above, land divisions shall not be permitted that may prevent compliance with the access location standards of this overlay district.

B. An additional driveway may be permitted by the Planning Commission upon finding the conditions 1 and 2, or 3 and 4, below exist. The additional driveway may be required to be along a side street or a shared access with an adjacent site. Approval by the Planning Commission does not relieve applicant from obtaining approval from applicable road agencies, which may or may not approve the request.

1. The site has a frontage of over 600 feet and the spacing standards between access points listed below are met, and

2. The additional driveway will not prevent adjacent lots from complying with the access spacing standards when such lots develop or redevelop in the future.

3. A traffic impact study, prepared in accordance with accepted practices as described in Section 1100.10:4 above, demonstrates the site will generate over 300 trips in a peak hour or 3,000 trips daily, or 400 and 4,000 respectively if the site has access to a traffic signal, and

4. The traffic impact study demonstrates the additional driveway will provide improved conditions for the motoring public and will not create negative impacts on through traffic flow.

C. Access points shall be spaced based upon recommendations of the US-10 Corridor Improvement Plan and MDOT.

D. Where the subject site adjoins land that may be developed or redeveloped in the future, including adjacent lands or potential out lots, the access shall be located to ensure the adjacent site(s) can also meet the access location standards in the future.

E. Access points along sections of US-10 with an existing or planned median shall be located in consideration of existing or approved median crossovers. A sufficient length for weaving across travel lanes and storage within the median shall be provided, consistent with MDOT published standards. The City supports MDOT policies to limit the number of median crossovers to maintain traffic flow and reduce the potential for accidents. In some cases, existing median cuts may need to be redesigned or closed to meet current design standards.

F. Access points shall be aligned based upon recommendations within the US-10 Corridor Improvement Plan and MDOT.

G. Minimum spacing of access points from intersections shall be in accordance with the US-10 Corridor Improvement Plan and the recommendations of MDOT.

Where direct access consistent with the various standards above cannot be achieved, access should be via a shared driveway or service drive. In particular, the Planning Commission may require development of frontage roads, or rear service drives where such facilities can provide access to signalized intersections, where service drives may minimize the number of driveways, and as a means to ensure that traffic is able to more efficiently and safely ingress and egress.

Frontage roads or service drives shall be constructed in accordance with the following standards:

1. Service drives and frontage roads shall be set back as far as reasonably possible. A minimum of twenty-five (25) feet shall be maintained between the public street right-of-way and the pavement of the frontage road, with a minimum 60 feet of throat depth provided at the access point.

2. The alignment of the service drive can be refined to meet the needs of the site and anticipated traffic conditions, provided the resulting terminus allows the drive to be extended through the adjacent site(s). This may require use of aerial photographs, property line maps, topographic information and other supporting documentation

3. In cases where a shared access driveway is recommended, but is not yet available, temporary direct access may be permitted, provided the plan is designed to accommodate the future service drive, and a written agreement is submitted that the temporary access will be removed by the applicant, when the alternative access system becomes available. This may require posting of a bond.

H. Driveways shall be located to provide safe sight distance, or as determined by the US-10 Access Management Plan and MDOT.

I. No driveway shall interfere with municipal facilities such as street lights or traffic signal poles, signs, fire hydrants, cross walks, bus loading zones, utility poles, fire alarm supports, drainage structures, or other necessary street structures. The Zoning Administrator is authorized to order and effect the removal or reconstruction of any driveway which is constructed in conflict with street structures. The cost of reconstructing or relocating any such new or proposed driveways shall be at the expense of the-property owner.

SECTION 400.19:6 Modification of Access Standards.

A. Modification by the Planning Commission. Given the variation in existing physical conditions along the US-10 Corridor, modifications to the spacing and other standards above may be permitted by the Planning Commission as part of the site plan review process upon a review of the following conditions:

1. Practical difficulties exist on the site that make compliance unreasonable (sight distance limitations, topography, wetlands, drain or water body, trees or vegetation that will be preserved, existing development, unique site configuration or shape), or existing off-site access points make it impractical to fully comply with the standards.

2. The use involves an access improvement to an existing site or a new use that will generate less traffic than the previous use.

3. The proposed modification is consistent with MDOT guidelines and MDOT staff support the proposed access design.

4. The proposed modification is consistent with the general intent of the standards of this overlay district and the recommendations of the US-10 Corridor Improvement Plan.

