

NOTICE OF REGULAR MEETING
COVERT TOWNSHIP PLANNING COMMISSION

Wednesday, October 18, 2023

6:30 P.M. – COVERT TOWNSHIP HALL

AGENDA

1. Call to Order / Roll Call / Pledge of Allegiance
2. Approval of Agenda
3. Approval of Minutes
 : September 20, 2023
4. Public Comments Concerning Non-Agenda Items
5. Ongoing Business
 - A. Review of Zoning Ordinance for compliance w/ RTFA
 - *Public Hearing Draft – A District/RR District/Definitions*
 - *Schedule for Public Hearing*
 - B. Review of Article 21 – Mineral Removal for consistency w/ MZEA
 - *Draft #1 – Article 21*
 - *Schedule for Public Hearing*
 - C. Text Amendment – Article 25 - Conditional Rezoning
 - *Public Hearing Draft*
 - *Schedule for Public Hearing*
6. New Business
 - A. Discussion: Lake Access Regulations (Keyhole Development/Anti-Funneling)
 - *Informational Articles*
 - *Sample Ordinances*

PLANNING COMMISSIONERS: *Please notify the Planning Commission Chair no later than the day before the scheduled meeting if you are unable to attend the meeting. In the event of a lack of a quorum, the meeting will be canceled.*

B. 2023 Planning Commission Work Plan (Updated 10.23)

7. Communications

- MP/CMP Update

8. Adjournment

PLANNING COMMISSIONERS: *Please notify the Planning Commission Chair no later than the day before the scheduled meeting if you are unable to attend the meeting. In the event of a lack of a quorum, the meeting will be canceled.*

COVERT TOWNSHIP

PLANNING COMMISSION

MINUTES OF THE SEPTEMBER 20, 2023 REGULAR MEETING

6:30 P.M., COVERT TOWNSHIP HALL

Call to Order / Roll Call / Pledge of Allegiance

Chair Rendell called the meeting to order at 6:30 p.m.

Members Present: Lenard Berry, Robert Brown, Joseph Frabotta, Wayne Rendell, Lonze Taylor

Members Absent: Austin Harding
Keneisha Harrington

Others Present: Rebecca Harvey, Township Planning Consultant

Approval of Agenda

The agenda was approved as presented.

Approval of Minutes – August 16, 2023 Regular Meeting

Motion by Brown, seconded by Berry, to approve the minutes of the August 16, 2023 regular meeting, as presented. Motion carried unanimously.

Public Comment on Non-Agenda Items

No public comment was offered on non-agenda items.

Ongoing Business

Review of Zoning Ordinance for Compliance with RTFA

Chair Rendell referenced the 8.16.23 draft amendments to the AG and RR Districts (and related definitions) developed in response to the Township Attorney's review of the Zoning Ordinance for compliance with RTFA. He noted that the draft amendments were reviewed by the Township Attorney and presented for Planning Commission final review in August.

Chair Rendell stated that he remains concerned that a 'livestock production facility' is proposed to be allowed as a 'permitted use' within the AG and RR Districts. Harvey explained how the proposed amendment is required for consistency with the RTFA and referenced the comments provided by the Township Attorney on the question.

The Planning Commission noted support for the proposed amendments as presented and agreed that they would be scheduled for public hearing in coordination with the proposed amendments to Articles 21 and 25. Harvey was directed to seek confirmation on the question of 'livestock production facilities' from the Township Attorney.

Review of Article 21 – Mineral Removal for Consistency with MZEA

Harvey provided an overview of the Township Attorney's written review of Article 21 for consistency with the MZEA. She highlighted where those review comments intersect with the suggested changes set forth in the 3.15.23 memo 'Zoning Ordinance Review, Article 21-Mineral Removal' (wherein amendments required for consistency with the MZEA and amendments needed for completeness and better coordination with the Ordinance are detailed).

Harvey stated that she is currently drafting proposed amendments to Article 21 in response to the review comments provided and will present same for Planning Commission review at the October meeting.

