

Article Name

Section No. - Name

Page Comment

I - Short Title, Enabling Authority, Preamble and Enacting Clause1.03 *Township Zoning Act (TZA)*

I-1 All references to the Township Zoning Act should be removed and replaced with references to the Michigan Zoning Enabling Act. The TZA will be repealed on July 1, 2006 and replaced with the Michigan Zoning Enabling Act (PA 110 of 2006). Different noticing provisions are included under the MZEA. It is advisable to update those provisions now, so that when adopted (presumably after July 1, 2006), the new Covert Township Zoning Ordinance will reflect the current state law.

II - Construction of Language and Definitions2.02 *Definitions*

II-1 **Accessory Use** allows for separate residential structure to be used by guests.

Could guests include paying guests, such as a bed and breakfast? If so, this is a commercial use operating in a residential zone. Often, a commercial use in a residential zone requires a special use permit, at least. (Such as for a bed and breakfast.)

Who will enforce the provision that guests stay no longer than 30 consecutive days? What definition/provision insures that such accessory use does not become another principal use (ie, a dwelling unit)? How will the use of the accessory structures be policed by the Township to insure that they do not become rental units (ie 2nd dwelling unit), hotel rooms or bed and breakfast accommodations?

The ZBA has an ongoing problem of having to hear and approve non-storage accessory uses, especially for "guest houses" or "sleeping facilities" along the lakefront. Would it make sense within to define a "guest house" as sleeping quarters with bath and toilet facilities in close proximity to the principal residence. Allow a guest house as a special use in certain districts (e.g. LD-1)?

It would have to be approved by the Planning Commission, as any special use does. A special use could be revoked if it were misused or there were abuses of the special use. Owners could be required to annually report that they are in compliance with the special use; confirming that it was not being rented, food preparation facilities had not been added, no one was living there beyond 30 days, etc. If they failed to do so or there were complaints by nearby landowners, the building inspector could inspect the premises. If abuses were found, the special use could be revoked.

II-4 **Bed and Breakfast** - This definition fits the use that may be made of an accessory structure. How are these uses different? How can the Township monitor and control use of accessory structures so that they do not become commercial enterprises or a second principal use?

II-4 **Cluster Development** is defined as "A form of residential development where the total number of residential dwelling units may, with approval of the Planning Commission is constructed on fifty (50) percent of the developable land area (or less), provided that fifty (50) percent or more, of the total developable land area remains in open space protected from development through a permanent easement or other form of dedication acceptable to the Township Board."

What constitutes "developable land"? If there is a lake, is the lake area developable? If the property is in a critical dune area, are those areas with slopes greater than 1:3 "developable"? If the property has protected wetland areas, are they "developable"?

The purpose of cluster development is to preserve land from development, so we assume that those areas that cannot be developed are not to be included in the calculations — but this should be clarified.

II-4 **Cluster Development** Typo: "or other form or" should be "or other form of"

II-5 **Condominium structure** - definition states that a condominium structure can also be a building envelope. Not sure what this means. May need some clarification.

II-7 **Critical Dune Area** - add definition. See notes on Sections 9.01 and 21.02.

Article Name**Section No. - Name****Page Comment**

II-7 **Density** - density is defined here solely in terms of PUDs. Shouldn't there be a general density definition, that applies in all cases? Also uses "developable land" which needs definition. See discussion re: 2.02 Definitions - Cluster Development

II-7 **Developable land** - Add definition. See discussion re: 2.02 Definitions - Cluster Development

II-7 **Dwelling unit** - definition says that a dwelling unit has cooking, sanitary, bathing, dining and sleeping facilities, intended for occupancy by one family. In reference to accessory structures used for sleeping purposes (guest houses) - in order not to be a dwelling unit, an accessory structure should not have cooking facilities.

It is important that the Township make sure this is the case when plans are submitted, as well as having some method to monitor and insure continued compliance. It is often the case that an accessory structure has no cooking facilities, but after approval, a stove or microwave is installed.

II-7 **Environmentally sensitive area** - definition indicates areas of shoreline as determined by Township Planning Commission and/or DEQ. Actually, the ESO extends across I-196 into the Ross Preserve Area.

Could the definition reference the map of the overlay district? Can the Planning Commission determine an area is not environmentally sensitive, if the DEQ has determined it to be?

II-9 **Home occupation** - Bed and breakfast is a type of home occupation. Home occupations require special use approvals in the LD district.

What distinguishes use of an accessory structure from a bed and breakfast? Charging of fees? How will Township insure that accessory structures in residential districts are not rented out?

Reference to Township Zoning Act should be changed to Michigan Zoning Enabling Act.

