ARTICLE XVI

ADMINISTRATION AND ENFORCEMENT

SECTION 16.00 – ZONING ADMINISTRATION

The Zoning Administrator, or such deputies, shall be appointed by the City Council and designated to administer and enforce the provisions of this Ordinance.

(a) *Duties*. The Zoning Administrator shall:

1. Receive and review for completeness all applications for site plan review and Special Land Use permits which the Planning Commission is required to decide under this Ordinance and refer such applications to the Planning Commission for determination.

2. Receive and review for completeness all applications for appeals, variances, or other matters, which the Zoning Board of Appeals is required to decide under this Ordinance and refer such applications to the Zoning Board of Appeals for determination.

3. Receive and review for completeness all applications for amendments to this Ordinance and refer such applications to the Planning Commission and City Council for determination.

4. Make periodic site inspections of the City to determine Ordinance compliance, and answer complaints on Zoning Ordinance violations. The Zoning Administrator shall order discontinuance of illegal uses of land, buildings or structures; removal of illegal buildings or structures; discontinuance of any illegal work being done; and/or shall take any other action authorized by this Ordinance to ensure compliance with or prevent violations of its provisions.

5. Grant Certificates of Zoning Compliance, review administrative sketch plans, and make inspections of premises necessary to carry out administration and enforcement of this Ordinance.

6. Implement the decisions of the Planning Commission and City Council.

SECTION 16.01 – CERTIFICATES OF ZONING COMPLIANCE

(a) A building permit for erection, alteration, moving, or structural repair of any building or structure shall not be issued until a Certificate of Zoning Compliance has been issued by the Zoning Administrator. Issuance of such a Certificate shall indicate the use(s) and plans for which the permit is requested comply with this Zoning Ordinance.

(b) It shall be unlawful to use or permit the use of any building or premises, or both, or part thereof, until a Certificate of Zoning Compliance shall have been issued by the Zoning Administrator.

(c) The Zoning Administrator shall maintain a record of all Certificates of Zoning Compliance and said record shall be open for public inspection.

(d) Certificates of Zoning Compliance authorize only the use, arrangement, and construction set forth in an approved application and plans, therefore no other use, arrangement, or construction is permitted. Use arrangement or construction at variance with the authorization shall be deemed a violation of this Ordinance. Any change in approved plans shall occur only as provided for in this Ordinance and shall require issuance of an amended Certificate of Zoning Compliance.

SECTION 16.02 - DUTIES OF BUILDING INSPECTOR

The Building Inspector shall:

(a) Have the power to grant building and occupancy permits, to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this Ordinance. It shall be unlawful for the Building Inspector to approve any plans or issue any permits or certificates of occupancy for any excavation or construction until he has inspected such plans in detail and found them to conform with this Ordinance.

(b) The Building Inspector shall record all non-conforming uses existing at the effective date of this Ordinance for the purpose of carrying out the provisions of Article XII - Nonconformity.

(c) Under no circumstances is the Building Inspector permitted to make changes to this Ordinance nor to vary the terms of this Ordinance in carrying out his duties as Building Inspector.

(d) The Building Inspector shall not refuse to issue a permit when conditions imposed by this Ordinance are complied with by the applicant despite violations of contracts, such as covenants or private agreements which may occur upon the granting of said permit.

SECTION 16.03 – PERMITS

The following shall apply in the issuance of any permit:

(a) *Permits not to be issued.* No building permit shall be issued for the erection, alteration or use of any building or structure or part thereof, or for the use of any land which is not in accordance with all provisions of this Ordinance.

(b) *Permits for New Use of Land.* No land heretofore vacant shall hereafter be used or an existing use of land be hereafter changed to a different class or type unless a certificate of occupancy is first obtained for the new or different use.

(c) *Permits for New Use of Buildings.* No building or structure or part thereof, shall be changed to or occupied by a use or a different class or type unless a certificate of occupancy is first obtained for the newer different use.

(d) *Permits Required.* No building or structure, or part thereof shall be hereafter erected, altered, moved, or repaired unless a building permit shall have been first issued for such work. The terms "altered and repaired" shall include any changes in structural parts, stairways, type of construction, type, class or kind of occupancy, light or ventilation, means of egress and ingress, or other changes affecting or regulated by the Building Code, or by this Ordinance, except for minor repairs or changes not involving any of the aforesaid features.

SECTION 16.04 - CERTIFICATES OF OCCUPANCY

No land, building, or part thereof, shall be occupied by or for any use unless and until a Certificate of Occupancy shall have been issued for such use. The following shall apply in the issuance of any certificate:

(a) *Certificates Not to be Issued.* No certificates of occupancy shall be issued for any building, structure or part thereof or for the use of any land, which is not in accordance with all the provisions of this Ordinance.

(b) *Certificates Required.* No building or structure, or parts thereof, which is hereafter erected or altered, shall be occupied or used or the same caused to be done, unless and until a certificate of occupancy shall have been issued for such building or structure.