Text Amendment – Article 25 – Conditional Rezoning

Harvey provided an overview of Draft #2 of the proposed amendments to Article 25, highlighting those changes proposed in response to the questions raised by the Planning Commission in August.

Lengthy discussion ensued regarding Section 25.08 – Reversion of Zoning, which allows for the Township to consider a reversion of a conditional rezoning where development does not occur within the prescribed expiration period, and Section 25.11 – Township Right to Rezone, which allows the Township to consider a rezoning of land subject to a conditional rezoning under any circumstances. Harvey noted that Section 25.11 provides the desired mechanism to address property that is the subject of a conditional rezoning where the conditions of rezoning are no longer being met.

In response to the request for clarity in the Ordinance as to the basis for granting a conditional rezoning, Harvey noted proposed amendments to Section 29.06 – Findings of Fact Required. The Planning Commission discussed at length the use of the conditional rezoning option.

The Planning Commission noted support for the proposed amendments to Article 25 as presented and agreed that they would be scheduled for public hearing in coordination with the RFTA-related amendments and the proposed amendments to Article 21.

It was noted that if Draft #1 of the proposed amendments to Article 21 are accepted in October, all three public hearings can be scheduled for the November meeting.

New Business

Chair Rendell requested that Harvey update and reissue the 2023 Planning Commission Work Plan in the October meeting packet to facilitate a November review and reprioritization of the Work Plan.

Communications

Harvey provided an update on the Master Plan/Coastal Management Plan Update. She stated that the public engagement elements of the project are in progress, noting that the community survey was launched in August and the Focus Group Roundtables are scheduled for October 9, 2023.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 7:40 p.m.

Respectfully Submitted,
Rebecca Harvey, AICP, PCP
(McKenna)
Township Planning Consultant

draft

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Zoning Ordinance Amendments - for Consistency w/ RTFA

Section 4.02 Principal Uses Permitted (AG District)

In an AG Agricultural District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this Ordinance:

1. General and specialized farming including nurseries, greenhouses, animal husbandry, beekeeping and similar bonafide agricultural enterprises and the usual agricultural buildings and structures when such operations are compliant with GAAMPS.
2. Single-family detached dwellings serving as the farm homestead regardless of whether the owner occupant is actively engaged in the farming operation or not.
3. Livestock production facilities when such operations are compliant with GAAMPS.
4. Single-family detached dwellings when approved as part of a Planned Unit Development, either Traditional or Cluster Developments, when fifty (50) percent or more of the total acreage of the land area is permanently preserved through a farmland conservation easement administered by the Van Buren County Purchase of Development Rights Program and/or a land trust acceptable to the Township Board and Planning Commission.
5. Public and private stables, riding academies and kennels.
6. Accessory buildings and uses customarily incident to any of the above permitted uses.
7. The disposal of garbage, sewage, rubbish, offal or rendering plants or for the slaughtering of animals are expressly prohibited except for the slaughtering of animals by residents for use by persons residing on the premises, or as specified in Article 18 - General Provisions.
8. **Stands, including farm stands for retail sale of fruits and vegetables (See: definition of Farm Stand), when such operations are compliant with GAAMPS.**
9. **Farm related activities (See: definition of Farm Related Activities), when such operations are compliant with GAAMPS.**
10. **Livestock Production Facilities, when such operations are compliant with the site selection GAAMPS.**

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Section 4.03 Special Uses (AG District)

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the Planning Commission where specified:

1. Agricultural buildings of greater than maximum height allowed in Article 15 - Schedule of District Regulations may be allowed provided front, side and rear yards are increased above the minimum required yards by one (1) foot for each foot of building height that exceeds the maximum height allowed.
2. Freestanding towers associated with agricultural buildings shall be located no closer to property lines than one times the height of the tower measured from the base of the tower to all points of each property line.
- ~~3. Stands including farm stands for the retail sale of fruits and vegetables. (See: definition)~~
4. Value added agricultural activities, specifically, 1) full service restaurants when the menu contains on-site farm grown product (for example, ~~cider mills~~, bakery/coffee shops and similar sit-down waiter serviced restaurant operations), 2) organized events when in compliance with the provisions of a temporary special land use permit and all other Township ordinances, 3) small mechanical rides and food vendors when in compliance with the provisions of a temporary special land use permit and all other Township ordinances, 4) miniature golf facilities, indoor/outdoor skating rinks, 5) recreational camping facilities, including tent and recreational vehicle camping with associated related facilities, **6) gift shops, 7) petting farm, 8) picnic areas, 9) playgrounds.**
- ~~5. Farm related activities (See: definition of Farm Related Activities).~~
- ~~6. Livestock Production Facilities, having no more than 50 animal units as defined by the Michigan Department of Agriculture when such operations are compliant with the site selection GAAMPS. but no Livestock Production Facilities having greater than 50 animal units as defined by the Michigan Agricultural Commission or Concentrated Animal Feeding Operation - Large (CAFO).~~
7. Utility and public service buildings and uses (without storage yards) when operating requirements necessitate the locating of said building within the district in order to serve the immediate vicinity, and after review and approval of the Planning Commission.
8. Accessory buildings and uses not customarily incident to any of the above permitted uses but necessary for agricultural operations.

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9. Home occupations, as defined in Article 2, Section 2.02.
10. All uses allowed within the REC - Recreational District, provided such uses comply with requirements of the REC - Recreational District.

Section 5.02 Principal Uses Permitted (RR District)

In the RR Rural Residential District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this Ordinance:

1. One-family detached dwellings.
2. Planned Unit Development, either Traditional or Cluster Developments, when approved pursuant to the provision of Article 16 - Planned Unit Development.
3. ~~Farms on those parcels of land separately owned outside the boundaries of either a proprietary or supervisor's plat, having an area of not less than five (5) acres. For General and specialized farming including nurseries, greenhouses, animal husbandry, beekeeping and similar bonafide agricultural enterprises and the usual agricultural buildings and structures when such operation are compliant with GAAMPS. Uses operated as feed lots shall be subject to limitations as established in SEC.5.03.~~ No farms shall be operated for the disposal of garbage, sewage, rubbish, offal or rendering plants or for the slaughtering of animals except as to serve only those persons residing on the premises, or as specified in Article 18 - General Provisions.
4. Accessory buildings and uses, customarily incidental to any of the above permitted uses.
5. **Stands, including farm stands for retail sale of fruits and vegetables (See: definition of Farm Stand), when such operations are compliant with GAAMPS.**
6. **Livestock Production Facilities, when such operations are compliant with the site selection GAAMPS.**

Section 5.03 Special Uses (RR District)

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1. Utility and public service buildings and uses (without storage yards) when operating requirements necessitate the locating of said building within the district in order to serve the immediate vicinity, and after review and approval of the Planning Commission and do not adversely impact the residential nature of the immediate surrounding area.
2. Home occupations, as defined in Article 2, Section 2.02.
- ~~3. Stands including farm stands for the retail sale of fruits and vegetables. (See: definition, Section 2.02)~~
- ~~4. Livestock Production Facilities having no more than 50 animal units as defined by the Michigan Department of Agriculture when such operations are compliant with GAAMPS but no Livestock Production Facilities having greater than 50 animal units as defined by the Michigan Agricultural Commission or Concentrated Animal Feeding Operation - Large (CAFO).~~
5. All uses allowed within the REC - Recreational District, provided such used comply with the requirements of the REC - Recreational District.