5. If deemed necessary by the Planning Commission, a traffic impact study by a qualified traffic engineer has been provided that certifies the modification will improve traffic operations and safety along US-10, and is not simply for convenience of the development.

6. The applicant shall demonstrate with dimensioned drawings that such modification shall not create non-compliant access to adjacent lands that may develop or redevelop in the future.

7. Roadway improvements will be made to improve overall traffic operations prior to the project completion or occupancy of the first building.

8. Indirect or shared access is not reasonable due to practical difficulties or the inability to reach agreement on shared access.

9. Such modification shall be demonstrated to be the minimum necessary.

B. Appeals. The decision of the Planning Commission may be appealed to the Zoning Board of Appeals, in accord with Section 1200.3:5.

Section 2. Severability: It is the legislative intent of the City Council that all provisions of this Ordinance be liberally construed to protect and preserve the peace, health, safety and welfare of the inhabitants of the City. Should any provision of this Ordinance or part thereof be held unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions, and the remainder of this Ordinance shall stand, notwithstanding the invalidity of any such provision thereof.

Section 3: Repeal: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 4. Effective Date: This ordinance shall take effect twenty (20) days after publication.

Moved by Councilor Engblade, seconded by Councilor Holman, to adopt Ordinance NO. 192-09, US10/M116 Corridor Overlay Zone. This will minimize the number of future access points or driveway openings along South James Street, Ludington Avenue, and Lakeshore Drive in an effort to reduce conflict points and promote better traffic flow. The City of Ludington and MDOT will be able to review jointly applications for curb cuts and driveway openings along these state highways.

Roll Call: Ayes: Councilor Scott, Dykstra, Peterson, Engblade, Holman, and Castonia

Absent: Councilor Weston

Nays: None. Motion Carried.

Ordinance No. 193-09 Planned Unit Development Regulations

Short Title: An ordinance to amend the City of Ludington Zoning Ordinance No. 23-00, as amended.

THE CITY OF LUDINGTON ORDAINS:

Section 1. Chapter X, Planned Unit Developments, of the City of Ludington Zoning Ordinance No. 23-00 shall read as follows:

ARTICLE 1000.1 PURPOSE

The purpose of these regulations is to permit greater flexibility and consequently more creative and imaginative design in the development than is generally possible under conventional zoning regulations. It is further intended to promote more economical and efficient use of the land while providing a harmonious variety of building choices, the integration of necessary commercial and community facilities, and the preservation of open space for park and recreational use. A

building permit may be issued for construction and development of a planned unit development subject to compliance with the requirements, standards, and procedures set forth in this Chapter.

Three PUD Special Land Uses, (Residential, Waterfront, and Industrial), shall regulate different parts of the City. Each will have separate regulatory standards including uses and design standards.

ARTICLE 1000.2:1 RESIDENTIAL PLANNED UNIT DEVELOPMENT (RPUD) GENERAL REQUIREMENTS

Any application for a residential planned unit development (RPUD) as a special land use must meet the following conditions to qualify for consideration:

- A. Ownership. The tract of land for a project must be either in single ownership or the subject of an application filed jointly by the owners of all property included, and the area of the parcels must total two (2) acres or greater. The holder of a written option to purchase land or the holder of an executory land contract shall, for the purposes of such application, be deemed to be an owner of such land.
- B. Location. RPUDs shall be allowed only in the RIC district.
- C. Utilities. Public water and sanitary sewer/storm drainage facilities shall be provided as part of the site development. All electric and communication transmission lines shall be placed underground.

ARTICLE 1000.2:2 RPUD PERMITTED USES

- A. No structure or part thereof shall be erected, altered, or used, and no land shall be used except for one or more of the following, in the RIC zoning district.
- B. Residential uses.
 - (1) Single-family detached dwellings.
 - (2) Two-family dwellings.
 - (3) Townhouses.
 - (4) Condominiums.
 - (5) Other multi-family dwellings
- C. Accessory and Associated Uses. Accessory and associated uses designed and intended to serve the convenience needs of the people residing in the RPUD, including but not limited to: Recreational play areas, churches, or child day care facilities.

ARTICLE 1000.2:3 RPUD DESIGN REQUIREMENTS

The following requirements and the design standards in ARTICLES 1100.8 and 1100.9 shall apply to RPUDs in lieu of any conflicting regulations set forth in the zoning district. Unless listed, the requirements within the zoning district shall apply.