II-10 **Land Division** - the last sentence is confusing. All land divisions and subdivisions will be considered PUDs and submitted for approval accordingly? Does this mean that every land division (which is a ministerial function of the Township) has to be processed as a PUD? This needs to be clarified or made more explicit.

II-11 **Lot lines** - might consider adding definition of waterfront lot line. Also might add definition of water front yard - It seems that the water front yard is the rear yard for the property.

II-15 **Setback, Waterfront** is defined but not used.

Also, the definition measures from the shoreline. In Section 18.11 uses the MDEQ's 60-year Lake Michigan erosion set back line in defining the setback at the water side of a lot.

II-15 **Space, Open** - See 'Open Space'. However, no entry for "Open Space."

II-16 **Use Accessory**. Typo: should be "Use, Accessory"

II-17 **Yards, front** - Are there 2 on corner lots? Is there a definition of water front yards?

II-17 **Zoning Lot** - this definition does not match "Lot, zoning" earlier in this section. This one appears to allow a single lot to be treated as multiple lots -- allowing a sort of land division and allowing multiple dwelling units on one residential lot. Is this correct? Shouldn't there be some approval by the Planning Commission?

III - Zoning Districts and Map3.00 *Zoning Map*

III-Map The southeast corner of the intersection of Covert Road and Blue Star is now residential homes. Why was it designated a Community Commercial district?

The northwest corner has had several Neighborhood Commercial establishments in the past. Would that be an appropriate location for commercial in the future?

Article Name

Section No. - Name

Page Comment

III-Map Would it make sense to zone the preserved areas in Thunder Mountain Heights, Linden Hills, Wilderness Dunes and the golf course at Palisades as Recreation? Recreation District includes private as well as public recreation facilities.

Could there be a tax benefit associated with recognizing that it is not developable?

III-Map Wouldn't it be appropriate to zone Van Buren State Park and Covert Township Park as Recreation rather than Industrial in the first case and Low Density Residential in the other?

III-Map Thunder Mountain, Linden Hills and Palisades Park developments have a very different history than the fire lanes, and consequently have a different character, limitations, advantages and needs. One clear indication is the size of lots. (Thunder Mountain lots average 1/2 acre and houses are separated by between 55 and 25 feet.)

Setbacks and lot sizes that make sense for the fire lanes do not make sense for these areas (and vice versa.)

Applying the zoning requirements appropriate to the fire lanes to these developments creates an unfair burden on property owners by requiring an appeal to do any construction. Applying smaller setbacks and narrower lots to the fire lanes will destroy what makes these areas unique and attractive to some people; and will lead to impairment of this natural resource.

We suggest that a new LD – Low Density Residential district be defined for these communities. Lot sizes and setbacks might be larger than LD-2 requires and setbacks be the same for principal and accessory structures..

Wilderness Dunes has larger lots (generally either 100 or 200 feet wide, between .8 and 3 acres), but existing *minimum* setbacks are more akin to these developments (about 15 feet) than to the fire lanes. Perhaps it too, could be classified similarly.

III-Map Previously all of the land west of I-196 was included in the Environmentally Sensitive Area. In the new version, portions of this area have been deleted.

a. The area around Nadeau Pit has been removed. The area is still designated a critical dune area by the state. It still has tall steep dunes around the perimeter. The MDEQ-LWMD has designated some areas around the dredge lake to be protected wetlands and have ordered the mining company to preserve them.

b. The land east of Blue Star, for about a mile south and north of Covert Road has been omitted. Nothing has changed in the area to diminish its environmental sensitivity. The DEQ in its 1996 study of critical dune areas identified it as an area that should have been included in the 1989 Atlas of Critical Dunes. The Busse Site sand dune mine and its expansion have removed some of the duneland, but special concerns arise regarding:

- (1) The surrounding dunes
- (2) The low elevation of the floor of the mine and its proximity to the water table.

We request that both of these areas be added back into the ESO District.

IV - AG - Agricultural District

4.02 *Principal Permitted Uses*

IV-1 Permits only Cluster Residential PUDs but section 16.02 allows standard PUD's and transfer of development rights PUDs as well. These two may not further the intent of the district.

IV-1 Add "Single-family farm homesteads" to the list of principal uses permitted.

Should single family detached residence be a permitted use?

Article Name**Section No. - Name****Page Comment**

V - Rural Residential5.02 *Principal Permitted Uses*

VI-1 Permits only Cluster Residential PUDs but section 16.02 allows standard PUDs and transfer of development rights PUDs as well. These two may not further the intent of the district.

VI - LD - Low Density Residential District6.01 *Intent*

VI-1 Exclusively single family detached. PUD option can undermine this intent. As can permitting use of accessory structures for residential purposes.

6.02 *Principal Permitted Uses*

VI-1 PUDs are permitted uses and conflict with the intent of detached single family residential; particularly if PUD is developed with non-contiguous open space.