Section 2.02 Definitions

Farm Related Activities - For the terms of this ordinance, “farm related ~~valued added~~ agricultural activities” shall include the following:

1. Animal displays
- ~~2. Bakery/coffee shop~~
3. Cider mill
- ~~4. Craft sales/shows~~
5. Dairy/cheese production and/or processing
6. Direct marketing of produce
7. Educational classes, lectures, seminars
8. Farmer’s markets
- ~~9. Fall activities, including haunted hydrides, haunted barns, bonfires, trick or treat~~
- ~~10. Fishing, camping, walking trails, nature paths, exercise paths~~
11. Sales and processing of on-site grown food products
- ~~12. Games, outdoor and indoor~~
- ~~13. Gift shop~~
14. Greenhouse sales/activities
- ~~15. Hayrides~~
- ~~16. Historical agricultural exhibits~~
17. Horseback riding/lessons
18. Horse shows, inside or outside, except rodeos
- ~~19. Camping and related activities~~
20. Kitchen facilities, cooking items for sale, direct sales
- ~~21. Maze, indoor and outdoor~~
22. Landscape of nursery stock and flowers, growing and/or direct sales
- ~~23. Lunch room/tea room~~
- ~~24. Petting Farm~~
- ~~25. Picnic area, open air and /or covered~~

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- ~~26. Playgrounds and playground equipment, such as slides, swings, etc.~~
- 27. Pony rides
- 28. Processing of fruits/produce
- 29. Production and sale of hard cider, micro-brew beer, and wine
- ~~30. Sleigh rides~~

- ~~31. Skiing~~
- ~~32. Straw maze, mountains, tunnels and slides~~
- ~~33. Stages and tents for allowed activities~~
- 34. U-Pick - any fruits or produce
- ~~35. Wagon rides~~
- 36. Similar and related activities as determined by the Planning Commission

draft

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Zoning Ordinance Amendments - for Consistency w/ RTFA

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1. General and specialized farming including nurseries, greenhouses, animal husbandry, beekeeping and similar bonafide agricultural enterprises and the usual agricultural buildings and structures when such operations are compliant with GAAMPS.
2. Single-family detached dwellings serving as the farm homestead regardless of whether the owner occupant is actively engaged in the farming operation or not.
3. Livestock production facilities when such operations are compliant with GAAMPS.
4. Single-family detached dwellings when approved as part of a Planned Unit Development, either Traditional or Cluster Developments, when fifty (50) percent or more of the total acreage of the land area is permanently preserved through a farmland conservation easement administered by the Van Buren County Purchase of Development Rights Program and/or a land trust acceptable to the Township Board and Planning Commission.
5. Public and private stables, riding academies and kennels.
6. Accessory buildings and uses customarily incident to any of the above permitted uses.
7. The disposal of garbage, sewage, rubbish, offal or rendering plants or for the slaughtering of animals are expressly prohibited except for the slaughtering of animals by residents for use by persons residing on the premises, or as specified in Article 18 - General Provisions.
8. Stands, including farm stands for retail sale of fruits and vegetables (See: definition of Farm Stand), when such operations are compliant with GAAMPS.
9. Farm related activities (See: definition of Farm Related Activities), when such operations are compliant with GAAMPS.
10. Livestock Production Facilities, when such operations are compliant with the site selection GAAMPS.

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1. Agricultural buildings of greater than maximum height allowed in Article 15 - Schedule of District Regulations may be allowed provided front, side and rear yards are increased above the minimum required yards by one (1) foot for each foot of building height that exceeds the maximum height allowed.
2. Freestanding towers associated with agricultural buildings shall be located no closer to property lines than one times the height of the tower measured from the base of the tower to all points of each property line.
3. Value added agricultural activities, specifically, 1) full service restaurants when the menu contains on-site farm grown product (for example, bakery/coffee shops and similar sit-down waiter serviced restaurant operations), 2) organized events when in compliance with the provisions of a temporary special land use permit and all other Township ordinances, 3) small mechanical rides and food vendors when in compliance with the provisions of a temporary special land use permit and all other Township ordinances, 4) miniature golf facilities, indoor/outdoor skating rinks, 5) recreational camping facilities, including tent and recreational vehicle camping with associated related facilities, 6) gift shops, 7) petting farm, 8) picnic areas, 9) playgrounds.
4. Utility and public service buildings and uses (without storage yards) when operating requirements necessitate the locating of said building within the district in order to serve the immediate vicinity, and after review and approval of the Planning Commission.
5. Accessory buildings and uses not customarily incident to any of the above permitted uses but necessary for agricultural operations.
6. Home occupations, as defined in Article 2, Section 2.02.
7. All uses allowed within the REC - Recreational District, provided such uses comply with requirements of the REC - Recreational District.