- A. Number of Dwelling Units Permitted. The maximum number of dwelling units permitted in the project shall be determined by dividing the net RPUD area by the minimum residential lot area per dwelling unit required by the district in which the project is located. In the event the project lies in more than one zoning district, the number of dwelling units shall be computed for each district separately. The number of units allowed may be increased by the Planning Commission up to an additional 20 percent if special scenic vistas are preserved and/or open space creatively provided.
- B. Lot Area Requirements. The minimum lot area shall not be reduced for any permitted use more than 10 percent below that required in the district in which the project is located.
- C. Setback and Yards. The minimum setback and yard or open space requirements for buildings and structures may be reduced or increased at the discretion of the Planning Commission to avoid unnecessary disruption of the environment where reasonably equivalent open space is provided elsewhere upon the site.
- D. Minimum Lot Frontage and Width. The minimum lot frontage and width for any lot designated for single-family dwelling may be reduced 10 percent below the requirements of the district in which the RPUD is located.
- E. Screening. A screening area may be required by the Planning Commission along the perimeter of the development if deemed necessary to protect the value of adjoining property under separate ownership.
- F. Landscaping. Landscaping requirements may be set forth by the Planning Commission.
- G. Open Space Required.
 - (1) As part of the total development in every RPUD, there shall be an amount of open space equal to not less than the summation of lot area reduction below the minimum dimensions required in Article 400:14 for the underlying zoning district.
 - (2) Before accepting the open space as meeting the requirements of this provision, the Planning Commission must find that satisfactory arrangements will be made for the maintenance of such designated land to relieve the municipality of future maintenance thereof.
 - (3) All required open space within a RPUD shall be arranged to provide access and benefit to all residents of the development.
- H. Parking. Parking shall be regulated per Chapter VII.
- I. Architectural Standards All architectural standards including building massing shall be regulated per the zoning district.
- K. Lot Coverage. Lot coverage shall be regulated per the zoning district in which the development is located.

ARTICLE 1000.3:1 WATERFRONT PLANNED UNIT DEVELOPMENT (WPUD) GENERAL REQUIREMENTS

Development plans within any of the Waterfront Districts, W, WS, WM1, WM2, and WCB, which are submitted for review under this WPUD option shall comply with all regulations contained in the applicable underlying zoning district, except as otherwise provided for in this Chapter. Where conflict exists, or where the regulations of this Chapter are

more specific or address issues not addressed in Article 400.15, 400.16, 400.17, or 400.18, in which the property is located, the regulations of this Chapter shall control.

ARTICLE 1000.3:2 WPUD PERMITTED USES

- A. Permitted Uses. The permitted "principal uses" and "special land uses" as identified in the applicable waterfront district may be permitted. The Planning Commission and City Council may also consider and approve uses not identified in the applicable waterfront district based on their determination that such uses meet the following standards:
- (1) The use is consistent with the intent of the applicable waterfront district.
 - (2) The use meets the standards for the WPUD as contained in this Chapter.
 - (3) The use is compatible with, and has a positive supportive relationship with the existing conforming uses in the district.
 - (4) The use shall be of a commercial, residential, or recreational nature.
 - (5) The use must have a distinct advantage in being located at a waterfront location which does not generally exist at other locations.
 - (6) The use must project a positive aesthetic impact.
- B. Accessory Uses. Accessory uses, as identified in the applicable waterfront district, to the above permitted uses may also be permitted.