(c) *Certificate Including Zoning.* Certificates of Occupancy as required by the Building Code for new buildings or structures, or part thereof, or for alterations to or changes of use of existing buildings or structures, shall also constitute Certificates of Occupancy as required by this Ordinance.

(d) *Certificates for Existing Buildings.* Certificates of Occupancy shall be issued for existing buildings, structures, or parts thereof, or existing uses of land if, after inspection, it is found that such buildings, structures, or parts thereof, or such use of land are in conformity with the provisions of this Ordinance.

(e) *Records of Certificates.* A record of all certificates issued shall be kept on file in the office of the Building Inspector, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.

(f) *Certificates for Dwelling Accessory Buildings.* Buildings or structures accessory to dwellings shall not require separate certificates of occupancy but may be included in the certificate of occupancy for the dwelling when shown on the plot plan and when completed at the same time as such dwelling.

(g) *Application for certificates.* Applications for certificates of occupancy shall be made in writing to the building inspector on forms furnished by that department, and such certificates shall be issued within five (5) days after receipt of such application if it is found that the building or structures, or part thereof, or the use of land is in accordance with the provisions of this ordinance. If such certificate is refused for cause, the applicant therefore shall be notified of such refusal and cause thereof, within the aforesaid five (5) day period.

SECTION 16.05 – FEES

The City Council shall establish a schedule of fees, charges, and expenses, and a collection procedure, for building permits, certificates of occupancy, appeals, and other matters pertaining to this ordinance. The City shall have the authority to include fees for the use of engineering, planning, legal or other special consultants. The schedule of fees shall be posted in the City Offices, and may be altered or amended only by the City Council. No permit or certificate shall be issued or special use site plan, rezoning, or variance acted upon unless or until such costs, charges, fees, or expenses have been paid in full.

SECTION 16.06 - SITE PLAN REVIEW

The Planning Commission shall have the authority to review and to approve or reject all site plans (i.e. preliminary, final and combined site plans). Prior to the issuance of building permits or commencement of construction, site plan review and approval is required in accordance with the procedures contained in this section.

(a) When required.

1. Site plan review is required for all proposed uses, including change of use, and certain existing uses within the City where an alteration, addition, expansion, change or conversion constitutes an increase or reduction to the existing structure or use of more than five hundred (500) square feet or ten (10%) percent, whichever is less; or would require a variance from the provisions of this Ordinance, regardless of its size.

2. Any development, except single family residential, for which an off street parking area is required in Article XIII – Off Street Parking Requirements.

3. Any use except single family residential which lies contiguous to a major thoroughfare or collector street.

4. All residentially related special land uses permitted in single family districts such as, but not limited to: churches, schools, and public facilities.

5. Projects not eligible for sketch plan review as determined by the Zoning Administrator.

(b) Sketch Plan Review.

1. Intent. The intent of this section is to permit submittal of a sketch plan in instances where a complete site plan is not considered essential to ensure compliance with the intent and standards of this Zoning Ordinance.

2. Eligibility. The Zoning Administrator and Building Official may allow a sketch plan for the following activities:

   a. Changes in use, as defined in this Zoning Ordinance, that do not increase the gross floor area, provided all other improvements are consistent with the requirements of this Zoning Ordinance.

   b. Alterations to the off-street parking layout or installation of pavement or curbing improvements provided the total number of spaces shall remain constant, and the construction plans and lot construction are approved by the City.

   c. Relocation of a waste receptacle to a more inconspicuous location, or the installation of screening, both consistent with the requirements of this Zoning Ordinance.

   d. Changes to a facade, architectural features or wall signs, provided such changes are consistent with the requirements of this Zoning Ordinance and do not significantly change the appearance of the building. (An elevation plan showing changes and construction materials is required).

e. A change from a nonconforming use, building or site to a more conforming situation consistent with the requirements of this Zoning Ordinance.

f. Modifications to upgrade a building to improve barrier-free design, comply with Americans with Disabilities Act or other federal, state or county regulations.

g. Internal construction or change in the floor plan for a conforming use that does not increase gross floor area, provided the construction cost over a twelve (12) month period does not exceed fifty percent (50%) of the building's state equalized value or effect parking requirements on a site.

h. Construction, improvements, or alterations of signs, retaining walls, fences, waste receptacles, sidewalks, antennae, lights, poles, cooling/heating or other mechanical equipment, telephone booths, newspaper boxes, landscaping or similar structures which conform to the requirements of this Zoning Ordinance or other City standards, and where site plan review is not specifically required under other sections of this Zoning Ordinance.

3. Procedure.

a. The process shall involve submittal of a sketch plan, required application form, and fee to the City. The Zoning Administrator and Building Official shall review the sketch plan in accordance with the same procedures, requirements, and standards used by the Planning Commission for a formal site plan. After the sketch plan review, the Zoning Administrator and Building Official will approve, approve with modifications, or deny the proposed plan. The Zoning Administrator and Building Official shall make a report of each sketch plan review to the Planning Commission including the rationale for allowing sketch plan review and the complete sketch plan review checklist.

b. The Zoning Administrator and Building Official retain the option to require additional information or a complete site plan for review by the Planning Commission, particularly for sites which do not comply with previously approved site plans, sites with parking deficiencies, sites abutting residential districts or sites experiencing problems with drainage, traffic, noise, aesthetics or other general health and safety issues. If a formal site plan is required, the Zoning Administrator shall inform the applicant to submit a complete application in accordance with this Section. The applicant may also request review by the Planning Commission.