This would allow increased density in LD-1 district (near Lake Michigan), without insuring the accompanying open space be located in the same area.

Permits only Cluster Residential PUDs but section 16.02 allows standard PUDs and transfer of development rights PUDs as well. These two do not further the intent.

VII - MD Medium Density Residential District7.01 *Intent*

VII-1 In reference to 16.01, the densities in this district are so high that the state requirements for "open space preservation" do not apply.

Will other types of PUDS be allowed? Per 16.02, all types apply.

Is there any provision for manufactured housing? Is there somewhere a manufactured housing park can be developed?

VIII - HD - High Density Residential District8.01 *Intent*

VIII-1 In reference to 16.01, the densities in this district are so high that the state requirements for "open space preservation" do not apply.

Will other types of PUDS be allowed? Per 16.02, all types apply.

Is there any provision for manufactured housing? Is there somewhere a manufactured housing park can be developed?

8.04 *Special Uses*

VIII-1 Should a single family dwelling be allowed in the HD residential district as a special use? Currently, the districts have many.

IX - ESO — Environmentally Sensitive Overlay District9.01 *Intent*

IX-1 Allowing PUDs in these areas, especially with density incentive and transfer of development rights, undermines the intent, and exacerbates the impacts of development in environmentally sensitive areas.

IX-1 Change "Shorelands Protection and Management Act of 1970 (Act No. 245 of the public Acts of 1970)" to "Natural Resources and Environmental Protection Act (Act 451 of 1994 Parts 323-

Article Name**Section No. - Name****Page Comment**

Shorelands Protection and Management and 353-Sand Dune Protection and Management)”

Add a third paragraph regarding protection of sensitive sand dunes which might read:

The regulations are also intended to protect the dune areas of Covert that the legislature has found are part of a unique, irreplaceable, and fragile resource that provide significant recreational, economic, scientific, geological, scenic, botanical, educational, agricultural, and ecological benefits to the people of this state and to people from other states and countries who visit this resource. The legislature further found that local units of government should have the opportunity to exercise the primary role in protecting and managing these areas and that the benefits derived from alteration, industrial, residential, commercial, agricultural, silvicultural, and the recreational use of these areas shall occur only when the protection of the environment and the ecology of the dune areas for the benefit of the present and future generations is assured.

IX-1 Stated as “control the unwise development of shorelands” ... “to retain open and natural character of the land and provide low density, single family dwellings with residentially related facilities.” Would not allowing transfer of development rights and incentive densities (as provided for in Article XVI) in the ESO District be counter to that intent.

9.02 *Additional Development Requirements Imposed in this District*

IX-1 3. 10% of land can be cleared within the 200 foot natural vegetation buffer at water side and street side. This is good, but can be waived by Zoning Administrator or ZBA. Should only be by ZBA per MZEA.

XV - Schedule of Regulations

15.01 *AG Agricultural District*

XV-1 AG district - 5 acre minimum, with 100 feet of frontage. This can result in 100' x 2100' square foot lot. Any concerns on lot depth/width ratio?

XV-1 Setbacks (in schedule of regulations) for LD-1 and LD-2 districts are the same, although the minimum lot size for LD 1 is 10 times larger than the minimum lot size for LD 2. Setbacks should be more proportional. The LD-1 setbacks and minimum lot width should be restored to the existing SR dimensions, which have served the area well for over 18 years. See the Appendix 1: Recommendations for Minimum Lot Widths and Setbacks in LD-1 District.

XV-1 Maximum lot coverage and principal/accessory building coverage could result in very large buildings on 5 acre parcel.

XV-1 The minimum lot area is 5a (for clarity it should be 5 acres).

We strongly object to changes made for district LD-1 (which has taken the place of the SR (Shorelands Residential) District.

The minimum frontage has been reduced to 100 feet from 200 feet. Narrow lots will result in residences much closer to one another, more narrow undisturbed areas around residences, less privacy, impaired views.

The side yards have been reduced from 30 feet to 10 feet. This worsens the impairments due to narrower lots.

The front yard has been reduced from 200 feet to 25 feet and the rear is reduced from 300 feet to 35 feet.

The lot coverage is set at 25%. This is very high for 5 acre lots.

The maximum building height has been increased from 25 feet to 35 feet.

The maximum lot coverage for accessory structures is 10%. This would be a 20,000 square feet and

Article Name**Section No. - Name****Page Comment**

is much too large. We suggest 2-3%.

If implemented, these changes will alter the character of the district. They will destroy what property owners value about the area.

XV-2 Footnote 4 - front building line of principal permitted use shall be 200 back from median high water line. This conflicts with the requirement in 18.11. Is definition of median high water line adequate? Who defines it? Also, this makes no provisions for accessory structures. Are they allowed to be within 25 feet of water line?