ARTICLE 1000.3:3 WPUD DESIGN REQUIREMENTS

- A. Number of Dwelling Units Permitted. The number of dwelling units permitted in WPUD within this section shall be subject to the following regulations:
- (1) WPUD having a multiple family residential component may be permitted to have a density of 30 dwelling units per acre.
 - (2) Only that land area within the project area which is devoted to residential use shall be permitted to be used in the density calculation for dwelling units.
 - (3) When non-residential uses are incorporated into the same development with multiple family residential units, located either above or below such units, the parking and loading areas associated with such non-residential uses shall not be included in the land area used to calculate the multiple family residential density.
- B. Minimum Lot Area. No specific minimum lot area shall be in effect, however, sufficient lot area to meet the design requirements of this Chapter shall be required.
- C. Setbacks and Yards.
- (1) A minimum setback of 15 feet from the high water mark shall be required of all uses with the exception of marinas, docks, and similar structures.
 - (2) A minimum setback of 7.5 feet shall be required from lot lines which do not abut a public right-of-way, except in WCB where such setback shall be a minimum of 10 feet.
 - (3) A setback of 10 feet shall be required from lot lines which abut a public right-of-way.
 - (4) The Planning Commission may reduce these setbacks, with the exception of the 15 foot setback from the high water mark in those cases where it is felt that such reduction will not result in adverse impacts to safety, viewing qualities, or adjoining properties.
- D. Minimum Lot Frontage and Width. A minimum lot width and frontage along a public right-of-way of 50 feet shall be required.
- E. Screening.
- (1) Screening of parking areas through the use of fences, walls, berms, or natural vegetation may be required when it is felt by the Planning Commission that such screening is necessary to protect the value of adjoining properties, provide for safe pedestrian movement, or maintain a reasonable aesthetic image.
 - (2) The Planning Commission may also require the screening of waste receptacles, mechanical equipment, and other similar structures.
- F. Landscaping. Landscaping shall be required within open space and parking areas. Landscape plans shall be designed with a sensitivity to maximizing viewing opportunities of the waterfront area.
- (1) Landscape plans shall feature dwarf and understory deciduous trees (those with mature heights of less than 40 feet) to assist in maximizing waterfront views.
 - (2) Evergreen landscape materials shall be limited to smaller shrubs and trees with mature heights of 15 feet or less. If used, evergreen landscape species should be arranged to minimize the blockage of waterfront views.
 - (3) A minimum of one deciduous tree for each 5,000 square feet of lot area shall be required.
- G. Open Space.
- (1) A minimum of 25 percent of the project area shall be maintained in open space, except in WCB where open space shall be governed by Article 400.18.
 - (2) This space may be maintained as a landscaped area, site amenity (such as a tennis court, gazebo, fountain, etc.), or consist of a decorative surface material such as brick pavers.
 - (3) Such open space may not be maintained in a common concrete or asphalt state.
- H. View Corridors.

- (1) Projects shall be designed to maintain maximum viewing opportunities of the waterfront area as seen from public activity centers located within 300 feet of the waterfront shoreline.
 - (2) For the purpose of this Section public activity centers shall be defined as pedestrian walkways, outdoor recreation areas, outdoor eating/drinking facilities, outdoor attractions or amenities (such as fountains, statues, monuments, public benches/seating, and other similar features) which are designed to attract and promote the gathering of the general public on site.
 - (3) To achieve view corridors it is required that the linear feet of any building along the waterfront not exceed 60 percent of the amount of linear feet of shoreline existing on the subject parcel.
 - (4) Under no instance shall any building exceed 125 linear feet.
- I. Parking. Parking shall be provided as provided for in Chapter VII (Off-street Parking and Loading) with the exception of the following:
- (1) The Planning Commission may reduce the parking requirement for residential dwelling units to 1.5 spaces.
 - (2) The Planning Commission may reduce the parking requirements for commercial businesses by up to 20 percent. Such reductions may only be made upon demonstration by the applicant that the parking spaces to be provided (under a reduced requirement) will adequately meet the projected parking demand for the proposed project.
 - (3) Underground parking may be permitted.
- J. Architectural Standards
- (1) Building Massing: Except as provided herein, exterior building surfaces must not exceed 30 feet in length without an architectural break, such as a change in elevation, window or doorway or building line. Buildings will be massed to accommodate landscape areas consisting of 10-25% of the site including such features as open space, tennis court, gazebo, fountain or other such amenities.
 - (2) Buildings shall not exceed 35 feet in height except that greater heights may be permitted if the lowest angle of the unobstructed sight line to the sky from the WPUD boundary is no greater than would result from a two story building located at the minimum pre-existing setback standard of the underlying zoning district. Provided further that no structure with a height greater than 55 feet shall be permitted without the approval of the City of Ludington Fire Chief. Building height shall be defined as the distance from the average grade level of the existing adjoining street or property to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between the eaves and ridge for gable, hip and gambrel roofs. If there is more than one adjoining street to a property, the average grade level of the streets shall be used to determine the base level. If an eave line extends more than five (5) feet below the interior room ceiling, the eave line shall be determined to be five (5) feet below the interior room ceiling for the purpose of determining building height.
 - (3) Architectural Character: Building architecture shall reflect a common theme or pattern which shall be internally consistent within the WPUD and aesthetically appropriate for the setting and neighborhood.
 - (4) Artificial Light: Artificial lighting shall be aesthetically designed and shielded to prevent light from casting off the property or into the night sky to the greatest extent possible. Building surface reflectivity, on-site lighting and landscape screening shall be planned and executed such that the degree of light cast off the site shall not exceed one (1) foot candle at the WPUD boundary. Exceptions may be made for decorative fixtures.
- K. Lot Coverage.
- (1) The maximum lot area to be covered by buildings shall be 35 percent except in WCB where lot coverage shall be governed by Article 400.18.
 - (2) Except in WCB, additional building coverage of up to 50 percent may be permitted based upon the type of landscaping which is proposed for the site, site amenities to be provided, and degree to which the site design has maintained views to the waterfront.
 - (3) The maximum lot area to be covered by the combination of building and parking areas shall be 75 percent, except in WCB where lot coverage shall be governed by Article 400.18.