4. Information Required. The Zoning Administrator shall require all applicable criteria set forth below to be met.

    a. General information required for all cases.

        1. Details of the propose changes to the use or structure in question.

        2. Proprietors', applicants', and owners' names, addressed and telephone numbers.

        3. Location map with north point indicated.

        4. Locations of existing landscaping, lighting, parking, if applicable.

        5. Gross acreage and building figures.

        6. Zoning classification of petitioners' parcel and all abutting parcels.

5. Duration and Termination. Approval of a Sketch Plan by the Zoning Administrator shall remain in effect for a period of one (1) year. If construction is not initiated within this time period, such failure shall be considered abandonment of the Sketch Plan and shall make its approval null and void. The Zoning Administrator may grant an extension not to exceed one (1) year. No further extension may be permitted.

(c) Preliminary Site Plan Review.

1. Application. Any applicant may submit a request for preliminary site plan review by filing with the Zoning Administrator completed forms, site plan review checklist, payment of the review fee, and eighteen (18) copies of the preliminary site plan drawing(s) properly signed and sealed by a licensed professional. The Administrator, upon receipt of the application, shall transmit only complete submittals of the preliminary site plan drawings to the Planning Commission, City Planning and Engineering consultants, and any other consultants as necessary, at least twenty-one (21) days prior to its next regular meeting. The purpose of such preliminary review is to confirm general compliance with City standards as well as to suggest changes, if necessary, for final site plan approval.

2. Information Required. Each preliminary site plan submitted for review shall provide the following information:

    a. Property owner and applicant name and address;

    b. Scale, north arrow, and date of plan;

c. Location, description, dimensions, and area of the site; zoning classification; and, demonstration of compliance with lot area, width, coverage and setback requirements.

d. General topography and soils information and existing natural and man-made features to be retained or removed;

e. Use, location and dimensions of proposed buildings/structures; including floor area, number of floors, height, number and type of dwelling units (where applicable);

f. Proposed streets/drives; including general alignment, right of way, surface type, and width, based on ordinance requirements for proposed use;

g. Proposed parking; including location and dimensions of spaces and aisles, and surface type;

h. Demonstration that all barrier free requirements have been met;

i. Adjacent land uses, property owners, and zoning and location of adjacent buildings and drives/streets;

j. Proposed phasing;

k. Location and width of any easements on the site.

3. Planning Commission Action. The Planning Commission shall approve, approve with conditions or deny the preliminary site plan. The Planning Commission shall set forth the reason for its action in the record of the meeting at which action is taken.

4. Effect of Approval. Approval of a preliminary site plan by the Planning Commission shall indicate its general acceptance of the proposed layout of buildings, streets and drives, parking areas, other facilities and overall character of the proposed development.

5. Expiration of Approval. Approval of a preliminary site plan shall be valid for a period of one hundred eighty (180) days from the date of approval and shall expire and be of no effect unless an application for a final site plan is filed with the Zoning Administrator within that time period. The Zoning Administrator or duly appointed agent shall, within thirty (30) days of the date of action of the Planning Commission of the preliminary site plan, transmit a written certification of such approval to the applicant.

(d) Final Site Plan Review.

1. Application. Following approval of a preliminary site plan, the applicant shall submit to the Zoning Administrator eighteen (18) copies of a final site plan as well as other data and exhibits hereinafter required, the review fee, and a completed application form. The Administrator, upon receipt of the application, shall transmit only complete submittals of the final site plan drawing(s) to the Planning Commission, City Planning and Engineering consultants, and any other consultants as necessary, prior to its next regular meeting.

2. Information Required. A Final Site Plan submitted for review and approval shall contain all of the following data presented in a clear and legible format. Site Plans shall consist of an overall plan for the entire development. Sheet size shall be at least 24" x 36" with plan view drawn to a scale of no greater than 1" = 50’ for property less than three acres or no greater than 1" = 100' for property three or more acres.

General Information

a. Proprietors', applicants', and owners' names, addresses and telephone numbers.

b. Date of preparation, including revisions.

c. Scale.

d. Northpoint.

e. Location map drawn at a scale of 1" = 2,000' with north point indicated.

f. Architect, Engineer, Surveyor, Landscape Architect, or Planner's seal and signature.

g. Existing and proposed lot lines, building or structures, parking areas, drives, etc., on the parcel and within one hundred (100) feet of the site.

h. Centerline and existing and proposed right-of-way lines of any street.

i. Zoning classification of petitioner's parcel and all abutting parcels.

j. Gross acreage figure.