XV-2 The current zoning ordinance states "For **all uses** permitted in the SR Shorelands One-family Residential District, the setback shall apply to **all structures** both above and below ground." [Emphasis added.] This would prohibit all construction within the minimum setback for all yards. This requirement has been dropped from the proposed amended ordinance and should be reinstated for LD-1 and for the proposed new LD District.

XVI - Planned Unit Development Overlay District16.01 *Purposes*

XVI-1 Allow open space preservation developments, as permitted under TZA and MZEA. Note: that this does not apply to MD and HD districts, which are more dense than the minimum stated in the statute.

XVI-1 Allows use of non-contiguous open space in PUDs. Authorizes Planning Commission and Twp Board to approve non connected property as a unified PUD, where a portion of the land will be dedicated to permanent open space or farmland preservation. How far away can non-contiguous parcels be? Do they have to be in common ownership?

As mentioned elsewhere, this is not desirable in the ESO and is optional under the TZA and MZEA. Request that neither be allowed to increase density in the ESO district.

XVI-1 Permit greater flexibility and encourage more creative design. This is good and should be encouraged. Also intent is to minimize development impact on important environmental natural features.

XVI-1 The 3 types of PUDs need better explanation and clarification. What are their differences?

XVI-7 Twp Board may deny or table an application if, in Board's opinion, PUD will result in premature development of the area or result in improper scheduling of various public improvements.

The Twp Board may deny a PUD application if it does not have adequate public facilities (roads, public sewer, public water) in place. This is a very good provision.

This means that unless an area is ready to accommodate higher intensity development, which often requires public utilities such as sewer and water, the Twp can deny the request until the utilities are there. This is very good; gives the Township the ability to deny an application the Township does not feel prepared to service.

16.02 *Permitted Principal Uses*

XVI-1 The minimum lot size for a property to qualify for a PUD in the LD-1 District is ten acres. This would allow only two dwelling units and would not further the intent of PUDs established in the ordinance.

In MD and HD districts, 10 acres, as specified, is appropriate. This would allow 35 dwelling units (DU) in a development. The area for LD-1 and the AG districts should be at least 30 acres (6 DU's) to 40 acres (8 DU's); for LD-2, 10 acres (20 DU's).

Again, will need working definition of developable or developable land for PUD density calculations. See discussion re: 2.02 Definitions - Cluster Development.

Article Name

Section No. - Name

Page Comment

XVI-2 C All special uses will be allowed in PUDs. Do they need to get a separate special use permit, or will approval under the PUD be sufficient?

16.06 *Application and review procedure*

XVI-3 Is the PUD approval a rezoning? It appears to be, as the zoning map is changed to depict PUD. This would require that rezoning procedures must be followed. If not a rezoning, is it an overlay over existing zoning?

16.07 *Supplementary Development Standards & Regulations*

XVI-3 A. Clustering principles - Should maintain an overall PUD perimeter setback, such as 50 feet. Required front, rear and side yard setbacks may not be sufficient, especially if a mixed use PUD is permitted

Incentive Density - this is not uncommon in Zoning Ordinances, to encourage use of PUDs. A density incentive of 50% of the total, however, represents a large increase.

For instance, on a 10 acre parcel in the LD-1 district, you would normally receive 2 units. A 50% density incentive would allow 3.

Couple this with the fact that this density may be permitted on a less than 10 acre parcel, as non-contiguous open space may be allowed to serve as a portion of the minimum 10 acre site. (ie., 8 acres farmland and 2 acres of beach front property. Can cluster 3 units on the beach front 2 acre site, with remaining 8 acre farmland open).

Or take a 10 acre parcel along the lake and pair it with 10 acres of LD-2 property. By putting the LD -2 land in preserve and transferring the development rights for 21 DU's to the lakefront; obtaining a 50% bonus and a developer could place $1.5 \times (21 + 2) = 34$ DU's on a 10 acre lot.

Increases in density in the areas being developed residentially may not be in character with existing development and stress the sensitive environment.

The specified perimeter set back is in conflict with or is overridden by that specified in H. Site Design, Layout and Density Criteria item 3 which specifies a minimum of 50 feet.

XVI-4 In ESO, add restriction that pathways shall not be constructed on slopes steeper than 1' vertical to 3' horizontal and shall be located so that no trees must be removed.

What is minimum standard for roadways? Width, curb, gutter, etc. In the dunes, most of the roads are gravel and one lane. Wider roads will mean much more destruction, not preservation.

XVI-4 B. Incentive Density. The incentive density should not be allowed in the ESO District. Increased density will lead to impairment of the dunes, flora and fauna. See discussion under "A".