ARTICLE 1000.4:1 INDUSTRIAL PLANNED UNIT DEVELOPMENT (IPUD) GENERAL REQUIREMENTS

An IPUD special land use may be considered in any M-1 or M-2 District in the City, except for the Industrial Park, on a parcel containing one and a half acres or more. However, as a condition of a IPUD, the applicant must demonstrate that the IPUD will result in a recognizable and substantial benefit to the ultimate users and occupants of the project and to the community, where such benefit would otherwise be unfeasible or unlikely. Such benefit may include, but shall not be limited to, the preservation of important natural features, the provision of open lands, the provision of a mix of land uses, and/or innovation in design and project configuration.

ARTICLE 1000.4:2 IPUD PERMITTED USES

- A. Uses. Any principal or accessory land uses permitted in the M-1 or M-2 zoning district, either as a principal use or as a special land use subject to special conditions under this Ordinance may be considered within the IPUD. Provided, however, that the Planning Commission and the City Council must reach a finding that all such proposed

uses and the impacts they may generate on one another and on the surrounding community shall be generally compatible and harmonious with one another.

- B. Underlying Zoning. Unless specifically waived by the City Council upon the recommendation of the Planning Commission all regulations of the underlying zoning district prior to the IPUD request relative to lot size, lot width, yard area, lot coverage, structure height, setback, signs, parking and loading, landscaping, general provisions and other applicable regulations shall apply. In projects with more than one underlying district, the most restrictive district regulations within this Ordinance shall apply.
- C. Departures from Underlying Zoning. Consistent with the Planned Unit Development concept, and to encourage flexibility and creativity in development, departures from the regulations may be granted at the discretion of the City Council upon the recommendation of the Planning Commission as part of the approval of an IPUD. Such departures may be authorized if, in the judgment of the City Council upon the recommendation of the Planning Commission, (1) there are features or planning mechanisms incorporated into the project which would generally achieve the objectives of each of the regulations from which a departure is being requested, and/or (2) the proposed IPUD is likely to be more consistent with the objectives of the City's future Land Use Plan than a development under the terms of the underlying zoning.
- D. Phasing. The stages or phases of any IPUD development shall be so structured and scheduled that, if later stages or phases of the development are not implemented, the initial stage(s) shall be consistent with the provisions of this Article and shall not detract from the feasibility of developing the remaining portion of the subject IPUD area in an appropriate and desirable manner.

ARTICLE 1000.4:3 IPUD DESIGN REQUIREMENTS

All proposed IPUDs shall take into account the following design considerations, as they are necessary to ensure compliance with all applicable regulations and to ensure the compatibility of the project with adjoining properties and the general area in which the property is located. The Planning Commission shall review the sketch plan to evaluate whether each of the following standards are appropriately addressed in the design and development plan either through the application of the standards of the underlying zoning district or through other planned departures from said standards as proposed by the applicant. In each instance, the Planning Commission may recommend exceptions where the imposition of the following standards would result in patterns of development that would be out of character with the development and/or with the surrounding area.