Physical Features

a. Acceleration, deceleration and passing lanes and approaches.

b. Proposed locations of access drives, street intersections, driveway locations, sidewalks, and curbing.

c. Location of existing and proposed service facilities above and below ground, including:

   i. Chemical and fuel storage tanks and containers.

   ii. Water supply facilities.

   iii. Sanitary sewage disposal facilities.

   iv. Storm water control facilities and structures.

   v. Location of all easements.

d. Location of all structures with setback, yard dimensions and gross area.

e. Dimensioned parking spaces and parking and loading calculations, drives type of surfacing and on-site circulation patterns.

f. Details of barrier free parking, access and similar site features.

g. Dimensioned floor plans, elevations, and proposed construction materials of all proposed buildings on the site.

h. Proposed site lighting information.

i. Location and description of all existing and proposed landscaping, berms, fencing and screening walls.

j. Trash receptacle pad location, size and method of screening.

k. Transformer pad location and method of screening.

l. Dedicated road or service drive locations.

m. Entrance details including sign locations, types and size.

n. Designation of fire lanes.

o. Any other pertinent physical features.

Natural Features

a. Soil characteristics of the parcel to at least the detail provided by the U.S. Soil Conservation Service, Soil Survey of Oakland County, Michigan.

b. Existing topography with a maximum contour interval of two (2) feet. Areas with slopes greater than ten (10%) percent (one (1) foot of vertical elevation for every ten (10) feet of horizontal distance) shall be delineated. Topography on the site and beyond the site for a distance of one hundred (100) feet in all directions shall also be indicated.

c. Grading plan, showing finished contours at a maximum interval of one (1) foot, correlated with existing contours so as to clearly indicate required cutting, filling and grading.

d. Location of existing drainage courses and associated bodies of water, on and off site, and their elevations. The location of existing wetlands and flood plains shall be included.

e. Location, size and type of all single trees having a diameter breast height (d.b.h.) of four (4) inches or greater. Wooded areas shall be delineated by symbolic lines tracing the spread of the outermost branches and shall be described as the general sizes and kinds of trees contained.

f. Keyed plan outlining soil erosion and sedimentation measures to be provided.

Additional Requirements for Residential Developments:

a. Density calculations by type of unit by bedroom counts.

b. Designation of units by type and number of units in each building.

c. Carport locations and details where proposed.

d. Specific amount, location and type of recreation spaces.

e. Number and location of visitor parking spaces to be provided.

Additional Requirements for Commercial and Industrial Developments:

a. Loading/unloading areas.

b. Gross floor area.

c. Number of employees in peak usage.

3. Standards for Review. In reviewing the final site plan, the Planning Commission shall determine whether the plan meets the following specifications and standards:

   a. The plan conforms to the approved preliminary site plan and with all Zoning Ordinance regulations;

   b. All required information is provided;

   c. The proposed use will not be injurious to the surrounding neighborhood and protects the general health, safety, welfare and character of the City.

   d. A proper relationship exists between major thoroughfares and proposed service drives, driveways and parking areas. Proper access to all portions of the site and all sides of any structure is provided. All structures or groups of structures shall be so arranged as to permit emergency vehicle access by some practical means to all sides.

   e. The location of buildings is such that the adverse effects of such uses will be minimized for the occupants of that use and surrounding areas.

   f. Natural resources will be preserved to the maximum extent possible in the site design by developing in a manner which will not detrimentally affect or destroy natural features such as lakes, ponds, streams, wetlands, steep slopes, soils, groundwater and woodlands.

   g. Storm water management systems and facilities will preserve the natural drainage characteristics and enhance the aesthetics of the site to the maximum extent possible, and will not substantially reduce or increase the natural retention or storage capacity of any wetland, water body or water course, or cause alterations which could increase flooding or water pollution on or off site.

   h. Wastewater treatment systems, including on-site septic systems, will be located to minimize any potential degradation of surface water or groundwater quality and meet County and State standards.

   i. Sites which include storage of hazardous materials or waste, fuels, salt, or chemicals will be designed to prevent spills and discharges of polluting materials to the surface of the ground, groundwater or nearby water bodies in accordance with County and State standards.

   j. Landscaping, including grass, trees, shrubs and other vegetation is provided to maintain and improve the aesthetic quality of the site and area.

k. The proposed use is in compliance with all City Ordinances and any other applicable laws.

4. Planning Commission Action. The Planning Commission shall approve, approve with conditions, or deny the final site plan. The Planning Commission may suggest and/or require modifications in the proposed final site plan as are needed to gain approval.

   In the interest of ensuring compliance with this Ordinance and protecting the health, safety and welfare of the residents of the City, the Planning Commission, as a condition of final approval of the site plan, shall require the applicant to deposit a performance guarantee as set forth in Section 15.19 of the Zoning Ordinance for the completion of improvements associated with the proposed use.

5. Effect of Approval. Approval of a final site plan authorizes applicant to apply for a building permit, certificate of zoning compliance and/or certificate of occupancy. A building permit, certificate of zoning compliance and/or certificate of occupancy will not be granted for site plans approved with conditions until the remaining issues have been addressed and resolved to the satisfaction of the Planning Commission.