XVI-4 E. Open Space (Farmland) regulations

PUD Traditional - requirement that open space be for the use and enjoyment of PUD residents - is non-contiguous open space allowed? If open space is left in active farming, how do residents use and enjoy it?

Buildings, parking lots allowed in open space, if necessary to functions. - should there be some limit to types of buildings (ie, indoor bowling alley vs tennis courts)

Open space shall be conveniently located and accessible to principal uses in PUD - proximity and accessibility of non contiguous open space?

XVI-4 NEW Add further requirements for LD-1:

The minimum lot size in a PUD in LD-1 District shall be two acres (2) acres. Minimum lot width shall be 100 feet. Minimum setbacks shall be: front 35 feet; rear 25 feet; and side 15 feet. Setbacks for

Article Name**Section No. - Name****Page Comment**

water front lots are measured from the setback for the development.

Only single-family detached residences are allowed in a LD-1 PUD.

For LD-2:

The minimum lot size in a PUD in LD-2 District shall be 10,000. Minimum lot width shall be 75 feet. Minimum setbacks shall be: front 30 feet; rear 20 feet; and side 10 feet. Water fronting lots setbacks are measured from the setback for the development.

AG and RR might be similar to LD-1.

Standards should be established for PUDs in MD and HD districts as well.

XVI-5 F. Landscaping and Parking - 50 foot landscape strip between residential and non-residential uses. Is this sufficient? Shouldn't minimum berm or greenbelt standards be specified?

XVI-5 H. Site Design, Layout, and Density Criteria

Density on gross area basis - except for water area. Regulated wetlands, steep slopes in critical dune areas, are not be developable because of state regulations. Since they cannot be developed the developer should not be able to get credit for not developing them.

Residential areas can contain several types of dwelling units. This contrasts with intent of ESO (detached single family, to protect environmentally sensitive areas), along with one of the intents of the PUD district - to protect important natural resources.

XVI-6 J. Project Phasing - paragraph 2 suggests this - but need to clarify that each phase of project can stand on its own. Do not allow transfer of densities or incentive bonuses between phases. Each phase should be reviewed independently.

16.08 *Standards for Review*

XVI-6 D. Common open space shall be planned so as to be part of unified plan. Will non-contiguous open space do this?

XVI-7 F. Traffic - consider the general character and intensity of existing and proposed land uses. This is good reference to considering existing nature of development and not impacting too greatly w/ new traffic.

XVI-7 I. Create minimum disturbance to natural features is especially important in ESO district.

16.10 *PUD Site Plans, Subdivision Plats, and Condominium Subdivisions*

XVI-7 Twp Board may deny or table an application if, in Board's opinion, PUD will result in premature development of the area or result in improper scheduling of various public improvements. This is a very good provision; gives the Township the ability to deny an application the Township does not feel prepared to service.

XVII - Condominium Approval Requirements

17.02 *Initial Project Information*

XVII-1 Add requirement for identification of regulated wetlands or critical dunes areas.

17.12 *Amended Zoning Condominium Units*

XVII-3 Why not just apply setback standards of underlying zoning district? If intent is to treat condos as similar to platted subdivisions? Here, requiring that residential dwelling units be separated by 70 feet from center of unit (what is the center of a unit) to another unit. What is purpose of this separation. Also, references four (4) foot side yards. The intent and consequence of this section is not clear. Seems to need further explanation.

Article Name

Section No. - Name

Page Comment

XVIII - General Provisions18.05 *Non-conforming lots of record*

XVIII-1 This section should reference section 26.07, which states that adjacent, non-conforming lots under single ownership should be considered as one lot (as now required).

XVIII- 1 This paragraph conflicts with provision in Article Section 26.06. This one is preferable.

18.07 *Yard regulations May be Varied by the Zoning Board of Appeals*

XVIII-1 This conflicts with Section 27.04, Administrative Variances. This section (18.07) is better, as it requires that the ZBA approve dimensional variances.

18.11 *Lots Having Water Frontage*

XVIII-2 To avoid confusion.

The **rear yard** for lots having water frontage should still be defined as the water side. The front yard should be the street side, like any other lot.

All structures in LD-1 District shall be setback from all property lines the distance specified in Article XV, Schedule of Regulations (as is now required in the current SR district)

The maximum size for roofed accessory structures on the water side of the primary structure should be established (perhaps 225 square feet). These small accessory uses would have to be set back the minimum setback but could be on the lake side of the principal structure.

The number of accessory structures on the water side of the principal structure should be limited to one or two.

Accessory uses for the storage of vehicles and trailers and large accessory structures should be required to be located in the front yard as stated in the third paragraph of the proposed ordinance.

The remainder of 18.11 should stand as written.