- A. Minimum Lot Area. The minimum lot area shall be regulated by the zoning district in which the development is located.
- B. Setbacks and Yards. The setbacks and yard requirements shall be regulated by the zoning district in which the development is located.
- C. Minimum Lot Frontage and Width. The minimum lot frontage and width shall be regulated by the zoning district in which the development is located.
- D. Screening. A visual screen, preferably consisting of mixed evergreens and deciduous vegetation, shall be established and maintained along the perimeter of the IPUD. The purpose of this screening shall be to provide a permanent screen of service areas, dumpsters and loading docks and a partial buffer to parking areas and similar less intrusive elements, from surrounding property. Where natural landscaping is not feasible, fences or walls may be substituted if they are designed to compliment the proposed development and buildings and are generally compatible with surrounding uses.
- E. Landscaping. Landscaping shall be required along public roadways to soften presentation from the street.
- F. Open Space. Open space shall be regulated by the zoning district which the development is located.
- G. View Corridors. View corridors shall be regulated by the zoning district which the development is located.
- H. Parking. Off-street parking shall be provided in accord with the requirements of Chapter VII of the Zoning Ordinance. In a mixed-use development, the applicant shall propose shared parking arrangements to reduce pavement within the development. For such shared parking arrangement, the applicant shall provide for an enforceable mechanism to assure cooperation among future building owners and occupants to assure the viability of a shared parking arrangement. The minimum number of off-street parking spaces shall be determined by considering each proposed use and its likely peak hour parking demand. A maximum daily parking demand matrix will be used to determine the peak hour demand for all combined uses and the proposed IPUD shall provide for not less than the greatest peak hour requirement for the combined uses reflected in such matrix. The use of deferred parking areas (or reserved interim green areas) may be considered to calibrate the required parking standards with evolving conditions.

I. Architectural Standards.

- (1) Building Massing: Except as provided herein, exterior building surfaces must not exceed 30 feet in length without an architectural break, such as a change in elevation, window or doorway or building line. Buildings will be massed to accommodate landscape areas consisting of 10-25% of the site including such features as open space, recreation area, gazebo, fountain or other such amenities.
- (2) Buildings shall not exceed 35 feet height except that greater heights may be permitted if the lowest angle of the unobstructed sight line to the sky from the IPUD boundary is no greater than would result from a two story building located at the minimum pre-existing setback standard of the underlying zoning district. Provided further that no structure with a height greater than 55 feet shall

be permitted without the approval of the City of Ludington Fire Chief. Building height shall be defined as the distance from the average grade level of the existing adjoining street or property to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and to the average height between the eaves and ridge for gable, hip and gambrel roofs. If there is more than one adjoining street to a property, the average grade level of the streets shall be used to determine the base level. If an eave line extends more than five (5) feet below the interior room ceiling, the eave line shall be determined to be five (5) feet below the interior room ceiling for the purpose of determining building height.

- (3) Architectural Character: Building architecture shall reflect a common theme or pattern which shall be internally consistent within the IPUD and aesthetically appropriate for the setting and neighborhood.
- (4) Artificial Light: Artificial lighting shall be aesthetically designed and shielded to prevent light from casting off the property or into the night sky to the greatest extent possible. Building surface reflectivity, on-site lighting and landscape screening shall be planned and executed such that the degree of light cast off the site shall not exceed one (1) foot candle at the IPUD boundary. Exceptions may be made for decorative fixtures.

J. Lot Coverage. Lot coverage shall be regulated by the zoning district in which the development is located.

ARTICLE 1000:5 APPLICATION PROCEDURE AND APPROVAL PROCESS FOR ALL PLANNED UNIT DEVELOPMENTS.

Whenever any PUD is proposed, before any building permit is issued, the developer shall apply for approval of the PUD in accordance with the following procedures.

SECTION 1000.5:1 APPLICATION FOR SKETCH PLAN APPROVAL.

In order to allow the Planning Commission, the City Council and the developer to reach an understanding of basic design concept and avoid unnecessary investment, the developer shall submit a sketch plan to the Planning Commission. The sketch plan shall be drawn to approximate scale and provide the following information and documentation:

- A. Boundaries of the property.
- B. Location map showing uses and ownership of abutting lands.
- C. Location and height of all buildings.
- D. Interior roadway system, parking facilities, and all existing rights-of-way and easements, whether public or private.
- E. Delineation of the various residential and /or commercial areas; indicate for each such area its size, number of buildings, number of dwelling units, and approximate percentage allocation by dwelling unit type. Indicate the net residential density and the net commercial density.
- F. Interior traffic and pedestrian circulation patterns.
- G. Areas designated as open space.
- H. If grades exceed 30 percent, or portions of the site have a moderate to high susceptibility to erosion or a moderate to high susceptibility to flooding and/or ponding, an overlay outlining the above susceptible soil shall be provided.
- I. Principal ties to the neighborhood and community with respect to transportation, water supply, and sewage disposal.
- J. General description of the provision of other community facilities such as schools, recreational facilities, fire protection and service, and cultural facilities, if any, and some indication of how these needs are proposed to be accommodated.
- K. Evidence that the proposal is compatible with the objectives of the City's master plan.
- L. General statement as to how common open space is to be owned and maintained.
- M. If the development is to be constructed in phases, a general indication of how the sequence of phases is to proceed shall be identified. In any case, the sketch plan shall show the total intended project.