6. Expiration of Approval. Approval of a final site plan shall expire and be of no effect one (1) year following the date of approval unless construction has begun on the property in conformance with the approved final site plan. The applicant can request a one (1) year extension from the Planning Commission a month prior to the date of expiration. Approval shall also expire and be of no effect unless a building permit shall have been taken out within one hundred eighty (180) days of the date of approval of the final site plan.

(e) Combining Preliminary and Final Site Plans. An applicant may, at his or her discretion and risk, combine a preliminary and final site plan application for approval. In such a situation the portion of the review process concerning preliminary site plan application and review may be waived by the Planning Commission. The Planning Commission shall have the authority to require submittal of a preliminary site plan separate from a final site plan, where, in its opinion, the complexity and/or scale of the site for the proposed development so warrant.

(f) Amendment of Approved Site Plan. The Zoning Administrator shall have the authority to determine if a proposed change requires an amendment to an approved final site plan. A site plan may be amended upon application and in accordance with the procedure herein for a final site plan. The Zoning Administrator may approve minor changes in an approved final site plan,

provided that a revised final site plan drawing (s) be submitted showing such minor changes, for purposes of record.

(g) Modification of Plan during Construction. All improvements shall conform to the final site plan. Any changes, which result in a material alteration of the site plan approved by the Planning Commission, shall require re-submittal to the Planning Commission. The Planning Commission or Zoning Administrator may require the applicant to correct the changes so as to conform to the approved final site plan.

(h) Phasing of Development. The applicant may, at his discretion, divide the proposed development into two (2) or more phases. In such case, the preliminary site plan shall cover the entire property involved and shall clearly indicate the location, the size, and character of each phase. A final site plan shall be submitted for review and approval for each phase.

(i) Inspection. The Building Inspector and Zoning Administrator shall be responsible for inspecting all improvements for conformance with the approved final site plan. All sub-grade improvements such as ~~utilities,~~utilities; sub-base installations for drives and parking lots, and similar improvements shall be inspected and approved prior to covering. The applicant shall be responsible for requesting the necessary inspections.

(j) Violations. The approved final site plan shall regulate development of the property and any violation of this Article, including any improvement not in conformance of the approved final site plan, shall be deemed a violation of this Ordinance as provided in Article XXI, and shall be subject to all penalties therein.

SECTION 16.07 - SPECIAL LAND USE REVIEW

(a) Application. Applications for special land use permits authorized in this Ordinance shall be submitted to the Zoning Administrator on a form provided by the City. In addition to a complete application form, the applicant is required to pay all required fees and submit a preliminary site plan prepared in accordance with Section 16.06, Site Plan Review. Incomplete submittals shall not be accepted by the Zoning Administrator.

(b) Procedures.

1. Planning Commission Hearing and Review. Special Land Use Approval shall not be granted until a public hearing has been held by the Planning Commission, in accordance with Public Act 110 of 2006, as amended. The Planning Commission shall make a recommendation with comments on the Special Land Use to the City Council.

2. City Council Review. Following the public hearing and recommendation from the Planning Commission, that application will be forwarded to the City Council for review. The City Council shall deny, approve, or approve with conditions, requests for Special Land Use approval. The decision of the City Council shall be incorporated in a statement of conclusions relative to the Special Land Use under consideration. Any decision, which denies a request or imposes conditions upon its approval, shall specify the basis for the denial or the conditions imposed.

   The City Council may impose such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights, and for insuring that the purposes of this Ordinance and the general spirit and purpose of the district in which the special use is proposed will be observed.

(c) Basis of Determinations. The Planning Commission and City Council shall review the proposed Special Land Use in terms of the standards stated within this Ordinance and shall establish that such use and the proposed location:

1. Taking into consideration the size, location and character of the proposed land use, viewed within the context of surrounding land uses and the Master Plan for such area, the proposed use shall not be incompatible nor inharmonious, as determined by the application of generally accepted planning standards and/or principles, with:

   a. The surrounding uses; and/or

   b. The orderly development of the surrounding neighborhood and/or vicinity in accordance with this Section and the Master Plan.

2. The proposed use shall be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved, taking into consideration vehicular turning movements in relation to routes of traffic flow, proximity and relationship to intersections, adequacy of sight distances, location and access of off-street parking and provisions for pedestrian traffic, with particular attention to minimizing child-vehicle interfacing.

3. The proposed special land use shall not unreasonably impact upon surrounding property in terms of noise, dust, fumes, smoke, air, water, odor, light and/or vibration, and further, shall not unreasonably impact upon persons perceiving the operation in terms of aesthetics. Where such concerns can be remedied by way of design, construction and/or use, the proposed use shall be designed, constructed and used so as to eliminate the effects of the use which would otherwise substantiate denial thereof, taking

into consideration the location, size, intensity, layout and periods of operation of such use.

4. The proposed use shall be such that the proposed location and height of buildings or structures and location, nature and height of walls, fences and landscaping will not interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value.

5. The proposed use shall relate harmoniously with the physical, historic, and economic aspects of adjacent land uses as regards prevailing shopping habits, convenience of access by prospective patrons, continuity of development, and need for particular services and facilities in specific areas of the City.