18.12 *Regulations for accessory structures*

XVIII-2 3. Accessory structure cannot be larger than the ground floor area of the main building. Is this sufficient? It is a very loose standard.

XVIII-2 3. Accessory structure shall cover no more than 25% of a rear yard. Could be huge! What about coverage in a water side yard? What is maximum accessory structure coverage there? Should have special limitation since there should be a maximum area and maximum number. In such situation, a 200' vegetative area is to be maintained with only 10% of vegetation removed.

The maximum size of an accessory building should reference the Schedule of Regulations.

XVIII-2 4. Accessory structure can be located within 3 feet of property line. This is a life safety problem - very close to property line and some accessory structures are used as guest houses. In the LD-1 district, a fire could easily jump from building to building before the firefighters could get to the site.

XVIII-2 5. Maximum height at 15 feet (one story), but can exceed the height requirement upon approval of the Zoning Administrator. If the accessory building is located within 3 feet of the property line, and exceeds fifteen feet in height, it can be of enormous impact on the adjoining property. 3 feet seems close in all districts except for MD and HD.

Again, problem with Zoning Administrator being able to waive a zoning ordinance requirement. This should be restricted to the ZBA, with appropriate notice and hearing provisions.

Why is a minimum 8' wall height specified?

Article Name**Section No. - Name****Page Comment**

-
- XVIII-2 6. Requires that accessory buildings in other districts (what other districts) get a ZBA waiver if the height exceeds 15 feet. Why would the Township be more lenient with respect to non-residential accessory buildings, than with accessory buildings in a residential district? Any height waiver should require ZBA approval.
- The intent and consequence is not clear.
- XVIII-2 8. ZBA has to approve use of accessory building in residential district for other than storage purposes. Why would ZBA review this? Why wouldn't Planning Commission? It is allowing a use of greater intensity than a permitted accessory use (storage of materials), yet the ZBA is granting an approval?? More appropriate for planning commission to review a set of stated criteria to determine if the use will be injurious to surrounding permitted uses.
- XVIII-2 9. Zoning Administrator should not be granting variances from zoning ordinance provisions. Also, does a rear yard include a lakeside yard? Could an accessory building for storage of vehicles go in lakeside yard? See notes on 18.11.
- The maximum height is limited by paragraph 6 and should not be restated here. This subsection allows accessory structures for storage of vehicles to be as high as the principle use structure. This would seem to allow a 35' high garage. Why?
- 18.15 *Exterior Lighting*
- XVIII-3 Lighting should be arranged to eliminate (not simply reduce) glare.
- 18.24 *Residential Exterior appearance*
- XVIII-6 These are design guidelines for appearance of dwelling units. Not a bad thing. But may need more specificity, as referring to dwellings within 500 feet may yield no prevailing character.
- XVIII-6 A&B What are goals of specifying requirements for overhangs, roof drainage, and general statements of compatibility of appearance.
- Does compatibility mean that one could not build a contemporary design in Linden Hills and that only cottage type design are allowed? Or that no brick homes can be built in Thunder Mountain or Wilderness Dunes? Is it size? Apparent size? Materials? Design style?
- Issues of compatibility are difficult to legislate. They are also more important in a more dense or open setting than in a sparsely developed wooded setting.
- We think these provisions need more study before adoption. Their inclusion at this time is not important enough to delay the adoption of all other revisions.
- 18.26 *Home Occupations*
- XVIII-7 Requires special use issued by ZBA. Why? ZBAs don't issue special land use permits. Why not the Planning Commission?
- 18.27 *Plant Materials*
- XVIII-10 A. Must require planting of landscape materials prior to Certificate of Occupancy issuance, or (if weather does not permit) require posting of performance guarantee to insure planting.
- 18.28 *Plant Materials*
- XVIII-11 C. Trees not permitted. Add Black Locust, female Gingko, fertile varieties of Cottonwood.
- XVIII-11 D. Suggested Plant Materials
- e. 4. Black Locust (remove from list. It is not native and very invasive.)
- e. 5. Cottonwood (questionable. It is native but very invasive. Might consider sterile varieties).

Article Name**Section No. - Name****Page Comment**

XIX - Off Street Parking and Loading19.02 *Location of Offstreet Parking*

XIX-1 Need to define lake side yard as either front or rear. If rear, then would want to exclude off street parking from lake side yard.

XXI - Mineral Removal21.01 *Intent*

XXI-1 Definitions required in 2.02:

Define "Critical Dune Area" to mean a geographic area designated by the Michigan Department of Environmental Quality in its atlas of critical dune areas, as amended from time to time.