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2. Planned Unit Development, either Traditional or Cluster Developments, when approved pursuant to the provision of Article 16 - Planned Unit Development.
3. General and specialized farming including nurseries, greenhouses, animal husbandry, beekeeping and similar bonafide agricultural enterprises and the usual agricultural buildings and structures when such operation are compliant with GAAMPS. No farms shall be operated for the disposal of garbage, sewage, rubbish, offal or rendering plants or for the slaughtering of animals except as to serve only those persons residing on the premises, or as specified in Article 18 - General Provisions.
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Section 2.02 Definitions

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1. Animal displays
2. Cider mill
3. Dairy/cheese production and/or processing
4. Direct marketing of produce
5. Educational classes, lectures, seminars
6. Farmer’s markets
7. Sales and processing of on-site grown food products
8. Greenhouse sales/activities
9. Horseback riding/lessons
10. Horse shows, inside or outside, except rodeos
11. Kitchen facilities, cooking items for sale, direct sales
12. Landscape of nursery stock and flowers, growing and/or direct sales
13. Pony rides
14. Processing of fruits/produce
15. Production and sale of hard cider, micro-brew beer, and wine
16. U-Pick - any fruits or produce
17. Similar and related activities as determined by the Planning Commission

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Zoning Ordinance Amendment Article 25 – Conditional Rezoning

Section 25.01 Intent

It is recognized that there are certain instances where it would be in the best interests of the Township, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this Section to provide a process consistent with the provisions of Section 405 of the Michigan Zoning Enabling Act, P. A. 110 of 2006, by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

Section 25.02 Application and Offer of Conditions

1. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
2. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.
3. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning ~~district~~ **classification**.
4. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
5. Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this Ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
6. Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this Ordinance may only be commenced if a variance for such

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use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this Ordinance.

7. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this Ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
8. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the Township Board provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

Section 25.03 Planning Commission Review

The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in ~~the Township Zoning Ordinance and~~ **Section 25.13** of this Ordinance, may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

Section 25.04 Township Board Review and Approval Procedure

After receipt of the Planning Commission's recommendation, the Township Board shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The Township Board's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in ~~the Township Zoning Ordinance and~~ **Section 25.13** of this Ordinance. Should the Township Board consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the Township Board shall, in accordance with Section 401 (7) of the Michigan Zoning, Enabling Act, P. A. 110 of 2006, refer such amendments to the Planning Commission for a report thereon within a time specified by the Township Board and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

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Section 25.05 Approval

1. If the Township Board finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Township Board to accomplish the requested rezoning.
2. The Statement of Conditions shall:
 - a. Be in a form recordable with the Van Buren County Register of Deeds or, in the alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the Township Board.
 - b. Contain a legal description of the land to which it pertains.
 - c. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
 - d. Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
 - e. Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded by the Township with the **Van Buren County** Register of Deeds.
 - f. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.
3. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The Zoning Administrator shall maintain a listing of all lands rezoned with a Statement of Conditions.

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4. The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the Township with the **Van Buren County** Register of Deeds. The Township Board shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the Township or to any subsequent owner of the land.
5. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning ~~district~~ **classification** as modified by any more restrictive provisions contained in the Statement of Conditions.

Section 25.06 Compliance with Conditions

1. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of ~~the Zoning Ordinance and~~ this Ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement and/or specific performance as provided by law.
2. No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.