6. The proposed use is in general agreement with the master plan designation for the area where the use is to be built.

7. The proposed use is so designed, located, planned and to be operated that the public health, safety and welfare will be protected.

8. The proposed use shall not cause substantial injury to the value of other property in the neighborhood in which it is to be located and will not be detrimental to existing and/or other permitted land uses in the zoning district.

9. The proposed Special Land Use shall not result in an impairment, pollution and/or destruction of the air, water, natural resources and/or public trust therein.

10. The proposed Special Land Use shall not unreasonably burden the capacity of public services and/or facilities.

(c) Duration, Voiding and Extensions of Permit. Unless otherwise specified by the City Council, any Special Land Use permit granted under this section shall be null and void unless the development proposed shall have its first building inspection within one (1) year from the date of the granting of the permit. The City Council may grant an extension thereof for good cause for a period not to exceed one (1) year.

The Zoning Administrator may suspend or revoke a permit issued under the provisions of this Ordinance whenever the permit is issued erroneously on the basis of incorrect information supplied by the applicant or his agent and is in violation of any of the provisions of this Ordinance or of any other ordinances or regulations of the City.

(d) Reapplication. No application for a special use permit which has been denied wholly or in part shall be resubmitted until the expiration of one (1) year or more from the date of such denial, except on grounds of newly discovered evidence or change of conditions found to be sufficient to justify reconsideration by the City Council.

SECTION 16.08 – PLANNED UNIT DEVELOPMENT (PUD)

(a) Purpose & Intent. Planned Unit Development (PUD) district regulations are intended to provide for various types of land uses planned in a manner which shall:

1. Encourage the use of land in accordance with its character and adaptability;

2. Conserve natural resources and energy;

3. Encourage innovation in land use planning;

4. Provide enhanced housing, employment, shopping, traffic circulation and recreational opportunities for the people of the City; and,

5. Bring about a greater compatibility of design and use.

The provisions of this Article provide enabling authority and standards for the submission, review, and approval of applications for planned unit developments.

(b) PUD Regulations.

1. A planned unit development (PUD) may be applied for in any zoning district. The granting of a Planned Unit Development application shall require a rezoning by way of amendment of this Ordinance upon the recommendation of the Planning Commission and approval of the City Council.

2. Any land use authorized in this Ordinance may be included in a Planned Unit Development, subject to adequate public health, safety, and welfare protection mechanisms being designed into the development to ensure the compatibility of varied land uses both within and outside the development.

3. The applicant for a Planned Unit Development must demonstrate each of the following criteria as a condition to being entitled to Planned Unit Development treatment:

    a. Granting of the Planned Unit Development will result in at least one (1) of the following:

1. A recognizable and material benefit to the ultimate users of the project and to the community, where such benefit would otherwise be unfeasible or unlikely to be achieved without application of the planned unit development regulations; or

2. Long-term protection and preservation of natural resources and natural features of a significant quantity and/or quality, where such benefit would otherwise be unfeasible or unlikely to be achieved without application of the planned unit development regulations; or

3. A non-conforming use shall, to a material extent, be rendered more conforming, or less offensive, to the zoning district in which it is situated.

b. The proposed type and density of use shall not result in an unreasonable increase in the need for or burden upon public services, facilities, streets and utilities.

c. The proposed development shall be consistent with the public health, safety and welfare of the City.

d. The proposed development shall not result in an unreasonable negative environmental impact on the subject site or surrounding land.

e. The proposed development shall not result in an unreasonable negative economic impact upon surrounding properties.

f. The proposed development shall be under single ownership and/or control such that there is a single person having responsibility for completing the project in conformity with this Ordinance.

g. The proposed development shall be consistent with the Goals and Policies of the Master Plan.

(c) Procedure for Review.

1. Pre-application Conference. Prior to the submission of an application for planned unit development approval, the applicant shall meet with the Zoning Administrator, together with any staff and consultants the Administrator deems appropriate. The applicant shall present at such conference, or conferences, at least a sketch plan of the proposed planned unit development, as well as the following information:

a. Total number of acres in the project;

b. A statement of the number of residential units, if any;

c. The number and type of nonresidential uses, the number of acres to be occupied by each type of use;

d. The known deviations from ordinance regulations to be sought;

e. The number of acres to be preserved as open or recreational space; and,

f. All known natural resources and natural features to be preserved.