SECTION 1000.5:3 APPROVAL OR DENIAL OF APPLICATION.

- A. The Planning Commission shall hold a public hearing on the sketch plan in accordance with the provisions of this Ordinance for special land uses (CHAPTER IX).
- B. Following the public hearing, the Planning Commission shall, within 60 days, approve, approve with conditions, or disapprove the sketch plan and so notify the applicant of the decision.
- C. Upon approval, the Planning Commission shall forward the sketch plan and their decision, including any conditions, to the City Council for action within 30 days.
- D. Approval of the sketch plan by the Planning Commission and the City Council shall not constitute approval of the detailed site plan, but shall be deemed an expression of approval of the layout as a guide to the preparation of the detailed site plan.

SECTION 1000.5:4 CHANGES IN SKETCH PLAN.

If the applicant wishes to make changes in the sketch plan as it has been approved by the Planning Commission and the City Council, the amended sketch plan shall then be resubmitted to the Planning Commission and the City Council pursuant to the above procedures.

SECTION 1000.5:5 APPLICATION FOR DETAILED SITE PLAN APPROVAL.

The detailed site plan shall conform to the sketch plan that has been approved. It shall incorporate any revisions or other features that have been recommended by the Planning Commission or the City Council at the preliminary review.

All such revisions shall be clearly indicated. If more than six months elapse between approval of the sketch plan and submission of the detailed site plan, the Planning Commission may require a resubmission of the sketch plan for further review and possible revision. The detailed site plan shall include the following information:

- A. An area map showing the applicant's entire holding, and subdivisions, streets, utilities, and easements within 300 feet of the applicant's property.
- B. A topographic map showing contour intervals of not more than four feet of elevation.
- C. A site plan showing location, proposed use, and height of all buildings; all parking areas with access and egress drives thereto; location of outdoor storage if any; location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences, description of method of water supply and sewage disposal and location of such facilities; location and size of all signs; location and design of lighting facilities; and the amount of building area proposed for nonresidential uses, if any.
- D. A report showing all soil types, their location, and those areas, if any, with moderate to high susceptibility to erosion. For areas with potential erosion problems, the report shall also include an outline and description of existing vegetation.

SECTION 1000.5:6 REQUIRED STANDARDS FOR APPROVAL.

In addition to the standards for Site Plan Review in CHAPTER XI, consideration of the detailed site plan shall include the following:

- A.. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization, traffic controls, and pedestrian movement.
- B. Location, arrangement, appearance, and sufficiency of off-street parking.
- C. Location, arrangement, size, and entrances of buildings, walkways, and lighting with special emphasis on preserving open-space vistas where appropriate.
- D. Relationship of the various uses to each other.
- E. Adequacy, type, and arrangement of trees, shrubs, and other landscaping constituting a visual and/or a noise-detering screen between adjacent uses and adjoining lands.
- F. In the case of residential uses, the adequacy of usable open space for playgrounds and recreation.
- G. Adequacy of water supply, storm water and sanitary waste disposal facilities.
- H. Adequacy of structures, roadway and landscaping in areas with moderate to high susceptibility to flooding, ponding, and/or erosion.
- I. Compliance with all regulations of this Ordinance.
- J. Compatibility of adjoining uses on and off the site and preservation thereof, particularly the adequacy of open-space vistas.

SECTION 1000.5:7 ACTION ON THE DETAILED SITE PLAN

After review of the detailed site plan, the Planning Commission shall approve or disapprove the application, and so notify the applicant and the Zoning Administrator. When a detailed site plan has been approved by the Planning Commission, the applicant shall secure a building permit before beginning construction.

SECTION 1000.5:8 NULLIFICATION

In any case where construction on an approved PUD has not commenced within one year from the date of approval, the PUD approval shall be null and void.

SECTION 1000.5:9 EFFECT OF APPROVAL

After a detailed site plan has been approved and construction of any part thereof commenced, no other type of development will be permitted on the site without further approval thereof by the Planning Commission and the City Council after proceedings conducted as in the original application. This limitation shall apply to successive owners.