Section 25.07 ~~Time Period for Establishing Development or Use~~ Expiration of Approval

~~Unless another time period is specified in the Ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within eighteen (18) months after the rezoning took effect and thereafter proceed diligently to completion.~~

The rezoning approval shall expire following a period of two (2) years from the effective date of the rezoning, unless: 1) approved development and/or use of the rezoned land commences within such two (2) year period and proceeds diligently to completion, or 2) the rezoning approval is extended by the Township Board as provided herein.

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~~This time limitation~~ **The expiration period** may upon written request be extended by the Township Board if 1) it is demonstrated to the Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion, and 2) the Township Board finds that there has not been a change in circumstances that would render the current zoning **classification** with Statement of Conditions incompatible with other ~~zones~~ **zoning classifications** and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

Section 25.08 Reversion of Zoning

If approved development and/or use of the rezoned land **does** not occur within the time frame specified under Subsection 25.07 ~~above~~, then the land shall revert to its former zoning classification. The reversion process shall be initiated by the Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

Section 25.09 Subsequent Rezoning of Land

When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to Subsection 25.08 ~~above~~ or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the Township Clerk shall record with the **Van Buren County** Register of Deeds a notice that the Statement of Conditions is no longer in effect.

Section 25.10 Amendment of Conditions

1. During the time period for commencement of an approved development or use or during any extension thereof granted by the Township Board, the Township shall not add to or alter the conditions in the Statement of Conditions.
2. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.

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Section 25.11 Township Right to Rezone

Nothing in the Statement of Conditions or in the provisions of this Section shall be deemed to prohibit the Township from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the Michigan Zoning Enabling Act, P.A. 110 of 2006.

Section 25.12 Failure to Offer Conditions

The Township shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

Section 25.13 Consideration

In reviewing an application for the rezoning of land, whether the application is made with or without an offer of conditions, ~~factors that should be considered by the Planning Commission and the Township Board include, but are not limited to, the following~~ **the Planning Commission shall identify and evaluate the factors relevant to the requested change, including but not limited to, the criteria for amending the Zoning Ordinance set forth in Section 29.06.**

- ~~1. Whether the rezoning is consistent with the policies and uses proposed for that area in the Township's Master Land Use Plan and/or Coastal Management Plan;~~
- ~~2. Whether all of the uses allowed under the proposed rezoning would be compatible with other zones and uses in the surrounding area;~~
- ~~3. Whether any public services and facilities would be significantly adversely impacted by a development or use allowed under the requested rezoning; and~~
- ~~4. Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.~~

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Zoning Ordinance Amendment Article 29 – Amending the Zoning Ordinance

***Amend Section 29.06 – Findings of Facts Required (for amending the Zoning Ordinance) to incorporate items #1-#4 above as follows:**

Section 29.06 Findings of Fact Required

In reviewing an application for a zoning change, the Planning Commission shall identify and evaluate all factors relevant to the requested change, and shall report its findings in full, along with its recommendations for disposition of the requested change, to the Township Board within sixty (60) days of the filing date of the application.

The facts to be considered by the Planning Commission shall include, but not be limited to, the following:

- A. Whether the requested zoning change is justified because of a change in conditions since the original ordinance was adopted or because of an error in the original ordinance.
- B. The precedents, and the possible effects of such precedents, which might likely result from approval or denial of the application.
- C. ~~The compatibility of the requested amendment with the Township or other government agencies which provide any services, facilities, and/or programs that might be required if the application were approved.~~ **Whether any public services and facilities would be significantly adversely impacted by a development or use allowed under the requested rezoning.**
- D. ~~Effect of approval of the application on adopted development, policies of the Township and other government units.~~ **Whether the rezoning is consistent with the policies and uses proposed for that area in the Township’s Master Land Use Plan and/or Coastal Management Plan.**
- E. **Whether all of the uses allowed under the proposed rezoning would be compatible with other zones and uses in the surrounding area.**

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- F. Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.**

- G. All findings of fact, conclusions and reasons for approval or denial shall be made a part of the official published public records of the meetings of the Planning Commission and Township Board. A zoning amendment shall not be approved, unless all identified facts are affirmatively resolved that they are needed to preserve and protect the general health, safety, welfare, comfort and convenience of the citizens of the Township, or of other civil divisions, if applicable.