Define "Termination of Mining" to mean any of the following:

- (1) The actual cessation of substantial sand mining activities for a continuous period of twelve (12) months, or
- (2) The actual cessation of substantial mining activities with the intention of abandoning such activities, or
- (3) The actual cessation of substantial mining activities for a period of six (6) months with the revocation of the Michigan Department of Environmental Quality sand mining permit for the mining activities.

21.03 *Application, Review and Permit/Renewal Procedure*

XXI-5 D. Restoration Performance Guarantee. The state only requires \$2,000 per acre, which is a token of the cost to reclaim a mining site. If the operator provides financial security to the state, then the Township should still require financial security. We suggest that the township simply deduct whatever the State requires from the bond established under this Article.

XXI-5 G.1 Sequence of Operations. Add a stage similar to state's requirement for interim status of a cell, which is after the cell has been revegetated but before plant material has survived for one full year. Limit the number of cells that can be in interim status to three.

Require that within twelve (12) months after the termination of mining on a mining site, the permittee shall have completed the following:

- (1) Restoration of the mining site in accordance with the last Restoration Plan submitted by the permittee and approved by the Township, and
- (2) The removal of all mining equipment, all moving equipment, all processing equipment, all loading equipment, and all transportation equipment, above or below ground, or in, on, over or under water.

XXII - Environmentally Sensitive Land Regulations22.02 *Environmentally Sensitive Areas Regulated by the Terms of this Section*

XXII-1 A Duneland. 1.a. Typo: "Berms" should read "Brems"

XXII-3 B. Steep Slopes. The second requirement indicates that the Building Inspector may require five (5) to ten (10) foot contour maps at and near any proposed structures. The DEQ often requires 1' contours. With computer software, producing such a topographic site plan is simple and easily done. Since it is not at all burdensome, we ask that the vertical interval be reduced to 1' or 2' at the most.

Article Name**Section No. - Name****Page Comment**

22.07 *Pre May 12, 1988 - Rights for Pre-Existing Conditions*

XXII-3 Again, Zoning Administrator should not give variance from this requirement.

XXII-3 For parcel of land recorded prior to the May 12, 1988 the proposed ordinance allows the Zoning Administrator to issue a Zoning Compliance Permit that would exceed the specified clear cutting/ground disturbance ratio (7,500 square feet per 5 acres), requiring only that it be the minimum to provide for a home site and accessory uses similar in nature as those allowed on larger parcel of land.

First, this exception should apply only to lots that are smaller than the Schedule of Regulations allows.

Second, it is unrealistic to expect that a quarter acre lot could accommodate a house similar (in size) to a five or ten acre lot. Smaller lots can only accommodate smaller houses.

Third, we believe that such a variation from the requirements is significant enough that the ZBA should be the entity to give such permission, not the Zoning Administrator.

Fourth, the current ordinance limits the area that may be cleared or disturbed to 10% of the parcel. We would like to see that limitation included again. However, in no case, should the cleared area on a substandard lot be greater than 7,500 square feet.

22.09 *Review of Applications by the Planning Commission*

XXII-3 Should planning commission review single family applications, as well?

22.10 *Special Requirements for Development in Environmentally Sensitive Areas*

XXII-3 B. Steep Slopes. Steep dunes outside a critical dune area (CDA) are just as sensitive to disturbance as those within a CDA. The environmental sensitive area extends beyond the CDA.

Furthermore, in 1996 the DEQ made a study of CDA's and determined that in Covert Township that they should be extended in many areas to the east of I-196 — beyond Coverts ESO District.

To afford the same protection, we request that

- a. Construction and excavation for any purpose on slopes steeper than 1:3 be prohibited
- b. Construction and excavation of within 10 feet of the edge of a bluff or crest of a dune be prohibited.

XXII-4 D. Other Areas. Reference to "22.22D" should be "22.01 D".

22.11 *Environmental Impact Statement Required for Developments of 3 Acres or More*

XXII-4 Last paragraph. Typo "for:" should read "for".

22.13 *Application, Review and Permit Procedure*

XXII-7 B. Review and Approval for Single Family Residence. Typo in second paragraph "to either to approve or deny" should read "to either approve or deny".

XXIV - Special Uses

24.02 *Authority to Grant Special Use Approvals*

XXIV-1 Township board shall grant special uses. This conflicts w/ 18.26 where ZBA approves special uses for home occupations. 18.26 should be revised to be processed as all other special uses.

Article Name**Section No. - Name****Page Comment**24.08 *Jurisdiction of ZBA*

XXIV-2 ZBA has no jurisdiction over decision of Planning Commission or Twp Board with respect to special uses.

This conflicts with 18.26 (where ZBA grants variance) and 28.09, which authorizes appeals from Planning Commission and Twp Board to ZBA.