2. Preliminary Plan. Following the Pre-application Conference, the applicant shall submit a preliminary site plan of the proposed Planned Unit Development. The preliminary site plan shall be prepared in accordance with the standard set forth in Section 16.06(c). A narrative report shall accompany the site plan providing a description of the project, discussing the market concept and feasibility of the project, and explaining the manner in which the criteria set forth in Section 16.08(b)(3) have been met.

   a. Planning Commission Action. The Preliminary Plan shall be noticed for public hearing as a zoning amendment before the Planning Commission. Following the hearing, the Planning Commission shall review the preliminary site plan and shall take one of the following actions:

      i. Approval. Upon finding that the Preliminary Plan meets the criteria and standards set forth in Sections 16.08(a) and 16.08(b), the Planning Commission shall grant preliminary approval. Approval shall constitute approval of the uses and design concept as shown on the Preliminary Plan and shall confer upon the applicant the right to proceed to preparation of the Final Plan. Approval of the Preliminary Plan by the Planning Commission shall not constitute rezoning of the property to PUD nor bind the City Council to approval of the Final Plan.

      ii. Tabling. Upon finding that the Preliminary Plan does not meet the criteria and standards set forth in Sections 16.08(a) and 16.08(b), but could meet such criteria if revised, the Planning Commission may table action until a revised Preliminary Plan is resubmitted.

      iii. Denial. Upon finding that the Preliminary Plan does not and cannot meet the criteria and standards set forth in Sections 16.08(a) and 16.08(b), the Planning Commission shall deny preliminary approval.

3. Final Plan. Within six (6) months following receipt of the Planning Commission comments on the preliminary plan, the applicant shall submit a final plan and supporting materials conforming with this Section. If a final plan is not submitted

by the applicant for final approval within six (6) months following receipt of Planning Commission comments, the preliminary plan approval becomes null and void.

a. Information Required. A final site plan and application for a PUD shall contain the following information:

    i. A site plan meeting all requirements of Section 16.06(d), Final Site Plan.

    ii. A separately delineated specification of all deviations from this ordinance, which would otherwise be applicable to the uses and development proposed in the absence of this planned unit development article.

    iii. A specific schedule of the intended development and construction details, including phasing or timing.

    iv. A specific schedule of the general improvements to constitute a part of the development, including, without limitation, lighting, signage, the mechanisms designed to reduce noise, utilities, and visual screening features.

    v. A specification of the exterior building materials with respect to the structures proposed in the project.

    vi. Signatures of all parties having an interest in the property.

b. Planning Commission and Action. The final plan shall constitute an application to amend this Ordinance, and shall be noticed for public hearing as a zoning amendment before the Planning Commission, and otherwise acted upon by the Planning Commission and the City Council, as provided by law.

    i. Approval. Upon finding that the Final Plan meets the criteria and standards set forth in Section 16.08(a) and 16.08(b), the Planning Commission shall recommend approval to the City Council.

    ii. Tabling. Upon finding that the Final Plan does not meet the criteria and standards set forth in Section 16.08(a) and 16.08(b), but could meet such criteria if revised, the Planning Commission may table action until a revised Final Plan is resubmitted.

    iii. Denial. Upon finding that the final plan does not and cannot meet the criteria and standards set forth in Section 16.08(a) and

16.08(b), the Planning Commission shall recommend denial to the City Council. The Planning Commission shall, to the extent it deems appropriate, submit detailed recommendations relative to the Planned Unit Development project including, without limitation, recommendations with respect to matters on which the City Council must exercise discretion.

c. City Council Action. Upon receiving a recommendation from the Planning Commission, the City Council shall review the Final Plan. Taking into consideration the recommendations of the Planning Commission and the criteria and standards set forth in Sections 16.08(a) and 16.08(b), the City Council shall approve, table or deny the Final Plan. Prior to approval of a Final Plan, the City Council shall require all standards and conditions of approval to be incorporated in a Development Agreement. The Agreement shall be prepared by the City Attorney, reviewed by the City Planner, approved by the City Council, and signed by both the City and the Applicant.

(d) Design Standards

1. Residential Design Standards.

   a. Residential density shall not be greater than the maximum density permitted in the zoning district in which the property is situated immediately prior to reclassification under this Article. Additional density for residential uses may be allowed at the discretion of the Planning Commission and based upon a demonstration by the applicant of consistency with the Master Plan and of planning and design excellence resulting in a material benefit to the City, adjacent land uses, and/or the ultimate users of the project, where such benefit would otherwise be unlikely to be achieved without the application of the PUD regulations, including, without limitation, innovative design producing significant energy efficiency, pedestrian or vehicular safety, long term aesthetic beauty, and protection and preservation of natural resources and features.

2. Non-residential Design Standards.

   a. Non-residential uses may be permitted in combination with other non-residential uses or as part of a common development with residential uses.

   b. The non-residential uses, including parking and vehicular traffic ways, shall be separated and buffered from residential units in a manner consistent with good land and community planning principles.

3. General Design Standards

a. All regulations applicable to setbacks, parking and loading, general provisions, and other requirements shall be met in relation to each respective land use in the development based upon zoning districts in which the use is listed as a Principal Permitted Use. In all cases, the strictest provisions shall apply.

b. Notwithstanding the immediately preceding paragraph, deviations with respect to such regulation may be granted as part of the overall approval of the Planned Unit Development, provided features or elements demonstrated by the applicant and deemed adequate by the Planning Commission are designed into the project plan for the purpose of achieving the objectives of this Article.

c. To the maximum extent feasible, the development shall be designed so as to preserve the natural resources and natural features. The benefit, which would reasonably be expected to accrue from the proposal shall be balanced against the reasonably foreseeable detriments of the activity, taking into consideration the local, state and national concern for the protection and preservation of the natural resources or features and the following criteria:

    1. The availability of feasible and prudent alternative methods of accomplishing any development.

    2. The extent and permanence of the beneficial or detrimental effects of the proposed activity.

    3. The size, quality and rarity of the natural resources or natural features, which would be impaired or destroyed.

d. A perimeter setback and/or berm shall be required from the Planning Commission for the purpose of buffering the development in relation to surrounding properties. If the Planned Unit Development project includes non-residential uses adjacent to a district authorizing residential uses, and/or if the project is larger than one (1) acre in area, such perimeter setback shall be established with a dimension from the property line of up to fifty (50) feet at the discretion of the Planning Commission, taking into consideration the use or uses in and adjacent to the development. The setback distance need not be uniform at all points on the perimeter of the development.

e. Thoroughfare, drainage, and utility design shall meet or exceed the standards otherwise applicable in connection with each of the respective types of uses served.

f. Underground installation of utilities shall be required, including electricity and telephone, as found necessary by the Planning Commission.

g. Pedestrian walkways shall be separated from vehicular circulation, as found necessary by the Planning Commission.

h. Signage, lighting, landscaping, building materials for the exterior of all structures, and other features of the project, shall be designed and completed with the objective of achieving an integrated and controlled development, consistent with the character of the community, surrounding development or developments, and natural features of the area.

i. Where non-residential uses adjoin off-site residentially zoned property, noise reduction and visual screening mechanisms such as earthen and/or landscape berms and/or decorative walls, shall be employed. The Planning Commission, at its discretion, shall review and approve the design and location of such mechanisms.

j. The City Council upon the recommendation of the Planning Commission shall resolve all ambiguities as to applicable regulations using the Zoning Ordinance, Master Plan, and other City standards or policies as a guide.

(e) Conditions.

1. Reasonable conditions may be required with the approval of a Planned Unit Development, to the extent authorized by law, for the purpose of ensuring that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, protecting the natural environment and conserving natural resources and energy, ensuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner.

2. Conditions imposed shall be designed to: protect the public health, safety, and welfare; preserve natural features and resources; and, be necessary to meet the intent and purpose of this Ordinance, and ensure compliance with the standards of this Ordinance. All conditions imposed shall be made a part of the record of the approved Planned Unit Development.

(f) Phasing and Commencement of Construction.

1. Phasing. Where a project is proposed for construction in phases, the planning and designing shall be such that, upon completion, each phase shall be capable of standing on its own in terms of the presence of services, facilities, and open space, and shall contain the necessary components to ensure protection of natural resources and the health, safety, and welfare of the users of the Planned

Unit Development and the residents of the surrounding area. All conditions that are phase specific shall be completed during development of the subject phase, and cannot be postponed for completion during other phases. In addition, in developments which include residential and non-residential uses, the relative mix of uses and the scheduled completion of construction for each phase shall be disclosed and determined to be reasonable at the discretion of the City Council after recommendation from the Planning Commission.

2. Commencement and Completion of Construction. To ensure completion of required improvements, the City is authorized to impose performance guarantees in accordance with Section 15.19. Construction shall be commenced within one (1) year following final approval of a planned unit development and shall proceed substantially in conformance with the schedule set forth by the applicant, as required by Section 16.08(f)(1). If construction is not commenced within such time, any approval of a site plan on the project shall expire and be null and void, provided, an extension for a specified period may be granted by the City Council upon good cause shown if such request is made to the City Council prior to the expiration of the initial period. Moreover, in the event a site plan has expired, the City Council, based on a recommendation from the Planning Commission, shall be authorized to rezone the property in any reasonable manner, and, if the property remains classified as PUD, a new application shall be required, and shall be reviewed in light of then existing and applicable law and ordinance provisions.

(g) Effect of Approval.

1. When approved, the Planned Unit Development amendment, with all conditions imposed, if any, shall constitute the land use authorization for the property, and all improvement and use shall be in conformity with such amendment. Notice of adoption of the final PUD plan and conditions shall be recorded by the applicant at the Oakland County Register of Deeds, evidence of which shall be supplied to the Zoning Administrator.

SECTION 16.09 - PLANNING COMMISSION

The City Planning Commission shall perform all of the duties of such Commission as are set forth in the ordinance creating said Planning Commission, any amendments thereto and this ordinance.

In cases where the Planning Commission is required to recommend certain use of premises under the provisions of this Ordinance, the applicant shall furnish such surveys, plans or other information as may be required by said Commission for the proper consideration of the matter.

The Planning Commission shall investigate the circumstances of each such case and shall notify such parties, who may in its opinion be affected thereby, of the time and place of any hearing which may be held relative thereto as required under its rules of procedure.

The Planning Commission may impose such conditions or limitations in recommending approval as may, in its judgment, be necessary to fulfill the spirit and purpose of this ordinance.

When site plan review is required by the Planning Commission under the terms of this Ordinance, a site plan fee may be required to cover the cost of such reviews including plans, engineers and other such professional services in accordance with a schedule of fees adopted by Council resolution.

(Ordinance 431, 12/15/11); (Ordinance 433, 3/19/12)