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Zoning Ordinance Amendment Article 25 – Conditional Rezoning

Section 25.01 Intent

It is recognized that there are certain instances where it would be in the best interests of the Township, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this Section to provide a process consistent with the provisions of Section 405 of the Michigan Zoning Enabling Act, P. A. 110 of 2006, by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

Section 25.02 Application and Offer of Conditions

1. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
2. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.
3. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning classification.
4. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
5. Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this Ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
6. Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this Ordinance may only be commenced if a variance for such

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use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this Ordinance.

7. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this Ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
8. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the Township Board provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

Section 25.03 Planning Commission Review

The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in Section 25.13 of this Ordinance, may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

Section 25.04 Township Board Review and Approval Procedure

After receipt of the Planning Commission's recommendation, the Township Board shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The Township Board's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in Section 25.13 of this Ordinance. Should the Township Board consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the Township Board shall, in accordance with Section 401 (7) of the Michigan Zoning, Enabling Act, P. A. 110 of 2006, refer such amendments to the Planning Commission for a report thereon within a time specified by the Township Board and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

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Section 25.05 Approval

1. If the Township Board finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Township Board to accomplish the requested rezoning.
2. The Statement of Conditions shall:
 - a. Be in a form recordable with the Van Buren County Register of Deeds or, in the alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the Township Board.
 - b. Contain a legal description of the land to which it pertains.
 - c. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
 - d. Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
 - e. Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded by the Township with the Van Buren County Register of Deeds.
 - f. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.
3. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The Zoning Administrator shall maintain a listing of all lands rezoned with a Statement of Conditions.

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4. The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the Township with the Van Buren County Register of Deeds. The Township Board shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the Township or to any subsequent owner of the land.
5. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning classification as modified by any more restrictive provisions contained in the Statement of Conditions.

Section 25.06 Compliance with Conditions

1. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement and/or specific performance as provided by law.
2. No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.

Section 25.07 Expiration of Approval

The rezoning approval shall expire following a period of two (2) years from the effective date of the rezoning, unless: 1) approved development and/or use of the rezoned land commences within such two (2) year period and proceeds diligently to completion, or 2) the rezoning approval is extended by the Township Board as provided herein.

The expiration period may upon written request be extended by the Township Board if 1) it is demonstrated to the Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion, and 2) the Township Board finds that there has not been a change in circumstances that would render the current zoning classification with Statement of

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Conditions incompatible with other zoning classifications and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

Section 25.08 Reversion of Zoning

If approved development and/or use of the rezoned land does not occur within the time frame specified under Subsection 25.07, then the land shall revert to its former zoning classification. The reversion process shall be initiated by the Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

Section 25.09 Subsequent Rezoning of Land

When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to Subsection 25.08 ~~above~~ or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the Township Clerk shall record with the Van Buren County Register of Deeds a notice that the Statement of Conditions is no longer in effect.

Section 25.10 Amendment of Conditions

1. During the time period for commencement of an approved development or use or during any extension thereof granted by the Township Board, the Township shall not add to or alter the conditions in the Statement of Conditions.
2. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.

Section 25.11 Township Right to Rezone

Nothing in the Statement of Conditions or in the provisions of this Section shall be deemed to prohibit the Township from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the Michigan Zoning Enabling Act, P.A. 110 of 2006.

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Section 25.12 Failure to Offer Conditions

The Township shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

Section 25.13 Consideration

In reviewing an application for the rezoning of land, whether the application is made with or without an offer of conditions, the Planning Commission shall identify and evaluate the factors relevant to the requested change, including but not limited to, the criteria for amending the Zoning Ordinance set forth in Section 29.06.