(We believe Section 28.09 is wrong and should be removed or reworded)

XXVI - Non-conforming Lots, Buildings and Structures, and Uses26.01 *Continuance of Nonconforming Use*

XXVI-1 Section says intent is to permit continued use of NCUs, but not to encourage survival. This conflicts with Section 26.04, which permits rebuild of NCU/structure if totally destroyed by fire, etc."

26.02 *Enlargement, Expansion of NCUs prohibited*

XXVI-1 This section conflicts with 26.04 (ZBA permit expansion of NCUs)

26.04

XXVI-1 Check numbering: there are two sections 26.04

XXVI-1 This provision would allow rebuild of a totally destroyed NCU or structure. Should permit restoration of an NCU or structure only if the structure is not damaged more than 50%.

XXVI-1 Is this a variance to Section 26.02 above, which prohibits enlarging or expanding NCUs? If a variance, why not use regular variance criteria (hardship, practical difficulty)? ZBA should not be given different standards for considering this type of variance, from other variances considered.

26.05 *Change of NCUs*

XXVI-1 ZBA may allow the substitution of one type of NCU for another, based on stated criteria. This is not typical with NCUs; traditionally, the non-conforming use may not change. This provision may allow substitution of uses that may be more intensive or intrusive. While this section provides for ZBA review against stated criteria, many of the standards are open for interpretation. (ie., compatibility, appropriate safeguards)

26.06 *Nonconforming Lots of Record*

XXVI-1 This is a standard provision, but zoning district should provisions apply. Or, at the very least, minimum setbacks are established, to insure public health, safety and welfare. Also, maximum lot coverage might be included.

26.07 *Contiguous Nonconforming Lots in Common Ownership*

XXVI-2 Insert after "...in existence at the time of the passage of this Ordinance, or an amendment thereto" the phrase ", or at any time thereafter"

26.08 *Abandonment of NCUs and structures.*

XXVI-2 Text needs to also reference abandonment of non-conforming structures.

Abandonment of a non conforming use or structure is not triggered by non-use for a set period of time. Michigan case law defines abandonment of a non conforming use as intent to abandon plus an act or omission evidencing that intent. *Livonia Hotel LLC v City of Livonia*, 259 Mich App 116, 128 (2003). There are problems with this section's conclusion of abandonment after six months, as well as the provision that abandonment is deemed if any of a list of certain conditions exists.

Article Name**Section No. - Name****Page Comment**

XXVII - Administration, Fees and Enforcement27.03 *Duties of Zoning Administrator*

XXVII-1 This section grants Zoning Administrator the authority to issue administrative variances. There is no authority for any one other than ZBA to grant variances.

27.04 *Administrative Variances*

XXVII-1 We don't believe there is authority under the Township Zoning Act or under the new Michigan Zoning Enabling Act (MCL 125.3101 et seq) for a zoning administrator to grant variances. The statutes specifies a Zoning Board of Appeals as granting variances. (see MCL 125.3604)

Having an administrative variance eliminates due process afforded by notice and a hearing.

XXVII-1 Also, provision that Zoning Administrator would consult with and require approval of Chair of Planning Commission and ZBA. The Planning Commission has no authority to grant variances.

Why are these parties involved? If this is truly a ministerial function, the Zoning Administrator should perform it without approval of others.

All in all, administrative variances do not appear to comply with the MZEA that calls for the ZBA to hear appeals and issue variances.

XXVII-1 We strongly oppose this provision. It turns over decisions, otherwise the responsibility of a board of citizens, to one individual. It is open to abuse. It provides no notice and no hearing. Therefore, neighbors have no opportunity to comment on certain variations from the zoning ordinance that may directly effect them, their quality of life and property values made at the behest and for the convenience of someone else.

There should be an open hearing by the ZBA with notice given to allow variances to the zoning ordinance.

XXVIII - Zoning Board of Appeals28.08 *Voiding of a variance*

XXVIII-5 This section provides that a variance will become void if construction or the use approved are not begun within one year. We do not believe that a variance expires; instead it should run with the land.

28.09 *Appeals Procedure*

XXVIII-4 It is atypical to allow appeals from the Planning Commission to be taken to the ZBA, unless it is a specific appeal of a special use or PUD decision. Even in this case, the provision for appeal to the ZBA must be contained elsewhere in the Zoning Ordinance.

Moreover, we don't believe it is legal to allow appeal from a Township Board decision to go to the ZBA, as is contained in this section. The Township Board is a legislative body. Someone aggrieved with a decision of the Township Board on a rezoning cannot appeal that decision to the ZBA. The only appeal would be to the Circuit Court.

28.12 *Board of Appeals Action.*

XXVIII-4 The ZBA does not have all the powers of the Planning Commission or certainly, of the Township Board.

XXIX - Amending the Ordinance29.02 *Procedures*

XXIX-1 Revise to match new MZEA