ARTICLE 1000.6 BOND REQUIREMENT

- A. A performance bond or bank letter of credit conditioned upon construction and development in accordance with the approved plans may be required by the City Council to be filed with the Zoning Administrator at the time of issuance of a building permit, where the development is to be completed in phases over a period of years, in such amounts and for such periods as in the discretion of the Council appears adequate to insure compliance with the approved plans.
- B. Such bond or letter of credit may also be required as security for the completion of any particular improvements upon which approval is conditioned for the protection of natural resources or the health, safety, and welfare of the residents of the City and future users or inhabitants of the proposed project area, including roadways, lighting, utilities, sidewalks, screening, and drainage. Where a cash deposit is made in lieu of a bond or letter of credit, the City Council shall provide for a rebate of the same in reasonable proportion to the ratio of the work completed and for which the deposit has been required, provided that the amount remaining on deposit still provides reasonable security for the completion of the unfinished improvements germane to the deposit.

ARTICLE 1000.7 MODIFICATION OF A DEVELOPMENT

Minor changes to a PUD's sketch plan or detailed site plan may be approved by mutual agreement of the applicant and the Planning Commission, provided the changes comply with all applicable requirements of this Zoning Ordinance and all other City regulations or state law. Minor changes include:

- A. All matters that were approved by the Planning Commission in the detailed site plan that were not part of the sketch plan,

- B. The relocation of structures, roads, planting areas, parking areas, signs, lighting, and driveways provided that all such improvements remain in the same general location as approved in the preliminary development plan, as determined by the Planning Commission, and
- C. Adjustments to total building size not to exceed the lesser of five thousand (5,000) square feet or five (5) percent of the gross floor area.
- D. All other changes shall be considered major changes to any approved PUD and shall be processed in accord with the original approval procedures.

Section 2. Severability: It is the legislative intent of the City Council that all provisions of this Ordinance be liberally construed to protect and preserve the peace, health, safety and welfare of the inhabitants of the City. Should any provision of this Ordinance or part thereof be held unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions, and the remainder of this Ordinance shall stand, notwithstanding the invalidity of any such provision thereof.

Section 3. Repeal: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 4. Effective Date: This ordinance shall take effect twenty (20) days after publication.

Moved by Councilor Englade, seconded by Councilor Holman, to adopt Ordinance No. 193-09, Planned Unit Development Regulations. This ordinance consolidates the residential planned unit developments, the waterfront planned unit developments, and the industrial planned unit developments to provide the same application and approval process and the same design standards for all planned unit developments.

Roll Call: Ayes: Councilor Dykstra, Englade, Holman, Castonia, Peterson, and Scott.

Absent: Councilor Weston

Nays: None. Motion Carried.

Councilor Englade presented the January and February Building, Zoning, and Enforcement Report.

Moved by Councilor Dykstra, seconded by Councilor Peterson, to accept the 2008 Recreation Department Annual Report. Cathy VanSickle, Recreation Department Director, summarized the report and was available for questions. The City paid \$11,545 to redo the Dow Field, and \$3,400 to redo the baseball diamond on the corner of Staffon Street and Tinkham Avenue. Councilor Peterson asked what the Dow Field was being used for. It was explained that the elementary softball and baseball and the adult softball programs used this field. Councilor Dykstra expressed his appreciation to Cathy for her efforts in this program. Motion Carried.

Moved by Councilor Holman, seconded by Councilor Dykstra to accept the 2008 Senior Center Annual Report. Donna Baade, Senior Center Director, summarized the report and was available for questions. His Honor Mayor Henderson expressed his appreciation to Donna and her staff for their efforts in this program. Motion Carried.

City Manager Shay presented the State of Michigan Tax Commission 14 point mini review and its results, and explained that the score was 100 which means that the City is compliant with the State Tax Commission rules and the General Property Tax Act. His Honor Mayor Henderson publicly thanked Rich Dykstra, Assessor, on the successful completion and results of the 14 point mini review.

His Honor Mayor Henderson stated that the WMOM is moving the Lake Jump date from March 21st to March 28th due to the ice pack on the beach.

Councilor Holman informed the public that there will be a focus group meeting in the Community Room on Monday, March 16 from 7 p.m.-8:30 p.m. by the Mason County Historical Society to gather input on the creation and operation of the maritime museum in the former U.S. Coast Guard Station in Ludington.

Moved by Councilor Englade, seconded by Councilor Dykstra, that the meeting be adjourned. So carried at 8:20 p.m.

Deborah L. Luskin, City Clerk