Zoning Ordinance Amendment Article 29 – Amending the Zoning Ordinance

Section 29.06 Findings of Fact Required

In reviewing an application for a zoning change, the Planning Commission shall identify and evaluate all factors relevant to the requested change, and shall report its findings in full, along with its recommendations for disposition of the requested change, to the Township Board within sixty (60) days of the filing date of the application.

The facts to be considered by the Planning Commission shall include, but not be limited to, the following:

- A. Whether the requested zoning change is justified because of a change in conditions since the original ordinance was adopted or because of an error in the original ordinance.
- B. The precedents, and the possible effects of such precedents, which might likely result from approval or denial of the application.
- C. Whether any public services and facilities would be significantly adversely impacted by a development or use allowed under the requested rezoning.
- D. Whether the rezoning is consistent with the policies and uses proposed for that area in the Township's Master Land Use Plan and/or Coastal Management Plan.

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- E. Whether all of the uses allowed under the proposed rezoning would be compatible with other zones and uses in the surrounding area.
- F. Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.
- G. All findings of fact, conclusions and reasons for approval or denial shall be made a part of the official published public records of the meetings of the Planning Commission and Township Board. A zoning amendment shall not be approved, unless all identified facts are affirmatively resolved that they are needed to preserve and protect the general health, safety, welfare, comfort and convenience of the citizens of the Township, or of other civil divisions, if applicable.

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2023 Work Plan

Covert Township Planning Commission

PRIORITY	WORK ITEM	SUPPORTING MASTER PLAN POLICY or FOUNDATION FOR REVIEW	STATUS
ZONING ORDINANCE AMENDMENTS FOR CONSISTENCY W/ MASTER PLAN			
1	Compliance w/ RTFA	Amendments to RTFA	11.15.23 Public Hearing
	AG District vs RR District	AG, Rural Res, Natural Features policies	
	State licensed residential facilities; child care homes; foster care homes; residential care facilities	MZEA & State Law	4.19.23 Public Hearing – PC Recommendation TB Action Pending
	RR – SF (1 unit/2.5 acres) LD – SF (2 units/acre) MD – SF-2F (3.5 units/acre) HD – SF-2F-MF (5 units/acre) VMU – SF-2F-MF	Need for additional housing options/variety of housing	
	Accessory Dwelling Unit (ADU)/Mobile Home as Accessory Use	Need for additional housing options / variety of housing	
	Short Term Rentals	Rural quality of life; Residential environment; Economic development that maintains character of community	
	Solar Energy Facilities	Natural feature preservation	4.19.23 Public Hearing – PC Recommendation TB Action Pending

2023 Work Plan

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1	Earth Removal, quarrying, gravel processing, mining, and related mineral extraction	Amendments to MZEA	11.15.23 Public Hearing
3	Opt-Out Provision (Adult Use Marihuana Establishments)	MRTMA	
	TB Review of SLU/ Site Plans	RRC Recommendation	
	Keyholing (Anti-Funneling) Provision	Sensitive natural features protection	10.18.23 – PC Discussion
4	Update Coastal Management Plan – Adopted 2004	Alignment w/ Updated Master Plan	Update Initiated April, 2023 - McKenna
4	Update Master Plan – Updated 2020	Alignment w/ Updated Coastal Management Plan	Update Initiated April, 2023 - McKenna
ZONING ORDINANCE UPDATES			
2	Conditional Rezoning – Section 25.08	Per PC Review	11.15.23 Public Hearing
	Review Section 26.09 - Contiguous Nonconforming Lots	PC Member Request	
1	Self-Storage Facilities	Missing use option	7.19.23 Public Hearing – PC Recommendation TB Action Pending
1	Section 18.15 – Temporary Storage	Per Zoning Administrator	7.19.23 Public Hearing – PC Recommendation TB Action Pending